

TRURO PLANNING BOARD AGENDA
WEDNESDAY, December 21, 2016 – 6:00 p.m.
Truro Town Hall, 24 Town Hall Road, Truro

Public Comment Period

The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

Partial Release of Covenant

2012-001PB William and Patricia Berger seek a partial release of Form D Covenant for Lot 23, 1 Capt. Williams Way, (L.C.P. No. 17658-H) and execution of Form F, Certificate of Completion & Release of Municipal Interest in Subdivision Performance Security.

2016-009SPR Adventure Bound Camping Resort

Vote to accept applicant's request for extension of Public Hearing date to January 17, 2016.

Review Proposed Article to Adopt MGL CH. 39, Section 23D

Review language of proposed Town Meeting article to forward to Board of Selectmen. MGL CH 39, Section 23D allows for members of adjudicatory boards to not be disqualified from voting on a matter solely because they missed one meeting, provided they certify that they reviewed any missed testimony.

Possible Discussion on Zoning Bylaws

§30.3 Seashore District

Review and Approval of Meeting Minutes

December 6, 2016 Planning Board Meeting

Reports from Board Members and Staff

Meeting Dates and Other Important Dates

January 3, 2017 (Tues.) – Regular Meeting
January 17, 2017 (Tues.) – Regular Meeting
February 7, 2016 (Tues.) – Regular Meeting

Adjourn



TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666

Tel: (508) 349-7004, Ext. 27

Fax: (508) 349-5505

criddle@truro-ma.gov

Memorandum

To: Planning Board
Fr: Carole Ridley
Date: December 1, 2016, Revised December 13, 2016
Re: Release of Covenant

2012-001PB William and Patricia Berger seek a partial release of Form D Covenant for Lot 23, 1 Capt. Williams Way, (L.C.P. No. 17658-H) and execution of Form F, Certificate of Completion & Release of Municipal Interest in Subdivision Performance Security.

Background

The subject property is part of a subdivision approved in 2006. Capt. William's Way is called Rose-Lee Way on the approved plans. Subsequently, in 2011 and 2012, ANRs were filed to adjust lot lines.

The road design was approved under standards in effect in 2006. When the Planning Board considered the ANR in 2011, they also granted a waiver for the grade requirement not to exceed 10% between stations 0+95 and 1+65 and between stations 3+40 and 3+60. The minutes of this meeting are enclosed.

Otherwise, the as built plan shows a traveled way that is 22 feet, which is wider than the approved road profile.

Truro DPW Director Jarrod Cabral agreed to inspect the road, in consideration of as built plans and the approved road profile. He found the road construction was consistent with the As Built plan, and the only differences between the As Built plan and the approved plan was the increased width noted above, and also the As Built showed the location of certain utilities not shown on the approved profile.

The applicant has provided stamped as built plans and a letter signed by a Registered Land Surveyor and Registered Land Surveyor and Professional Engineer, per section 2.5.7 of the Rules and Regulations Governing the Subdivision of Land.

Planning Board Action

If the Board so chooses to release the covenant associated with the Lot 23, a possible motion to this effect follows:

In consideration of performance of road construction consistent with the requirements of section 2.5.4 of the Rules and Regulations Governing the Subdivision of Land, vote to execute Form F Certification of Completion and Release of Municipal Interest in Subdivision Performance Security with respect to the covenant recorded with the Barnstable Land Court Registry, document 1,195,003, as it pertains only to Lot 23 (LCP 17658-H).

RE: Capt Williams Way

Jarrold Cabral

Wed 12/7/2016 11:08 AM

To: Carole Ridley <cr Ridley@truro-ma.gov>;

Hello,

After review with conservation we have determined that there is no negative impact regarding the roadway width.

Thanks - Jarrod

From: Carole Ridley

Sent: Wednesday, December 7, 2016 9:16 AM

To: Jarrod Cabral <jcabral@truro-ma.gov>

Subject: Re: Capt Williams Way

Jarrold,

Thanks for the thorough reply. I'll wait to see if there area any conservation issues and will let the Planning Board know.

I appreciate your time and expertise with this.

Best,
Carole

From: Jarrod Cabral

Sent: Wednesday, December 7, 2016 6:55 AM

To: Carole Ridley

Subject: RE: Capt Williams Way

Good morning Carole,

After review of the original plans, the As Built plans and a review of the roadway in the field, I have determined the As Built to be correct. The only difference from the original approved plan is the width in the roadway area indicated on the As Built, also the As Built indicates the location of the cable TV , and electric conduit whereas the original plan does not.

After discussing the road name change with the Building Commissioner, we both determined that there is no

known formal process with the Town to change a private road name. I also discussed the difference in the roadway width from the original approved plans and the As Built plan with him, and the Commissioner indicated there would be no negative impact with the change in width. I will contact also contact The Health and Conservation Department this morning, just to ensure there are no problems with the change in road width from a conservation point of view.

Thanks - Jarrod

From: Carole Ridley

Sent: Tuesday, December 6, 2016 4:37 PM

To: Jarrod Cabral <jcabral@truro-ma.gov>

Subject: Capt Williams Way

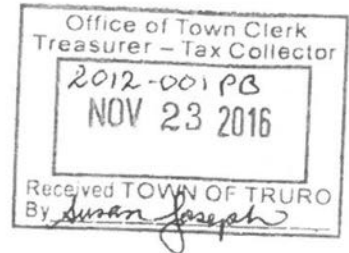
Hi Jarrod,

When you have a moment, I would appreciate your thoughts on Capt. William's Way, and whether the As Built plan matches the approved road profile.

Many thanks,
Carole

**SLADE ASSOCIATES, INC.
REGISTERED LAND SURVEYORS**

P.O. BOX 592
WELLFLEET, MASSACHUSETTS 02667
(508) 349-3110
FAX (508) 349-7577
e-mail: sladeassoc@capecod.net



ASSOCIATES:

RICHARD F. LAY, R.L.S.
CHESTER N. LAY, R.L.S.

November 17, 2016

Truro Planning Board
P.O. Box 2030
Truro, MA 02666

Re: Captain William's Way

Dear Board Members,

We have inspected the completed construction for the above-captioned road and state that we approve the methods of construction and materials used in the performance of this work and that there has been at least one year growth for the loamed and seeded side slopes. The vertical and horizontal conditions, as constructed, are shown on a plan entitled "Captain William's Way, As-built Plan & Profile, Made for William Berger" dated October 24, 2016, by Slade Associates, Inc., Registered Land Surveyors.

Sincerely,

Handwritten signature of Chester N. Lay in black ink.

Chester N. Lay
Registered Land Surveyor

Sincerely,

Handwritten signature of Timothy J. Brady in black ink.

