

Approved 03/08/2017

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DUXBURY, MASS.



# Town of Duxbury Massachusetts Planning Board

## Minutes 02/08/2017

The Planning Board met on Wednesday, February 8, 2017 at 7:00 PM at the Duxbury Middle School / High School, 71 Alden Street, Presentation Hall.

Present: Brian Glennon, Chairman; Scott Casagrande, Vice Chairman; John Bear; Jennifer Turcotte; David Uitti; and George Wadsworth.

Absent: Cynthia Ladd Fiorini, Clerk.

Staff: Valerie Massard, Planning Director; and Diane Grant, Administrative Assistant.

Mr. Glennon called the meeting to order at 7:07 PM. He thanked the School Department staff for accommodating the Planning Board's use of the Presentation Hall and for helping PAC-TV broadcast the meeting to viewers at home.

### OPEN FORUM

Demolition Delay: Mr. Glennon allowed Mr. David Amory to speak on behalf of the Historical Commission on the Demolition Delay Bylaw which has been withdrawn from the Town Meeting warrant. Mr. Amory noted that Mr. Terry Vose was also present on behalf of the Historical Commission. Mr. Amory stated that the Historical Commission had met with the Finance Committee and Board of Selectmen regarding the proposed re-write of the Demolition Delay Bylaw. Both boards provided useful comments but could not support the proposed bylaw in its current form. Mr. Amory read a prepared statement. Mr. Glennon thanked Mr. Amory and the Historical Commission for its work and stated that he looks forward to seeing a revised draft bylaw next year.

### ANR PLAN OF LAND: 1065 SUMMER STREET / TEDESCHI

Ms. Massard noted that the applicant has requested by email to continue this ANR discussion to the next available Planning Board meeting so that the applicant can study an access issue raised during staff review.

**MOTION:** Mr. Casagrande made a motion, and Ms. Turcotte provided a second, to continue the discussion of an ANR Plan of Land at 1065 Summer Street / Tedeschi to March 8, 2017 at 7:05 PM.

**VOTE:** The motion carried unanimously, 6-0.

### PRELIMINARY PREVIEW POSSIBLE SUBDIVISION: 965 TEMPLE STREET / THOMAS

Planning Board members reviewed a concept plan titled, "Feasibility of a Plan of Land at 965 Temple Street, Assessors Map 23 Lot 103," dated January 27, 2017. Present for the discussion was Mr. Ted Lizinger of Land Developing & Permitting Corp. of Raynham. Mr. Lizinger presented a larger version of the same plan for the public and explained that the applicant would like to submit an ANR plan for an existing property at 965 Temple Street with the intention to create a small parcel of 2,875 feet on the corner of the lot that could be conveyed to the Town

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of Duxbury in order to create sufficient frontage on Temple Street for one of the lots. This option would be an alternative to creating a subdivision to divide the lots with waivers, which would be quite expensive for the property owner. The existing lot is 3.94 acres and is zoned Residential Compatibility (RC) and Aquifer Protection Overlay District (APOD), and a portion of the lot is in the Planned Development 1 District (PD1). Mr. Lizinger noted that 60,000 square feet of upland is required for the APOD and the client is trying to divide the land with the least amount of impact.

Ms. Massard explained that the purpose of the small parcel of land is to create a road layout. Subdivision Control Law allows a paper street. She noted that the Town of Duxbury may not want to take ownership of that land. The concept plan shows a cleaner way of creating frontage because a standard subdivision road would take up more land and waivers would be required. Ms. Massard stated that other potential applicants are asking similar questions as a possible alternative to subdivisions creating large "paper" streets, and that this approach would require subdivision approval, not an ANR process. She stated that she is looking for direction from the Planning Board.

Mr. Bear noted that the frontage numbers are difficult to read on the small plan, and Mr. Lizinger confirmed that the current lot frontage is approximately 380 feet, which is 20 feet short of the required 400 feet for two lots. Mr. Bear noted that the property owner appears to be asking for a way to create frontage, and Mr. Lizinger responded that the frontage would become part of the Temple Street layout if accepted by the Town of Duxbury. Mr. Glennon pointed out that if the Town of Duxbury does not accept the way, there would be no frontage.

