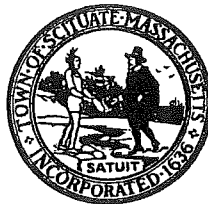


TOWN OF SCITUATE



600 Chief Justice Cushing Hwy
Scituate, Massachusetts 02066
Phone: 781-545-8730
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Planning Board

**Special Permit – Residential Compound Development
0 Country Way and 0 Rear Country Way
Decision: APPROVED with Conditions**

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Applicant: Bradford A. Merritt
Address: 493 Country Way, Scituate, MA 02066
Owner: Bradford A. Merritt
Address: 493 Country Way, Scituate, MA 02066
Request: Approval of special permit for a Residential Compound Development
Under Scituate Zoning Bylaw Section 610 2.D

Date: June 30, 2020

Location: 0 Country Way/0 Rear Country Way

Assessor's Map: 32-7-21 & 32-7-13B
Zoning District: Residence R-2, Water Resource Protection District, Floodplain and Watershed
Protection District
Hearing Dates: November 14, 2019, January 9, February 27, April 9, May 14 and June 11, 2020
Members Hearing Special Permit Application: Stephen Pritchard, William Limbacher,
Patricia Lambert, Ann Burbine and Benjamin Bornstein
Documents: Application for Residential Compound Development received 7/11/19 with two
Additional signature pages and revised application dated 1/22/20; Stormwater
Management Design Calculations Report (including pre and post development
Watershed Plans) dated 6/27/19 with revisions through 2/27/20; Special Permit
Residential Compound Development Subdivision 0 & 483 Country Way dated
May 28, 2019 consisting of 13 sheets with revisions through March 30, 2020
Consisting of 19 sheets; Grady Response to peer review comments dated 11/25/19

With revisions through 4/6/20; Grady response to Planning Board meeting dated 2/27/20; Operation and Maintenance Plan revised dated 1/7/20; NPDES SWPPP Plan with revisions through 3/30/20; Water Quality Certification by Kevin Grady Dated 3/13/20; Grady response to Fire Dept. comments dated 2/27/20; Stormwater Post 1 Bypass dated 4/6/20; ZBA Special Permit/Finding on Determination of Suitability dated 1/2/20; Engineering peer review reports from Chessia Consulting LLC dated 8/9/19 with revisions through 2/13/20; Engineering review of SWPPP Plan by Chessia dated 2/18/20 with revisions through 3/27/20

Decision: **Approved with conditions**

Background:

The property is a 431,048 sq. ft. or approximately 9.9 acre parcel with approximately 254, 581 sq. ft. or approximately 5.84 acres of upland. Approximately 4 acres of the site are wetlands. The existing site is an undeveloped wooded parcel. The property is shown on Scituate Assessor's Maps as parcels 32-7-21 and 32-7-13B. Frontage of 218.72 feet is available on Country Way; however this frontage is generally wetlands with an intermittent stream so than an additional piece of frontage 50' west on Country Way is the proposed access to the development. The access driveway will be a private drive meeting conditions of a common driveway. Five new lots are proposed under a Residential Compound Development Special Permit (RCD). As a portion of the site is in the Floodplain and Watershed Protection District, the applicant received a special permit/finding of a determination of suitability from the Zoning Board of Appeals (ZBA) that the tract of land for the development is not subject to flooding and not unsuitable because of drainage conditions. The property lies in the Residence R-2 Zoning District as well as the Water Resource Protection District (WRPD). Country Way is a scenic road in the town of Scituate. The rate, volume and peak surface elevations of runoff do not exceed pre-development conditions for the 2, 10 and 100 year storms.

When the project was first submitted it was not one tract of land under one ownership. This has been rectified as evidenced by the revised application submitted on 1/22/20 and an 81X plan dated 11/12/2019 recorded at the Plymouth County Registry of Deeds in Book 63 page 1178.

The applicant submitted a Stormwater Management Design Calculations Report by Grady Consulting, L.L.C. stamped by Kevin S. Grady, P.E. dated June 27, 2019 with revisions through February 27, 2020 and supplemental information through 4/6/2020. This report and the accompanying residential compound development special permit plans was reviewed by the Town's consulting engineer, John Chessia of Chessia Consulting Services LLC, who submitted detailed comments to the Planning Board. In response to these comments, the applicant provided amended Stormwater Management Design Calculations Report and plans which, after further review by the consulting engineer, were found to address his recommendations.

Procedural Summary:

An application for a Residential Compound Development Special Permit was filed with the Town Clerk and Planning Office on July 11, 2019. A letter was received from the applicant's attorney dated August 12, 2019 granting the Board an extension of time to hold the initial public hearing until October 10, 2019. A second letter from the applicant's attorney requested a time to for the initial public hearing until November 14, 2019 and extending the time for action with the Town Clerk until January 20, 2020. A Public Hearing on the Special Permit was duly advertised and notices sent to all

abutters in accordance with MGL Chapter 40A. The Public Hearing was opened on November 14, 2019 and continued until January 9, 2020, February 27, 2020, April 9, 2020, May 14, 2020 and June 11, 2020. February 27, April 9 and May 14 were immediate continuances without any testimony being taken. The hearing was closed on June 11, 2020 and the Special Permit was approved with conditions. All members were at all sessions where testimony and evidence was presented or filed a Mullin Certification for missing only one hearing session.

Hearing Summary:

When the public hearing was opened on November 14, 2019, Attorney Jeff DeLisi gave an overview of the project. He indicated Mr. Merritt would like to do a Residential Compound Development (RCD) of 5 lots of over 40,000 sq. ft. each with a common driveway on approximately 10 acres he owns by the Egypt Garage. A conventional subdivision would yield 9 lots for this parcel which is why the residential compound development is superior. He indicated they will be before the Conservation Commission, ZBA for a Determination of Suitability and they have filed an ANR to put the property all in one ownership. Engineer Kevin Grady indicated the tract of land meets the requirement for being 4 times the required lot area in the Residence R-2 Zone. He indicated they will have a split rail fence dividing the developed area of 3.76 acres from the undeveloped area of 6.1 acres. He indicated the driveway will be 20' wide with 2' shoulders on each side. Each lot will have its own septic system which the Board of Health (BOH) has responded that the parcel is feasible for septic systems. He said there will be gas, electric and town water services with the water looped to Country Way and a hydrant in the middle of the development. Site drainage will be provided by roof drains for each lot and a stormwater basin for the development which will contain a wet grass mix and a low mow mix on the slopes. Mr. Grady said there would be a hedge planted along abutting properties and there will be a 20' buffer to the Aberdeen Way properties.