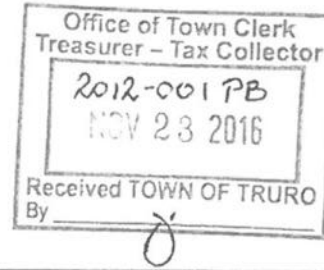
Timothy J. Brady
Registered Land Surveyor
Professional Engineer

Encls.

CNL/jd

Received of Slade Associates, Inc. regarding Captain Williams Way (Berger)

- 1 Letter from Chester N. Lay and Timothy J. Brady
- 5 Copies of "Captain Williams Way" As-Built Plan & Profile plan #2016-112



Truro Town Clerk
November 23, 2016

Law Offices of
CHRISTOPHER R. MINER
14 COVE ROAD
POST OFFICE BOX 1570
ORLEANS, MASSACHUSETTS 02653
(508) 255-5563
TELEFAX (508) 255-4220
chris@cmilaw.net

RECEIVED
SER. 120102016

BY:.....

October 4, 2016

RECEIVED
OCT 11 2016

BY:.....

Truro Planning Board
P.O. Box 2030
Truro, MA02666

Attn: Carole Ridley

Re: Partial release of Form D Covenant - Subdivision for William R. Berger and Patricia Berger, 1 Capt. William's Way (Lot 23, L.C.P. No. 17658-H)

Dear Carole:

I, along with Chester N. Lay of Slade Associates, Inc., am assisting the owner/applicant in seeking a Partial Release.

Enclosed is Form F requesting a Partial Release of Lot 23 from the Form D Covenant, along with my check for the filing fee in the amount of \$100.00 and copies of the Covenant and the "G" and "H" plans for the Board's reference.

Please place this matter on the docket for Tuesday, October 18, 2016.

If you have any questions, please contact me.

Very truly yours,


Christopher R. Miner

CRMcrm
Enclosures
cc: Chester N. Lay
William R. Berger



FORM F
CERTIFICATION OF COMPLETION & RELEASE OF MUNICIPAL INTEREST
IN SUBDIVISION PERFORMANCE SECURITY

Date: October 4, 2016 Request for Partial Release of Lot 23 only.

Subdivision Name: Plan of Land in Truro Location 1 Capt. Williams Way

Owner: William R Berger and Patricia Berger

Owner address: 14 Hadden Road Scarsdale, NY 10583

Applicant: Same as Owner

Applicant address: "

Barnstable County Registry of Deeds, Plan Book _____, Page _____

Barnstable County Land Registry, L.C.P. No. 17658-H

Form D Covenant Doc. No. 1195,003 Book _____ Page _____

The undersigned, being a majority of the Planning Board of the Town of Truro, Massachusetts, hereby certify that the construction of ways and the installation of municipal services for the subdivision cited above have been fully and satisfactorily completed in accordance with the Planning Board Rules and Regulations to serve the following lots:

Pursuant to MGL c.41, §81-U and in consideration of said construction and installation, the Town of Truro a Massachusetts municipal corporation, acting through its Planning Board, hereby release its interest in the performance security for the subdivision cited above.

Truro Planning Board

Date: _____

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, one of the above signed members of the Truro Planning Board, proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document in my presence.

By commission expires: _____

Notary Public

The undersigned William R. Berger of
14 Hadden Road, Scarsdale, New York 10583, hereafter called the
"Covenantor", having submitted to the Truro Planning Board, a definitive plan of a
subdivision, entitled "Plan of Land in Truro Being a Division of Lot 17 as Shown on L.C.P. No. 17658E"
dated Aug 1, 2006 made by Slade Associates, Inc. does hereby
covenant and agree with said Planning Board and the successors of office of said Board, pursuant to
G.L., C.41, Sec. 81U, as amended, that:

1. The Covenantor is the owner of record of the premises, shown on said plan;
2. This covenant shall run with the land and be binding upon the executors, administrators, heirs, assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the applicable Rules and Regulations of said Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell any such lot, subject only to the portion of this covenant which provides that no such lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon the approval of said plan;
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded when said plan is recorded.

7. See attachment.

The undersigned _____ wife, husband,
of the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower and other interest therein.

EXECUTED as a sealed instrument this 18 day of MARCH 2011

William R Berger

LAND COURT, BOSTON. The land
herein described will be shown on
our approved plan to follow as

REFERRED TO

JUN 21 2012

Plan 17658G Lots 18, 19, 20

(EXAMINED AS DESCRIPTION ONLY)

T.C. PONTBRIAND
ACTING CHIEF ENGINEER

JAV

COMMONWEALTH OF MASSACHUSETTS

State of NY
Barnstable, ss,
County of Westchester

On this 18th day of March, 20 11, before me, the undersigned notary public,
personally appeared William Berger, proved to me through satisfactory evidence of
identification, which were NYSID# 928 985-399
to be the person whose name is signed on the preceding or attached document in my presence.

Nathan Ellenberger
Notary Public, State of New York
Qualified in Westchester County
No. 01EL6161404
Commission Expires 02/26/2015

[Signature]
Notary Public

My commission expires:

CTF 154271

7. Attachment to Berger Covenant

We, the undersigned, being a majority of the Truro Planning Board present at a meeting held April 12, 2011, hereby agree to waive certain of our requirements as detailed in Table 1, *Design Elements* of our regulations and allow a maximum center line grade within Rose-Lee Way to be 10% between stations 0+95 and 1+65 and between stations 3+40 and 3+60.

[Signature]
[Signature]
[Signature]

[Signature]
[Signature]
[Signature]

Truro Planning Board
APRIL 12, 2011
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

12 April 2011

Then personally appeared Nicholas Brown, one of the above-signed members of the Truro Planning Board, and acknowledged the fore-going instrument to be his free act and deed before me.

