

**MINUTES OF PLANNING BOARD PUBLIC HEARING OF APRIL 25, 2011**  
**Proposed Zoning Amendments for Spring Annual Town Meeting**  
**Room #315, Town Office Building, 400 Slocum Road**

**Planning Board Members**

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 opened at 8:13 p.m. the public hearing<sup>1</sup> concerning two proposed zoning articles which would amend the Dartmouth Zoning By-Laws. The first zoning article would create a new Section 4C – SINGLE RESIDENCE C DISTRICT and change land currently zoned General Business located south of State Road and bounded by Reed and Beeden Roads (a portion of the former Lincoln Park) into the new Single Residence C District. Minimum lot size in the Single Residence C District would be 6,000 square feet. The second zoning article would create a new Section 2A – MORATORIUM ON BUSINESSES PROVIDING ELECTRONIC MACHINES OR DEVICES TO CONDUCT SWEEPSTAKES OR GAMES OF CHANCE. The proposed moratorium would allow the Select Board, Police Department, Planning Board, and Board of Appeals the opportunity to study and propose solutions to minimize the impacts of such businesses.

All Planning Board members and Planning staff were present.

The following people were also present to participate in this zoning public hearing:

Attorney John Williams, Midway Realty, Inc.  
Joseph Delgado, Midway Realty, Inc.  
Attorney Clement Brown, Special Counsel for the Town of Dartmouth  
Deborah Melino-Wender, Director of Development  
Michael Guilmette, 527 Reed Road

At this time, Lorri-Ann Miller disclosed to those present that her husband has had business dealings creating signs in New Bedford for one of the proponents of this article. However, Mrs. Miller stated that she felt she could vote on this proposal without bias.

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<sup>1</sup> For more information, see minutes of the Planning Board's regular meeting of April 25, 2011

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The Planning Director stated that legal notice was sent on April 4, 2011 to SRPEDD/SEED; DHCD Municipal Zoning and Land Use; the Planning Board's of Fall River, Westport, Freetown, Gosnold, and New Bedford; various Town Boards, and posted in the Town Office Building.

The Chairman asked if the petitioner or his representative wished to provide comment.

Attorney John Williams spoke at length on the first zoning article. He provided a history of the approval process for the original Lincoln Park project which was approved for 245 housing units under the 40R Smart Growth Overlay District. Attorney Williams explained that in this region, condominiums are not as marketable as single family homes, and that is why they are seeking this zoning change to create a new Single Residence C zoning district which would allow single family dwellings in a portion of the General Business District already approved under 40R. Attorney Williams spoke about getting approvals to convert this proposal at the State level. He discussed the new design, including the lot sizes, road layout, landscaping, sidewalks, affordable units, the monies (\$350,000) already received by the Town through the State, and the bonus payment component.

Mike Guilmette, 527 Reed Road, stated that he felt the petitioners have done a fair job in revising the plan and was not opposed to this proposal.

Deborah Melino-Wender, Director of Development, stated that if the Planning Board should give its approval, they should make it contingent upon a development agreement.

The Chairman asked for comments from the Planning Board.

In response to a question from Arthur Larrivee, Attorney Williams gave more specific details on the proposed lot and house sizes.

Lorri-Ann Miller spoke in response to Ms. Wender's comment, pointing out that the approving body for this proposal will be Town Meeting.

John Sousa questioned whether this rezoning could be construed as spot zoning. He also spoke about specifics which should be identified in the development agreement.

It was pointed out during discussion this proposal, if approved by Town Meeting, will also need to be approved as a subdivision plan by the Planning Board.

Hearing no further comments, the Chairman proceeded to the second zoning article which would create new Section 2A – MORATORIUM ON BUSINESSES PROVIDING ELECTRONIC MACHINES OR DEVICES TO CONDUCT SWEEPSTAKES OR GAMES OF CHANCE of the Zoning By-Laws.

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Attorney Clement Brown, Special Counsel for the Town of Dartmouth, who drafted the moratorium zoning bylaw for the Town provided an overview of the current dilemma at the Federal, State and Municipal levels to control businesses that are providing internet games/calling card sweepstakes within their facilities.

He said this zoning article will put a one year moratorium on these businesses in order that the Town could study the matter.

General discussion focused on the legality of this bylaw, working with the Attorney General's office to make the bylaw consistent with State Law, and the timely development of another bylaw which would minimize the impacts of such businesses in Town.

The Chairman asked if there were any further comments regarding this article. There were none.

A motion was made by Mr. Larrivee, duly seconded by Mr. Haran, and unanimously voted (5-0) to close the public hearing on the proposed zoning amendments at 9:24 p.m. and return to the Planning Board's regular meeting.

Respectfully submitted,  
Mrs. Joyce J. Couture  
Planning Aide