Mr. Grady said the drainage system provides over 90% Total Suspended Solid (TSS) removal and contains the 2, 10, 25 and almost the 100 year storm. He identified the lot frontage as 218' and 50' where the access will be provided from. John Chessia, the Town's consulting engineer indicated that the plan needs to be developed further in relationship to easements, the private driveway, screening and landscaping, police and fire department comments, sight distance and the stormwater system.

The Board had comments related to what the applicant was hoping the ZBA would provide through a Determination of Suitability, all of the WRPD requirements apply although no Zone A or Zone II, how the open space will be managed, why the RCD is better than a traditional subdivision and how it preserves the semi-rural character of the Town, the closeness of the homes to the homes on Aberdeen Drive, clearcutting the area for development, use of decentralized low impact development stormwater management strategies, a 20' buffer is not sufficient and the Homeowner's Association needs to be clear that the buffer must be fully retained in the future.

Dana Gillis of 10 Aberdeen Drive agreed that a 20' buffer is too tight. He expressed concern of the runoff to the existing pond as it comes from the entire hill as far away as Cushing School. He is worried how the changes in water will impact the Egypt Garage. Ms. Freya Schigel of 9 Westgate Lane said she is concerned about the runoff from the development and water flowing down the stream/culvert from Country Way as it impacts several of her neighbor's backyards and basements. Ken Bates indicated his mother lives at 7 Westgate Lane and has always had water problems since it was built in the 70's. He said the house used to have a backyard and now it doesn't and he is

concerned about the water and runoff from the development. The Board indicated a continuance of the public hearing will be necessary.

At the January 9, 2020 public hearing session, Attorneys Jeff DeLisi and Michelle Nuzzo were present for the applicant along with Kevin Grady and Bradford Merritt. Mr. DeLisi recapped the project and purpose of a RCD. He indicated that the RCD encourages large lot development, reduces construction costs, reduces impacts to abutting properties, eliminates town responsibilities and costs and helps preserve the semi-rural character of the town. He said the proposed 5 lot development with access from Country Way is proposed on a tract that is 4 times the required lot size and is now under one ownership. He indicated that they have responded to the peer review comments and they have provided a draft legal document to the Board.

Ms. Joseph indicated that the peer review letter indicated that a plan was filed putting the land in all one lot and owner and a new application should be submitted to reflect that. The applicant is working to have more of a buffer along the back of the property adjacent to Aberdeen Way and 483 Country Way. She indicated the Board should provide feedback if screening is needed adjacent to the access road. Mr. Grady indicated the owner is not concerned about screening and the abutter, Mr. Todd Merritt agreed it was acceptable not to have screening on the west side of the driveway. There is an existing tree line to the east to be retained, thus the Board agreed screening did not need to be provided on either side of the access drive. A permanent grading easement has been provided there and any stone at the entry is not in the right of way of Country Way.

Ms. Joseph suggested there be a meeting between the applicant's representatives, the Town consulting engineer and planning and conservation to all be on the same page so the next plan set can address all the issues. Mr. DeLisi said not much work is under the jurisdiction of the Conservation Commission. Mr. Grady indicated where Conservation wanted plantings.

Ms. Joseph asked the Board to opine on the width of the berm of the detention basin at 6' for maintenance. The Board opined with the 4:1 slopes it seems acceptable as Mr. Grady assured the Board a mini excavator could easily get to the area. Ms. Joseph also said the peer review recommended the Board opine if a traffic study was needed for safe access/sight distance. Mr. Grady indicated they have provided a clearing easement so that sight distance will always be maintained. He opined the project is a low trip generator. The Board opined it is not necessary for a traffic engineer and that as long as the vegetation was clear in the easement there should be no issues.

Ms. Joseph indicated that the applicant is working to address the peer review comments for stormwater and will be doing additional soil testing. Mr. Chessia's peer report suggested the SWPPP Plan be submitted for review which Mr. Grady indicated would happen. Ms. Joseph indicated that she recommends additional screening for the abutting properties and asked for a more diverse planting than arborvitae to help deter deer. Fire Department signage for 911 was discussed.

The Board asked about the driveway connection to Country Way and was concerned about the slope and stormwater. Mr. Grady said there will be a negative grade going into the site from Country Way so no water will flow there and a 6% grade is not too steep for such a short section. The Board was concerned about the extent of clearing and if any trees would remain in the developed area. Mr. Grady said there would be none saved in the developed area as fill material had to be brought in to

bring the foundations out of the water table. He indicated they were balancing the cut/fill and could not provide a specific amount of fill. Mr. Borstein opined the rural character is not being preserved here as the site is clear cut in the development area and asked if there could be an inventory of trees that were to be preserved. Mr. Grady said there were no mature trees. Ms. Joseph inquired if the mound could be moved adjacent to 489 so that more trees could be saved. Mr. Bornstein asked for a tightening of all the limits of the site work.