My commission expires:

September 9, 2016

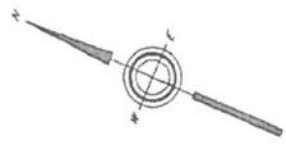
[Signature]
Notary Public



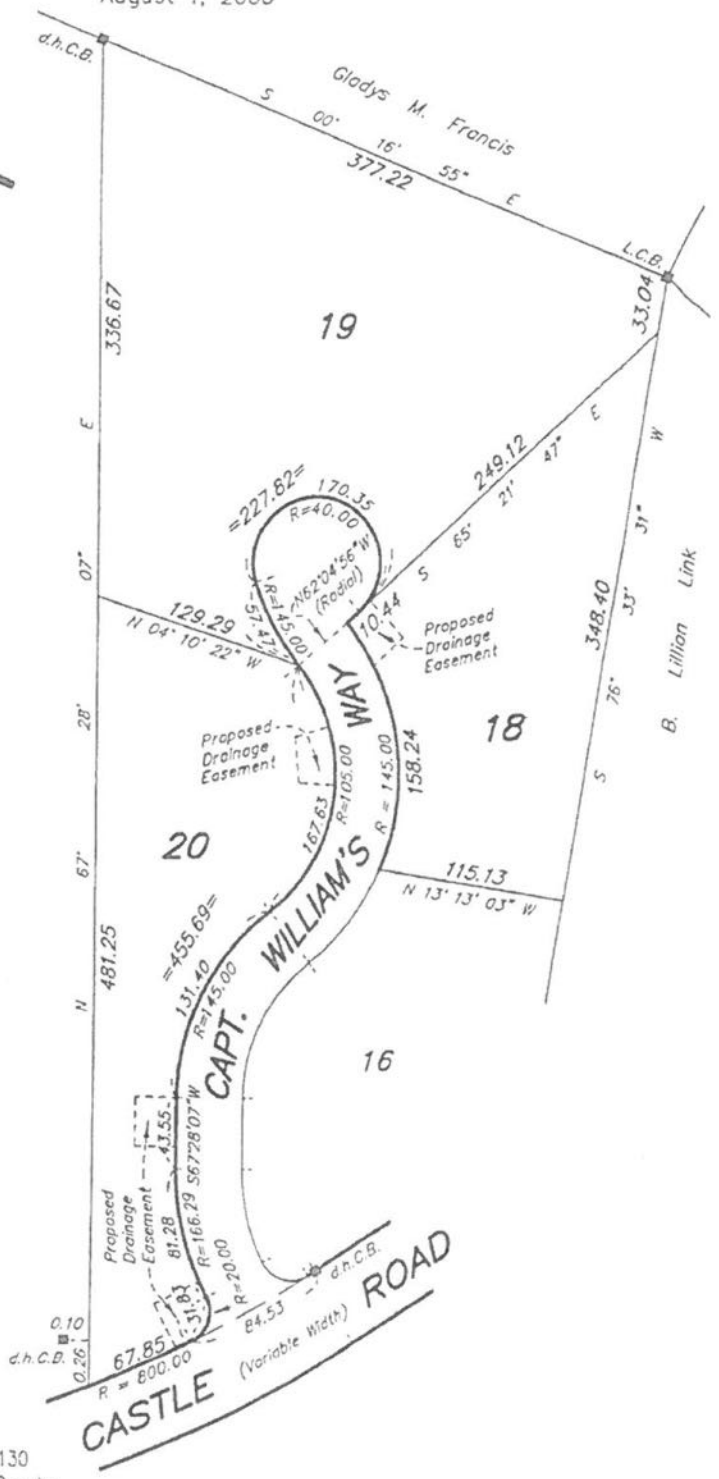
194071

SUBDIVISION PLAN OF LAND IN TRURO
Slade Associates, Inc., Surveyors
August 1, 2006

17658 G



Plan No. 17658 C Cert. No. 44932



Subdivision of Lot 17
Shown on Plan 17658-F
Filed with Cert. of Title No. 92130
Registry District of Barnstable County

Separate certificates-of-title may be issued for land
shown hereon as Lots 18, 19 and 20
By the Court.

See "H" Plan
Deborah J. Patterson
Recorder

June 21, 2012

ST-07AZ

Abutters are shown as
on original decree plan.

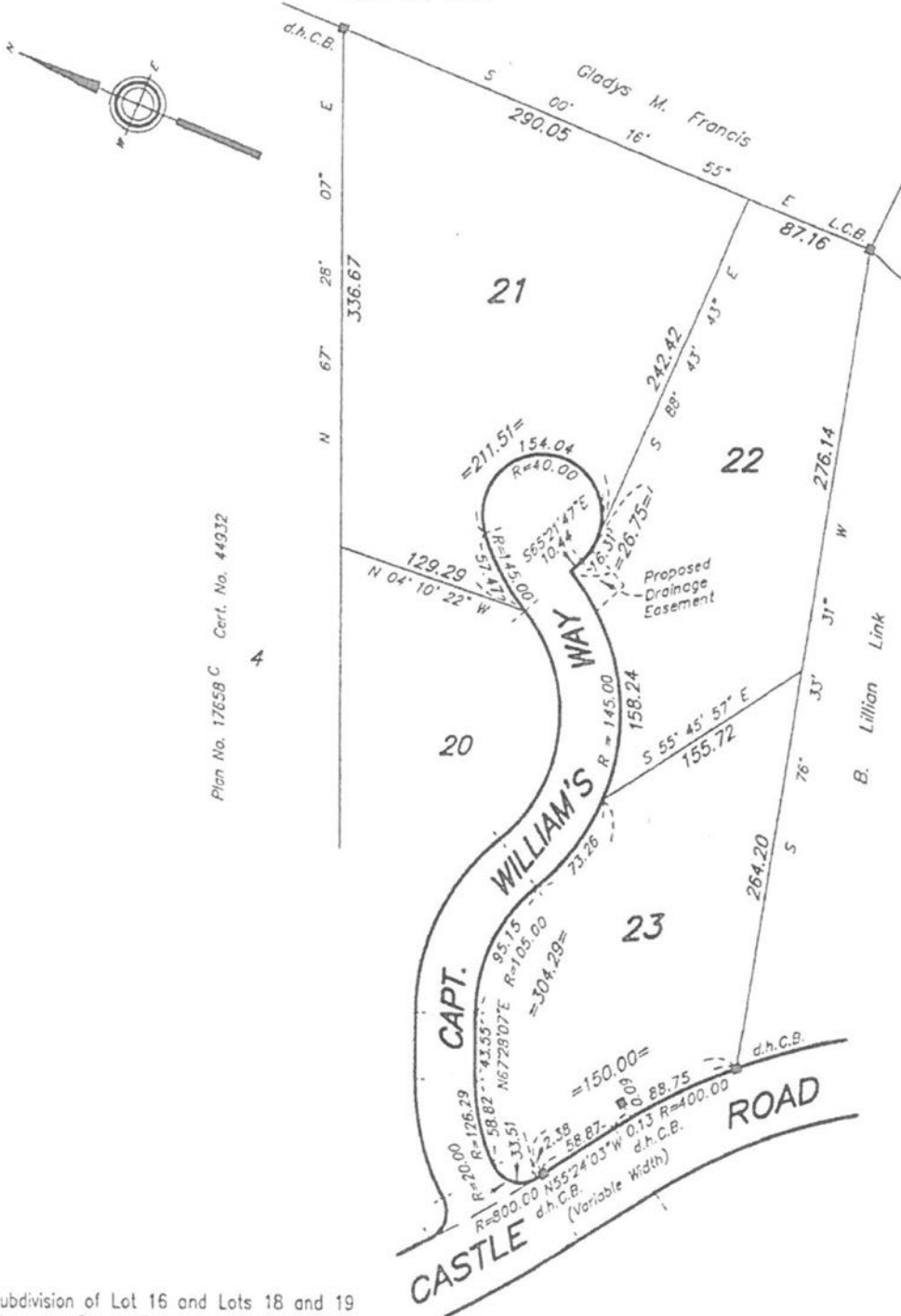
Copy of part of plan
filed in
LAND REGISTRATION OFFICE
June 21, 2012
Scale of this plan 80 feet to an inch
G.T. Capellanis, Engineer for Court

