



PLANNING BOARD PUBLIC HEARING MINUTES
October 19, 2015
Definitive (OSRD) Subdivision Plan entitled "East Estate"
Meeting Room #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

Planning Board

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

Planning Staff

Mr. John Hansen, Jr., Planning Director

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 DARTMOUTH TOWN CLERK

The Chairman opened the public hearing¹ at concerning a Definitive (OSRD) Subdivision Plan entitled "East Estate". This plan proposes to create a 2-lot OSRD subdivision on Assessor's Map 42 as Lot 7, where a home exists (446 Chase Rd) on 4.26 acres on the westerly side of Chase Road. The property will be divided into two (2) buildable lots (33,959 SF and 30,162 SF) with approximately 2.79 acres set aside as open space and access to the lots will be off Chase Road via the current driveway for the existing home and a proposed driveway extension off the current driveway for the second lot. The conventional plan shows an approximately 200' road off Chase Road, which would provide frontage for the two lots.

The plan, dated June 26, 2015, was prepared by SITEC, Inc. for Diane F. East. for land owned by same and shown on Assessor's Map 42 as Lot 7. The plan was submitted to the Planning Board office on September 15, 2015. The applicant is also requesting a Special Permit for an Open Space Residential Design, as provided for in Section 6 of the Zoning By-Laws, to allow waivers regarding lot area, lot shape, frontage, and setbacks.

All Planning Board members and Planning Staff were present.

Also Present: Steven Gioiosa, P.E., SITEC, Inc.

Chairman Avila reviewed public hearing procedure for those present.

Lorri-Ann Miller motioned to waive reading the legal notice into the record, which was seconded by Joseph Toomey, and unanimously voted (5-0).

The Planning Director listed the correspondence received:

- Application received on September 15, 2015
- No correspondence received by any departments

Chairman Avila invited the applicant or its representative to speak.

¹ For more information, see minutes of the Planning Board's regular meeting of October 19, 2015



PLANNING BOARD PUBLIC HEARING MINUTES
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Steven Gioiosa reviewed the subject property locus, existing conditions, topography, wetlands, and the proposal with the Board, noting that the project would be serviced by on-site septic. He also reviewed a conventional subdivision plan showing that the land meets the density test. He also reviewed the access to the rear lot, and how he incorporated comments from the Conservation Commission into the plan.

Chairman Avila invited public comment. No comment was received.

Board members questioned Mr. Gioiosa regarding the stone walls on the property, who stated that the walls would be maintained. The lot configuration was discussed in an effort to avoid disrupting the stone walls. Mr. Gioiosa explained that the stone walls will not be disrupted with the construction of the new home. The Board determined that stone wall preservation should be a condition of approval.

The open space parcel was discussed. Mr. Gioiosa stated that the wetland buffer will be preserved with this plan as designed, and the open space preserves a buffer with the neighbors.

Abutter: Carlos Lopes – 2 Woodberry Lane

- Expressed concern with flooding his property

Mr. Gioiosa stated that the dwelling will have a roof runoff infiltration system, which is a requirement for property located in the Aquifer Protection District. Mr. Gioiosa also reviewed the alterations to the land that will result with construction, noting that he will meet storm water standards by dispersing the flow and recharging the roof runoff.

Chairman Avila asked if anyone else had any questions or comments. No comments were received.

The Planning Director recommended that the public hearing be closed. Chairman Avila called for a motion to close the public hearing.

A motion was made by John Sousa, duly seconded by Kevin Melo, and unanimously voted (5-0) to close the public hearing and take action on this Special Permit request in the Board's regular meeting.

Lorri-Ann Miller
Lorri-Ann Miller, Clerk

Respectfully submitted,
Jane Kirby
Planning Aide



PLANNING BOARD REGULAR MEETING MINUTES
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Mr. Joel Avila, Chairman
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Mrs. Lorri-Ann Miller, Clerk
Mr. John V. Sousa
Mr. Kevin A. Melo

Planning Staff

Mr. John Hansen, Jr., Planning Director

Room #304 6:30 P.M. Joint Meeting with the Select Board to discuss the Open Space Protection Priority List

Select Board

Mr. Shawn McDonald, Chairman
Mr. Stanley Mickelson, Vice-Chairman
Ms. Kelli Martin Tagianetti
Mr. Frank S. Gracie III
Vacant

Select Board Staff

David G. Cressman, Town Administrator

Chairman McDonald noted that staff prepared a list of parcels in Town called the Open Space Protection Priority List, and invited Chairman Avila to address the Board.

