

## HOPKINTON PLANNING BOARD

Monday, February 25, 2008 7:30 P.M.  
Hopkinton Senior Center – 28 Mayhew St.

### MINUTES

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PRESENT: Mark Abate, Chairman; Joe Markey, 2<sup>nd</sup> Vice-Chairman; Sandy K. Altamura, John H. Coolidge, Claire Wright, Carol DeVeuve, Ken Weismantel

..... Elaine Lazarus, Planning Director

.....Cobi Wallace, Administrative Assistant

#### **1. Public Hearing – 77 West Main St. – Site Plan Review**

Robert Poxon, engineer (Guerriere & Halnon, Inc.), and Paul Mastroianni, property owner, appeared before the Board. Mr. Poxon presented a site plan for a new office building to be located at 77 West Main St. and described existing site conditions. He stated the current drainage system consists of catch basins that discharge into the wetlands through a swale constructed for that purpose. He stated detention areas were originally planned for the site but never built. Mr. Poxon stated the site is served by municipal water and sewer, and the original on-site septic system has been abandoned.

Ms. Wright arrived at this time.

Mr. Poxon described a proposed new two-story (10,000 sq.ft.) office building to be located in the rear of the property behind the existing building. He stated that the new construction will result in the loss of several existing parking spaces but they will be able to gain 10 spaces by reconfiguring the parking areas in front of the existing building. He stated the additional building will have a minimal impact on the existing amount of green space. Mr. Poxon described the site lighting which involves relocation of existing poles. He noted the existing stormwater management system is not in compliance with today's regulations and they are trying to clean up the site. He noted they will put hoods in the existing catch basins, and one direct discharge will remain while the others will be re-routed into two subsurface retention/detention structures in the back of the property. Mr. Poxon stated that the Design Review Board reviewed the plan and had several comments, including recommendations regarding landscaping and traffic/pedestrian safety. Mr. Poxon stated that they will revise the plan accordingly to show more green space and a walkway between the two buildings.

Mr. Mastroianni stated he does not anticipate that the new building will generate additional traffic. He noted that Main Street Pediatrics will vacate their office in the existing building and move into the new building as the only tenant. He stated other existing tenants will expand into the former Main Street Pediatrics space. Mr. Poxon stated they have received comments from Fay, Spofford & Thorndike (FST), the Board's consulting engineer.

Mr. Abate asked about the applicability of the Water Resources Protection Overlay District, and Ms. Lazarus stated that she has received clarification from the Building Inspector that a special

permit is not required. She added the Building Inspector will provide information on the parking requirements.

Mr. Weismantel asked how the existing businesses will function during construction. Mr. Poxon described how construction of the new building and subsurface detention structures will be phased. He stated that reconfiguration of the existing parking areas will result in additional spaces, and the Golden Spoon restaurant across the street on Lumber St. has agreed to set aside 20 parking spaces for the use of 77 West Main St. patrons on a temporary basis. Mr. Weismantel stated that parking at 77 West Main St. is already at a minimum. Mr. Weismantel referred to site lighting and indicated that the Board is especially concerned about that issue. He noted he went through the FST review letter and is not sure how the Board should approach the items recommended for Board-Applicant discussion as there is no indication of pros and cons. Ms. Lazarus stated these particular items are more of an administrative or policy nature and FST has brought those to the Board's attention for it to address. Mr. Weismantel stated the applicant believes there will be no net change in the number of tenants but he is not sure whether that really translates into no more traffic since the businesses will be expanding. Mr. Poxon stated that the current traffic signals at the Lumber St./West Main St. intersection would be able to accommodate additional traffic and there also is a right-turn-only on the West Main St. entrance.

Mr. Weismantel stated that the Board wants to be able to plan in context with other development in the area and he cannot believe there won't be more traffic trips. He stated he wants the applicant to come back to resolve this question to his satisfaction. He stated he sees no problem with the sewer connection as the property abuts the existing sewer main. He asked what FST is looking for in terms of screening to abutting property and Mr. Poxon stated a site visit by an FST representative would resolve the question. Mr. Weismantel referred to the Design Review Board (DRB)'s comment regarding building styles and stated that having a difference in appearance would add some variety. He noted the new building will not match the rest of the site but he would not base his decision on that. He stated the DRB feels that the plan will provide an opportunity to improve the back of the existing building and it would be worthwhile because that is where screening is needed most. He stated screening the wetlands to the south might not be a priority and he does not understand FST's comment here.