Edward Katersky of 14 Aberdeen Drive said the view from his house has always been woods and he asked if the 50' buffer would be kept and about the amount of water in the pond. Mr. Grady indicated there is a 50' setback not a 50' buffer, but they are proposing a 20' permanent no clear zone adjacent to Aberdeen Drive. Ms. Joseph clarified it is a restriction on placement of structures except fences in the 50' setback and asked if the plan could be tightened up to reduce grading in the 50' setback. Mr. Grady opined this was not possible as yards are needed to maintain the value of the lots. Brian Power of 20 Aberdeen said that a buffer with no restrictions does not stop homeowners from removing trees. It was indicated there is an easement for selective clearing and Mr. DeLisi agreed to work with the Board so that language will be clear on what can happen in the 20' area. Dana Gillis of 10 Aberdeen is very concerned about what the buffer is and the gradation of the proposed homes as they will be elevated approximately 6-7 feet. Mr. Grady said the homes are down gradient of Aberdeen and water that previously flowed to the low spot in the middle of the proposed development will now go to an infiltration basin. Mr. Grady concurred that the site is slopes away from Aberdeen Drive so that swales around the site would not be needed. A continuance will be necessary.

The public hearing session of February 27, 2020 was immediately continued at the applicant's request without any testimony or evidence taken.

The public hearing session of April 9, 2020 was immediately continued with no evidence or testimony taken due to the Coronavirus – Covid 19 pandemic and Governor's State of Emergency.

At the May 14, 2020 public hearing session, the applicant indicated how the plan met the purpose of the bylaw and how design standards were met. Ms. Joseph outlined concerns several board members had expressed to her individually including the basin and swale are within 50' of the perimeter lot line of 483 Country Way, density, no trees are proposed to be kept in the development area due to fill requirements, view from Aberdeen homes into the new development, reserve septic system areas are not shown, wetlands comprise most of the frontage except the access to the site and the details for the entry infiltration unit and its piping. The Board discussed the entry drive into the site in the 50' perimeter of the lot. The Board determined they would allow an entry to the site. Mr. DeLisi argued that another Residential Compound Development had drainage swales and structures within a perimeter buffer and the applicant took it to mean that it was acceptable. The applicant's engineer indicated that 483 Country Way and 489 Country Way were never part of the project and shown for abutter notification only. Ms. Joseph disagreed and said it took several months to have just five lots and all the land as a single tract in one ownership. There was discussion on what structures were and the Board opined that they review projects on a case by case basis.

The Board discussed the semi-rural character and the impact of the project on abutting properties. The applicant maintained the semi-rural character along of the development will be maintained through the size of the parcel required for the development and the willingness to offer a 30' buffer

instead of a 20' buffer shown on the plans. The Board questioned about the lots being clear cut. The engineer initially indicated trees could be preserved between houses and along the perimeter in the buffer. The Board pressed the issue and the engineer indicated that trees in the development area would not in reality be preserved due to fill and the area is a former farmland with not many good mature trees. The Board was concerned how visible the new development would be from the homes on Aberdeen Road. It was determined that the homes on Aberdeen are about 10' higher than the proposed new homes. When questioned on reserve areas for the septic systems, the engineer said that the area shown on the plans incorporates both the primary and reserve septic system area.

The Board asked about plans for a 100 year storm during construction. The engineer said they looked at the 10 year storm and that there is erosion control, a relatively flat site and undisturbed area that would help contain runoff and sediment during construction. The engineer said the contractor would be knowledgeable and make provisions. He said the post development calculations were done for the 100 year storm.

Dana Gillis and Edward Katersky both appreciated the applicant's willingness to increase the buffer to their Aberdeen properties. They were concerned about how much of the new homes they would see from their homes, when the perc tests were done and the maintenance of the buffer. Mr. Katersky asked how water would be prevented from flowing west. The Board indicated that Aberdeen is uphill from the site and water will not flow uphill but will flow to the basin and then under Country Way. The Board indicated the project was peer reviewed by the Town's consulting engineer who has opined the project will work. Brian Power of 20 Aberdeen confirmed that nothing would be cleared in the 30' buffer.

Public and Town Departments Input:

Dana Gillis, Edward Katersky, Brian Power, Jennifer Oram and Martha Cook all provided written comments. These comments included concern about the size of the buffer with 20' being insufficient, shoehorning oversized homes on undersized lots, drainage, lack of existing natural foliage in the buffer areas, clearcutting the development area, impact of redirecting or redistributing natural groundwater and surface water, environmental impacts in the Water Resource Protection District (WRPD) and Floodplain and Watershed Protection District, impacts to/from the adjacent Egypt Garage and its dormant underground tanks, surface and subsurface water seeking new levels with the proposed development, wetland impacts, traffic impacts, wildlife displacement, enforcing the Homeowners' Association requirements for maintenance, land disturbance and impervious coverage now and in the future and salt and oil runoff

Deputy Fire Chief Al Elliott had several concerns regarding the common driveway. These were addressed. He requested conditions related to identification of house numbers at the end of the common driveway and eat the driveway for each house.

The Board of Health had several comments with the final comment being that the lots have all met the requirements of 4 test pits per site and 3 percs as well as a result of the additional soil testing. The Conservation and Natural Resource Officer commented that their wetland consultant determined the line to be acceptable.

Findings of Fact:

The following findings of fact based on information submitted by the applicant and the testimony given during the Public Hearing were approved on 6/11/2020:

1. Bradford A. Merritt of 493 Country Way, Applicant, filed an application for a Residential Compound Development Special Permit under Scituate Zoning Bylaw Section 610 2.D on July 11, 2019. This application included plans by Grady Consulting, L.L.C. entitled Special Permit Plan Residential Compound Development at 0 & 483 Country Way consisting of thirteen (13) sheets dated April 25, 2019 or May 28, 2019. Revisions have been made to the plans such that there are now seventeen (17) numbered sheets with revisions through March 30, 2020 and pre and post development watershed plans.
2. The property that is the subject of this application is a 431,048 sq. ft. parcel at 0 Country Way and 0 Rear Country Way Assessor's Parcel Number 32-7-21 and 32-7-13 B. This parcel is an undeveloped lot. The property is in the Residence R-2 Zoning District as well as the Water Resource Protection District and Floodplain and Watershed Protection District. The Zoning Board of Appeals has determined that the site is not subject to flooding via a Determination of Suitability filed with the Town Clerk on 1/2/2020.
3. The wetland line and resource areas shown on the plan was concurred with by the Scituate Conservation Commission and their consultant EcoTec, Inc. on August 28, 2019.
4. The Stormwater Pollution Prevention Plan (SWPPP) contains information on the control of erosion and sedimentation during construction and was provided to the Planning Board and reviewed by the Board's consulting engineer who found it satisfactory as amended.
5. The Deputy Fire Chief approved the proposed 20' width of the private access drive with 12" Cape Cod berms and 24" gravel shoulders on either side. From Station 1 + 20 to Station 4 + 69 the road is super elevated with Cape Cod berm on one side only. A hammerhead turnaround for the fire department with dimensions of 45 feet long and 55.1' in width from the center point of the road with 28 foot radii has been provided. The private access drive is intended to forever remain private and shall never be accepted by the Town.
6. The project will be served by individual septic systems on each lot. The Board of Health has found that each of the 5 lots is suitable for a septic system.
7. The application was reviewed under Scituate Zoning Bylaw Section 610 2 D.1. Residential Compound Developments. This section allows no more than five single-family dwellings to share common frontage and a private access drive. This development includes five proposed single family dwellings sharing common frontage and a private access drive.
8. The application was further reviewed under Section 610 2.D. Paragraph 2., Standards, as follows:
 - a. Tract Frontage – The tract of land has 268.12 feet of shared common frontage on the single tract of land held in one ownership with a minimum of 100 continuous feet of frontage is provided on Country Way, a public way. The common frontage is provided in one 50 foot section and one 218.12 foot section. Much of the 218.12 foot section is encumbered with wetlands and an intermittent stream which flows under Country Way. This meets the requirement for a minimum of one hundred continuous feet of frontage on a public way.

- b. Minimum Tract Size – The tract size shall contain at least four times the gross size that is required in the district for the number of lots proposed for the tract. 400,000 sq. ft. is four times the gross size of 20,000 sq. ft. per lot that is required in the Residential R-2 district for a total of 5 lots (4 x 20,000 x 5). The total tract size is 431,048 sq. ft. Lot 1 contains 41,140 sq. ft. of upland; Lot 2 contains 40,114 sq. ft. of upland; Lot 3 contains 63,396 sq. ft. of which 44,413 sq. ft. is upland; Lot 4 contains 221,705 sq. ft. of which 87,246 is upland; Lot 5 contains 64,693 sq. ft. of land of which 41,662 sq. ft. is upland. None of the land is subject to a conservation restriction found in MGL, Ch. 184 S 31; however the tract is subject to wetlands requirements under State and Town laws and a Notice of Intent has been filed with the Conservation Commission. This meets the requirement for minimum tract size.
- c. Dimensional Requirements – No minimum lot width or lot frontage requirements are required within the tract. No structure other than a fence is allowed within 50 feet of any perimeter line in a Residential R-2. District. The plan shows building envelopes 50' from any perimeter lot line except for access into the site. The plan shows a 30 foot restricted clearing zone along a portion of the west and north property lines. The applicant is willing to accept a condition that no structure other than a fence can be erected within 50 feet of any perimeter lot line. The infiltration basin as well as a stone check dam and stone rip rap are proposed as part of the stormwater device leading to the stormwater infiltration basin are within 50 feet of the perimeter property line of 483 Country Way with no screening proposed. The driveway for Lot 1 is within 50 feet of the perimeter lot line of 489 Country Way. The private access driveway into the site and its stormwater devices is also within 50 feet of the perimeter lot lines of the site. The plan does not meet this requirement.
- d. Minimum Lot Size – Each lot will contain at least 40,000 sq. ft. of upland, or two times the minimum lot area of 20,000 sq. ft. of upland required in the zoning district. The requirement is met by the plan.
- e. Access – The access drive will serve the five homes in the development and is proposed to be 20' in width. Each building lot has access over the private access road through an access and utility easement of 38 feet in width. The private access road meets the minimum requirements for a Common Driveway found in Section 720 of the Zoning Bylaw as required. This requirement has been met.
- f. Open Space – All land is designated as building lots. There is no additional land which would be classified as open space according to the bylaw.

The proposal meets the requirements of Section 610.2.D Paragraph 2.

The applicant has agreed that the tract for this special permit may not be further divided or subdivided and a notation is provided on the plan and shall be contained in the deed to each lot. The proposal meets the requirements of Section 610 2 D. Paragraph 3.

- 9. The applicant has agreed to put the statements required in 610.2 D. Paragraph 4. a-d into Notes to be added to the plan and to have these included as conditions of the special permit. These notes are on the plan.
- 10. The Planning Board finds that the proposed development is in harmony with the general purpose and intent of this section, to provide an alternative to residential subdivision development

limiting residential development within a large tract of land without requiring construction of a subdivision road so as to:

- a. Promote large lot development;
- b. Reduce construction costs;
- c. Reduce impacts of new development on abutting properties;
- d. Eliminate future town maintenance, responsibility and costs for the development; and
- e. Preserve the semi-rural character of the Town.

The Board finds that the semi-rural character of the Town will be maintained by this development and impacts of the new development on abutting properties are reduced with this current plan.