Chairman Avila stated that the Planning Director informed the Board that concern was expressed at the weekly reviewer's meeting about open space, and preserving key parcels that are important to the Town. The Planning Board then requested this meeting due to the importance and urgency of the subject matter, since some key parcels on the list are at risk for development. The Planning Board wanted to understand what the Select Board was thinking in terms of addressing this issue, and turned the discussion back to its Chairman.

It was explained that the Open Space Protection Priority List was created by staff, reviewed by numerous parties including the Conservation Commission, Agricultural Committee, Parks and Recreation, etc., and isn't in any particular order. The list is not intended to be a directive.

A Planning Board member suggested that the Town review the list and determine where the money should be spent based on Town needs. For example, does the Town need recreational space and where? Does the Town need land to develop Town buildings?

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PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

Does the Town need more open space protection? This member felt that the Town should prioritize properties for purchase based on Town needs.

Chairman McDonald stated that everything comes down to money.

Chairman Avila suggested that the Town does have guidance as to what is important to the citizens of Dartmouth based on the Master Plan and the Open Space Plan, which reflect the Town's values. He stated that the Town needs to continue to partner with organizations such as the Dartmouth Natural Resources Trust (DNRT) to preserve key parcels. He felt that the Town needed to be more proactive when it comes to available parcels, and recommended the formation of a small group that could meet on a regular basis to anticipate parcel availability. He pointed out that the Dartmouth Agricultural Preservation Trust Fund is depleted and stressed that the Town should consider renewing this funding since it has been instrumental in acquiring key parcels in the past. He recommended that the funding request be placed on the Spring Town Meeting 2016 warrant.

A Planning Board member felt that the Open Space Protection Priority list should be more refined in terms of the uses for the parcels, with listed Boards and Committees in agreement as to the primary uses. His point being he wouldn't want the committees arguing over the best use of property on Town Meeting floor.

Chairman McDonald stated that the first goal for the Town should be acquiring the property, and then figuring out the best use after it becomes Town property. The Planning Board member still felt the Boards and Committees should still work out the best use of the parcels before getting to the Town Meeting floor.

Chairman Avila stated that discussions to make funds available so that priority properties may be purchased still needed to happen, and should include potential "partners" such as the DNRT.

It was determined that forming a small study group to address these issues made the most sense.

Meeting adjourned.

The Planning Board reconvened in Room #315 for its regular meeting.

Chairman Avila decided the Public Hearing should be heard first since the joint meeting with the Select Board took longer than anticipated.



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

Public Hearing

(5) Definitive OSRD Subdivision entitled "East Estate"

Chairman Avila asked for a motion to recess the Board's regular meeting in order to open the public hearing¹ for the Definitive (OSRD) Subdivision Plan entitled "East Estate". This plan proposes to create a 2-lot OSRD subdivision on Assessor's Map 42 as Lot 7, where a home exists (446 Chase Rd) on 4.26 acres on the westerly side of Chase Road. The property will be divided into two (2) buildable lots (33,959 SF and 30,162 SF) with approximately 2.79 acres set aside as open space. Access to the lots will be off Chase Road via the current driveway for the existing home and a proposed driveway extension off the current driveway for the second lot.

The applicant is also requesting a Special Permit for an Open Space Residential Design, as provided for in Section 6 of the Zoning By-Laws, to allow waivers regarding lot area, lot shape, frontage, and setbacks.

A motion was made by John Sousa to recess the Planning Board's regular meeting in order to go into a public hearing, which was seconded by Joseph Toomey, and unanimously voted (5-0).

The Planning Board resumed its regular meeting after the close of the public hearing.

Administrative Items

(6) Action on Definitive OSRD Subdivision entitled "East Estate"

The Planning Director reviewed the two draft Certificates of Action with the Board. A condition was added to preserve the stone walls on the subject property. The Board also added a roof runoff requirement, which is already a requirement under the Aquifer Protection District Bylaw.

Chairman Avila asked for a motion regarding the Definitive OSRD Subdivision Plan.

Lorri-Ann Miller motioned to approve the subdivision plan, which was seconded by Kevin Melo, and unanimously voted (5-0).

¹ For more information, see public hearing minutes for "Definitive OSRD Subdivision Plan entitled "East Estate"



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

The approved Definitive (OSRD) Subdivision Plan consists of the following:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Subdivision Plan	1	June 26, 2015
Driveway Layout	2	June 26, 2015
Existing Condition	3	June 26, 2015
Conventional Subdivision Plan	4	June 26, 2015

The conditions of approval are listed below:

1. This Definitive Plan is subject to an Open Space Residential Design Special Permit dated October 23, 2015.
2. The Director of Inspectional Services shall not issue a building permit for East Estate until a lot release signed by the Planning Board or a memo indicating that adequate surety has been established is delivered to the Building Department.
3. The stone wall on lot 2 is to be preserved except for 2 openings for the driveway.
4. Roof runoff infiltration shall be required for the dwelling to be constructed on lot 2.