SUBDIVISION PLAN OF LAND IN TRURO

Slade Associates, Inc., Surveyors

April 12, 2012

17658 H



Plan No. 17658 C Cert. No. 44932

Subdivision of Lot 16 and Lots 18 and 19
Shown on Plans 17658-F and 17658-G
Filed with Cert. of Title Nos. 92130 and
Registry District of Barnstable County

Separate certificates of title may be issued for land
shown hereon as Lots 21, 22 and 23
By the Court.

Deborah J. Patterson
Recorder

June 22, 2012

ST-040G

Abutters are shown as
on original decree plan.

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
June 22, 2012
Scale of this plan 80 feet to an inch
T.C. Postbrond, Acting Engineer for Court

**SLADE ASSOCIATES, INC.
REGISTERED LAND SURVEYORS**

P.O. BOX 592
WELLFLEET, MASSACHUSETTS 02667
(508) 349-3110
FAX (508) 349-7577
e-mail: sladeassoc@capecod.net

RECEIVED
OCT 04 2016

BY: _____

ASSOCIATES:

RICHARD F. LAY, R.L.S.
CHESTER N. LAY, R.L.S.

September 29, 2016

Truro Planning Board
P.O. Box 2030
Truro, MA 02666

Re: Subdivision For William Berger, Capt. William's Way (Lot 23, L.C.P. No. 17658H)

Dear Board Members,

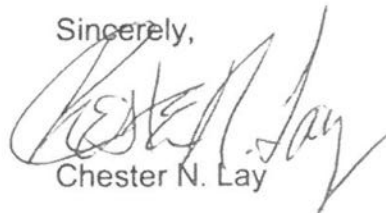
The owners of the above-captioned property are requesting a partial release from Covenant for this lot only (see Section 25.6 of the Truro Planning Board Regulations). This lot has the requisite frontage (150.00 feet) on Castle Road but its drive enters from the new subdivision road, Capt. William's Way.

I have examined the new road and state the following:

- The road is in and paved and provides for traffic circulation;
- The side slopes are loamed and seeded and utilities installed;
- The only outstanding work to be completed prior to submission of an "as-built" plan is the setting of the bounds.

Release of Lot 23 from the Covenant would leave the remaining three lots in this subdivision still under the Covenant, more than sufficient collateral to cover the installation of concrete monuments and the preparation of the "as-built" plan.

Sincerely,



Chester N. Lay

Encl.

Cc: Carole Ridley
Christopher R. Miner, Esq.
William Berger

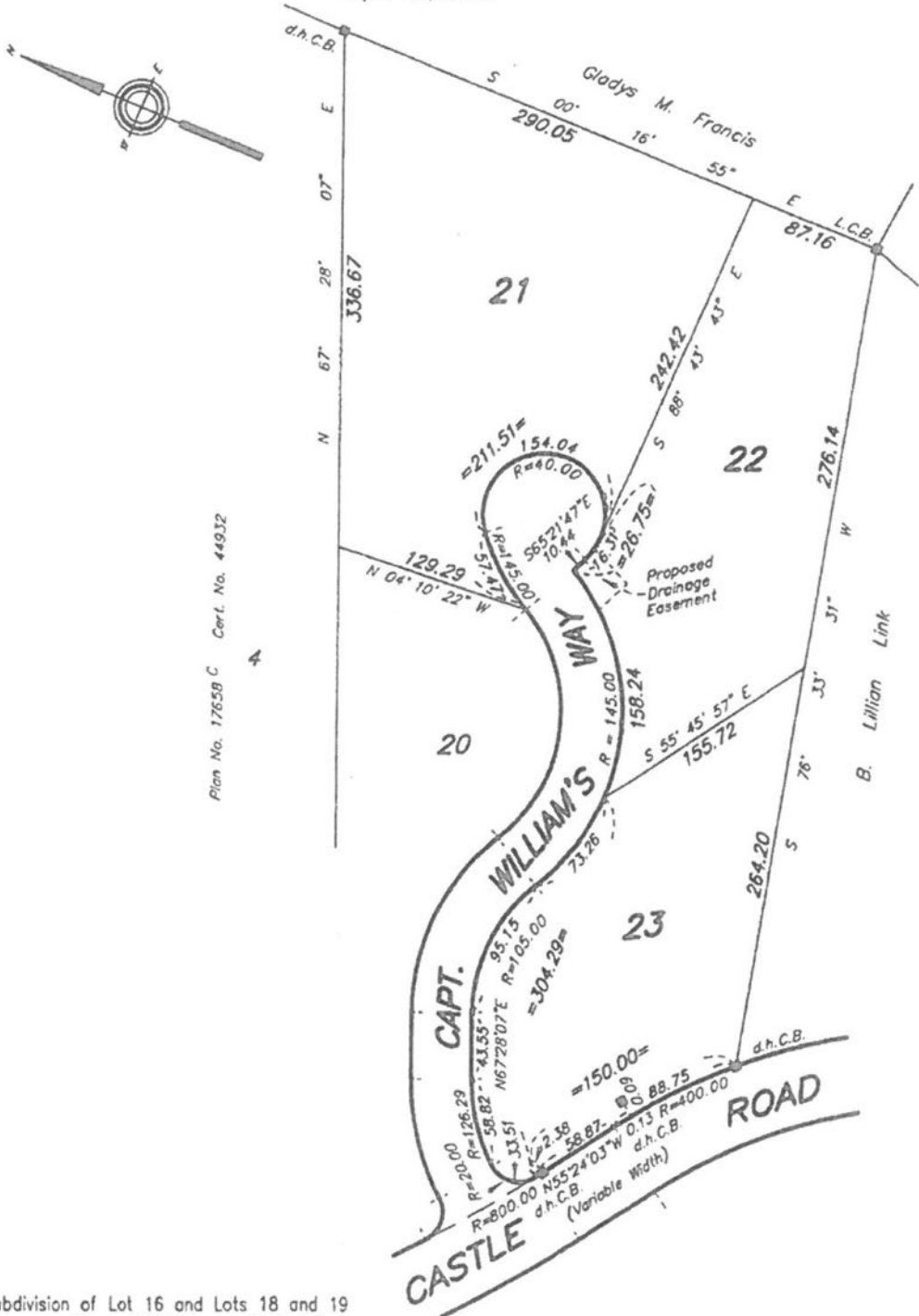
CNL/jd

SUBDIVISION PLAN OF LAND IN TRURO

Slade Associates, Inc., Surveyors

April 12, 2012

17658H



Subdivision of Lot 16 and Lots 18 and 19
 Shown on Plans 17658-F and 17658-G
 Filed with Cert. of Title Nos. 92130 and
 Registry District of Barnstable County

Separate certificates of title may be issued for land
 shown hereon as Lots 21, 22 and 23
 By the Court.

