

**TOWN OF HOPKINTON
PLANNING BOARD MEETING**

December 7, 2011

7:00 P.M.

**Hopkinton Town Hall
One Town House Road
Hopkinton, Rhode Island 02833**

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CALL TO ORDER

The December 7, 2011 meeting of the Hopkinton Planning Board was called to order at 7:02 P.M. by Chairman Alfred DiOrio.

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MEMBERS PRESENT

Present were: Alfred DiOrio, Hazel Douthitt, Howard Walker and Donald Simmons.
Absent: Joseph Escher

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Also present were: James Lamphere, Town Planner; Scott Levesque, Town Solicitor; Barbara Capalbo, Town Council Liaison; Thomas Buck and Frank Landolfi, Town Council; and, Harvey Buford, Conservation Commission.

APPROVAL OF MINUTES

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MS. DOUTHITT MOVED TO ACCEPT THE MINUTES OF THE NOVEMBER 2, 2011 MEETING AS WRITTEN.

MR. DIORIO SECONDED THE MOTION.

MR. DIORIO AND MS. DOUTHITT APPROVE. MESSRS. SIMMONS AND WALKER ABSTAIN.

MOTION PASSES.

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Update - Canonchet Woods - Plat 14 - Lots 46B, 46C, & 46D. Robert Carr, applicant.

Present were Christopher Duhamel, DiPrete Engineering, and Robert Carr.

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Mr. Lamphere said that since the last meeting, the top coat of asphalt has been applied. He and Jim Kane from Fuss & O'Neill, supervised the preparation of the base coat. Mr. Kane was present for the finish coat. The job was finished on November 14. The backside of the Cape Cod berms have been loamed and seeded, as has the entrance off of Route 3. Lot 16 had fabric put on the slope to protect against erosion. Lot 3 was regraded to a 3:1 slope from the road into the lot with additional grading issues on that lot to be completed in the spring. The 12 inch relief pipe on Lot 34 is working but Mr. Lamphere is not confident that the berm will withstand the winter and believes the situation should be monitored. The Director of Public Works has arrived at a bond amount for Cardinal Lane of \$402,119. Ms. Aitcheson feels the number is too high and has the right to challenge that number and produce justification. He will ask the Board to set the bond at the January meeting.

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Mr. Duhamel said the site has been stabilized and can be submitted to the Town in January for road acceptance. Fuss & O'Neill's and Public Works' requirements have been completed. Lot 34 is not affecting Hopkinton Hill Road in any way. The temporary sediment pond is stabilized so that silt does not run off the site, is contained in the catch basin, and piped to the permanent drainage system which has a sedimentation feature. They have taken out the 4 inch restriction and the silt fence in the berm pipe and the pipe is handling the water from the basin. The owners of Lot 34 intend to take the berm down, vegetate and clean up that area in the spring.

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Mr. DiOrio said he has been monitoring the site and everything seems to be working. His overriding concern is development of lots from this point forward. A model home going up in the back, and as it stands right now, he would not be an advocate for accepting this road. The roadway was running rich with silt because of the contractor who was working on that home. He has no guarantee that they aren't going to destroy the Cape Cod berm and trash the loam and seed that went in on the shoulders. There is no erosion and sediment control on that site. He asked, what mechanism is in place to insure that if the Town decides to take this road over, that we won't be responsible as each contractor comes in to construct a home?

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Mr. Duhamel said a maintenance bond is required, which would be retained by Mr. Carr. When the homeowner and his builder go forward without posting any surety, there is no bond in place to insure that any damage that builder may cause is repaired at his cost.

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Mr. DiOrio asked, should we begin to think about not issuing building permits until someone looks at each site to insure that they know what they are doing? That there is a bond from the individual contractors?

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Mr. Duhamel said the building permit could be issued with an inspection before the CO is issued, at the point when all construction is done for the house.

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Mr. DiOrio said the problem has to be addressed early on. If this individual had simply put up the proper erosion control measures, he would not have these concerns. If Mr. Ward knows what to look for, this is the Town's policy from this point forward.

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Mr. Duhamel said you could do the interim before the soil and erosion is in place, but before the CO is issued, when you would be doing inspections, which could include the frontage of the roadway.

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Mr. DiOrio wants some mechanism in place that protects the Town in the event the Town takes the road over.