Mr. Abate asked if the applicant has exhausted other options like adding another floor or an addition to the back of the existing building. Mr. Poxon stated they have not looked into that. Ms. Altamura asked whether removal of traffic islands will result in tree cutting, and Mr. Poxon responded no. Ms. Altamura stated she does not like the plan. She stated it is an overdevelopment of the site and it would be better if the new building was attached to the existing building. She stated the new building will be exclusively used for a pediatrics practice and she has concerns regarding the safety of parents and children using a building right in the middle of a parking lot with no accommodations for pedestrians. Ms. Altamura stated she would like to see a lighting plan and recommended that lights be dimmed at night, perhaps after the restaurant closes. She noted more screening is needed on the east side of the site. Ms. Wright stated she is concerned about parking and pedestrian access. She noted the spaces in the front of the building are always taken and the bank and restaurant are high use businesses with no back entrances. She added that the plan does not show the 2<sup>nd</sup> floor tenants including a day spa, taekwondo and a tutor.

Margo Roman, 8 Wescott Dr., asked if energy sustainability elements could be applied to the project, and whether the clean runoff from the project could somehow be used for flushing toilets.

Mr. Coolidge asked about snow removal. Mr. Mastroianni stated snow usually gets stored in the back corner of the property but will be taken away if it builds up. Mr. Poxon stated that adding green space to the site will result in the loss of some snow storage areas.

Mr. Abate stated it appears the Board has a mixed reaction to the proposal and it might make sense to rethink the plan, possibly placing the new building closer to the existing building or adding a floor. Mr. Poxon stated that they need a travel lane for delivery trucks and they don't want that in the front of the building. Mr. Coolidge suggested moving the building further back and Mr. Poxon noted that it would move it closer to the wetlands. Ms. DeVeuve referred to parking requirements and asked about the space vacated by Jelly Donuts. Mr. Poxon stated it is counted as retail, not a sit-down restaurant. Mr. Markey stated that safe pedestrian connectivity between the buildings is a challenge especially since the future tenant is a pediatric medical office and it would create a dangerous situation with delivery trucks in the mix. Mr. Abate stated there are a lot of unanswered questions and Mr. Poxon stated he would like to continue the hearing so that they can address FST's comments and go through the Conservation Commission process. Ms. Wright asked if some of the other tenants in the existing building could be moved to the new structure allowing Main Street Pediatrics to expand in their current location. Mr. Mastroianni stated that the doctor's office wants a new facility.

David Goldman, 20 Fruit St., stated they could do something creative and asked about the possibility of putting the new building on posts and create a second level passage way connection with parking underneath.

The Board voted unanimously to continue the public hearing to April 14, 2008 at 7:30 P.M.

The Board took a 10-minute break and resumed the meeting at 8:45 P.M.

## **2. Public Hearing – Open Space Mixed Use Development (OSMUD) District Zoning Bylaw**

Ms. Lazarus stated that the Zoning Advisory Committee (ZAC) has reviewed the proposed bylaw and recommended that the Planning Board put it on the warrant for the Annual Town Meeting. She stated the adoption of the bylaw will allow the developer to build what is shown on the Legacy Farms Master Plan. She stated this is an overlay district that will create more development opportunities for the 700+ acre parcel than allowed under current zoning. Ms. Lazarus noted that by statute the Planning Board has to hold a public hearing to get public comments. She stated the bylaw language will change after receiving public input, but has to be final in about a month.

Ms. Altamura stated that the Planning Board and ZAC have spent a lot of time on this article. Mr. Weismantel stated it would be helpful if he and other ZAC members could meet with Town Counsel, Ms. Lazarus and Boulder Capital to go through Town Counsel's and Boulder's comments in order to hash out some common language before the Board meets again.

Nancy Peters, 258 Wood St., asked if the proposed bylaw pertains to the Boulder Capital property or to the entire East Hopkinton area. Mr. Abate stated it only applies to Boulder Capital land.