Deborah J. Patterson
 Recorder

June 22, 2012

ST-0A0C

Abutters are shown as
 on original decree plan.

Copy of part of plan
 filed in
LAND REGISTRATION OFFICE
 June 22, 2012

Scale of this plan 80 feet to an Inch
 T.C. Pentland, Acting Engineer for Court

FORM D

Doc: 1,195,003 D6-27-2012 11:24
BARNSTABLE LAND COURT REGISTRY

The undersigned William R. Berger of 14 Hadden Road, Scarsdale, New York 10583, hereafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled "Plan of Land in Truro Being a Division of Lot 17 as Shown on L.C.P. No. 17658E" dated Aug 1, 2006 made by Slade Associates, Inc. does hereby covenant and agree with said Planning Board and the successors of office of said Board, pursuant to G.L., C.41, Sec. 81U, as amended, that:

1. The Covenantor is the owner of record of the premises, shown on said plan;
2. This covenant shall run with the land and be binding upon the executors, administrators, heirs, assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the applicable Rules and Regulations of said Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell any such lot, subject only to the portion of this covenant which provides that no such lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon the approval of said plan;
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded when said plan is recorded.

7. See attachment.

The undersigned _____ wife, husband, of the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower and other interest therein.

EXECUTED as a sealed instrument this 18 day of March 2011

William R. Berger

LAND COURT, BOSTON. The land herein described will be shown on our approved plan to follow as

REFER TO

JUN 21 2012

Plan 17658G Lots 18, 19, 20
(EXAMINED AS DESCRIPTION ONLY)

T.C. PONTBRIAND
ACTING CHIEF ENGINEER

JAV

COMMONWEALTH OF MASSACHUSETTS

State of NY
Barnstable, ss
County of Westchester

On this 18th day of March, 2011, before me, the undersigned notary public, personally appeared William Berger, proved to me through satisfactory evidence of identification, which were NYSOL# 928 985 399 to be the person whose name is signed on the preceding or attached document in my presence.

Nathan Ellenberger
Notary Public, State of New York
Qualified in Westchester County
No. 01EL6161404
Commission Expires 02/26/2015

[Signature]
Notary Public

My commission expires:

CTF 154271

**Truro Planning Board
Minutes of meeting, 12 April 2011
Truro Town Hall**

Members present: Nick Brown, Leo Childs, Greg Morris, Karen Snow, Robert Weinstein (chair); William Worthington

Member absent: Tony Zehnder

Others present: Alan Efromson; Charleen Greenhalgh, Assistant Town Administrator/Planner; Regan McCarthy, President, Truro Non-resident Taxpayers' Association; Chet Tangerini; Glen Passamen; Buddy Perkel; John Pendleton; members of the Board of Selectmen; approximately five other persons

Mr. Weinstein called the meeting to order at 6:03 p.m. The first part of the meeting, held in the Selectmen's Meeting Room, was a public hearing on three petitioned zoning amendments in the Warrant articles for Town Meeting.

Public Hearing on Petitioned Zoning Amendments

Mr. Weinstein explained the ground rules and then read the first petitioned article:

Article ____: To see if the Town will vote to amend the Truro Zoning Bylaw, Section 40.3 (Conversion of Cottage Colony, Motor Court, Motel or Hotel) Subsection C (covenant) by deleting "March 31" and replacing it with "February 28". (This petitioned amendment was re-advertised due to a posting error; the hearing was originally scheduled for 22 March 2011.)

Mr. Tangerini, the petitioner, explained that the purpose of the article is to allow condominium owners more usable time of their property. Mrs. Greenhalgh explained that if the article passes it will not automatically apply to all condominiums; whether it applies depends on several things, including how the condo association covenant is written. Each condo association would have to vote to change, it may require a return to the Board of Appeals and to the Board of Selectmen.

Mr. Weinstein asked for questions and comments from the Planning Board; there were none. He then asked for questions from the audience. Selectman Curtis Hartman spoke in favor of the article and stated there is no downside for the Town in passing it. Regan McCarthy also spoke in favor of the article, as did Glenn Gossamen who stated that he has been a property owner in Truro for 40 years, a full-time resident for five years, and recently downsized to a condo.

Mr. Weinstein moved that the Planning Board recommend the article to Town Meeting; second by Mr. Brown. The motion passed on a vote of 6-0-0.

Mrs. Greenhalgh noted that as a non-resident, Mr. Tangerini is not eligible to make a motion on the floor at Town Meeting; Mr. Brown volunteered to do so.

Mr. Weinstein then invited Alan Efromson to come to the table. Mr. Efromson stated that he was present as a citizen of Truro and not in any official capacity. He then read the text of the article:

Article ____: To see if the Town will vote to amend the Truro Zoning Bylaw Section 50, Area and Height Regulations by adding a new Section 50.3 – Maximum Bulk, with a table.

Mr. Weinstein read a letter on the matter dated April 30, 2011 from George Price, Superintendent of the Cape Cod National Seashore, to Mrs. Greenhalgh and an e-mail message from architect Francis Sullivan to Mr. Worthington dated April 3, 2011. Mr. Brown noted that Mr. Sullivan is an AIA (American Institute of Architects)-registered architect who practices in Truro and Vermont, and he (Mr. Brown) attaches particular credence to what Mr. Sullivan has to say.

Mr. Weinstein began the discussion by stating that the term "habitable space" is problematic, and before the Town accepts the proposed amendment, there needs to be a definition of the term in the Zoning Bylaw. He noted that accessory buildings are exempt from the proposed regulation, and this is a concern as it would allow a property owner to build an airline hangar or a 10-car garage adjacent to the primary dwelling. He stated that while the proposed article mirrors last year's Planning Board proposal, that proposal did not get fully discussed at Town Meeting, adding that the language of that proposal was worked on very carefully over many months, and that careful language is missing from this petitioned article.

Mr. Efromson responded. His method in the petitioned article is to use the same methodology as the Assessor's Office; the proposed Bylaw amendment affects only new construction going forward; a definition of "habitable space" is not needed as it is defined in the Building Code; the numbers in the petitioned article are larger than those in last year's Planning Board proposal. He then provided statistics on current homes in each category of the table and how many would be too large if the proposed bylaw were in effect.

