

**MINUTES OF REGULAR PLANNING BOARD MEETING OF MARCH 14, 2011**  
**Held at 7:00 p.m., Planning Board Meeting Room #315, Town Office Building**  
**400 Slocum Road, Dartmouth, MA**

**Planning Board**

Mr. John V. Sousa, Chairman  
Mr. John P. Haran, Vice Chairman  
Mr. Joseph E. Toomey, Jr., Clerk  
Mrs. Lorri-Ann Miller  
Mr. Arthur C. Larrivee

**Planning Staff**

Mr. Donald A. Perry, Planning Director  
Mrs. Joyce J. Couture, Planning Aide

The Chairman called the meeting to order at 7:01 p.m. with all Planning Board members and Planning staff present.

**Administrative Items**

**(1) Approval of Minutes**

Regular Meeting of February 28, 2011

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to approve the minutes of the regular Planning Board meeting of February 28, 2011 as written.

**(2) Invoices**

Donald Perry                      dated March 14, 2011              for \$50.00  
re: registration reimbursement for CPTC Planning & Land Use Seminar

A motion was made by Mr. Larrivee, duly seconded by Mr. Toomey, and unanimously voted (5-0) to approve the above referenced registration reimbursement to Donald Perry in the amount of \$50.00 dated March 14, 2011.

**(3) Correspondence**

Legal Notices from City of Fall River  
Legal Notices from Town of Freetown  
Legal Notices from Board of Appeals  
Legal Notices from Conservation Commission

A motion was made by Mr. Larrivee, duly seconded by Mr. Toomey, and unanimously voted (5-0) to acknowledge and file the above referenced correspondence.

\*Please note agenda items may not always follow numeric order

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### **(4) Endorsement of Approval Not Required (ANR) Plans**

Mark & Marta Nunes

Slocum Road

December 13, 2010

The Planning Director noted this ANR plan is for property on the east side of Slocum Road just south of Allen Street. It creates one lot with an existing residence and one new lot. Both lots received variances for frontage and area. He pointed out the Planning Board will also be asked in a public hearing this evening to rescind a covenant that prevents development of the new lot. However, Mr. Perry stated the ANR plan can be endorsed now since Planning Board endorsement of ANR's does not guarantee buildability.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to endorse the Approval Not Required Plan for Mark & Marta Nunes dated December 13, 2010 for property located at 278 Slocum Road.

### **(9) Update on Project Timeline Chart**

The Planning Director referenced the Project Timeline Chart and noted both the directional sign bylaw and the solar farm bylaw are on track for Spring Annual Town Meeting. However, the Section 16 update will have to be on for the Fall Town Meeting.

### **(10) Surety on Antonio Way Extension Definitive Plan**

Mr. Perry noted that the developer of this 1-lot Definitive Plan is requesting another time extension to complete required improvements. He noted the only lot owner is building the house himself and is very agreeable to this request.

A motion was made by Mr. Larrivee, duly seconded by Mrs. Miller, and unanimously voted (5-0) to extend the deadline to complete required improvements in the Definitive Subdivision Plan entitled "Antonio Way Extension" from April 3, 2011 to April 3, 2012.

### **(11) Release of Lot 2 in the Baker Farm Subdivision**

The Planning Director noted the owners of the Baker Farm Subdivision are requesting the release of lot 2 and have posted surety to cover the cost for materials and installation of markers to identify the open space along the property lines of Lot 2.

Brief discussion ensued.

A motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and so voted (4-0) with Mr. Larrivee opposed to release lot 2 in the Baker Farm Subdivision.

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### **(15) Review of parking facility upgrade for 5 Ventura Drive**

The Planning Director briefed the Board on a proposal to expand an office use into existing warehouse space by the owner of 5 Ventura Drive. He stated the existing parking facility has enough parking spaces to accommodate the expansion but does not fully comply with the requirements of Section 16.

Brief discussion ensued.

A motion was made by Mr. Haran, duly seconded by Mrs. Miller, and unanimously voted (5-0) to approve the plan entitled "Frank deFigueiredo" dated February 23, 2011. The plan adds one new parking space and upgrades the parking facility to better comply with the requirements of Section 16. A building permit may be issued for the expansion of the office use into the existing warehouse space based on this site plan and so notify the Director of Inspectional Services.

### **(16) Review of proposed street acceptance procedure**

Discussion ensued on the proposed street acceptance procedure developed by Town Counsel. As a result of this discussion, the Planning Board asked the Planning Director to notify the Select Board that the Board would like to see the following changes incorporated into the procedure prior to their endorsement:

- On Page 3, Item B., the Planning Board would like the Select Board to have a timeline within which to submit the information to the other departments.
- The Planning Board would like a flowchart created (similar to those created in the Subdivision Regulations) for use by the petitioner which summarizes the process and identifies timelines that would need to be met before a Town Meeting. This would make it clearer to the petitioner to know so many days/months in advance, that certain information is needed and if the timeline has past, the applicant would know the next Town Meeting would need to be considered.