11. The entire site is in the Water Resource Protection District (WRPD). The Section 520 of the Zoning Bylaw establishes a WRPD "to include areas significant to the town's drinking water supply source which require zoning protection". The WRPD running through the site is a source of recharge to the aquifer for the Town's water supply. The WRPD requires all runoff from impervious surfaces to be recharged on the site, diverted toward areas covered with vegetation from surface infiltration to the extent possible or as otherwise directed from the Scituate DPW or Conservation Commission. The site has been designed such that all rooftops will recharge the first inch of roof runoff and all impervious surface runoff is recharged for all impervious areas according to DEP requirements. The site has been designed to achieve 90% Total Suspended Solid Removal (TSS). All stormwater management features are designed with a three-foot minimum separation between the bottom of the structure and the maximum groundwater elevation.
12. The zoning bylaw (in Section 520.5F and 520.6 34.) restricts the rendering of impervious surface of any lot/parcel to no more than 15% or 2,500 sq. ft., whichever is greater, unless a system of artificial recharge is provided that will not result in degradation of water quality and meets the design requirements in 520.5F. The Applicant has supplied an impervious amount of 33,117 for all five lots as a whole not including the driveway with Lots 1 and 2 exceeding 15% individually; however, the Applicant has designed a system for stormwater management with artificial recharge and has provided a statement dated March 13, 2020 that certifies "that a system of artificial recharge of precipitation is provided that will not result in the degradation of water quality." Kevin S. Grady, P.E. signed and stamped the certification. Mr. Grady indicates the project has been designed and reviewed to be in conformance with State stormwater regulations and Town of Scituate Stormwater and Zoning Bylaws.
13. The Applicant has indicated that there will be no increase in rate or volume of runoff to abutting properties for the 2, 10 and 100 year storm events. The proposed stormwater management system has been reviewed by the Town's consulting engineer, John Chessia of Chessia Consulting Services LLC, whose comments indicate his concerns have been satisfactorily addressed. The 1-year storm calculations have not been provided as required in the Water Resource Protection District and should be added to the Report for the record. It is not anticipated that this data will impact the design as there is no increase in rate or volume from the development as it is being infiltrated in the basin and there will be less volume discharged overland to the culvert from the site. Since the site is a small percentage of the total area to the

culvert, the reduction in volume will not have a significant impact on current conditions at the culvert.

14. The review of the stormwater management system by the Planning Board's consulting engineer and their approval of this special permit eliminates the requirement for a separate stormwater permit from the Scituate Planning Board for any work that conforms to and is shown on the plans.
15. The Board of Health has indicated that they approve the septic feasibility study that was done. Each of the five (5) lots has had 4 test pits per site with 3 of them perking.
16. Correspondence received from the Fire Department indicated that they are satisfied with the common driveway and want conditions to have signage at the location of the common driveway at Country Way and at each driveway to each house.

Based on these findings, the Planning Board finds the Residential Compound Development Special Permit does not meet all the design requirements of Scituate Zoning Bylaw, Section 610 2.D. The Planning Board finds that the proposed development is in harmony with the general purpose and intent of this section and that it is designed in such a manner to make it sufficiently advantageous to the town to depart from the requirements of this bylaw otherwise applicable to residential districts in which the development is located.

I move that based on the Findings of Fact and the information obtained at public hearings on November 14, 2019, January 9, 2020, February 27, 2020, April 9, 2020, May 14, 2020, May 28, 2020 and June 11, 2020, the Planning Board approved the Residential Compound Development Special Permit for 0 Country Way and 0 Rear Country Way with the following conditions:

General Requirements

1. All construction work shall be done in accordance with the plans submitted by Grady Consulting, L.L.C. entitled Special Permit Plan Residential Compound Development 0 & 483 Country Way Scituate MA consisting of seventeen (17) sheets and pre and post development watershed condition sheets dated May 28, 2019 with revisions through March 30, 2020, and as further revised to meet these conditions. All conditions of this approval shall be inscribed on the Residential Compound Development Special Permit plan prior to endorsement.
2. Lots 1-5 shall each have access over the Residential Compound Development (RCD) driveway. No additional extensions or attachments of any other roadway or common driveway or access to any other lot other than those specifically created and shown on the plan shall be permitted. The RCD driveway shall remain private in perpetuity and shall never be considered for acceptance as a Town road. All maintenance and repair of the driveway shall be the sole responsibility of the property owners who comprise the Homeowner's Association. A note shall be placed on the plan and deed for each lot serviced by the RCD driveway stating the above with proof of the recording of such notes provided to the Planning Board prior to occupancy of the first unit.
3. Where this Residential Compound Development Special Permit requires approval, permitting or licensing from any local, state or federal agency, such required approval, permitting or licensing is deemed a condition of the Town of Scituate Planning Board's (the "Planning Board" or "Board") approval of this Residential Compound Development Special Permit, including but not

limited to the Board of Selectmen's approval of work in the public right-of-way of Country Way. All necessary permits and approvals must be received prior to the start of construction.

4. The applicant shall mean the current applicant and all its successors in interest (the "Applicant").
5. The total number of single family dwellings in the Residential Compound Development shall not exceed five (5) as shown on the Drawings.
6. The RCD Special Permit plans shall be endorsed by the Planning Board within 90 days of expiration of the appeal period and this decision becoming final. The Plans and Special Permit decision shall be recorded together at the Plymouth County Registry of Deeds.
7. All plan sheets of the Residential Compound Development Special Permit shall be recorded at the Registry of Deeds.
8. No removal of trees over 3" dbh or stone walls in the Country Way right of way is allowed by this permit and the Applicant shall mark, protect and provide the Town Planner an as-built drawing of any such trees and or stone walls.
9. There shall be no further division or subdivision of any lot shown on this plan for purposes of constructing additional units or buildings. There shall be no further expansion of any building or impervious surface on the site. No additional single family dwelling units shall be added. No expansion of the limit of work is allowed without further approval of the Scituate Planning Board.
10. The location and footprint of each building shall be in general conformance with the layouts of each building shown on the Drawings. Any proposed change to such layouts shall require prior approval of the Board who will determine if the change is insignificant or requires a modification of the special permit. No structure shall be placed or erected within 50 feet of any perimeter lot line except for fencing and proposed driveways and the stormwater basin devices as shown on the plan and additional screening of up to 12 native species already existing in the buffer shall be provided if the existing screening is deemed insufficient. No additional structures are permitted in the future in the 50 foot perimeter lot line area. A deed restriction shall be placed on each lot noting this structure prohibition within 50 feet of a perimeter lot line.
11. Individual site plans shall be submitted for each lot prior to application for a building permit with the intent of preserving trees on individual lots. The site engineer and site landscape architect shall review the lots in the field prior to clearing in consultation with the Town Planner and or Planning Board.

