

**MINUTES OF REGULAR PLANNING BOARD MEETING OF JULY 9, 2012**  
**Planning Board's Meeting Room #315, Town Office Building**  
**400 Slocum Road, Dartmouth, MA**

**Planning Board**

Mr. Joel Avila, Chairman  
Mr. Joseph E. Toomey, Jr., Vice Chairman  
Mrs. Lorri-Ann Miller, Clerk  
Mr. John V. Sousa  
Mr. Stanley M. Mickelson

**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 June 18, 2012

A motion was made by Mr. Toomey, duly seconded by Mr. Sousa for discussion, and unanimously voted (5-0) to approve the minutes of the regular meeting of June 18, 2012 as written.

**(2) Correspondence**

Legal Notices from City of Fall River  
Legal Notices from Dartmouth Board of Appeals  
Legal Notices from Dartmouth Conservation Commission

A motion was made by Mr. Toomey, duly seconded by Mrs. Miller for discussion, and unanimously voted (5-0) to acknowledge and file the above referenced legal notices.

Letter from David Cressman, Executive Administrator dated June 19, 2012  
re: Filming of Planning Board Meetings  
Email from Deborah Wender, Director of Development dated June 28, 2012  
re: Route 6 Gateway Mixed Use grant opportunity

The Board deferred discussion on the above referenced correspondence until later in the evening.

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### (3) Time extension request on Off-Street Parking Plan for A & A Jewelers, Dartmouth Street

A motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and unanimously voted (5-0) to approve the time extension request on the Planning Board's deadline for action on the Off-Street Parking Plan for A & A Jewelers from July 15, 2012 to October 31, 2012.

### (4) Planner's Report

- Prestige Variety Store drive-thru

The Planning Director stated there is a proposal before the Board of Appeals to add a drive-thru, erect signage, and create an alcohol service area at the old Dairy Chief/CV Variety now known as Prestige Variety located at 532 Russells Mills Road. He said the Board of Appeals may be seeking the Planning Board's input on this application. Staff will know more after the Board of Appeals meeting being held this week on Tuesday evening. Brief discussion ensued.

- Faunce Corner Road/I-195 Interchange Road Safety Audit

Mr. Perry briefed the Board on the recent meeting he attended concerning a safety audit of the Faunce Corner Road/I-195 interchange area. The safety audit sought local knowledge of traffic/safety problems in the area in order to help correct them and improve traffic flow.

### Public Hearing

### (5) 7:15 P.M. – PUBLIC HEARING - Request for a Special Permit to allow the use of food service from a concession food trailer for property located at 375 Faunce Corner Road (Assessor's Map 63, Lot 16) and known as the VF Factory Outlet Mall

In a roll call vote, a motion was made by Mr. Toomey, seconded by Mr. Sousa, and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:17 p.m. in order to go into a public hearing<sup>1</sup> concerning a request for a Special Permit to allow the use of food service from a concession food trailer for property located at 375 Faunce Corner Road (Assessor's Map 63, Lot 16).

Stanley Mickelson – yes; John Sousa – yes; Lorri-Ann Miller – yes; Joseph Toomey, Jr. – yes; Joel Avila – yes.

The regular meeting resumed at 7:52 p.m.

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<sup>1</sup> For more information, see minutes of Planning Board's Public Hearing of July 9, 2012

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### Administrative Items

**(6) Action on request for a Special Permit to allow the use of food service from a concession food trailer for property located at 375 Faunce Corner Road (VF Factory Outlet Mall)**

Following the close of this evening's public hearing, the Planning Director stated this proposal has been submitted in accordance with the requirements of a Special Permit under Section 14A.304 of the Dartmouth Zoning Bylaws.

Mrs. Miller proceeded to state for the record that she has filed a letter with the Town Clerk stating that it is the opinion of Town Counsel that there no conflict of interest and she can vote on this proposal.

In a roll call vote, a motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0), to approve the request for a Special Permit to allow the use of food service from a concession food trailer for property located at 375 Faunce Corner Road (Assessor's Map 63, Lot 16) in accordance with the following:

Stanley Mickelson – yes; John Sousa – yes; Lorri-Ann Miller – yes; Joseph Toomey, Jr. – yes; Joel Avila – yes.

**Certificate of Action for a  
Special Permit regarding a Stationary Food Service Trailer  
Granted to Garry Medeiros to be located at 375 Faunce Corner Road  
(Vanity Fair Factory Outlet)**

There was a Planning Board public hearing which was opened on Monday, July 9, 2012, and closed on Monday, July 9, 2012. The public hearing concerned the application of Garry Medeiros, 24 Maplecrest Drive, Dartmouth, MA 02747 for property owned by Kay Windsor, Inc., 375 Faunce Corner Road, Dartmouth, MA 02747. The applicant is requesting a Special Permit under the Dartmouth Zoning By-Laws, Section 14A.304 – Convenience Retail, Restaurants and Service, to locate a stationary food service trailer from which to sell food. The Special Permit would allow this in an Office Industrial District for property located at 375 Faunce Corner Road, Assessor's Map 63, Lot 16. Complete copies of the minutes of the public hearing and discussion of the Planning Board decision are available in the Town Clerk and Planning Board offices.