### **Appointments & Public Hearings**

#### **(5) 7:15 P.M. – PUBLIC HEARING – Request by Mark and Marta Nunes to rescind Open Space Covenant for property located at 278 Slocum Road**

A motion was made by Mrs. Miller, seconded by Mr. Larrivee, and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:21 p.m. in order to go into a public hearing<sup>1</sup> concerning the request by Mark and Marta Nunes to rescind an Open Space Covenant for property located at 278 Slocum Road.

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<sup>1</sup> For more information, see minutes of Planning Board's P. H. of March 14, 2011 "Mark & Marta Nunes"

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The regular meeting resumed at 7:29 p.m.

### Administrative Items

**(12) Action on request by Mark and Marta Nunes to rescind Open Space Covenant for property located at 278 Slocum Road**

Hearing no opposition at this evening's public hearing, the Planning Director recommended the Planning Board vote to grant the request by Mark and Marta Nunes to rescind the Open Space Covenant placed on land located at 278 Slocum Road.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran, and unanimously voted (5-0) to grant the request by Mark and Marta Nunes to rescind the Open Space Covenant dated April 12, 2000 and recorded in the Bristol County S.D. Registry of Deeds, Book 4668, Page 330.

**(6) 7:30 P.M. – PUBLIC HEARING – Proposed Definitive Subdivision Plan entitled “The Village at Cedar Dell” to be located on the east side of Fisher Road just south of Old Westport Road**

A motion was made by Mrs. Miller, seconded by Mr. Larrivee, and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:37 p.m. in order to go into a public hearing<sup>2</sup> concerning the proposed Definitive Subdivision Plan entitled “The Village at Cedar Dell.”

The regular meeting resumed at 8:14 p.m.

**(7) 7:45 P.M. – APPOINTMENT – Cynthia Marland (Director of Media & Cable TV): Approval of striping plan for DCTV**

The Planning Director stated that DCTV has re-located in the old Town Hall, next to the Police Station on Russells Mills Road. He noted that patrons use the existing parking lot to the north of the building and DCTV would like to do a few parking lot improvements so vehicles park more orderly. Mr. Perry pointed out that all of the proposed improvements would bring the parking facility into closer compliance with the requirements of Section 16. He mentioned that Cynthia Marland is present this evening to answer any questions the Planning Board may have.

Brief discussion ensued.

A motion was made by Mrs. Miller, duly seconded by Mr. Larrivee, and unanimously voted (5-0) to approve the plan entitled “DCTV Re-striping Plan Proposed Parking” dated December 20, 2010 revised to March 4, 2011 and so notify the Director of Inspectional Services.

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<sup>2</sup> For more information, see minutes of Planning Board's P. H. of March 14, 2011 “The Village at Cedar Dell”

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With Ms. Marland still present, brief discussion ensued on the status of whether the Planning Board would be having their meetings recorded for public viewing. The Planning Director would follow up with a memo to Mr. Cressman.

### **(8) 8:00 P.M. – APPOINTMENT – Alan Heureux: Street determination request for Washburn Lane**

It is noted that Mr. Heureux was unable to be present for this discussion.

The Planning Director stated this street determination is for Washburn Lane which is located between Smith Neck Road and Nonquitt. He said Mr. Heureux would like to know whether the Planning Board agrees that Washburn Lane is of suitable width, grade, and construction to support two additional houses.

Discussion ensued. Board members felt comments from the Fire Chief would be appropriate before making a determination.

The Planning Board took no action on this request and suggested this request be placed on the next meeting agenda.

### **Administrative Items**

### **(13) Initial review of Definitive Subdivision Plan entitled “The Village at Cedar Dell”**

This agenda item was deferred since the public hearing held earlier this evening regarding this project was continued until March 28, 2011 at 7:15 p.m. in room #315 in the Town Office Building.

### **(14) Initial review of Off-Street Parking Plan for 227 State Road (former T.K. O’Malley’s)**

present Steven Gioiosa, SITEC, Inc.

The Planning Director stated that this off-street parking plan modifies the parking facility and adds an addition to the former TK O’Malley’s on State Road. He noted the proposed uses are restaurant and retail.

Lengthy discussion ensued.

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran, and unanimously voted (5-0) to approve the off-street parking plan for 227 State Road in accordance with the following certificate:

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CERTIFICATE OF ACTION  
Off-Street Parking Plan

DARTMOUTH PLANNING BOARD

TO WHOM IT MAY CONCERN:

This is to notify you that at its meeting of March 14, 2011, the Dartmouth Planning Board voted to approve the Off-Street Parking Plan entitled "Mixed Use Development, 227 State Road" prepared for Michael Panagakos, P.O. Box 51327, New Bedford, MA 02745 to be located at 227 State Road. The Parking Plan was submitted to the Planning Office on July 10, 2010 with extensions for action granted until March 31, 2011.