Utilities, Parking and Traffic

12. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Copies of required Town and State approvals for water connections and/or extensions shall be furnished to the Planning Board. If desired by the Water Division, a determination of the adequacy of the existing water service for the proposed tie-in shall be provided to the DPW for their approval. Any required upgrades, modifications or connections shall be at the Owner's expense.
13. The Applicant shall maintain and trim the trees along Country Way so that there is good visibility in the sight distance triangle shown on Sheet 9 of 17. This area shall be maintained by

the applicant until the Homeowners' Association takes over maintenance of the private access drive and drainage system at which time the Homeowner's Association shall assume the maintenance of the site triangles for visibility.

14. The Applicant shall obtain, in advance, the approval of the Planning Board through the Town Planner if minor changes from the plan are desired, and/or details are needed for lighting, signage or landscaping.
15. The lots shown herein shall have legally enforceable rights of access to Country Way.
16. No structures shall be placed in the drainage easement other than those associated with the proposed stormwater management system.
17. The septic systems shall meet the requirements of Title V and 310 CMR 22 including a reserve system. The locations of the reserve systems shall be added prior to endorsement. Any changes to the plan necessitated by compliance with any Board of Health provision including reserve systems, requires notification of the Town Planner to determine if the change is significant or insignificant.
18. The details for the catch basins and storm sewer piping near the intersection with Country Way are insufficient to demonstrate that the system would be constructible to manufacturer's standards. A refined detail shall be provided prior to endorsement. The detail shall include the use of ductile iron pipe. The Applicant is required to provide shop drawings with the manufacturer's certification that the system meets all applicable industry standards for the proposed application including loading conditions, connections of pipes to structures, space to install the specified hood frames and grates.

Required Prior to Release of Special Permit to Applicant for Recording

19. A final copy of the updated plans shall be provided to the Planning Board. The following notes and conditions shall be added to the plan or report:
 - No structure shall be placed or erected within 50 feet of any perimeter lot line except for fencing and proposed driveways and the stormwater basin devices as shown on the plan and additional screening of up to 12 native species already existing in the buffer shall be provided if the existing screening is deemed insufficient. No additional structures are permitted in the future.
 - The 1-year storm calculations have not been provided as required in the Water Resource Protection District and should be added to the Report for the record prior to endorsement.
 - The Construction Period Phase 1 Plan Sheet 17 shall add a note regarding soil stabilization requirements between November 10 and April 15 in order to comply with SWPPP stabilization practices.
 - Areas for snow storage shall be added to the plan in accordance with the Operation and Maintenance Plan.
 - The drawings will reflect the septic systems show primary and reserve septic areas.

20. The 30' restricted clearing zone buffer located adjacent to Aberdeen Drive and on the south side of 489 Country Way shall be a permanent barrier demarcated by a 4 foot post and rail fence. The permanent barrier and fence is to be maintained by the Homeowner's Association with an allowance for removal of dead or diseased vegetation in the buffer area with approval of the Planning Board. Any dead or diseased vegetation that is removed shall be replaced with similar native species existing in the buffer. No machinery is allowed in the permanent barrier and no dumping of any kind is allowed. Restrictive clearing area signs shall be provided as detailed on the plans. Additional screening of up to 12 native species already existing in the buffer shall be provided if the existing screening is deemed insufficient.

Private Access Driveway Agreement/ Homeowner's Association

21. A draft Homeowners' Association Agreement has been provided to the Planning Board. The Homeowners Association Agreement shall include:
- a. A statement that the Private Access Drive and stormwater management system shall be owned and maintained by the Homeowners' Association and shall not be maintained by the Town. All requirements of the Homeowners' Association Agreement shall be enforceable by the Town and shall be subject to fines and penalties should the Homeowner's Association fail to meet its obligations under the Homeowners' Association Agreement. This shall also be stated in a note on the plan.
 - b. The Homeowner's Association Agreement shall assign the responsibilities and costs of maintenance and repair of the private access driveway and emergency turnaround, as well as the stormwater management system serving the private access driveway, to the owners of the lots shown on the plan. The private access drive and drainage system shall remain private in perpetuity and not be maintained by the Town. This shall be stated by a note on the plan.
 - c. A requirement that maintenance of the Private Access Drive and stormwater management system shall be in accordance with the Operation and Maintenance Plan approved by the Planning Board's consulting engineer; which plan shall include a description of annual maintenance of the Private Access Drive, stormwater management system and other common amenities and shall include provisions for snow removal and maintenance of safe conditions at all times.
 - d. A requirement that the Association maintain an account always containing a minimum of one year's costs for this maintenance. A contractor's estimate of this maintenance and proof of the available funds in this account shall be provided to the Planning Board with the Agreement and annually on the first of the year.
 - e. A requirement that the Applicant notify contractors, builders and real estate agents that membership in a Homeowners' Association is required to be disclosed to all prospective buyers. The Applicant shall make copies of the Homeowners Association Agreement and Covenants available to agents to provide to purchasers.
 - f. A requirement that Homeowners' Association notify the Planning Board of the name, address, phone no. and e-mail of the trustees within thirty (30) days of their election

or appointment, and to provide an annual report of their maintenance activities to the Planning Board by March 30 of each year.

- g. The Private Access Driveway/Homeowner's Association agreement shall include a provision that no parking along the private driveway and access and utility easement is allowed. It must be kept clear and passable at all times for emergency vehicles.
 - h. Areas for snow storage shall be provided on the plan as to not interfere with any stormwater management features.
 - i. A final draft of the Private Driveway Agreement/Homeowners' Association shall be provided to the Planning Board within two weeks of approval of the special permit. The Agreement/ Homeowner's Association shall be recorded at the Registry of Deeds.
22. Lots 1-5 are part of the Residential Compound Development and shall also use the private access drive. The owners of these five lots shall be included in a Homeowners' Association and shall be responsible for maintenance of the private access drive and stormwater management system. Until a Homeowners' Association is formed, maintenance and repair of the private access drive, stormwater management system, snow removal and landscaping shall be the responsibility of the owner/Applicant.
23. The Operation & Maintenance (O & M) Plan has been provided to the Planning Board as a standalone document. Any changes to the O & M Plan require approval of the Planning Board.
24. The Post Construction Operation and Maintenance Plan shall be strictly adhered to so that, without limitations, 90% TSS removal is achieved at all times.