Ms. Massard suggested that the property owner could lay out a street on this land to create frontage under Subdivision Control Law. She asked if the Planning Board would consider a street in order to gain frontage that would waive the construction of the road in this shape, rather than a full road layout with a turnaround with waivers, as had been done on other subdivisions, thereby using less land as a "paper" street.

Mr. Glennon stated that although the proposed approach is creative, there may be a legal impediment with the Planning Board endorsing an ANR Plan of land based on a small lot to be taken by the Town of Duxbury in the future. Ms. Massard agreed that the plan must be submitted through Subdivision Control Law, and noted that the question is where to situate the road. Mr. Lizinger asked if it is possible to reduce the diameter of the roadway. Ms. Massard asked if the Planning Board would consider a hammerhead or other type of turnaround to preserve the landscape on a two-lot subdivision, which might provide a better buffer to the abutting properties. Mr. Glennon noted that it is difficult to say without looking at a proposed plan and it is not the Planning Board's position to help design a subdivision plan. Mr. Lizinger thanked the Planning Board for its time.

**PUBLIC HEARING, PROPOSED ZONING AMENDMENT FOR ANNUAL TOWN MEETING 2017: PROPOSED BATTELLE WATERFRONT VILLAGE OVERLAY DISTRICT (CITIZEN PETITION)**

Mr. Glennon opened the public hearing for this proposed zoning article at 7:30 PM. He noted that a revised public hearing notice has been issued with the address of the current public hearing location at the Duxbury Middle School / High School at 71 Alden Street rather than the school's former address. He noted that a notice had been posted at the former address directing the public to the correct address.

**MOTION:** Ms. Turcotte made a motion, and Mr. Casagrande provided a second, to waive the reading of the public hearing notice and correspondence list for tonight's public hearing on the proposed zoning amendment for Battelle Waterfront Village Overlay District.

**VOTE:** The motion carried unanimously, 6-0.

Correspondence list for the record:

- PB minutes of 04/27/16 and 05/11/16
- Emails between M. Diamond and R. Read et.al dated 05/20/16 - 05/23/16 re: Duxbury Landing
- PB minutes of 06/08/16 and 06/22/16

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- Email from V. Massard to B. Glennon et.al dated 07/13/16 re: Spring ATM
- Emails between V. Massard and R.W. Galvin et.al dated 08/02/16 re: Battelle, Tea Kettle/Bitters
- PB minutes of 08/10/16
- Emails between V. Massard and J. Barrett et.al dated 09/20/16 re: Town Meeting March 2017
- Emails between V. Massard and R.W. Galvin et.al dated 09/22/16 re: Battelle Overlay District
- Emails between R.W. Galvin and V. Massard et.al dated 09/26/16 re: Update
- PB minutes of 09/28/16, 10/26/16 and 11/16/16
- Proposed ATM warrant article with cover letter from R.W. Galvin to BOS submitted on 12/01/16
- Proposed ATM warrant article with cover letter from R.W. Galvin to Town Clerk submitted on 12/01/16
- Emails between R.W. Galvin and R. Read et. al dated 12/01/16 re: Stamped plan (11.21.16)
- Emails between V. Massard and M. Diamond dated 12/20/16 – 12/21/16 re: Public hearing dates – Town Meeting Articles for Odd Lot and Battelle
- Emails between D. Corey and D. Grant dated 12/30/16 and 01/03/17 re: Battelle warrant article
- Emails between V. Massard and R.W. Galvin et.al dated 01/10/17 re: Ethics Caution – Odd Lot Bylaw0 APPEARANCE of conflict of interest
- Zoning map prepared by Duxbury Planning Department dated 01/10/17
- Public hearing notice stamped with Town Clerk on 01/19/17; published in the Duxbury Clipper on three successive weeks: 01/26/17; 02/01/17 (corrected); and 02/08/17 (corrected); and mailed to the citizen petition’s representative; the Department of Housing and Community Development, the Metropolitan Area Planning Council, the Old Colony Planning Council, and the Planning Boards of Kingston, Marshfield, Pembroke and Plymouth on 01/20/17
- Email from V. Massard to F. Holden dated 01/23/17 re: Battelle zoning – petitioned article
- Emails between V. Massard and R.W. Galvin et.al dated 01/20/17 – 01/26/17 re: Hearing location for Battelle
- Memorandum from S. Kelley to V. Massard et.al dated 01/27/17 re: Public hearing notice, Wednesday, February 8, 2017
- Letter with attachments from R.W. Galvin to PB dated 01/30/17 re: Discussion of spot zoning and Battelle Waterfront Village Overlay District
- Emails between N. Lawson and S. Hoyt et.al dated 02/06/17 re: Article 13
- Emails between R.W. Galvin and V. Massard et.al dated 02/08/17 re: Information.