In accordance with M.G.L., Chapter 41, Section 81-R, and as part of the Board's approval of said plan, the following waivers from its Subdivision Regulations were granted:

1. Section 3.106: Drainage Calculations; Not submitted since no roadway is proposed.
2. Section 3.110: Maintenance Documents of Drainage Facilities; Same as above
3. Section 3.207: Street & Utilities Plan; Same as above
4. Section 3.315: Stonewall Protection

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

Chairman Avila called for a motion regarding the Special Permit.

A motion was made by Lorri-Ann Miller to approve the Special Permit for East Estate, which was seconded by Kevin Melo.



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

Roll call vote:

Kevin Melo-yes; John Sousa-yes; Lorri-Ann Miller-yes; Joseph Toomey-yes; Joel Avila-yes

The Planning Board granted the Special Permit for an OSRD development because it found that the plan met the following purposes Section 6.100:

- The plan encourages a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision since individual driveways are proposed as opposed to a public road with a hammerhead.
- The plan encourages the preservation of open space, forestry land, and plant and wildlife habitat by only developing 1.47 acres and leaving 2.79 acres in its natural state as opposed to developing all 4.26 acres under a conventional plan.
- The plan preserves and enhances Dartmouth's traditional New England Landscape by preserving 4.26 acres of forested land.
- The plan eliminates the construction cost and maintenance of streets, utilities and public services in a more economical and efficient manner in harmony with the site and neighborhood since no road is proposed.
- The plan minimizes the total amount of disturbance on the site.
- The plan preserves open space areas for passive recreational use.

In accordance with Section 6.500, the Planning Board modified the following requirements of the Dartmouth Zoning By-Laws for lots shown on the plan:

Section 4B.401 - Lot Area: to allow the minimum lot and upland requirement in the Single Residence B District to be 30,162 square feet.

Section 4B.402 - Lot Shape: to allow the lot shape as shown on the plan for all lots.

Section 4B.403 - Lot Frontage: to allow 162.60' feet of frontage for Lot 1 and 0' of frontage for Lot 2.

Section 4B.404 - Building Setbacks: to allow a 38-foot minimum building setback from the vehicular easement lines for Lot 1.



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

The Planning Board grants the Special Permit for “East Estate” with the following conditions and restrictions:

1. The Planning Board grants the Special Permit for an Open Space Residential Development in substantial conformance with the following plans:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Subdivision Plan	1	June 26, 2015
Driveway Layout	2	June 26, 2015
Existing Condition	3	June 26, 2015
Conventional Subdivision Plan	4	June 26, 2015

2. The Planning Board grants the Special Permit in conformance with the Certificate of Action for a Definitive (OSRD) Subdivision Plan dated October 23, 2015 for “East Estate”.
3. The Special Permit is only approved for two (2) buildable lots.
4. A Trust Document satisfying the requirements of Section 6.801 and 6.802 of the Dartmouth Zoning By-Laws shall be approved by the Planning Board prior to endorsement of the subdivision plan.
5. In accordance with Section 6.802, a conservation restriction, meeting the requirements of Section 6.802, shall be approved prior to endorsement of the subdivision plan.
6. Where lots abut open space boundaries, the corners of the lots along the boundary shall be marked with concrete bounds and one (1) sign a minimum of 1' x 1' shall be provided in the middle of the open space boundary between the corners. The sign shall state “Open Space Boundary”. The boundary delineation markers and signs defining the boundary between the buildable lots and the open space parcel shall not be removed and must be maintained as boundary delineation markers. The markers and signs shall be maintained in good condition, and this requirement noted in the Trust Document.
7. The OSRD Trust Document shall include provisions for maintenance of the driveway, boundary delineation markers, and signs.
8. The Open Space Trust Document, as well as the Subdivision Plan, and any covenants and restrictions associated with the Subdivision Plan, shall be duly executed and recorded at the Bristol County (S.D.) Registry of Deeds.

All conditions of approval shall be met within two (2) years from the date of filing of the Planning Board decision in the Office of the Town Clerk. A reasonable extension of



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

said time shall be granted by the Planning Board in the case of an appeal to the Superior Court under Massachusetts General Laws (M.G.L.), Chapter 40A, Section 17 or if good cause is shown to the Planning Board for an extension.

