



**MINUTES OF PLANNING BOARD PUBLIC HEARING
August 25, 2014
Zoning Articles for Fall Town Meeting (October 21, 2014)
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA**

Planning Board Members

Mr. Joel Avila, Chairman
Mr. Joseph Toomey, Vice-Chairman
Mrs. Lorri-Ann Miller, Clerk
Mr. John V. Sousa
Mr. Kevin Melo

Planning Staff

Mr. Donald A. Perry, Planning Director
Ms. Jane Kirby, Planning Aide

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DARTMOUTH TOWN CLERK

The Chairman opened the public hearing¹ at 7:30 p.m. with Planning Board members and Planning Staff present. Joseph Toomey was absent. This hearing concerns the following zoning articles, which would amend the Dartmouth Zoning Bylaws:

Article A would amend the zoning map by changing lots currently zoned General Business in areas located off Russells Mills Road, Dartmouth Street, and Cove Road and along those streets and roads to General Residence.

Article B would amend the zoning bylaws by creating a new zoning district entitled "Bliss Corner Mixed Use District".

Article C would amend the zoning map by changing lots currently zoned General Business in areas located on or near Russells Mills Road, Dartmouth Street, and Cove to the Bliss Corner Mixed Use District.

Article D would amend Section 20 – Aquifer Protection District of the zoning bylaws by deleting Subsection 20.505 in its entirety, which refers to nitrogen loading requirements.

Article E would amend the zoning bylaws by deleting in its entirety Section 2B – Medical Marijuana Moratorium, since the Town has passed a Medical Marijuana Bylaw.

Article F would amend the zoning bylaws by adding a new Section 24, which would regulate contaminated fill.

Article G would amend Section 16 of the zoning bylaws by including Bicycle Parking Guidelines and Design Standards.

¹ For more information, see minutes of the Planning Board's regular meeting of August 25, 2014



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Chairman Avila reviewed the purpose of the hearing according to Massachusetts General Law. He then reviewed the public hearing process and procedure for those present.

A motion was made by Kevin Melo to waive the reading of the legal notice, duly seconded by John Sousa, and voted (4 yes; 1 absent).

Chairman Avila began with Article F (*regulate contaminated fill*).

Present: Anthony Savastano, Esq., Town Counsel
 Gloria Bancroft, Collins Corner Road
 Christine LeBlanc, East Coast Engineering
 Robert Michaud
 Other interested parties

No correspondence regarding this article was received.

The Planning Director read Article F as written in the public hearing draft.

Article F was discussed.

Chairman Avila invited public comment.

Comments received:

- Concerned with contaminated material being brought into the community
- Simplified version of the bylaw not seen in other communities
- RCS1 soils have contaminants, and contaminated fill is prohibited (inconsistent)
- Has the Board received professional guidance or information on RCS1 soils?

The Planning Director explained that he worked with Town Counsel on the bylaw, and the original version of the bylaw was much larger and allowed for Special Permits, etc. since many communities regulate all fill. He further explained that the bylaw was simplified after the Board came to a consensus that it didn't want to create bureaucracy by regulating all fill in general, but decided to regulate only contaminated fill. Discussions between Town Counsel and himself included defining "contaminated" and which standards should be used. RCS1 soils are typically allowed as residential fill, and prohibiting RCS1 soils could still occur if the Board chose to do so. Mr. Perry stated that when the simplified bylaw was written with Town Counsel and Christopher Michaud (Soils Board Agent) it was thought to be adequate to protect the Town from contaminated soils. Mr. Perry noted that the Board of Health is also in the process of regulating contaminated fill and thought maybe this isn't the time to regulate through zoning.



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Town Counsel explained that Christopher Michaud's input was strictly from as an advisor to the Soil's Board and not from the Board of Health's perspective. (Mr. Michaud has since been appointed as the Director of Public Health). He stated that the Board of Health regulates health completely and separately from zoning. He further explained that the Soils Board, his office, and Christine LeBlanc spent a lot of time trying to define contaminated fill; and felt that this current bylaw oversimplifies it and would be difficult to enforce. He thought a more detailed and expansive definition is needed to assist the zoning enforcement officer, as well as mechanisms for which they could be enforced.

Christine LeBlanc stated that her work with Town Counsel for the Soil's Board last year focused on defining clean fill rather than contaminated fill. She explained RCS1 in detail, stating that RCS1 is a notification level for DEP. She explained that ultimately property owners are the responsible parties for taking in contaminated fill and cleaning it up, which is why imported materials should be tested before going on the property. Attorney Savastano stated the testing could be done by the location from which the fill is being imported rather than the burden being on the property owner accepting the fill.

Mr. Perry stressed that the Planning Board was trying to eliminate more bureaucracy, which is why the bylaw was simplified.

Chairman Avila expressed support with changing the philosophy of the fill bylaw to focus more on defining what clean soil is rather than regulating contaminated fill if it made the bylaw more practical and enforceable.