Edward Bernald, 31 Cross St., stated he is confused about the process and the meaning of the proposed bylaw. Mr. Markey stated this hearing is part of the process leading to a Town Meeting article to change the zoning of the Legacy Farms property. He stated the Board is seeking public input to determine the final wording for the Town Meeting article. He noted the Boulder Capital property is part of the larger East Hopkinton study area but the ZAC this year decided to focus on Legacy Farms. He stated there will be other steps in the development process including a Legacy Farms Master Plan and site plan review of the individual project components if the zoning is changed. Mr. Markey stated that the Board cannot review or approve the Master Plan or site plans because current zoning does not permit the mixed uses proposed by the developer.

Jane Moran, 70 East Main St., asked the Board to consider including specific language in the bylaw to protect the Town's interest. She asked about submittal requirements and whether they would include submission of a traffic study because right now there is no such report. Ms. Moran suggested having standard review language with a check list that the developer needs to follow. She stated that having this type of language written into the bylaw would reduce the risk of future lawsuits both from a neighborhood or developer's point of view. She stated she wants the bylaw to be crystal clear and it would be a win-win situation for all parties involved. She stated the Town has never done this before and it is a huge project. She referred to the OSMUD moratorium article to be discussed later in the evening and urged the Planning Board to support it as there is a lot to consider for such a large project with potentially huge implications. She asked the Board to weigh in how they feel about a moratorium.

Alex Brown, 22 Wood St., member of the Zoning Advisory Committee, stated there are not too many examples of developments like the proposed Legacy Farms and the process is very confusing. He stated Legacy Farms has a strong flavor of smart growth/high density with a possibility of transit oriented development and he voted with the ZAC to recommend the OSMUD article to the Planning Board. He stated there are a lot of unresolved issues including public vs. privately owned open space, the Host Community Agreement and the Environmental Notification Form Certificate and nothing will be settled tonight but the most important thing is to know that the public has a chance to participate.

Chris Barry, 17 Clinton St., stated he attended every ZAC meeting on this subject. He stated there are several documents being circulated and asked which one is being discussed tonight. Mr. Abate stated it is the language originally submitted by the ZAC and subsequent revisions. Mr. Barry stated that it is impossible to clearly comment on the proposed article with only 45 minutes allocated for the public hearing. Mr. Abate stated that the Board received a couple of these documents only this afternoon. Mr. Barry stated that there is not enough time and the Board has already decided to put the article on the Annual Town Meeting warrant. Mr. Abate stated that the Board only decided to submit the article as a placeholder and it can still be modified.

Mr. Markey stated that the language of the ZAC article has been on the Town and Legacy Farms websites for a few weeks. Mr. Barry noted Town Counsel is arm wrestling with Boulder Capital's lawyer about the wording and he feels there is a rush to judgment to change the Town and not by making an intelligent decision. Mr. Abate stated that it is the Town's decision how this article is worded.

Muriel Kramer, 39 North St., Chairman, Board of Selectmen, speaking as an individual, stated that at this stage it is difficult to comment on something this big, different and complicated but people will feel better when they see the final piece. Ms. Lazarus stated that public input is needed now and that is the purpose of this public hearing. She added that the language is still as proposed by the ZAC. Mr. Barry stated he now hears that Mr. Weismantel is going to discuss the wording with the lawyers from both sides and it is not an open process.

Mr. Barry referred to page 10 of Goulston & Storrs (G&S)'s 2/25/08 response to Town Counsel's letter dated 2/21/08 and stated the wording allows the Planning Board to grant a waiver of the required 100 ft. buffer for buildings in the Commercial and Village Center subdistricts. He stated he strongly disagrees with that provision as there is no reason for commercial buildings in people's backyards in a 700 acre development parcel. It was noted this is used elsewhere in the bylaw. Mr. Barry asked why this cannot be nailed down. Ms. Lazarus stated it is the Board's decision whether it wants to allow for a reduction. Mr. Markey asked whether the concern is about parking lots and access ways, and Mr. Barry stated that his Clinton St. neighborhood has always been residential and is now facing a commercial district next door and he is asking for a reasonable buffer zone. Mr. Abate asked what the buffer should be, and Mr. Barry stated it should be 100 ft. with no option for the Board to waive the requirement. He added that the clearer the language is up front the less trouble it will be later. The Board agreed that it should say 100 ft. without possibility of waivers.