Rick Ogren, 12 Hopkinton Hill Road, said erosion control has been a concern since day one. He asked why we were having this update each month to address concerns. The berm leaking was a concern they brought up earlier.

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Mr. DiOrio said the updates were to insure forward progress and he is comfortable that there has been progress and our efforts have been successful.

Mr. Ogren said there is water coming out from where the pipe elbows down. During paving on Friday, people from Lynch went to his neighbor's house and took water from their front faucet to fill their machines. The next day, someone drove 20 feet inside the same neighbor's front yard. He watched the paving inspector and two Lynch trucks do it. He feels there is a lack of respect for their neighborhood. When it rains hard, water comes into his driveway and front yard. The paving inspector saw it and made a note of it. He asked when it will be fixed. The punch list from the town engineer said do not pile rocks and other construction debris on undeveloped lots. They put rocks on the side of the model from the lot they cleared. He asked if there is any precedent set for lessons learned from this.

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Mr. DiOrio said there is always dialogue addressing any activity so we can perform better in the future, as will be addressed later this evening.

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Mr. Carr leaves.

Claudia Peduzzi, 50 Hopkinton Hill Road, agreed there is disrespect for the neighbors. The original puddle is gone and there is a new puddle. Hydro seeding was done November 30 and asked if it will be redone if it doesn't grow.

5 Mr. Duhamel said yes.

10 Cassandra Meyer Ogren, 12 Hopkinton Hill Road, said this is a broken process and is apparent that the current system is more protective of those involved in the process and less on the homeowners. She advised the Board to find out what other towns do. She said there is blatantly incorrect information, such as boulders that are visible from the road as well as the dead trees in a new neighborhood that should be pristine. There should be the foresight and follow through on the part of the developer for at least the first five years. They have a new pile of boulders visible from the road. The pipe doesn't work. The dead trees aren't a big issue for the town but they are for them. They are eyesores, an abomination, that affect their home values. They have been told on upward of five occasions that violations had taken place yet none have been filed. They feel insulted that their needs are not being taken into consideration. They recognize that progress has been made. Other things have not been addressed with the top coat. Water bubbles from underground springs in front of their driveway and travels under the street.

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20 Councilor Capalbo said she would like attention paid to drainage becoming ice ponds and ice sheets across the road.

25 Alice Reeve, 29 Hopkinton Hill Road, said the day they finished surfacing the road, she walked the road with the engineer, Jim, and the Town foreman, Dave. On the lot that they are building on now, a dump truck came in and dropped their rear doors. They told him he needs to put down some board. The town needs to be real careful before taking the road over. They have turned their trucks and machinery around in her driveway leaving marks. She has called but gets no answers. The people who come out to see the project have an absolute lack of respect. She asked who is responsible for the look of the neighborhood, Mr. Carr, the developer.

30 Mr. Levesque said everyone is responsible for their own property.

35 Mrs. Reeve said she has had no response from Lynch and Calson.

40 Mr. Lamphere said DiPrete Engineering prepared an inspection report stating they have completed everything to plan. The next step is for the applicant, Mr. Carr, to prepare a written request for a formal inspection by the Town and the town engineer. They will go through every punch list and will determine, item by item, whether they feel everything has been done to plan. Upon getting a report from Fuss & O'Neill, our Director of Public Works will make a determination as to whether that road is adequate to be accepted.

45 Mr. Duhamel said they have worked through all this with Fuss & O'Neill and Public Works and everything has been done under the town's auspices. No other requirements have been made. There is a shoulder that the contractors have to work in for the final pavement and to build up the Cape Cod berm. He does not know what is going on Lot 29. This report is all inclusive and based on the punch list that Fuss & O'Neill has put out. Individual building lot owners are responsible for the damage, not Mr. Carr. The applicant has done everything required and it is now complete.

50 Ms. Douthitt asked who owns the open space and maintains it. Who maintains the dead trees?

Mr. Duhamel said he believes the open space was to be turned over to the town. It was Fuss & O'Neill's requirement to take part of the silt fence down within the open space. The DEM inspector allowed them to take down the majority of silt fence, except for some areas along the fire pond. Lot 34 is a private lot that is still under construction. The area as you first enter was widened and more slope stabilization had to be done and more fabric put in. That will be stabilized in the spring. Any hydro seeding needing to be redone will be done in the spring. Mr. Duhamel said he is aware of one dead tree. Dead trees will be replaced in the right of way in the spring by the contractor.