### DECISION

At its regular meeting of July 9, 2012 and after the close of the above described public hearing, the Planning Board voted: – Mr. Mickelson – yes, Mr. Sousa - yes, Mrs. Miller – yes, Mr. Toomey – yes, Mr. Avila – yes to grant the Special Permit to the petitioner, Garry Medeiros, 24 Maplecrest Drive, Dartmouth, MA 02747 to allow a stationary food service trailer on property currently owned by Kay Windsor Inc. and located at 375 Faunce Corner Road, Dartmouth, MA 02747, Assessor's Map 63, Lot 16.

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The Planning Board finds that the proposal is in harmony with the purpose and intent of the Zoning By-Laws, and that it will promote the purpose of Section 14A.304 – Convenience Retail, Restaurants and Services.

The Planning Board finds that the proposal is in harmony with this Section because:

- The proposed use provides a necessary convenience for workers in the Office Industrial District.

The proposed use will allow customers and employees of the multi-use Vanity Fair Factory Outlet and nearby office facilities to conveniently obtain food on-site and locally without having to drive out onto busy Faunce Corner Road or travel to the retail district to the south. This requirement has been met.

- It is determined by the Planning Board by using a marketing plan or other analysis provided by the applicant, that the proposed use will receive 60% of its business from individuals working within the Office Industrial or nearby Limited Industrial District.

The type of food vending proposed from the trailer is based on a local clientele. Rarely would an individual travel from outside the district for the sole purpose of eating at the trailer. This requirement has been met.

- A similar use is not located within five hundred (500) feet.

There are no other stationary food vending trailers within 500 feet. This requirement has been met.

- The restaurant is designed so that 90% of all business will cater to eat in customers. Drive-thru take out is not allowed.

It is presumed customers will take food back to their workplace, eat in their cars, or at the tables provided. No drive-thru is shown. This requirement has been met.

- The architecture of the building is of exceptional design and expresses quality and distinction.

This requirement is not applicable, since food will not be dispensed from a building.

The following conditions are imposed as part of the Special Permit:

1. This Special Permit is hereby issued to Garry Medeiros and his business partner, Robert Porell, and can be transferred only by amendment by the Planning Board.

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2. This Special Permit is valid for a maximum period of three (3) years from the date of this certificate. Extensions of the permit may be granted by the Planning Board at a regularly scheduled Planning Board meeting, if the request for extension is received and the Planning Board grants the extension, prior to the date of permit expiration.
3. The food trailer shall be parked and used in accordance with the parking plan approved by the Planning Board entitled "VF Outlet – Food Vendor in Parking Lot" dated June 5, 2012 and the plan attached hereto marked Exhibit "A".
4. The proposed use shall be completely self-contained and operated from the trailer, with no additional separate outdoor accessories, except for up to four (4) picnic tables and up to two (2) trash receptacles.
5. This Special Permit can be revoked by the Planning Board after holding a public hearing in accordance with M.G.L., Chapter 40A, if the conditions of the Special Permit have not been adhered to, the premises does not comply with zoning, or the Planning Board determines the proposed use is detrimental to the Office Industrial District.

Substantial use of the Special Permit shall be commenced or construction begun except for good cause, within one (1) year from the date of filing of the Planning Board decision in the Office of the Town Clerk. A reasonable extension of 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.

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 Building Commissioner. 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.

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Approval of the Special Permit for a stationary food service trailer does not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

### Appointments

**(7) 7:30 P.M – APPOINTMENT - Greg Jones: Initial review of Off-Street Parking Plan entitled “Remains to be Seen Bookstore”, 2 McCabe Street**

Present: Greg Jones, Wise Surma Jones, Architects  
Benjamin & Deborah Baker, applicants  
Attorney Irene Schall, representing the applicants

The Planning Director stated this off-street parking plan is for a bookstore at 2 McCabe Street (former State Fruit) close to Rockdale Avenue. It is a renovation of an existing building and parking area for the bookstore use. He noted a Special Permit from the Board of Appeals was granted to allow the conversion because the property is zoned General Residence.

Attorney Irene Schall chronicled the project providing information on the Zoning Board of Appeals approval and the Planning Board’s review authority. She said this proposal is outside of Section 16 review.

The Planning Director reported that as a condition of the Special Permit approved by the Board of Appeals, a parking plan and approval by the Planning Board is needed.