Mr. Weinstein addressed the use of definitions used by the Assessor's Office, stating that Town Counsel advised last year against using these definitions, citing as an example that net area on the Assessor's card doesn't correspond to either the Building Code or zoning. Mr. Efromson responded that this number would not be generated by the Assessor's Office but by the Building Department and the applicant. Mr. Weinstein said that the Comment should be removed from the article as it is extremely misleading. Buddy Perkel disagreed with Mr. Weinstein's interpretation with the Comment. Mr. Efromson stated that the Comment is correct, and when he presents the article at Town Meeting he will state that the method is the same as used by the Assessor's Office, and this is being done to counteract the problem last year.

Mr. Brown stated that he applauds the petitioned article for attempting to use a sliding scale but feels there are flaws in it, e.g. the definitions, and he cannot support it in its current form. Ms. Snow expressed agreement with Mr. Efromson, stating she doesn't see a conflict in the definitions of area and habitable space. She added that she does have a bit of a problem with the commentary for the article; it is a clarity issue. She said the table is great - it has good numbers and is workable; her only issue is with the last sentence of Section A on knee wall/eave space. Mr. Efromson said that his intention in using knee wall is to give a break to people with sloping ceilings.

John Pendleton spoke, stating that he worked with the Planning Board for a year to develop last year's Planning Board proposals and remembers George Price's comments last year regarding the 4,400 sq. ft. maximum, and he says the same thing this year. He would hate to see this petitioned article fail, following on the Planning Board's work last year, because of language problems. This is a streamlined version of what the Planning Board proposed last year which never got a fair hearing, and he hopes the Planning Board will help with the passing this article.

Mr. Worthington expressed support for the petitioned article but sees its defects, especially regarding knee walls; the article should specify height, but he does not know whether the article can be amended on the floor of Town Meeting. He addressed a question to Mrs. Greenhalgh asking if the Planning Board article and the petitioned article both passed, would they be in conflict? Mrs. Greenhalgh replied in the negative; the two articles can work together.

Mr. Worthington made a motion that the Planning Board recommend the petitioned article to Town Meeting; second by Ms. Snow. The vote on the motion was 3 in favor (Morris, Snow, Worthington) and 3 against (Brown, Childs, Weinstein). The motion failed; however the report to the Town Meeting will stipulate the split vote.

Mr. Efromson read the second petitioned article:

Article ____: To see if the Town will vote to amend the Truro Zoning Bylaw Section 50, Area and Height Regulations by adding a new Section 50.3 – Maximum Bulk, without a table.

He explained that the only difference between the two petitioned articles is that instead of the four-tiered approach used in the first article, the second article has a single maximum of 5,000 sq. ft. He stated that if the first article passes, the second will be indefinitely postponed.

Ms. Snow made a motion that the Planning Board recommend the petitioned article to Town Meeting; second by Mr. Worthington. The vote on the motion was 3 in favor (Morris, Snow, Worthington) and 3 against (Brown, Childs, Weinstein). The motion failed; however the report to the Town Meeting will stipulate the split vote.

Mr. Weinstein closed the public hearing shortly before 7:00 p.m. and announced that the Planning Board would continue its meeting downstairs in the Historic Meeting Room. The meeting reconvened at 7:00 p.m.

Others present: Kevin Bazarian; John Dematteis; Chet Lay, Slade Associates. Mrs. Greenhalgh was not present for this part of the meeting.

2011-003 John R. Canavari Revocable Trust – Site Plan Review – 20 Prince Valley Road

Mr. Weinstein reopened the public hearing on this matter, being a continuation from March 22, 2011. As no representative was present, the Board moved on to other matters.

2006-014 Charlotte Hatfield – Endorsement of Definitive Plan and Covenant and Review of Homeowners' Association Document – Rose-Lee Way, off Castle Road

Representative: Chet Lay, Slade Associates

Mr. Weinstein distributed copies of and read a letter from Chet Lay to the Planning Board dated April 11, 2011 and explained that the applicant is requesting a waiver of the maximum center grade line of 10%. He shared comments from Mrs. Greenhalgh who had told him that all Board members present can vote on the matter even though they were not members of the Planning Board when its earlier decision was made.

Mr. Lay reviewed the background on the matter, explaining that the applicant is seeking endorsement of a new plan; the previous plan was approved but not endorsed, pending MESA approval. Mr. Brown asked who among Planning Board members has been on the property, stating that he knows it very well and has no issues with what is proposed. Ms. Snow said the Planning Board would be remiss in taking the word of someone with a vested interest (Mr. Lay) and asked if the minutes of the meeting at which the plan was approved were available. Mr. Lay asked Ms. Snow if she just needed more information. Mr. Childs commented that it would be a major expense and effort to redesign. Mr. Weinstein stated that he has no problem with the application as the Board is being asked to endorse a plan that it has already approved and what is proposed is well within the intent of the 8% requirement.

Mr. Brown commented that there are differing relationships between MESA and various applicants (some friendly and others unfriendly). Mr. Weinstein found the minutes of the 24 October 2006 meeting at which the plan was approved and offered them to Ms. Snow who read them and commented that they didn't say much.

Ms. Snow made a motion that the Planning Board allow a waiver from the grade requirement, not exceeding 10% for Rose-Lee Way between stations 0+95 and 1+65 and between stations 3+40 and 3+60, to endorse the Definitive Plan and the Covenant and to approve the Homeowners Agreement; second by Mr. Worthington. The motion passed on a vote of 6-0-0.

2011-005 Charlotte Hatfield – Approval Not Required – Lots 18 & 19, Rose-Lee Way

Representative: Chet Lay, Slade Associates

Mr. Weinstein read the matter into the record. Mr. Lay showed the proposed change on the plan, i.e. moving the lot line to create a four-acre lot.

Ms. Snow moved that the Planning Board endorse the Plan of Land in Truro being a Subdivision of Lots 18 & 19 as shown on L.C.P. No. 17658G, dated March 23, 2011, at 1 in. = 50 ft., by Slade Associates, Inc., (Plan #2011-47), as Approval Not Required, and to file said decision with the Town Clerk; second by Mr. Brown. The motion passed on a vote of 6-0-0. J

John Dematteis – Waiver of Site Plan Review

Representative: Kevin Bazarian

Mr. Weinstein read the matter into the record. Mr. Brown stepped down with a conflict, stating that he was the realtor for the transaction, and left the room. Mr. Bazarian explained the proposal: to construct an 1,850 sq. ft. three-bedroom single-family dwelling with a 2,500 sq. ft. two-car garage at 4 Yellow Brick Road. He stated that the plan includes landscaping, and no trees outside the MESA area are being taken down; a cut sheet on lighting is also included – there will be no post lights or lights on the street. Mr. Weinstein distributed copies of a memo from Health Agent Pat Pajaron dated April 7, 2011

Mr. Weinstein moved that the Planning Board approve the request of John Dematteis, c/o Kevin Bazarian, for a Waiver of Site Plan Review pursuant to Section 70.2 of the Truro Zoning Bylaw for the property located at 4 Yellow Brick Road, for a single-family dwelling. This is based on the fact that the proposal does not substantially change the relationship of the structure to the site or to abutting properties and/or structures. Mr. Worthington seconded the motion. The motion passed on a vote of 5-0-0.