Attorney Savastano stated that a lot of work was put into trying to come up with a way to define materials and make it easier to enforce. He stated that a lot of the work was done for the Soils Board, which could be incorporated into the zoning bylaw. He felt the bylaw as drafted was problematic.

The Board felt the Planning Director should continue to work with Town Counsel to submit a draft for Board review.

The Board questioned Attorney Savastano and asked if this bylaw was still on track to go before Fall Town Meeting. Mr. Perry stated that the public hearing would have to be continued to September 22nd. Attorney Savastano indicated that a draft would be completed and submitted for Board review at its meeting of September 8th, since most of the work has been completed. He agreed that the draft bylaw should go before the Board prior to the continued public hearing.

Chairman Avila announced that the public hearing for Article F will be continued until 7:30 p.m. on September 22, 2014. Discussion on Article F concluded and Attorney Savastano left the meeting.



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Articles A, B, and C were discussed. (*Bliss Corner Mixed Use Rezoning*)

No correspondence regarding these articles was received.

Mr. Perry gave a PowerPoint presentation highlighting the goals and objectives of the proposed new zoning district entitled "Bliss Corner Mixed Use District".

Present: Don Gracia, 34 Coolidge Street
Frank Roderiques, 49 and 50 Arnold Street
Jennifer Sylvia, 12 Cove Road
Theresa Medeiros, 26 Sheridan Street
Other interested parties

Comments received:

- Mr. Roderiques' commercial lot proposed to be rezoned residential
 - he would like this lot included in the Mixed Use District
- Mixed Use zoning will be beneficial to area
- Development standards

Grandfathered exemptions were discussed in terms of Mr. Roderiques' commercial lot, along with including the lot in the proposed Mixed Use District. Ultimately, the Board determined Mr. Roderiques' lot could be included in the Mixed Use District. Mr. Perry expressed concern with the Attorney General viewing including his lot as "spot zoning". The Board felt that since the area is already zoned General Business, it should not be considered spot zoning if this one lot is rezoned to Mixed Use rather than General Residence.

Articles A and C will be revised to reflect this change with the zoning map amendment articles. Discussion on Articles A, B, and C concluded.

Article D was discussed. (*Aquifer Protection District Bylaw Amendment*)

Mr. Perry gave an overview of Article D, which would amend the zoning bylaws by deleting in its entirety subsection 20.505 of Section 20 – Aquifer Protection District. He explained that the Board of Health regulates nitrogen loading and it does not need to be regulated through zoning.

Chairman Avila invited public comment. No public comment was received.



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Article E was discussed. (*delete Medical Marijuana Moratorium*)

Mr. Perry explained that the Town adopted a Medical Marijuana bylaw at Spring Town Meeting 2013, and the moratorium could be deleted.

Chairman Avila invited public comment. No public comment was received.

Article G was discussed. (*amend Sect. 16 to include bicycle parking guides and standards*)

Present: Alan Heureux, Chairman, Dartmouth Pathways Committee
Gus Raposo, Dartmouth Pathways Committee
Marsha Picard, Dartmouth Pathways Committee

Chairman Avila invited public comment.

Mr. Heureux, Chairman of the Dartmouth Pathways Committee noted that the committee met and discussed the proposed bylaw and is in favor of it. The committee questioned the need for the sign requirement as written in the bylaw, because it felt that the signs were unnecessary. Mr. Heureux also questioned if it would be possible for the bylaw to reference the most current version of the Bicycle Parking Guide. He stated that he would like to amend the most recent version of the guide to include technical diagrams to illustrate standards. Mr. Heureux wondered if the bylaw would only be applicable to new construction.

The Planning Director explained that the amended bylaw would be triggered with any parking plan review, whether for existing or new construction. He also explained that bylaw cannot reference a Bicycle Parking Guide, since the dates would change as the Guides are amended noting that Town Meeting would have to be involved with every date change. Mr. Perry stated that the guide could only be referenced if the date was fixed, or actually included as part of the bylaw.

Mr Heureux requested a continuance to allow time to provide diagrams that could possibly be inserted into this amendment.

Board discussion ensued. The consensus of the Board was that the sign language could be removed. The Board thanked the Dartmouth Pathways Committee for its work.

The Planning Board will review the suggested bylaw language changes at its meeting of September 8, 2014. The public hearing will be continued to September 22, 2014 at 7:30 p.m.



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John Sousa motioned to continue the public hearing for Zoning Articles F and G to September 22, 2014 at 7:30 p.m., which was seconded by Lorri-Ann Miller, and voted (4 yes; 1 absent).

John Sousa motioned to close the public hearing and resume the Planning Board's regular meeting, which was seconded by Lorri-Ann Miller, and voted (4 yes; 1 absent).

9:00 p.m. Public hearing closed.

Jane Kirby
9/22/14

Respectfully submitted,
Jane Kirby
Planning Aide