Greg Jones described the site layout and a discussion ensued. Multiple topics were discussed such as hours of operation, snow removal, landscaping, and signage.

Concluding, a motion was made by Mr. Sousa, duly seconded by Mr. Toomey, and unanimously voted (5-0) to approve the Off-Street Parking Plan entitled “Renovations for Remains to be Seen Bookstore” prepared for Gregory Jones, 24 Centre Street, New Bedford, MA 02740 to be located at 2 McCabe Street. The plan was submitted to the Planning Office on May 31, 2012.

The Plan referred to in this action are listed below:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
Renovations for Remains to be Seen Bookstore	SL-1	May 31, 2012

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Conditions of approval are listed below:

1. A sign exiting the parking facility should provide directions to Rockdale Avenue, such as "Two Lefts to Rockdale Avenue".
2. The pedestrian walk along the east side of the building should have painted words "NO PARKING – PEDESTRIAN WALKWAY" and be painted with stripes to better identify the walkway area.

Three sets of revised 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.

### **(8) 7:45 P.M – APPOINTMENT - Margaret Sweet: Request for a gravel road in Sheldon Woods Subdivision**

Present: Margaret Sweet, Sweet Real Estate  
Ann Sheldon, landowner of subdivision

The Planning Director stated the landowner of the Sheldon Woods Subdivision is seeking the Planning Board's opinion on whether the Board would favorably consider an amendment to an approved subdivision plan to allow a gravel road. He noted the subdivision is a two lot subdivision on the south side of Old Fall River Road just east of the Westport Town line. Mr. Perry pointed out that although it is a two lot subdivision, one lot has an existing house with 185 feet of frontage on Old Fall River Road with an existing driveway off Old Fall River Road. He mentioned in actuality the required 16 foot paved lane would serve only one lot and the Subdivision Regulations allows a 12 foot wide paved road for one lot.

Margaret Sweet, spoke on behalf of the landowner, providing a history on the parcel.

Discussion ensued.

After an exchange of dialogue, a majority of the Board indicated that they could go along with the request to construct a gravel road provided a letter is received from the District #3 Fire Chief stating that he has no objection. Said letter should be submitted with the subdivision amendment application which is to be filed with the Planning Board.

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### Administrative Items

#### **(9) Continued review of draft Solar Farm Bylaw**

The Planning Director stated the draft Solar Farm bylaw was sent out to the Zoning Reviewers, the Solar Farm Advisory Group, and Town Counsel with a deadline date for comments of June 27, 2012. Mr. Perry noted he has provided the Board with all the reviewer's written remarks and he has added his written comments on each.

Lengthy discussion ensued with several members of the Solar Farm Advisory Group present.

All written comments were considered with the Planning Director, Board members, and members of the Advisory Group offering their opinions.

Concluding, Planning Staff was directed to revise the draft bylaw incorporating Town Counsel's comments, as well as other suggested language changes from the reviewers as identified this evening. Planning staff will again email the revised bylaw to Board Members, Town Counsel, and all the reviewers by the end of the week. The revised bylaw will be placed on the next Planning Board meeting of July 23, 2012 for a vote of the Planning Board to submit the article to the Select Board.

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

- Letter from David Cressman dated June 19, 2012 re: SRPEDD letter

Under the Unified Planning Work Program two projects being funded for Dartmouth.

- 2011 State of Buzzards Bay Report

Planning Staff was asked to contact Mark Rasmussin and setup an appointment for a presentation.

- Subcommittee Reports

Mr. Toomey updated the Planning Board on the recent Municipal Facilities Committee meeting he attended.

- Board of Appeals decisions
- Planning Director's review for Board of Appeals
- Planning staff timesheets

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### (11) Correspondence

Letter from David Cressman, Executive Administrator dated June 19, 2012  
re: Filming of Planning Board Meetings

Brief discussion ensued with senior Board members noting this has been discussed a number of times over the last few years. Since neither Board wishes to move to another night, and with the Select Board previously indicating that they are not willing to rotate Monday evenings, the filming in room #315 is the only option.

Staff was asked to prepare a response letter for approval at the next Planning Board meeting.

Email from Deborah Wender, Director of Development dated June 28, 2012  
re: Route 6 Gateway Mixed Use grant opportunity

Mrs. Miller briefed the Board members on an opportunity for the Town to get grant money to develop mixed use zoning for the State Road/Route 6 gateway area. She noted that grants are generally awarded for areas designated for priority development and that area of State Road may not meet the qualifications.

Brief discussion ensued.

A motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (5-0) to authorize the Planning Director to assist Ms. Wender in the preparation of this grant application.

With no further business, a motion was made by Mrs. Miller, duly seconded by Mr. Sousa and unanimously voted (5-0) to adjourn this evening's regular meeting at 11:21 p.m.

Respectfully submitted,  
Mrs. Joyce J. Couture  
Planning Aide