2011-003 John R. Canavari Revocable Trust – Site Plan Review

Mr. Brown rejoined the table. As there was still no representative present, Mr. Weinstein moved to continue the matter to 3 May; second by Mr. Brown. The motion passed on a vote of 6-0-0.

Minutes

Minutes of the meeting on 22 March were reviewed and corrections made. Mr. Weinstein moved that the minutes be accepted as corrected; second by Mr. Brown. The motion passed on a vote of 6-0-0.

Other Matters

Mr. Weinstein distributes copies of two documents from Mrs. Greenhalgh: a list of building permits issued by the Building Department in March 2011 and a letter to the Board from Chet Lay dated April 11, 2011 regarding the Horton estates.

Review of Motions for Town Meeting

Mr. Weinstein reviewed the draft provided by Mrs. Greenhalgh listing each motion to be made by the Planning Board at Town Meeting and briefly discussed each of the petitioned articles. He stated that he could support the petitioned articles regarding house size but articles cannot be amended on the floor of Town Meeting to be more restrictive. He said that he would be happy if the the articles on house size do not pass this year as he would like to work with the proponents of the petitioned articles to come up with a revised version. He added that the “Comment” on the petitioned articles will lead to confusion for attendees at Town Meeting.

Ms. Snow disagreed, stating that the Comment is pretty clear while having a few small problems including the language on the knee wall issue, which is a little vague. She stated that she would like to have heard from the Building Commissioner before the eleventh hour. Mr. Worthington remarked that the commentary on the petitioned article can be read in two ways, but it cannot be changed now; the proposed bylaw itself makes no mention of using the Assessor’s data. Mr. Weinstein stated that he is not opposed philosophically to the direction taken by those presenting the petitioned articles, but the language is flawed.

Mr. Brown stated that he does not need to have authorship of what Town Meeting passes – theirs, ours, or both. He noted that the terms “habitable” and “non-habitable” are used, but “habitable” is not defined. If Building Commissioner Tom Wingard has no problem with the petitioned article and can enforce it, he (Mr. Brown) can support it; if the Building Commissioner does have a problem with it, he (Mr. Brown) cannot support it.

Ms. Snow spoke further on her position. Mr. Weinstein said that if Mr. Wingard is comfortable with the petitioned article, he (Mr. Weinstein) can live with it. He added that Wellfleet has lived for years with 15% coverage and is not overrun with McMansions. He added that economics are a limiting factor, and asked rhetorically how many people can afford to build a 10,000 sq. ft. house. Mr. Worthington asked that Mr. Weinstein and a Board member who voted in favor of the petitioned articles meet with Tom Wingard to discuss the petitioned articles and obtain his viewpoint. Mr. Weinstein and Ms. Snow agreed to do so, and Mr. Worthington stated that he would get the documents to Mr. Wingard the next morning and let him know that Mr. Weinstein and Ms. Snow will want to talk with him about them.

A motion was made and seconded to adjourn and passed unanimously. The meeting adjourned at 8:50 p.m.

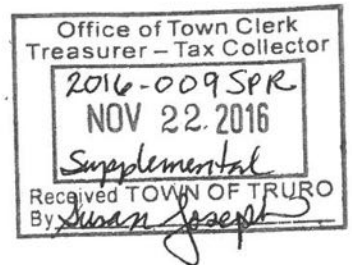
Respectfully submitted,

Sharon A. Sullivan, Secretary

LAW OFFICE OF DONALD P. NAGLE, PC

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November 22, 2016

BY ELECTRONIC MAIL ONLY

Steve Sollog
Truro Planning Board
24 Town Hall Road
PO Box 2030
Truro, MA 02666

**Re: Horton's Campground
Site Plan Review Application**

Dear Mr. Sollog:

I am in receipt of Town Planner Carole Ridley's November 16, 2016 letter to Kevin Aguiar in response to Site Plan Review Application submitted by Horton's Campground on November 1, 2016. Ms. Ridley's letter requests additional information necessary to complete the application. Given the upcoming holidays, the timing of our response may not be sufficient for your Board's review prior to the scheduled December 6th hearing. Consequently, I request that the hearing be rescheduled to January 17, 2017 to allow for adequate Board review prior to the hearing.

Accordingly, please accept this letter as a waiver of the 65-day deadline under Section 70.2 of the Truro Zoning Bylaws to extend this deadline up to and including January 17, 2017.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Donald P. Nagle

cc: Carole Ridley

ARTICLE XX: ACCEPT MASSACHUSETTS GENERAL LAW CHAPTER 39, SECTION 23D.

To see if the Town will vote to accept Massachusetts General Law Chapter 39, Section 23D, in its present form and as subsequently amended, and to apply this statute hereafter to all adjudicatory hearings conducted by the Town's boards, committees, councils and commissions, or to take any other action relative thereto.

Comment: If the Town of Truro adopts this law, members of adjudicatory boards, committees and commissions will not be disqualified from voting on a matter solely due to the fact of that member's absence from one meeting during which testimony on the matter was heard. Before any such vote, however, the member must certify that he/she has examined all evidence of the missed hearing. The written certification shall be part of the record of the hearing. Adjudicatory hearings are held by the Planning Board, the Board of Health, the Board of Selectmen, the Conservation Commission and the Zoning Board.

Requested by the Board of Selectmen:

TRURO PLANNING BOARD

DRAFT

Meeting Minutes
December 6, 2016
Truro Town Hall

Planning Board Members present: Bruce Boleyn, Peter Herridge, Paul Kiernan, Jack Riemer, Mike Roderick, Steve Sollog. **Absent:** (excused) John Hopkins

Other participants: Ben Zehnder, Attorney; Carole Ridley, Planning Consultant.

Mr. Sollog opened the meeting at 6:03 pm.

Public Comment Period

There was no public comment.

Partial Release of Covenant

2012-001PB William and Patricia Berger seek a partial release of Form D Covenant for Lot 23, 1 Capt. Williams Way, (L.C.P. No. 17658-H) and execution of Form F, Certificate of Completion & Release of Municipal Interest in Subdivision Performance Security.