Appeals, if any, shall be made pursuant to M.G.L., Section 17, Chapter 40A, and shall be filed within twenty (20) days after date of filing of such notice in the Office of the Town Clerk.

The Special Permit does not become effective until the Town Clerk certifies that no appeal of the decision has been filed in Superior Court within the 20-day statutory appeal period; or that if an appeal has been filed, it has been dismissed or denied and a certified copy of the decision is recorded in the Bristol County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

The applicant or petitioner is responsible for filing the certified decision in the Registry of Deeds and for paying the recording fees.

A copy of the recorded decision certified by the Registry of Deeds is necessary before a Building Permit, dependent on the Planning Board's decision, can be issued by the Director of Inspectional Services. Copies of the approved plans and this decision are on file in the Town Clerk and Planning Board offices. Copies of the complete minutes of the public hearing are available upon request at the office of the Planning Board.

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

(9) Initial Review of Off-Street Parking Plan for Proposed Hardware Store
661 Dartmouth Street

Also Present: Richard Rheame, P.E., Prime Engineering

The Planning Director explained that plan proposes the construction of a new hardware store on Dartmouth St. and Webster St. immediately south of Cape Quality Seafood. The site will contain a 12,135 sq ft hardware store, which will be connected to a 2,840 sq ft rental retail building, and provides 43 parking spaces (16 required).

He noted that a 5' wide planting bed is shown adjacent to the building, which is a requirement of the Bliss Corner Mixed Use District. He pointed out that due to the pitched roof requirement the roof will extend over this landscaping and completely shade this area, which could be detrimental to the health of the landscaping. He stated that there is limited rear landscaping buffer provided with this plan.



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

Mr. Rheume reviewed the property locus with the Board, explaining that Ace Hardware would like to move from its present location on Dartmouth Street to this location. He stated that extra parking spaces were provided since the tenant for the rental retail building is unknown at this time, and the plan is A.D.A. compliant. He reviewed the rear property line stating that the existing arborvitaes will be preserved, and that more landscaping can be provided to address the Planning Director's comment.

Chairman Avila questioned whether a sign will be provided. Mr. Rheume stated that a normal pylon sign is proposed.

Mr. Rheume coordinated with the DPW since it was working on sidewalks in the area at the time.

A Board member would like to see a sidewalk along frontage of Webster Street, and an interconnection from the sidewalk to the hardware store. Mr. Rheume stated that he could make the requested revisions.

Discussion ensued regarding the 5' planting bed, which will be located under a canopy. Mr. Rheume stated that he will have to use plants that tolerate shade because of the sloped roof/canopy requirement.

A Board member stated that any outdoor display areas will need to be shown on the plan and defined as a display area, with the A.D.A. compliant sidewalk maintained and not obstructed.

The Planning Director cautioned that additional sidewalks will need to be added to the plan calculation, which is currently at 11.8% and not allowed to fall below 10%. Mr. Rheume felt that the adjustment could result in a decrease in the number of parking spaces.

The Planning Director reviewed the draft Certificate of Action with the Board, which will include the two additional conditions resulting from this meeting.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and voted (4-yes; 1 abstain). Kevin Melo abstained from voting.

The Plans referred to in this action are listed below:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Title Sheet	1	September 21, 2015
Existing Conditions	2	September 21, 2015
Site Layout Plan	3	September 21, 2015
Grading & Drainage Plan	4	September 21, 2015
Utilities Plan	5	September 21, 2015



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

an existing silo on the site that will remain. Mr. Hardman proceeded to review the parking plan, noting that the existing driveway off Chase Road will be utilized for access to the garage. A.D.A. parking is provided, and the lot will be gravel.

The post and gate chain was questioned by the Board. Mr. Hardman explained that there is currently a garden area that is utilized and the idea was to keep the community garden separate from D.N.R.T. activity. If there is a large meeting, the chain can come down if needed.

The Planning Director recommended approval in accordance with the draft Certificate of Action provided.

A motion was made by John Sousa to approve the DNRT parking plan, which was duly seconded by Lorri-Ann Miller, and unanimously voted (5-0).

The Plans referred to in this action are listed below:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Site Plan	1 of 2	August 4, 2015
Grading and Drainage Plan	2 of 2	August 4, 2015

The Director of Inspectional Services shall not issue a building permit until a letter is received from Planning Staff, and a final 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.

Administrative Items

- (1) **Approval of Minutes**
Regular Meeting of September 28, 2015

Public Hearing Minutes of September 28, 2015
"Scenic Road Tree Removal Request – 315 Smith Neck Road"

Public Hearing Minutes of September 28, 2015
"Definitive (OSRD) Subdivision entitled "Sagamore Estates II"

A motion was made by Lorri-Ann Miller, duly seconded by Kevin Melo for discussion, and unanimously voted (5- 0) to approve the above-referenced minutes.