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Mr. Lamphere said there will be one more final inspection before this road is accepted by the Town. He has to receive a formal request from the developer for the Town to accept the road. When he receives that request he will consult with the Director of Public Works to make sure he is satisfied with all the public improvements. We are focusing on the road and the drainage structure. He believes the building official, before issuing a building permit, looks at measures on the plans to protect against soil erosion and sediment control. A lot can be tackled at that level before the building permit is issued and before the CO is given. If there is any damage on the roadway we can determine where the damage comes from. It takes a good deal of monitoring. When town staff feels that road is ready to be accepted, that request will be referred to the Town Council by Mr. Lamphere and be requested to be put on a future agenda. The Town Council, at that point, will decide if they will accept these improvements or not.

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Mr. DiOrio said this item will be on the next month's agenda.

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Setting of Bond – Cardinal Lane

Mr. Lamphere strongly suspects that the \$400,000 number will be challenged by the applicant. It is his hope, that in January, this discussion will take place and our Director of Public Works will decide on an amount to be recommended to the Board. It will encumbent on DiPrete Engineering to provide justification for reducing the bond.

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Ms. Capalbo said to make sure bonding incorporates all drainage issues, besides the road.

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Advisory – Proposed Comprehensive Plan Amendment and Zoning Map Amendment – Spicer Marketplace – Plat 25, Lots 256, 257, 258, 259. Main Street. John J., Jr. and Lorraine Morrone, applicants.

Attorney George Comolli represented the applicants. The hearing was closed and there will be no further public comment. They are waiting for the Board's advisory opinion to the Town Council.

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Mr. DiOrio said that at the last Planning Board meeting, the Board members present loosely assembled a consensus and the Solicitor has structured the Board's thoughts.

MS. DOUTHITT MOVES THAT THE PLANNING BOARD ADOPT THE FOLLOWING AS ITS FINDINGS AND RECOMMENDATIONS TO THE TOWN COUNCIL:

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THE APPLICANT, SPICER MARKETPLACE, LLC, HAS FILED A PETITION SEEKING AMENDMENTS TO THE FUTURE LAND USE MAP OF THE TOWN'S COMPREHENSIVE COMMUNITY PLAN AS WELL AS AMENDMENTS TO THE TOWN'S ZONING ORDINANCE AND ZONING MAP RELATING TO REAL PROPERTY LOCATED AT PLAT 25, LOTS 256, 257, 258 AND 259, LOCATED ON MAIN STREET IN HOPKINTON, RHODE ISLAND. THE APPLICANT SPECIFICALLY ASKS FOR THE FOLLOWING:

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FIRST, THAT THE TOWN'S FUTURE LAND USE MAP OF ITS COMPREHENSIVE COMMUNITY PLAN BE AMENDED SO THAT PLAT 25, LOT 259 BE DESIGNATED AS COMMERCIAL. THE CURRENT FUTURE LAND USE MAP DESIGNATES THAT LOT AS NEIGHBORHOOD BUSINESS.

SECOND, THAT THE TOWN'S ZONING MAP AND ZONING ORDINANCE BE AMENDED SO THAT PLAT 25, LOTS 256, 257, 258 AND 259 BE DESIGNATED AS COMMERCIAL. CURRENTLY, LOT 256 IS ZONED RFR-80, LOTS 257 AND 258 ARE ZONED COMMERCIAL SPECIAL AND LOT 259 IS DESIGNATED NEIGHBORHOOD BUSINESS.

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THE PLANNING BOARD HEARD THIS APPLICATION AND DISCUSSED IT DURING ITS NOVEMBER 2, 2011 HEARING, AND BASED UPON, ITS DISCUSSIONS, FINDS AS FOLLOWS:

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AMENDING THE FUTURE LAND USE MAP SUCH THAT PLAT 25, LOT 259 IS CHANGED FROM NEIGHBORHOOD BUSINESS TO COMMERCIAL WOULD MAKE THE LOT MORE CONSISTENT WITH THE SURROUNDING AND CONTIGUOUS LOTS, WHICH ARE DESIGNATED AS COMMERCIAL ON THE FUTURE LAND USE MAP. MAKING THIS AMENDMENT IS ALSO CONSISTENT WITH THE COMPREHENSIVE COMMUNITY PLAN, ITS POLICIES AND GOALS, PARTICULARLY SINCE IT WILL LIKELY AIDE THE TOWN IN EXPANDING ITS TAX BASE BY ENCOURAGING DEVELOPMENT OF A NEW COMMERCIAL BUSINESS, AT THIS POINT INTENDED TO BE A DRIVE THROUGH WINDOW, AND CREATES AN OPPORTUNITY FOR A NEW COMMERCIAL USE OFF OF EXIT 1 TO ROUTE I-95. THE PROPOSED CHANGE ALSO ALLOWS THE TOWN TO WORK WITH AN EXISTING LOCAL BUSINESS TO STRENGTHEN IT, MAKE IT MORE COMPLIANT WITH IMPORTANT ISSUES LIKE LIGHTING THAT IS DARK SKY COMPLIANCE AND WILL GIVE THE TOWN AN OPPORTUNITY TO WORK WITH THE EXISTING BUSINESS TO DESIGNATE FORTY PERCENT OF THE LAND AS GREEN SPACE, THEREBY PRESERVING OPEN SPACE.

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THE AMENDMENT TO THE FUTURE LAND USE MAP IS ALSO CONSISTENT WITH THE PURPOSES OF ZONING AS SET FORTH IN RHODE ISLAND GENERAL LAWS SECTION 45-24-30, IN THAT IT PROMOTES THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE, PROVIDES FOR A RANGE OF USES AND INTENSITIES THAT ARE APPROPRIATE TO THE CHARACTER OF THE TOWN AND REFLECT CURRENT AND FUTURE NEEDS, PROVIDES FOR ORDERLY GROWTH, PROTECTS AGAINST AIR, WATER, AND NOISE POLLUTION, PROTECTS THE NATURAL, HISTORIC CULTURAL AND SCENIC CHARACTER OF THE TOWN, PRESERVES OPEN SPACE AND THE TOWN'S INVESTMENT IN ITS INFRASTRUCTURE, AND PROVIDES FOR COORDINATION OF LAND USES.

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AMENDING THE TOWN'S ZONING MAP AND ZONING ORDINANCE SO THAT PLAT 25, LOTS 256, 257, 258 AND 259 ARE DESIGNATED AS COMMERCIAL WOULD MAKE THE LOTS CONFORM WITH THE TOWN'S FUTURE LAND USE MAP, SINCE THREE OF THE LOTS ARE DESIGNATED AS COMMERCIAL ON THAT MAP. MOREOVER, WHILE LOT 259 IS CURRENTLY DESIGNATED NEIGHBORHOOD BUSINESS ON THE FUTURE LAND USE MAP, AS STATED ABOVE, THE SURROUNDING LOTS ARE COMMERCIAL AND MAKING LOT 259 COMMERCIAL WOULD THEREFORE MAKE IT MORE CONFORMING TO SURROUNDING USES. THE ZONING CHANGES SOUGHT ARE THEREFORE CONSISTENT WITH THE COMPREHENSIVE COMMUNITY PLAN, AND MEET ITS POLICIES AND GOALS IN ALLOWING THE TOWN TO WORK WITH AN EXISTING BUSINESS TO STRENGTHEN IT, BROADEN THE TOWN'S TAX BASE AND HAVE AN OPPORTUNITY TO BOTH BRING THE USE INTO BETTER COMPLIANCE WITH EXISTING DESIGN CONFORMANCE AND GAINING OPEN SPACE.

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THE AMENDMENT TO THE ZONING MAP AND ZONING ORDINANCE IS ALSO CONSISTENT WITH THE PURPOSES OF ZONING AS SET FORTH IN RHODE ISLAND GENERAL LAWS SECTION 45-24-30, IN THAT IT PROMOTES THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE, PROVIDES FOR A RANGE OF USES AND INTENSITIES THAT ARE APPROPRIATE TO THE CHARACTER OF THE TOWN AND REFLECT CURRENT AND FUTURE NEEDS, PROVIDES FOR ORDERLY GROWTH, PROTECTS AGAINST AIR, WATER, AND NOISE POLLUTION, PROTECTS THE NATURAL, HISTORIC CULTURAL AND SCENIC CHARACTER OF THE TOWN, PRESERVES OPEN SPACE AND THE TOWN'S INVESTMENT IN ITS INFRASTRUCTURE, AND PROVIDES FOR COORDINATION OF LAND USES.