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Present for the discussion were the proponent, Mr. Merrill Diamond of Diamond Sinacori, and his representatives: Atty. Robert W. Galvin; and Mr. Steve Tise and Ms. Julia Saier of Tise Design Associates. Mr. Glennon noted that the focus of tonight’s discussion is the proposed zoning amendment to create the Battelle Village Waterfront Overlay District and not the merits of Mr. Diamond’s proposal. He invited the proponents to present their proposal.

Atty. Galvin stated that he was hired last year to work with Mr. Diamond on the proposed zoning amendment and he also prepared a letter addressing the question of spot zoning which the Planning Board had reviewed in advance of the meeting.

Atty. Galvin stated that the proponents propose a new Zoning Bylaw Section 407 for a Battelle Waterfront Village Overlay District (BWVOD). The current zoning is Residential Compatibility (RC) with a former non-profit exemption for the former use as Battelle Laboratories. The BWVOD would be an overlay district on top of the underlying RC District that would allow more uses than the RC District.

Atty. Galvin stated that he would like to dispel rumors that the overlay would allow a dense development that would change the character of the town. The proponents only intend to add two or three new dwelling structures and the density will be similar to that along Washington Street from Hall’s Corner on down. They propose adaptive re-use of existing structures for residential housing. A special permit with design standards would be required for approval by the Planning Board. Affordable housing must be provided, either on site, off site, or as a Fee in Lieu of Affordable Housing. The development would be an alternative to a 40B development, educational use, or agricultural use that would be exempt from zoning.

Atty. Galvin stated that some have asked why not build a traditional subdivision, but it would require a roadway layout and razing of existing structures which may cause the site to lose its historic character. The proposed development provides a diversity of housing options using existing footprints.

Atty. Galvin stated that the proposed site includes five parcels of land purchased in 1947 through 1966, with a total of over 11 acres of land. If the new zoning district is approved but no applications are filed within two years, the proposed amendment carries a “sunset clause” that will expire in two years.

Atty. Galvin reviewed the proposed zoning language noting that it includes a two-step process that starts with a master plan approval which is a 90-day process and requires a Planning Board majority approval. Design criteria must take into consideration traffic and circulation, fire/safety/emergency access, open space, stormwater, and utilities.

The second step in the process would be a special permit which would also go through the Planning Board and requires a super-majority approval. The approval would be based on the proposed Zoning Bylaw as well as existing ZBL Sections 906.2.1, 906.2.2.e, and 906.2.3 a-d. The special permit would lapse in two years if construction has not begun. Proposed ZBL Section 407.4 also addresses future modifications. Minimum requirements are proposed in ZBL Section 407.5, including 500 feet of frontage in order to exclude the possibility of multiple projects, and also including a maximum density of 4 dwelling units per acre, which he stated is not materially different than what you see today.

Atty. Galvin stated that three new dwelling structures would be constructed and existing garages would be razed. An existing boathouse would be relocated and converted to a single-family home. The proposed bylaw requires a minimum of two different residential use types with no more than 75 percent of the total number of dwelling units in any type of residential use.

Atty. Galvin stated that specific design standards include nitrogen removal to a standard of at least 25 mg/l in the effluent discharged to the soil absorption system, which he stated is far better than traditional single family homes. He stated that the proponents understand that this is a sensitive area on Duxbury Bay. He noted that a soils analysis done by his client has indicated that the soils are favorable to subsurface disposal that would be located near Washington Street but indistinguishable from other landscaping.