Kathleen Whalen, 7 Cross St., asked for clarification regarding the definition of open space as shown on page 3 of the G&S letter dated 2/25/08. She stated in her opinion open space means woods, trees, vegetation and ponds. Mr. Weismantel stated the ZAC spent 2 nights on the subject of open space. He stated it was felt that 500 acres of open space is a major asset with the potential for a lot of good uses. He stated the ZAC wanted to broaden the traditional definition of open space with uses that would be a benefit to the Town, for example, ballfields or cemeteries. He noted that other areas are defined as open space by Boulder Capital, such as the leach field for the wastewater treatment plant. He stated 470 acres of open space will be open to the public and 77 acres will be in agricultural use as part of the Weston Nurseries agreement. Mr. Weismantel stated that the 500 acres of open space includes 100 acres of wetland and it will be left alone. He stated it will be a better quality open space than under the current OSLPD bylaw. Ms. Altamura stated that a lot of the open space is previously disturbed nursery land and will have to be restored first.

Mr. Brown stated there is confusion and it is difficult to respond to this level of detail in only 45 minutes. He recommended that the hearing be continued. Ms. Wright stated the broader definition of open space was drawn up in order to provide the Town with as many options as possible.

Arthur Shapiro, member of the Ashland Board of Selectmen, stated his main concern is the protection of his Town's water supply.

Mary Pratt, 102 Fruit St., member of Board of Selectmen, speaking as an individual, stated that the ENF and Town Counsel's comments need to be addressed.

The Board voted unanimously to continue the public hearing to 9:45 P.M. in order to address the next agenda item.

**3. Public Hearing – Clinton St. – Preliminary Subdivision Plan – Boulder Capital, LLC**

Marilyn Sticklor, attorney (G&S), appeared before the Board on behalf of Boulder Capital, LLC and Mezitt Agricultural Corporation, applicants. Ms. Sticklor stated that on behalf of the applicants she is requesting that they be allowed to withdraw the application for the preliminary subdivision plan. Mr. Abate stated that the preliminary subdivision plan was intended to enable Boulder Capital to freeze the zoning for the Legacy Farms development site.

Robert Falcione, 93 Downey St., asked whether the Town will now abandon the OSMUD moratorium idea. Mr. Abate responded that it will be discussed later in the meeting.

The Board voted unanimously to allow the applicants to withdraw the preliminary subdivision plan application.

**4. Maspenock Woods (5 & 11 W. Elm St.) – KSS Realty Partners**

Doug Resnick, attorney, appeared before the Board on behalf of KSS Realty Partners, LLC. Mr. Resnick noted that the special permit granted for the Maspenock Woods Garden Apartment concept plan recently expired. He stated that the request for extension was submitted prior to the expiration date. He stated that the special permit was issued on 12/20/2005 for 2 years and the first year was spent on getting approval for the Site Plan. He stated the applicant is requesting an extension of the Concept Plan Special Permit to November 1, 2011 to be concurrent with the Site Plan Approval expiration date. Mr. Abate asked if this would be an opportunity for the Board to ask for mitigation regarding traffic or other impacts. Ms. Lazarus stated that mitigation was discussed during the approval process and there are conditions in the decision that address that. Mr. Abate asked if there should be mention of a specific dollar amount, and Ms. Lazarus stated the developer will be responsible for doing certain work. Ms. Wright asked why construction has not started yet. Mr. Resnick stated that the first year was spent on obtaining site plan approval and then the market and other conditions turned. Ms. Pratt asked about a 21E issue related to the property and Mr. Resnick stated this has been addressed.

Ms. Pratt asked whether the impact of the recently approved commercial site plan on the corner of West Main St. and South St. has been addressed. Ms. Lazarus stated that one of the requirements is that the two applicants work together on signal timing. Mr. Resnick stated the scope of mitigation for Maspenock Woods is a little different. Ms. Peters asked about the contamination issue, and Ted Tobin, KSS Realty Partners, LLC, stated this involved a small amount of gasoline spilled near a drinking well. Ms. Peters asked if mitigation was required and Mr. Tobin stated it was a minor spill and the issue has been resolved.

The Board voted 6 in favor with 1 abstention (DeVeuve) to grant an extension of the Garden Apartment Concept Plan Special Permit for Maspenock Woods to November 1, 2011.