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IN LIGHT OF THE FOREGOING, THE PLANNING BOARD RECOMMENDS THAT THE TOWN COUNCIL AMEND THE FUTURE LAND USE MAP SUCH THAT PLAT 25, LOT 259 IS CHANGED FROM NEIGHBORHOOD BUSINESS TO COMMERCIAL, AND FURTHER, AMEND THE TOWN'S ZONING MAP

AND ZONING ORDINANCE SO THAT PLAT 25, LOTS 256, 257, 258 AND 259 ARE DESIGNATED AS COMMERCIAL. THE PLANNING BOARD RECOMMENDS THAT THESE CHANGES BE CONDITIONED UPON A RESTRICTION PLACED UPON THE LOTS SUCH THAT A GAS STATION WILL CONTINUE NOT TO BE AN ALLOWED USE, THAT THE EXISTING GAS STATION WILL REMAIN A LEGAL NON-CONFORMING USE AND WILL BE SUBJECT TO THE LAWS, RULES AND REGULATIONS THAT APPLY TO LEGAL NON-CONFORMING USES.

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MR. WALKER SECONDS THE MOTION.

MESSRS. SIMMONS, DIORIO, WALKER AND MS. DOUTHITT APPROVE. MOTION PASSES.

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Mr. DiOrio recluses and Mr. Walker takes the Chair.

Pre-application – Pelloni Residential Compound – Plat 4, Lot 121DD – Diamond Hill Road. Anthony Pelloni, applicant.

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Mr. Pelloni said he is proposing a two lot family compound. One lot will be for family and 54.2 acres are to be transferred to the Hopkinton Land Trust. A small portion of the property line will need to be moved.

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Mr. Lamphere said the first step is an Administrative Subdivision to convey a piece to the Hopkinton Land Trust. The 52 acre lot does not meet the requirements of our Residential Compound Ordinance. A provision in our subdivision regulations states that lots, not for development, do not have to meet standards, which must be noted on the plan and recorded. A conservation easement would have to be granted to the Town of Hopkinton prohibiting future development. Any land not designated as a building lot or right of way, and this compound has a right of way off Diamond Hill Road that will serve the building lot, needs to be designated as open space. Access to the open space shall be provided for all residential compound residents. The location and number of accesses so provided shall be approved by the Planning Board. The access to this open space for these residential compound residents, is provided with the 30 foot wide strip, however, this strip does not originate at the right of way. There are other means of access. The Land Trust will have a trail through this property.

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Mr. Pelloni said there is access through Cedar Knoll Drive. He will be giving the Land Trust and easement trail that will continue through his other property, connect with the right of way so that this lot will actually have an access via the right of way to the property, and will continue past the right of way across his property and back up to Diamond Hill Road forming a big loop.

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Discussion ensues regarding the thirty (30) foot connector to the open space. Mr. Pelloni has no problem keeping it in place.

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Sarah Winsor, Hopkinton Land Trust said they are proceeding with this and are having a purchase and sale drawn up.

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Mr. Lamphere would like to have the applicant come back in January for Preliminary with Final delegated to the Planner.

Mr. DiOrio returns and resumes the Chair.

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Growth Management Ordinance Extension – Chapter 159. Building Permit cap.

Mr. Lamphere said that on Monday night the Town Council had a public hearing regarding the extension of the Growth Management Ordinance 159 from December 31, 2011 to June 30, 2012. They set the date of April 30, 2012 for an advisory from the Planning Board regarding continuing beyond June 30, 2012. Mr. Lamphere said they opened the hearing and there was very little discussion of the Council and no comments from the public. The hearing was

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closed and the decision date was set for December 19. He expects the Council is going to extend the cap ordinance to June 30, 2012. Mr. Lamphere does not see any problem with his providing the Planning Board with a review of the ordinance, updating it for the most current data available and putting something before the Board so they can give the Council a recommendation.

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Mr. DiOrio asked if that includes a review or reanalysis of the premise behind the ordinance; does the data still support having an ordinance, and if it does, what should it say?

10 Mr. Lamphere said that will be included. The basic premise behind the building cap ordinance is directly related to school capacity. He has found there is no excess capacity at either one of our elementary schools and there is no excess capacity at the middle school or the high school, which is justification for him to advise keeping the cap in place. There are no plans presently being discussed for increasing capacity and it appears they are relying on school enrollment to decline. On December 19, a decision to extend will be rendered by the Council. Mr. Lamphere will work on the details to be presented to the Board in January or February and will give monthly reports.