Atty. Galvin stated that for dimensional requirements, a minimum of 15 feet is required between structures, and the maximum height matches the current underlying zoning at 36 feet. The maximum impervious coverage cannot exceed 35 percent. The proposed bylaw would require a minimum of 40 percent open space, possibly through a Conservation Restriction in perpetuity.

Atty. Galvin explained his spot zoning analysis, concluding that it is his opinion that the proposed bylaw does not create spot zoning. He stated that the Town of Duxbury will have a large measure of control over the development process with a financial benefit to the town of an estimated \$564, 000.00 per year in real estate taxes, plus the affordable housing component. He stated that the type of homeowners would be older, and over 30 people have already contacted Mr. Diamond expressing interest.

Mr. Glennon asked for any comment Ms. Massard may have prior to the discussion, and she noted that Mr. Diamond was invited to meet with the community starting in May 2016 to begin discussing zoning. The proponents did not meet with the Planning Board until September 2016. She stated that the proponents have not had much formal dialogue with the community and this is the first opportunity for input through a public hearing prior to Town Meeting. She referenced a four-page "talking points" document that she prepared for the Planning Board's review, noting that she has many technical questions and there is not a great deal of time at tonight's meeting to address all of them.

Mr. Glennon invited Planning Board comments. Mr. Casagrande asked if dimensional requirements and definitions are subject to the existing bylaw. For example, is the height measured identically to the formula used in other parts of the Zoning Bylaw? Atty. Galvin replied that they are subject to the existing bylaw unless expressly stated differently. Mr. Casagrande noted that the minimum height in the existing Zoning Bylaw is 30 feet, not 36 feet as defined in the proposed bylaw.

Mr. Wadsworth stated that he is frustrated with the proposed amendment because the Planning Board and public were not given enough time to review it. At last year's Annual Town Meeting several zoning articles

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were indefinitely postponed because the public complained that they had not had enough time to review them. He noted that materials were submitted to the Planning Office on September 27 for a presentation to the Planning Board meeting the next day. In September the Planning Board requested a meeting in October but no meeting happened. Instead the proponents submitted their petition on the deadline date for warrant articles in December. Mr. Wadsworth noted that through his work on the Zoning Bylaw Review Committee he has seen how different Zoning Bylaw sections written by individuals do not necessarily integrate within the existing bylaw.

Mr. Wadsworth asked if the proposal is similar to a Planned Development. Atty. Galvin stated that the proposal is not a Planned Development. It would be its own unique zoning. He stated that he was given a version of the proposed zoning bylaw in June or July 2016 and submitted his revised draft in August and received conceptual Planning Director feedback in late August. The proponents met with the Planning Board in September and were told to go back to the drawing board. He stated that the proponents wanted to submit another draft before filing the warrant article but they were told they could not submit another draft and they must submit for the Town Meeting warrant. The warrant article was submitted in a timely fashion. The late public hearing was scheduled due to Mr. Diamond's eye surgery.

Ms. Turcotte asked if Town Counsel had reviewed the currently proposed language, and Ms. Massard replied that it had been provided to Town Counsel but there has been no response to date.

Mr. Glennon invited public comments. Mr. James Lampert of 148 Washington Street expressed concern with the 15-foot separation between buildings, noting that Zoning Bylaws allow a 15-foot side setback to allow for 30 feet between buildings on adjacent properties. He stated that there may be fire safety issues with buildings situated so close together. Mr. Lampert also expressed concern with the building height of 36 feet, noting that Zoning Bylaws allow a maximum of 30 feet in height for single-family dwellings and 35 feet for condominium buildings.

Mr. Sherm Hoyt of 51 Abrams Hill Road stated that the Planning Board should not endorse the proposed bylaw and voters should reject it as well because it is a bad project for the Town of Duxbury. He stated that the proposal would radically change the character and uses of the waterfront, noting that the area is the center of energy in the town, commercially, recreationally and historically. He stated that the proposal is basically a 40B project that would allow 44 units on an eight-acre parcel of upland, noting that this type of development cannot be characterized as rural. He stated that the article appears to deny residents input into the final product because a preliminary master plan would not go through the public hearing process. He stated that the proposed public access along the northern boundary would not be accessible by vehicles.