Inspections

25. The Town Planner is to be notified when construction begins and when construction is completed. All clearing and earth moving operations shall only occur while erosion and sedimentation control measures, approved by the Town Planner and shown on the plan are in place. Such control measures shall remain in place until the Town Planner determines that the danger of erosion or sedimentation no longer exists.
26. The inspections for this development will be done in accordance with Section 9.1.3 of the Town of Scituate Subdivision Rules and Regulations. Installation of storm drainage facilities includes inspection of the bottom of the excavation prior to any backfill materials being placed. The Town's consulting engineer shall perform these inspections with costs paid by the Applicant. All required inspections shall take place including inspection of water utilities (along with the DPW). Weekly reports shall be provided by the consulting engineer to the Town and Applicant stating the results of the inspections unless more frequent reports are needed.
27. The design engineer shall inspect the development during all phases of construction and provide updates to the Applicant and Town not less than weekly to ensure that the plan is implemented and functions as designed. The costs for this shall be borne by the Applicant.
28. The project shall be phased according to the Applicant's Phasing Schedule. Phase 1 is construction of the driveway, utilities and drainage basin. Phase 2 is the lot development of five dwellings, landscaping and

top coat of the driveway. The two phases are separate and distinct phases. The Applicant must appear before the Planning Board at a public meeting prior to being given permission to proceed with the second phase.

Prior to the commencement of Phase 1, the Applicant and his representatives and the Town Planner shall evaluate potential trees to be preserved in Phase 2 which shall be preserved throughout Phase 1.

Before any grubbing begins, a minimum of one test pit at each proposed infiltration system, witnessed by the Town's designee, shall be conducted to confirm the required three foot separation exists between the bottom of the infiltration basins and any drainage device and the maximum groundwater elevation as required for a drainage device in the Water Resource Protection District. The infiltration rates of the parent subsoil must also be confirmed.

The Applicant shall provide to the Planning Board an interim as-built plan, prepared and stamped by a licensed professional engineer, as soon as the infiltration systems are installed to further confirm the required 3' separation between the bottom of the basin and the maximum groundwater elevation exists as required in the Water Resource Protection District. For open systems the grading shall be completed to topsoil but prior to planting in the event that modifications are required. The interim As-Built Plans shall be reviewed and approved by the Planning Board or its agent. No further site work or construction shall take place until the required 3' minimum separation has been confirmed by review of the as-built plan and a site inspection. No building permits shall be issued until this has been verified by the Planning Board or its designee.

Construction of the private access driveway, drainage systems and all utilities shall be supervised by a registered professional engineer approved by the Planning Board (suggested to be the design engineer) who shall certify in writing to the Planning Board during construction and at completion that the driveways, grading, drainage structures, utilities and dwellings were constructed in accordance with the approved Plans. This certification shall be accompanied by as-built plans, signed and stamped by a registered professional land surveyor and the supervising professional engineer. The costs of this supervision and certification shall be borne by the applicant. No Certificate of Occupancy shall be issued until the Planning Board is satisfied that access, construction of the driveways, grading, installation of drainage structures and stormwater management features, installation of utilities and site stabilization are in full compliance with the approved plans, special permit and 3' separation to the maximum groundwater exists and the infiltration rate is as designed. The stormwater system must be functioning in accordance with design requirements and the as-built certification must include a statement that any variation in grade is immaterial and does not materially alter the performance of the stormwater system.

The infiltration systems shall be monitored during all phases of construction and reports, including inspection of monitoring wells and observation ports, together with site photographs of observed conditions, submitted monthly. Inspections shall be scheduled to confirm that infiltration systems have completely drained within 72 hours of rain events and include an inspection after snow melt and/or spring thaw conditions. No further site work or construction (including going into an additional phase) shall take place until the required 3' minimum separation has been confirmed by the inspection reports. The Town may authorize independent inspections after critical milestones, including rain events or snow melt/spring thaw conditions.

Required Prior to Scheduling the Pre-Construction Conference

29. A pre-construction conference shall be held with the Applicant, their representatives, their engineer, the site contractor(s), the Town Planner, the Planning Board's consulting engineer and other representatives of the Town as the Board feels are necessary. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and the DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.
30. Prior to scheduling the pre-construction conference, the Applicant shall provide to the Planning Board:
- a. Copies of the recorded special permit and plans;
 - b. Copies of the NPDES Permit including its Stormwater Pollution Prevention Plan (SWPPP). Such plan shall include any necessary contingency plans during construction to manage stormwater up to and including the 100-year storm event. For avoidance of doubt, the Application shall comply with all stormwater management requirements at all times during construction and shall take additional necessary measures as necessary to ensure such compliance. Inspections and observations made according to the SWPPP shall be submitted to the Board within 48 hours if there are any issues identified with the inspections;
 - c. Copies of the permits from DPW for street opening/curb cuts;
 - d. Copies of the "as-built" conditions and measures to be taken that identify all trees 3" and greater and all stone walls that are to be preserved within the layout of Country Way during construction.
 - e. A check to cover the cost of inspections by the Town's consulting engineer. They shall provide a schedule of necessary inspections to the Conservation Commission, Planning Board and Applicant prior to the Pre-construction Conference. The specific amount shall be provided by the Planning Dept. based on the consulting engineer's estimate;
 - f. The Applicant shall provide surety for \$ 1,000,000 in a form acceptable to the Planning Board to ensure that the private access road, utilities, stormwater management system and grading will be completed in accordance with the plan approved by the Special Permit. After the Town Planner and consulting engineer has inspected the site and found the grading, loaming and seeding, clean-up of earth materials and construction debris to be completed, and the as-built submitted, the surety shall be returned to the Applicant.
 - g. A construction schedule for installation of infrastructure and build-out of the development.