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Board Policies – Completion of Public Improvements and Subdivision Suitability Requirements.

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Mr. Lamphere said Mr. DiOrio has prepared suggested policies for the Board to consider going forward. The first policy change is to revise the Preliminary Checklist for a Minor Subdivision. Currently, our checklist for a 2 lot minor subdivision only requires water table verification. This is not in tune with the current DEM rules and regulations. To get our regulations in sync with DEM's, it is suggested that we amend checklist item 5 to conform to the rules establishing minimum standards relating to location in design construction and maintenance of onsite wastewater treatment systems, July 2010, or as the DEM may amend. That change currently would require an applicant to either get subdivision suitability for the two lot subdivision or come in with approved septic system designs. Water table verification is no longer acceptable at Preliminary.

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Mr. DiOrio said this policy is an interim measure to get us to the point where the same language is incorporated in the subdivision regulations that are being revised. He is reluctant to wait until we get that revision to incorporate some of these policies. He would like to see it adopted as a policy and disseminated accordingly.

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MR. WALKER MOVES TO ADOPT AS THE POLICY OF THE PLANNING BOARD, THAT THE PRELIMINARY CHECKLIST B. FOR PRELIMIARY PLAT MINOR LAND DEVELOPMENTS AND MINOR SUBDIVISIONS, BE AMENDED TO CONFORM WITH THE RULES ESTABLISHING MINIMUM STANDARDS RELATING TO LOCATION, DESIGN, CONSTRUCTION AND MAINTENANCE OF ONSITE WASTEWATER TREATMENT SYSTEMS AS OF JULY 2010, OR AS MAY BE AMENDED.

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MR. SIMMONS SECONDS THE MOTION.

MESSRS. WALKER, SIMMONS, DIORIO AND MS. DOUTHITT APPROVE. MOTION PASSES.

45 Mr. Lamphere said the second is a recommendation that the Planning Board adopt as an operating policy, until such time as this policy can be incorporated into our Land Development and Subdivision Regulations, that public improvements and all subdivision infrastructure shall be completed by the subdivider prior to final approval and recording of the subdivision plats, as set forth in Article VII, Section B. In unique and limited situations the Board may allow the construction of public improvements to be guaranteed only when there is clear and convincing evidence that the failure to construct said improvements will not adversely impact property owners in the subdivision. Mr. Lamphere said currently, our subdivision regulations allow the Board the flexibility to have a developer bond the project in lieu of completion. Our regulations also allow for the Board to require that they be constructed before the final plans are recorded. This would set a policy that the preferred

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option is to have the developer build the entire infrastructure before they record and before they sell any lots.

5 Mr. DiOrio said that as he reads the regulations, he reads the words, to give the developer the option. He feels it is very clear that it is not the Town that drives the bus.

10 Mr. Levesque said the language the Chairman is referring to in subsection B certainly suggests that the developer makes an initial choice, but, that does not divest this Board with the power to make the decision ultimately. Currently if the decision does not make sense to let them bond, for whatever reason, you can justify it on the record with credible evidence, that the Board has the option to go the other route, that we are going to develop everything first before the final stamp.

15 Mr. DiOrio said the applicant gets to put their paddle in the water in terms of making the request of the Board. He would like to dispense with that option.

Ms. Douthitt said bonding, rather than actual completion, does not always cover enough, and then the Town is responsible.

20 Mr. DiOrio added, and there could be disagreements, complications. This is not new; this is Charlestown's approach; everything is built before you sell lots. He does not see this as unreasonable, but for the better. He has proposed a second paragraph because we see a number of residential compounds with significantly different roadways.

25 Ms. Douthitt questioned if we have run into this kind of significant failure before with road construction?

30 Mr. DiOrio said it doesn't normally come back here and is dealt with by the Public Works Department.

35 Mr. Buford said the Pleasant View development has not yet transferred the roads to the town. Not all the lots have been built. The open space there is to be transferred to the Land Trust which has not happened. The roads are built but people are not complaining about them. Gary Johnson is still plowing them

40 Mr. DiOrio said his suggestion allows for potential exceptions, like residential compounds that predominately handle drainage by grass swales, and with lot areas that are significantly larger. There could be instances where having to build out certain things just does not make sense. This affords us the opportunity to say yes or no.