The Plans referred to in this action are listed below:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Site Layout Plan, Mixed Use Development, 227 State Road	1 of 6	Dec. 30, 2010 rev. Feb. 2, 2011
Site Grading Plan, Mixed Use Development, 227 State Road	2 of 6	Dec. 30, 2010 rev. Feb. 2, 2011
Site Utilities Plan, Mixed Use Development, 227 State Road	3 of 6	Dec. 30, 2010 rev. Feb. 2, 2011
Landscaping Plan, Mixed Use Development, 227 State Road	4 of 6	Dec. 30, 2010 rev. Feb. 2, 2011
Existing Conditions, Mixed Use Development, 227 State Road	5 of 6	Dec. 30, 2010 rev. Feb. 2, 2011
Detail Sheet, Mixed Use Development, 227 State Road	6 of 6	Dec. 30, 2010 rev. Feb. 2, 2011

Conditions of approval are listed below:

1. As this parcel is within the Aquifer Protection Zone – Area 3, the proposed discharge of roof runoff from any additions must include a means for artificial recharge into the ground in accordance with the Aquifer Bylaw as approved by the Dartmouth Department of Public Works. A soil profile is required for soil classification and ground water table determination.
2. The sewer service reconnection to the new building addition should include a sewer cleanout near the front property line at State Road. The sewer pipe must be sleeved at any water crossings for at least 10 feet in each direction if there is less than an 18" horizontal separation with the water line. The proposed sewer service location should also be installed with at least a 10 foot separation from the existing 2" water service if the 18" horizontal separation cannot be maintained, or the sewer service will need to be sleeved.

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3. Two handicapped parking spaces should be relocated to the entrance of the 2,000 s.f. addition.
4. A pedestrian walk thru is needed on the south side of the outdoor dining area thru the parking spaces to the building sidewalk on the west side of the building.
5. A sidewalk shall be provided at the front of the building.
6. A sidewalk connection shall be provided on the subject property to the properties on the east and west. The connections shall be made where appropriate and provide the most direct access. Stairs may be needed on the east side.
7. The landscaping plan needs the following modifications:
  - A. The plantings around the patio area need to incorporate Nikko Blue Hydrangea and Clethra Anifolia.
  - B. Two additional shade trees need to be added along State Road, either Zelkova Serrata or Platanus Acerifolia.
  - C. Some evergreen shrubs need to be incorporated in the buffer along State Road, such as Ilex glabra, Seagreen Juniper or Taxus media.
  - D. Additional evergreen plantings need to be added along the east buffer such as Ilex Blue Princess, Leyland Cypress & Picea Glauca.
8. See Planning Staff for details regarding #3, #4, #5, #6 and #7.

Two sets of plans shall be submitted to the Planning Office.

The Director of Inspectional Services shall not issue a building permit until a letter is received from Planning Staff and an approved plan is forwarded with the letter.

Approval of this plan does not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

### **(17) Planner's Report**

- Kevin Santos is ready to submit the Padanaram Village project. It is a Special Permit submittal to the Planning Board under the Waterfront Overlay District.
- Over the next two months, Planning Staff will be alternately taking computer training classes at Voke Tech for Windows 7, Office 2010 Word, Excel, and PowerPoint. Mr. Haran asked Mr. Perry to check to see if he could attend as well.

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- The deadline for Town Meeting articles is this Wednesday, March 16, 2011. The developer of Lincoln Park will be submitting an article to allow single family homes in the General Business District that also have the 40R Overlay Districts. Jay Williams will be attending the next Planning Board meeting to discuss the article with Board members prior to the zoning article public hearing in April.
- A new policy has been instituted by the Select Board where certain Board of Appeals applications are flagged for review. Reviewer letters are to be marked "draft" on flagged applications until internal department review is conducted. Discussion ensued. Mr. Perry was asked to send Town Counsel a letter requesting clarification of under what sections of the law "draft" reports can be kept confidential and whether individual Board members can release "draft" reports to the public if they so choose.
- There may be a new Bed and Breakfast being considered for property on Bush Street.
- Mr. Perry noted he has been informed there may be a zoning article proposed by the Select Board to regulate video gaming parlors.

### **(18) For Your Information/New Business**

- Legal Notice of public hearing for zoning articles
- Board of Appeals Decisions
- Letter to Attorney John Williams re: Lincoln Park Single Family Zoning
- Planning Staff timesheets

Mrs. Miller mentioned there are directional signs in the plaza where the Christmas Tree Shop is located which she never noticed before.

Mr. Haran briefed the Planning Board on the previous Charter Review Committee meeting he attended. He mentioned the Board of Health will be attending the upcoming Wednesday night meeting.

The Chairman asked if there was any other business this evening. There was none. Mr. Sousa noted that the next Planning Board meeting is scheduled for March 28, 2011, in room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by Mr. Larrivee, seconded by Mr. Haran, and unanimously voted (5-0), to adjourn this evening's regular meeting at 10:07 p.m.

Respectfully submitted,  
Mrs. Joyce J. Couture  
Planning Aide