Mr. Hoyt objected to the proposed nitrogen outflow to the bay, stating that he believes that a sewage treatment plan is needed instead. He suggested that the Town of Duxbury should insist on zero nitrogen outflow because no matter how good a system is proposed it would not remove nitrates and could be dangerous to fisheries because it is located right where oyster farms are located on the bay.

Mr. Diamond responded that the proposal is far from a 40B project, and if it were a 40B project it would be much denser. The proposed condominium building is within the existing footprint of the office building. He agreed that the question revolves around the soul of the town, and Washington Street is a key element of why people choose to live in Duxbury. He stated that the proposed plan would generate less traffic than other proposals. The only change is a few new single-family houses, and there would be a positive change in the view from the bay.

Mr. Brian Cook of 105 Saint George Street stated that he is an attorney and asked who is present from Battelle, noting that he is concerned that Battelle is getting a windfall without paying taxes.

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Mr. Bill Tenhoor of 1 Water Street stated that he lives close to Washington Street and the property is a precious waterfront parcel. He stated that neighbors should have input into the proposal and with a new development like this there will be an increase in construction vehicles on an already busy street. He stated that any proposal should include public access since this is a vital center of the community.

Ms. Sara Wilson of 120 Bay Road stated that she is not ready to know whether she support the proposed bylaw or not, although she does have concerns. She stated that the proposed density is the highest that would be allowed in Duxbury, noting the Planned Development density is six units per acre. She noted that a recent University of Massachusetts study predicts a rise in sea level of 10 or more feet and the land is quite low near the water. If there is a breach in Duxbury Beach the owners will be looking to the Town of Duxbury for support and protection in the case of flooding. She stated that it may be more prudent to reduce density rather than increasing it along the waterfront. Ms. Wilson stated that she had suggested several changes to the article language to make it more compatible with the existing Zoning Bylaws which she will submit to the proponents. She stated that she hoped there would be time to negotiate further in order to protect the town.

Mr. Diamond responded that he hoped residents would keep an open mind and asked the Planning Board to consider allowing time to present the current approach to the development. Atty. Galvin stated that there appears to be a misreading regarding the lack of public participation in the proposed bylaw. He noted that public comment is available at Town Meeting and would be available during the public hearing process for the special permit.

Ms. Susannah Sheehan of the Duxbury Clipper asked about the difference between the master plan and special permit processes proposed in the bylaw. Atty. Galvin responded that that the master plan will present what is proposed and then it would be finalized through the special permit process.

Ms. Sarah Murray of 34 Standish Street asked if the proposed zoning would set a precedent for other areas in town. Mr. Casagrande stated that this and any other proposed zoning requires a two-thirds vote at Town Meeting, and any future proposal would be required to do the same. Mr. Glennon noted that the Planning Board is requesting funding at this year's Town Meeting to update the Comprehensive Plan that will help to determine what type of build-out the town would like to see.

Ms. Megan Greenstein of 416 Washington Street stated that she was a harsh critic of an earlier concept plan presented by the proponents that featured a large parking lot along Washington Street. She stated that she has concerns about other potential uses for this property and so would speak in favor of this proposed amendment although she would like to hear more about what is proposed. She stated that since something needs to happen there she would like to see it developed as residential. She stated that she supports moving the amendment in order to get to the next step.

Mr. Diamond stated that the developers are at the beginning of the process with this bylaw and there is no final plan yet. He stated that if he is allowed to present the direction they are headed in, the public will feel better. He stated that he would work collaboratively with the Planning Board and input from the public.

Mr. Hoyt stated that the Town Meeting process is not a beginning; it is a turning point and if it is approved a process that the public does not understand will go forward. He explained his reasoning based on his own fiscal analysis of tax revenue and number of school children.

Atty. Galvin noted that the site plan is not incorporated into the proposed bylaw, and the plan will be developed after the bylaw is approved.

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Mr. Cook asked about the Planning Board's role in the process, and Mr. Glennon stated that the Planning Board's role is to make a recommendation to Town Meeting and residents will have the final say through the Town Meeting vote. Atty. Galvin added that if the article is unfavorably acted upon at Town Meeting it cannot come back for another two years. Mr. Casagrande explained that if Town Meeting approves the article the process would be that the proponents become the applicants who would bring a master plan for the development to the Planning Board. The public would be involved during every step of the process, and the project would also go to the Design Review Board.