**5. Approval Not Required Plan/81-P Plan – 152 Hayden Rowe St. – Sansonetti**

Joseph Marquedant, surveyor (J.D. Marquedant & Associates, Inc.), appeared before the Board. He stated the plan proposes to subdivide the property into two parcels, one with an existing barn, and the other with an existing home. The Board voted unanimously to endorse the plan as not requiring approval under the Subdivision Control Law.

**6. Approval Not Required Plan/81-P Plan – South Mill St. – F&D Central Realty Corp.**

Paul Atwood, surveyor (Guerriere & Halnon, Inc.), appeared before the Board. He stated this plan proposes to subdivide a parcel of land located in Holliston and Hopkinton. He stated the plan will create two non-buildable lots, one in each town. He noted the applicant will go through a subdivision approval process with the Town of Holliston and separating the parcels will make that easier. Mr. Atwood stated his client will come back to the Town of Hopkinton later for a variance from the Board of Appeals. Mr. Markey asked about the plan to be proposed in Holliston. Mr. Atwood stated the proposal is for 2 lots and the remaining land will be donated to the Town of Holliston. He stated the land has wetlands limitations. Ms. Pratt asked if this land abuts the Bird property in Holliston and urged the applicant to donate land to the Town of Hopkinton. It was determined that the Bird property is not adjacent to this property.

The Board voted unanimously to endorse the plan as not requiring approval under the Subdivision Control Law.

**7. Other Business**

- a. Bills – The Board voted unanimously to authorize payment of outstanding bills.
- b. Minutes – The Board voted unanimously to approve the Minutes of February 4, 2008. The Board voted unanimously to approve the Minutes of February 11, 2008 as amended.
- c. Request for Lot Release - Connelly Hill Estates – Craig Nation appeared before the Board on behalf of Four-Zero-One Realty Trust/20<sup>th</sup> Century Homes. The Board discussed the request, noting that the portion of the road serving the lot is covered by the existing performance guarantee, and voted unanimously to release Lot 57 from the Connelly Hill Estates Conditional Approval Agreement.
- d. Meeting Dates – The Board set future meeting dates as follows: April 14 & 28, May 12, June 9 & 23.

**8. Town Meeting Articles**

a. OSMUD Moratorium

Mr. Markey stated he does not really understand the intent of the OSMUD moratorium article but assumes it is part of the negotiations with Boulder Capital to protect the Town's interests in case Town Meeting does not approve the zoning change. He stated that if the article fails, the Town will be left with the current zoning and would like some protection to be able to do something different, possibly a variation of Legacy Farms.

Ray Miyares, Town Counsel, stated the negotiating team recognizes that the primary goal is to have the best possible OSMUD article with the best possible protection for the Town, but the

outcome of Town Meeting is uncertain and the OSMUD article might not pass in spite of the Town's best efforts. He stated a moratorium will basically allow for a one year breathing space to decide on the next step if the Town's first attempt at the zoning change is unsuccessful. Mr. Miyares stated moratoriums are fairly common in Massachusetts towns and are held up in court if they are passed as part of a study or effort to produce a zoning plan. He stated other mechanisms are available to achieve the same result and everyone agrees that a by-right development of the property with a sea of single family homes is likely not in the best interest of the Town. He noted that he does not have a resolution in place right now but hopes to have one in the future. Mr. Miyares referred to questions in the press whether a moratorium would be effective now the applicants have withdrawn the preliminary plan and stated it would depend on what happens next, but would like to leave the judgment up to the Board. When asked for his opinion by Mr. Abate, Mr. Miyares stated he feels optimistic but things are not nailed down and there is a risk that the situation might turn sour in the absence of an iron-clad agreement.

Roy MacDowell, Boulder Capital, stated they put themselves at risk by withdrawing the preliminary plan but want to work with the community toward a positive outcome. Ms. Wright asked about the duration of a moratorium, and Mr. Miyares stated that they usually are approved by the court for one year if the Town can demonstrate it is using the time to come up with a good solution, but might be considered as an effort to string things along if it goes longer than that, and the determination by the court would be based on actual facts.