- (2) **Invoices**
MA Association of Planning Directors (Dues) - \$85.00
SNEAPA 2015 Conference Reimbursement to John Hansen, Jr. - \$577.84



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

Mileage Reimbursement to John Hansen, Jr. - \$6.84

A motion was made by Kevin Melo, duly seconded by Lorri-Ann Miller for discussion, and unanimously voted (5-0) to approve the above-referenced invoices for payment.

(3) Correspondence

Legal Notices from Dartmouth Conservation Commission
Legal Notices from City of New Bedford
Legal Notices from Town of Freetown
Legal Notices from City of Fall River

A motion was made by Kevin Melo, duly seconded by Lorri-Ann Miller for discussion, and unanimously voted (5-0) to acknowledge and file the above-referenced correspondence.

(4) Endorsement of Approval Not Required (ANR) Plan

Gaffney Road Moran September 24, 2015

The Planning Director explained that this ANR plan creates 1 new lot with over 200' of frontage, which is the minimum required in a SR-B zone, and leaves the existing lot with over 200' of frontage. He recommended endorsement.

A motion was made by John Sousa, duly seconded by Kevin Melo for discussion, and unanimously voted (5-0) to endorse the above-referenced ANR plan.

(7) Lot Release Request

Definitive OSRD entitled "Stone Wall Acres"
(2-lot subdivision located off of Fisher Road)

The Planning Director stated that the applicant would like Lot 2 released from the performance covenant. The surety estimate for the construction cost was received from DPW, and a check in that amount was received from the applicant. The Planning Director recommended releasing Lot 2.

A motion was made by John Sousa, which was duly seconded by Kevin Melo, and unanimously voted (5-0) to release Lot 2 of Stone Wall Acres from the Performance Covenant.

(8) Lot Release Request

Definitive OSRD entitled "Collins Corner Road"
(2-lot subdivision located off of Collins Corner Road)

The Planning Director explained that the applicant would like Lot 1 released from the performance covenant. He felt that once a surety estimate for the construction cost is received from DPW and a check in that amount is received



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

from the applicant, this lot can be released. The Planning Director recommended conditionally releasing Lot 1 until said check is received since no public road is involved with this subdivision.

A motion was made by John Sousa, duly seconded by Kevin Melo, and unanimously voted (5-0) to conditionally release Lot 1.

(11) For Your Information/New Business

- **Planner's Report**

- Build-Out Analysis

- The Planning Director informed the Board that South Coast Rail had a meeting a few weeks ago, and the Town of Westport did a presentation on a Build-Out Analysis. The analysis was done with SRPEDD and took into consideration all the available land that's out there, tracking the wetlands, and determining what is left for planning purposes. The Planning Director recommended that the Town of Dartmouth do a similar Build-Out Analysis, and will obtain a copy of the Town of Westport's when it becomes available. The Board supported this idea.

- SNEAPA Conference Recap

- The Planning Director attended the conference and suggested the Board consider adding Inclusionary Zoning to its Priority List. He also discussed a program that had to do with Planning with Kids, which encourages Planners to work with schools to get the message out as to what Planning is in terms of municipalities. The Planning Director was seeking the Board's support to allow him to reach out to schools for this purpose. The Board supported this endeavor.

- General Code

- The Planning Director received information from the Town Clerk related to the General Code, which he passed along to the Board. The Town Clerk will be outsourcing bylaw updates, which will be using its own software. The Town Clerk wanted the Board to know that since this company will be updating both the general and the zoning bylaws, a new chapter will be given to the zoning bylaws and the bylaws will be re-codified. An example given was that the current Bylaw for Section 16 could be called 375.Section 16. No substance changes will be made to the bylaws, and the Town Clerk confirmed with Town Counsel that no public hearing would be required for the changes.

With no further business to discuss, Chairman Avila called for a motion to adjourn.

A motion was made by John Sousa, duly seconded by Lorri-Ann Miller, and



PLANNING BOARD REGULAR MEETING MINUTES
October 19, 2015
Meeting Room #304 and #315
Town Office Building, 400 Slocum Road, Dartmouth, MA

unanimously voted (5-0) to adjourn this evening's regular meeting at 10:00 p.m.

The next Planning Board meeting is scheduled for October 26, 2015, in Room #315, Town Office Building, 400 Slocum Road.

Respectfully submitted,
Jane Kirby
Planning Aide

Jane Kirby 10/19/15