Mr. Uitti asked about the proposed bylaw Section 407.3, noting that the submittal of an application may take away the Planning Board's ability to negotiate what the town wants. Atty. Galvin stated that the proponents would be amenable to an amendment that would make explicit that if nothing is submitted the zoning will sunset. Ms. Turcotte noted that it could be a "good faith clause."

Mr. Glennon allowed the proponents ten minutes to make a presentation on the current concept plan since many of the public in attendance were interested. Mr. Steve Tice, the proponent's architect, provided a Power Point presentation, showing the existing site plan and a conceptual site plan.

Mr. Hoyt stated that water has flooded into the site in the 1940s-1950s, and objected that there is no time limit for this article. He stated that the view from the water is important. He stated that the article is not appropriate and voters should reject it. Mr. Diamond stated that the proponents have taken photos from the bay and they will show how the proposal is historically compatible with the town.

Mr. Glennon invited further public input and there was none.

Mr. Wadsworth stated that tonight's discussion should have taken place in August. It is the Planning Board's job to make sure that zoning works, and there is not enough time for him to feel comfortable with the proposed zoning. He offered to meet with Atty. Galvin to discuss a fiscal analysis. He expressed concern that the proposed bylaw offers no process or grounds for the Planning Board to turn down an application. He expressed concern with the environmental effects with people living in every building. He stated that stormwater treatment needs to be addressed further for a very dense development like this. He stated that he is unhappy with the process.

**MOTION:** Ms. Turcotte made a motion, and Mr. Casagrande provided a second, to close the public hearing for a citizen petition to see if the town will vote to amend the Duxbury Protective Bylaw Article 200 – Establishment of Districts, Section 201, "Classes of Districts"; and Section 202.2 "Location of Districts, Zoning Map"; and Article 400 – Use, Intensity, Dimensional and Coverage Regulations for All Districts by inserting a new section 407, "Battelle Waterfront Village Overlay District," in order to create a new overlay district, standards and uses for certain properties located on Washington Street.

**VOTE:** The motion carried unanimously, 6-0.

Therefore the public hearing closed at 9:33 PM. Mr. Glennon noted that no further public input is allowed.

Mr. Bear stated that although the zoning proposal is not perfect, it probably could be usable for this particular project. The height should reference the height restrictions in the existing Zoning Bylaw. He stated that having the ability to develop the land as a "planned development" could be a good use of the land.

Mr. Wadsworth expressed concern with a lot coverage change to 35 percent when only 15 percent is allowed in other residential zoning districts. Although he likes what the proponents have proposed so far for stormwater treatment, it will have an impact on the bay. He stated that there should be 30 feet minimum

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between buildings. He noted that any changes to the proposed amendment must be made on Town Meeting floor and that type of amendment can be fraught with difficulty. Mr. Bear noted that the property existed prior to Residential Compatibility (RC) zoning. The proponents are not changing to RC; they are changing to a new residential overlay.

Mr. Casagrande stated that although the proposed bylaw is not perfect, it does provide a special permit process with site plan review through the Planning Board. He stated that his take is that with a few tweaks it is something the Planning Board can work with. He noted that the public has had an opportunity for input through this Town Meeting zoning article public hearing, and there will be more opportunity for public input through the application. He stated that other uses could be far more detrimental; this is basically a residential neighborhood. He stated that he would take the proponents at their word that they intend to preserve the historical structures. Someone else could purchase the land and raze all the buildings to develop the land.

Ms. Turcotte stated that she had no further comments.

Mr. Uitti stated that he would echo Mr. Casagrande's comments and Mr. Wadsworth's comments. He stated that he believes the bylaw is workable and provides protections to the town. He stated that he is in favor of the proposed article because it is in keeping with the character of the town and there are far worse things that could happen.

Mr. Glennon stated that his focus is zoning. The pre-existing nonconforming use as a nonprofit commercial operation has gone away when Battelle closed. The town is asked to take a residential property next to a business district and intensify its use. He stated that he is not sure he is in the same place as Atty. Galvin with respect to spot zoning. He noted in Atty. Galvin's case law presented there were a number of situations where a zoning district was modified, but he has yet to see where a new special zoning district was created to affect only one property. He stated that from a planning perspective there could be other uses not so friendly to the town. However, a favorable Town Meeting vote does not prevent a 40B development or some other use. He stated that without considering the merits of the proposed concept plan he would have a problem recommending the proposed article. The zoning does not allow this type of use anywhere else in the town.