Discussion ensued regarding wording of the policy.

45 Mr. Lamphere said he would like to see a bonding time limit set in our subdivision regulations. Once we allow someone to bond, record, and sell lots, we have people living in the subdivision. It can't go on indefinitely.

50 Councilor Capalbo would prefer everything be built before lots are sold. Bonding can be incorrect, as with Cardinal Lane, which is specifically related to drainage. If Cardinal Lane is build incorrectly, the drainage will not work. You don't know what costs will be when you bond. We have to pay to get the bond money. Some flexibility would be good but partial infrastructure can still cause damage. She suggests the Board keep it tight with some leeway but not with costing the town or citizens.

55 Mr. Walker said this policy is crafted so that the presumption is very strongly in favor of the requirement that all infrastructure improvements be completed before final is granted. To

5 obtain relief from that requirement, the applicant must bring before the Board, clear and convincing proof that the failure to do whatever is being deferred is not going to adversely impact the property owner. If we do require all improvements to be constructed in a development that is going to be constructed over a period of years, we have no guarantee that the drainage and other improvements as designed, as approved, and as built, will perform as intended.

10 Mr. Lamphere said with minor subdivisions of five lots or less that involve a road, many times this is not an issue for the builder. In a larger subdivision, the Board has the power to phase. Everything would go in for a particular phase and that phase would be completed before you go to the next phase.

15 MR. WALKER MOVES THAT WE ADOPT AS THE POLICY OF THE PLANNING BOARD, THAT UNTIL SUCH TIME AS THE POLICY CAN BE INCORPORATED IN OUR LAND DEVELOPMENT AND SUBDIVISION REGULATIONS, THAT PUBLIC IMPROVEMENTS AND ALL SUBDIVISION INFRASTRUCTURE SHALL BE COMPLETED BY THE SUBDIVIDER PRIOR TO FINAL APPROVAL AND RECORDING OF SUBDIVISION PLATS, AS SET FORTH IN ARTICLE 7, SECTION B. THAT IN UNIQUE AND LIMITED CIRCUMSTANCES, THE BOARD MAY ALLOW THE CONSTRUCTION OF PUBLIC IMPROVEMENTS TO BE BONDED ONLY WHEN THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE FAILURE TO CONSTRUCT SAID IMPROVEMENTS WILL NOT ADVERSELY AFFECT PROPERTY OWNERS IN THE SUBDIVISION.

20 MS. DOUTHITT SECONDS THE MOTION.

MESSRS. WALKER, SIMMONS, DIORIO AND MS. DOUTHITT APPROVE. MOTION PASSES.

25 **PLANNER'S REPORT**

Administrative Business

25 Mr. Lamphere is working on getting zoning consistent with the Comprehensive Plan. His plan is to have a report to the Board at the January meeting with a new Future Land Use Map and at that time will ask the Board some policy questions. Within six months he would like to have something completed for the Board's advisory opinion to the Council. He is also working on producing a Digital Zoning Map.

30 Solicitor Levesque said the issue is to be able to enforce the changes that the Board intended when the Future Land Use Map was put together. The Future Land Use Map says this is the direction we are going in the future for particular parcels. It is a policy that the Board is putting forward. The Board then needs to have zoning conform to that Future Land Use Map, and it becomes enforceable.

35 Mr. Lamphere said the new legislation that was passed at the State affords us the opportunity to put a moratorium in place until such time as we change our zoning. For practical purposes we can skate along as we are doing right now.

Packet Delivery

40 Board members have agreed to pick up their packages when the Planning Department deems it appropriate. Members shall be notified by email when their packets are ready for pick-up.

45 **CORRESPONDENCE AND UPDATES**

50 Ms. St. Amour attended a very informative conference sponsored by the EPA on maintaining water quality. Items of concern to the Town will be included in the Subdivision Regulations revision for the Board to review and consider.

PUBLIC COMMENT

55 Ms. Capalbo reminded the Board of the December 19 vote on the Spicer Marketplace zone change.

DATE OF NEXT REGULAR MEETING: January 4, 2012

ADJOURNMENT

- 5** MR. WALKER MOVES TO ADJOURN.
ALL APPROVE.

The meeting adjourned at 9:20 P.M.

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Attest: _____
Lynda St. Amour, Planning Board Clerk

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Approved: January 4, 2012