Required During Construction

31. In accordance with Section 610.2 D. 6. A, the following mandatory conditions are imposed by the Planning Board as they relate to construction of all the infrastructure including roads, utilities and stormwater management:

- a. "As-built" plans shall be forwarded to the Planning Board prior to the issuance of any building permit;
 - b. All site work and grading must be performed in accordance with the special permit as granted prior to the issuance of any building permit;
 - c. All site work and grading must be completed, inspected by the Town's consulting engineer and determined by said consulting engineer to conform to the requirements of said Special Permit prior to the issuance of any building permit for any lot within the tract.
32. Any proposed changes in grading from the approved plan must be reviewed by the Town Planner and town's consulting engineer to determine if they are materially significant. The Applicant shall certify that such changes shall result in no impact on the drainage system and not increase runoff onto Country Way, abutting lots or the rate and volume of the post condition from the predevelopment condition.
33. A stabilized construction entrance as shown on the SWPPP must be installed prior to any earth disturbing activities on site including but not limited to clearing and grubbing. Construction access must be clearly identified on the site with signage on Country Way approved by the Town Planner.
34. The hours of construction shall be limited to 7 AM to 7 PM weekdays and 8AM to 7PM or sunset, whichever is earlier on Saturdays. No construction is permitted on Sundays or legal federal or state holidays. A name and phone number of a 24 hour contact must be provided to the Town Planner, Building Department, Police Department and DPW to be used in the event of an emergency.
35. Construction activities shall be conducted in a workman like manner. Noise mitigation and proper dust controls shall be used, with clean-up of all areas of the site as needed. All equipment that emits sounds shall be kept in proper working order through regular maintenance by the Applicant. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down or other proper storage and disposal methods.
36. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures as shown on the SWPPP and approved by the Town Planner are in place. Such control measures shall remain in place until the Board's consulting engineer determines after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists. Erosion controls are to be maintained throughout the project. Limits of clearing to be staked in the field under the direction of a surveyor and inspected prior to start of any tree clearing and maintained throughout construction. Notification must be 5 days prior to start of construction. Any disturbance or dumping beyond the limit of work shall be fully restored in accordance with a restoration plan submitted to and approved by the Planning Board and a fine of \$5,000 as well.
37. The Construction Period Phase 1 Plan Sheet 17 shall add a note regarding soil stabilization requirements between November 10 and April 15 in order to comply with SWPPP stabilization practices.
38. No parking, idling or unloading on Country Way, adjacent public roads, or the private access drive shall be permitted during construction.

39. Police details may be required for construction access to the site. Any police detail required is at the expense of the Applicant.
40. Construction activities on the site shall conform to Town of Scituate General Bylaws.
41. No use of hydrants on-site or on adjacent roads is allowed for construction use. A hydrant is available at the water treatment plant for construction use.
42. Inspections and observations made according to the Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the Board within 48 hours after the inspections. The Board reserves the right to require the consulting engineer to visit the site weekly during times when required construction inspections are further than one week apart.
43. Spill control provisions shall be provided on site.
44. Any mosquito control required shall be organic in nature.
45. The use of pesticides and fertilizers is prohibited.
46. All utilities shall be placed underground.
47. No new underground irrigation systems shall be allowed to connect to the Town's water distribution system or in any manner use municipal water. In accordance with this policy, all irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner.
48. All construction shall comply with all applicable requirements of the Water Resource Protection District in Section 520 of the Zoning Bylaw. No finished slope shall exceed 4:1.
49. Stockpiles shall be located as shown on the plans and must be protected with erosion controls including but not limited to silt socks and temporary seeding.

Required Prior to Issuance of Occupancy Permits

50. Proof of recording of the Homeowners' Association Agreement/Private Access Road Agreement at the Registry of Deeds or the Land Court must be provided to the Planning Board prior to the Building Department's issuance of an occupancy permit.
51. Signage identifying house numbers served by the private access driveway and for each house shall be provided to the Town Planner for approval who will coordinate with DPW and the Fire Department for emergency purposes. Signage must meet 911 requirements. Signage must be in place prior to issuance of an occupancy permit.
52. No Certificate of Occupancy shall be issued until both the Town Planner and Building Commissioner are satisfied that access, construction of the private access road and installation of the necessary utilities are in full compliance with the approved plans and the special permit. The Town Planner and Town's consulting engineer shall inspect the lots and notify the Building Commissioner that the grading and stormwater conforms to the approved plans.

Administration

53. This special permit shall be void if it is not recorded at the Registry of Deeds within 90 days of the date of filing with the Town Clerk or following the resolution of any appeals. The owner shall provide proof of this recording to the Planning Board.

54. This special permit shall lapse within two years from the date of its issuance, which shall not include such time required to pursue or await the determination of an appeal under M.G.L. c. 40A, s.9, from the grant thereof unless substantial use or construction has commenced prior to that time in accordance with M.G.L. c. 40A, s. 9. The Planning Board may extend such period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which shall provide a detailed description of the good cause necessitating an extension.
55. Willful failure to comply with any condition of this special permit shall cause it to be deemed invalid after notice to the owner, a hearing by the Planning Board and a final decision by the Planning Board.

Vote:

Based on the Findings of Fact and the evidence and information provided by the applicant and obtained through the public hearings, the members of the Planning Board hearing this application voted unanimously to approve the Residential Compound Development Special Permit at 0 Country Way, 0 Rear Country Way with the conditions noted above.

June 11, 2020

Date

SCITUATE PLANNING BOARD

Anna Burbules
Patricia G. Lambert
William L. Lumbacher
[Signature]
John P. Pritchard

This decision was filed with the Town Clerk on June 30, 2020
date

Appeal of this special permit may be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.

This special permit will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County Registry of Deeds, after the expiration of the appeal period of twenty (20) days.

The Planning Board certifies that it has complied with all statutory requirements of MGL Chapter 40A, Sections 9 and 11, and will file copies of this decision with the Town Clerk. The Planning Board further certifies that it has taken into consideration all testimony rendered at the Public Hearing, the comments and suggestions of other boards which have reviewed and made comments on the plans