Ms. Ridley explained that a report from the DPW Director regarding a field inspection and comparison of the As Built Plan with the approved road profile was pending. Since that information is not available to the Board, it seemed to make sense to move this item to the December 21 agenda. The consensus of the Board was to take no action on this item and place it on the December 21, 2016 agenda.

Definitive Plan – Public Hearing Continuance- Request for Further Continuance

2016-010PB Stephen Walsh, et al, have filed an application for approval of a Definitive Plan with the Clerk of the Town of Truro pursuant to MGL c.40A, §81T and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on Walsh Way, Walsh Way Extension and Valentine Lane, Map43, Parcels 7, 8, 9, 10, 134 & 135. The plan would widen existing roadways with no new lots created. Continued from September 6th, September 20th, and November 2nd, 2016. Applicant is requesting further continuance to February 7, 2017 due to scheduling with Zoning Board of Appeals.

Ms. Ridley explained that on January 23rd the Zoning Board of Appeals will address this application to address a setback violation on one parcel. The applicant's representative, Chet Lay, submitted a written request to the Planning board to continue this hearing to February 7th. Mr. Herridge made a motion to approve the request to continue the hearing to February 7, 2017, Mr. Boleyn seconded. So voted, 6-0.

Commercial Site Plan Review – Public Hearing Continuance

2016-001SPR Winkler Route 6 Trust, Michael F. Winkler, Trustee, seeks approval of an application for Commercial Site Plan Review pursuant to §70.3 of the Truro Zoning

Bylaw for the current condition and use of the property as a commercial staging area for a crane company, for storage of equipment and supplies, and for commercial use. The property is located at 1 Noons Heights Road, Atlas Map 39 Parcel 166. Continued from May 3rd, July 19th, September 6th, October 4th, and October 18th 2016.

Attorney Ben Zehnder explained his client's request to withdraw their application without prejudice and refile due to the attrition on the Planning Board. There would be only four Board members eligible to vote, as opposed to the full complement of seven. Four votes are needed for site plan approval under the bylaw. Mr. Zehnder also requested that the refiling fee of \$250 be waived. After discussion, Mr. Herridge moved to accept the request to withdraw the application without prejudice. Mr. Riemer seconded, so voted, 5-1-0 (Mr. Boleyn opposed). Mr. Herridge moved to waive the refiling fee. Mr. Sollog seconded. The motion did not pass 2-2-2. (Mr. Herridge and Mr. Sollog voted for, Mr. Riemer and Mr. Roderick against, Mr. Boleyn and Mr. Kiernan abstained.) Mr. Herridge moved to waive half the refiling fee, Mr. Sollog seconded. So voted, 3-1-2. (Mr. Herridge, Mr. Sollog and Mr. Riemer voted in favor, Mr. Roderick against, and Mr. Boleyn and Mr. Kiernan abstained.)

Discussion on Possible Zoning Articles

§40.2 Affordable Accessory Dwelling Units

Ms. Ridley reported that the new revision of the AADU bylaw is going to Town Counsel. Something should come back to the Board by January 3, 2017. Mr. Riemer submitted that at the last meeting there was mention of an article about Air B&B. He would like to have it distributed to the Planning Board.

§30.3 Seashore District

Town Counsel's comments on the draft bylaw were mentioned. Mr. Herridge asked if they could have more time to review the comments and incorporate them into a new revision, including the removal of the aesthetic requirements that had been raised by members of the Board of Selectmen. Mr. Riemer asked when we might have a public meeting to discuss the revision. Mr. Sollog said it might take a couple of weeks to be ready for a public meeting. Ms. Ridley suggested that the Board set up a schedule in order to meet submission deadlines ahead of Town Meeting. Mr. Sollog suggested arranging a public discussion, maybe at the Library. The target date for a revised bylaw is January 3rd and at that time possible dates for public sessions could be discussed. Mr. Kiernan asked for the proposed by-law in a pared-down format without comments on the side. This is something the work group can do. A letter from Elizabeth Grunick dated November 28th regarding house size limits in the Seashore, was read into the record. This matter will be taken up again on January 3rd once the work group has integrated Town Counsel's comments on the draft bylaw.

§30.4 Water Resource Protection District

Ms. Ridley said this issue is not something that can be wrapped up before the next Town Meeting. A second joint meeting with the Board of Health will be planned for the first quarter of next year.

Review and Approval of Meeting Minutes

November 16, Joint Meeting with Board of Health— Mr. Boleyn moved to approve the minutes as written. Mr. Herridge seconded. So voted, 5-0-1. Mr. Roderick abstained.

November 16, 2016 Planning Board Meeting—Discussion led to a correction regarding a vote on November 2 minutes where Mr. Kiernan had abstained. Mr. Sollog moved to approve the minutes as revised, Mr. Boleyn seconded. Minutes were approved with correction, 5-0-1, Mr. Roderick abstained.

Reports from Board Members and Staff

Ms. Ridley mentioned that there will be a hearing coming up regarding Horton's Campground Site Plan review on January 17, 2017.

Mr Herridge moved to adjourn, Mr. Riemer seconded. So voted, 6-0.
Meeting adjourned at 6:55 pm.

Respectfully submitted,

Katherine Black

Truro Planning Board Hearing/Meeting Schedule* - 2017

<u>HEARING/MEETING</u> (TUESDAY at 6 pm, unless otherwise noted)	<u>FILING DEADLINE</u> (MONDAY at Noon unless otherwise noted)
January 3	November 28
January 17	December 12
February 7	December 30 FRI
February 21	January 13 FRI
March 7	January 31
March 21	February 13
April 11	March 6
April 25	Town Meeting
May 2	March 27
May 9	Town Elections
May 16	April 10
June 6	May 1
June 27	May 22
July 18	June 12
August 1	June 26
August 15	July 10
September 5	July 31
September 19	August 14
October 3	August 28
October 17	September 11
November 8 WED	October 3 TUES
November 21	October 16
December 6 WED	October 31 TUES
December 20 WED	November 14 TUES

* Applications requiring public hearings are subject to this schedule and include
Site Plans and Special Permits; and Definitive Plans

All other applications (not requiring a public hearing) are not subject to this filing deadline schedule; **HOWEVER, they must be filed no less than 10-days prior to a scheduled meeting.**

Applications will be scheduled accordingly and include Preliminary Plans (decision must be rendered within 45 days of filing), Approval Not Required Plans (decision rendered within 21 days of filing) and Waiver from Site Plan Requests.

Regular meeting/hearings for the Truro Planning Board begin at 6:00 pm.
All requests must be in writing or on the appropriate application form(s).

MEETING DATES AND TIMES ARE SUBJECT TO CHANGE

Please check the Town Website www.truro-ma.gov for any changes in the schedule.