Mr. Bear asked if the property remains residential, could it be re-zoned to Planned Development (PD). Mr. Glennon stated that PD is an underlying zoning district, not an overlay district. Ms. Massard noted that in preliminary meetings a year ago, the proponents indicated that a PD would not provide adequate density. Mr. Bear stated that the Planning Board could have worked with that type of proposal and provided waivers. Mr. Glennon stated that the property owners could also have chosen to develop the land as a subdivision.

**MOTION:** Mr. Casagrande made a motion, and Ms. Turcotte provided a second, to recommend approval of a citizen petition to see if the town will vote to amend the Duxbury Protective Bylaw Article 200 – Establishment of Districts, Section 201, “Classes of Districts”; and Section 202.2 “Location of Districts, Zoning Map”; and Article 400 – Use, Intensity, Dimensional and Coverage Regulations for All Districts by inserting a new section 407, “Battelle Waterfront Village Overlay District,” in order to create a new overlay district, standards and uses for certain properties located on Washington Street.

**VOTE:** The motion carried, 4-2, with Mr. Glennon and Mr. Wadsworth voting against.

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**CONTINUED PUBLIC HEARINGS, PROPOSED ZONING AMENDMENTS FOR ANNUAL TOWN MEETING 2017: PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS (HISTORICAL COMMISSION) AND STORMWATER CONTAINMENT (PLANNING BOARD)**

Mr. Glennon noted that both articles have been removed from the warrant so the continued public hearings are not needed. Ms. Massard noted that she had suggested indefinite postponement on the Stormwater Bylaw based on comments from Mr. Shawn Dahlen of the Board of Selectmen and the fact that there is no urgency to make the changes. Although the Board of Selectmen had recommended the Stormwater Bylaw favorably, Mr. Dahlen raised questions at a later Finance Committee meeting and the Board of Selectmen then withdrew the article. Mr. Bear suggested that the Board of Selectmen could have asked the Planning Board to withdraw the article, and Ms. Massard agreed.

Ms. Massard stated that although the article was supported by the Board of Selectmen and Planning Board, the Finance Committee was concerned that the proposed bylaw could be onerous to property owners based on comments to them by Mr. Dahlen. She stated that she had offered to work on revising the bylaw if comments were provided to work from but the Board of Selectmen made the decision to withdraw the article from the warrant. Mr. Bear stated that he does not like this process.

Mr. Glennon noted that the public hearings for zoning articles have been completed.

**PREPARATION FOR ANNUAL TOWN MEETING 2017: UPDATE ON PROPOSED ARTICLES**

Proposed Battelle Waterfront Village Overlay District: Ms. Massard expressed a concern with a 35-day timeline and Ms. Turcotte noted that the 35-day time frame is for obtaining comments. Ms. Massard stated that it does not provide enough time for comments from other town departments. Mr. Uitti noted that it does not limit the Planning Board's ability to act. Ms. Turcotte noted that it appears that the Planning Board has 90 days to act on an application for a Master Plan.

Town Meeting Land Use Articles: Ms. Massard reviewed articles on a spreadsheet entitled, "Planning Board Articles of Interest" dated February 8, 2017 and distributed to board members. Mr. Glennon noted that Ms. Massard has obtained another grant toward funding the Comprehensive Plan. Ms. Massard stated that the Metropolitan Area Planning Council (MAPC) has provided funding and guidance on a preliminary work plan. Mr. Glennon noted that it will be a multi-year process. Ms. Massard noted that a three-pronged approach is proposed of working simultaneously on the Zoning Bylaw recodification, the Comprehensive Plan update, and the zoning map update because all three are needed and all processes will be led by the Planning Board.

**PLANNING DIRECTOR REPORT**

National Flood Insurance Public Meeting: Ms. Massard reported that there was a good turnout at the informational meeting hosted by the Towns of Marshfield, Scituate and Duxbury for the purpose of providing additional information on Flood Insurance Policies issued under the provisions of the National Flood Insurance Program (NFIP) on February 7, 2017 in Marshfield.

Ethics Law Training: Ms. Massard noted that staff will be emailing Planning Board members a reminder to complete their Conflict of Interest Law training and return certificates of completion by March.

**OTHER BUSINESS**

Due to the late hour, Mr. Glennon postponed Other Business to the next scheduled Planning Board meeting.

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**ADJOURNMENT**

The Planning Board meeting adjourned at 10:05 PM. The next Planning Board meeting will take place on Wednesday, March 8, 2017 at 7:00 PM at Town Hall, 878 Tremont Street, Mural Room.

**MATERIALS REVIEWED**

- Planning Board agenda for 02/08/17
  - Public hearing notice for Battelle Waterfront Village Overlay District zoning article for Annual Town Meeting 2017
  - Revised public hearing notice for Battelle Waterfront Village Overlay District zoning article
  - Letter from S. Kelley dated 01/27/17 re: Public hearing notice, Wednesday, February 8, 2017
  - ANR application, plans and materials for 1065 Summer Street / Tedeschi
  - Concept plan entitled, "Feasibility Form A Plan of Land at 965 Temple Street Assessor's Map 23 Lot 103 dated 01/27/17
  - "Talking Points for Battelle public hearing on February 8, 2017" dated 02/02/17 prepared by V. Massard
  - PB minutes of 09/28/16
  - Letter from R.W. Galvin dated 01/30/17 re: Discussion of Spot Zoning and Battelle Waterfront Village Overlay District
  - Letter from R.W. Galvin dated 12/01/16 re: Proposed Warrant Article – Battelle Waterfront Overlay District
  - Revised language for Demolition of Historically Significant Buildings submitted by T. Carpenter on 01/23/17
  - Existing ZBL Section 609, Demolition of Historically Significant Buildings
  - Original language for Demolition of Historically Significant Buildings submitted by T. Carpenter on 12/02/16
  - Table submitted by Historical Commission to Planning Board on 01/05/17 re: Public hearing January 11, 2017 on Revision to Protective Bylaw 609 for Annual Town Meeting
  - Memorandum from J. Lampert to PB dated 02/01/17 re: Comments on Article 39 – Demolition of Historically Significant Buildings
  - Agenda for NFIP public information session on 02/07/17 in Marshfield
  - Revised Stormwater Containment Bylaw distributed to PB on 01/25/17
  - "Planning Board Articles of Interest" spreadsheet dated 01/03/17
  - Merrill invoice #2842 dated 01/29/16 and submitted to the Planning Office on 01/05/17 for services related to McLean's Way
  - Draft PB minutes of 01/11/17
- DISTRIBUTED AT MEETING*
- Updated "Planning Board Articles of Interest" spreadsheet dated 02/08/17
  - "Suggested Changes to Battelle Zoning Amendment" handwritten two-page document submitted by S. Wilson

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Duxbury Planning Board  
February 8, 2017

Public Hearing, Zoning Article for ATM 2017:

- Proposed Battelle Waterfront Village Overlay District (Citizen Petition)

Continued Public Hearings, Zoning Articles for ATM 2017:

- Preservation of Historically Significant Buildings (Historical Commission)
- Stormwater Containment (Planning Board)

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DUXBURY, MASS.

*Please print your name and address for our records:*

Name	Address:
Greg Zais	representing Battelle
Eleanor Hendren	247 King Caesar Rd
W. Harold Hendren	247 King Caesar Rd
Steve Berall	254 ELM STREET
Judi Vase	233 Powder Pt. Ave
Nancy Melia	129 Elderberry Ln
Sara E. Wilton	130 Bay Road
Richard Jeffers	1047 Summer Pt
Robert Young	6 WINDY HILL RD
Dan & Ann	15 Puritan Rd

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DUXBURY, MASS.

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*Please print your name and address for our records:*

Name	Address:
Sulai Arroyo	18 Puritan Rd.
Megan Lemieux	372 Washington St.
Eric & Gretchen	416 Wash St
J D CAMPER	148 Wash St
Joy Mills	197 High St.
Sally Munn	34 Standish St