Mr. Markey stated he feels the Town has decided that by-right development under current zoning would not be favorable and could be potentially disastrous to the Town from a financial standpoint. He stated he feels the moratorium wording is heavy-handed but the Town needs some commitment that it can work collaboratively rather than the developer going on to a by-right development scenario immediately. He noted he does not like the idea of a moratorium but the Town needs some protection and asked whether this could be achieved by something in the Host Community Agreement. Mr. Miyares stated the negotiating team would like something in the agreement to prevent the area from being developed under current zoning as it would not serve the Town's interest. He stated zoning should be changed anyway at some point and there should be an effort to work with the property owner to come up with a contingency plan. He stated he thinks they are working in the right direction. Mr. Weismantel asked if a moratorium would have an impact on the ongoing Weston Nurseries business as they have to move out of their facilities as part of the bankruptcy agreement.

Mr. Markey asked whether they are talking about a moratorium or a contingency plan. Mr. Abate stated the Board needs to weigh in whether it will support a moratorium article. Ms. Altamura stated it is too late for a contingency plan and the warrant will close soon. She stated there is no agreement and she does not know what the contingency plan would be. She noted that a moratorium sounds like a good proposal for the Town and a year seems reasonable. Mr. Abate stated he thinks back to the last year's Special Town Meeting where an overwhelming majority was in favor of Boulder Capital's plan for the land. Ms. Altamura stated the Town only decided to waive its Chapter 61A rights and not buy the land, and there is no guarantee the OSMUD article will pass. Mr. Abate stated that the Town then has to go back to the drawing board with Boulder Capital. Mr. Coolidge stated that the Board's job is to protect the Town and this meeting will provide the last opportunity to put a moratorium article on the warrant. Mr.

Weismantel asked if it would put Weston Nurseries out of business, and Ms. Lazarus responded that agricultural uses would be exempt from the moratorium provisions. Mr. Weismantel stated he is against a moratorium. He added it is fundamentally wrong when you start taking away people's property rights and it will push the developer into a by-right development scenario. He stated he thinks the negotiating team should negotiate in good faith because otherwise it would lead to litigation. He stated Legacy Farms will be revenue positive for the Town and should not be delayed.

Ms. DeVeuve stated she believes that the developer is committed to a positive outcome but the Board might miss an opportunity to protect the Town by proceeding on good faith alone. She stated she would like to place the moratorium on the warrant while allowing the negotiating team to straighten everything out. Ways in which articles could be removed from the warrant were discussed. Mr. Markey stated he wants to give the team time to work on the issue. Mr. Miyares suggested scheduling another meeting prior to the close of the warrant and decide then. Mr. Markey stated that Boulder Capital put itself at risk by withdrawing the preliminary plan. Mr. Coolidge stated that the developer can bring back a plan next week. Mr. Markey stated he feels confident the negotiating team will be able to get an agreement which will protect the Town's interest. Mr. MacDowell stated he is more than happy to work with Town Counsel to come up with an acceptable agreement. The Board discussed ways to give the negotiating team additional time. Ms. Kramer stated she would like to be progressive and not go back to the old ways of doing business. She noted that the OSMUD article will not go anywhere without the necessary support and the negotiating team is now aware that this is a priority. She offered to put the subject on the Selectmen's agenda on March 4 which will give the team time to determine whether it wants the moratorium article put on the warrant. Ms. Altamura stated the Board will have to speak for the Town as a whole.

Michael Shepard, member of the Board of Selectmen, speaking as an individual, stated he does not think a moratorium is a good idea unless it is accompanied by some funding for the studies it will ask for. He stated Boulder Capital seems to be willing to work with the Town and has spent 1-1/2 to 2 years to come up with the things the Town wants, including positive tax revenue and no impact on the school system. He stated he thinks the ZAC and the Planning Board have done a lot of work on the proposed article and instituting a moratorium would not do anything for the process.

Ms. Pratt stated that if the zoning article fails, it cannot be resubmitted to Town Meeting for a year and a moratorium would not be needed. She stated that ENF issues should be addressed before any permitting goes through. Ms. Altamura recommended placing the moratorium article on the warrant and the Selectmen can remove it if necessary when they meet on March 4. Mr. Markey stated that Boulder Capital has withdrawn the preliminary plan in good faith and the Selectmen have the ability to act on a recommendation from the negotiating team for a better, more collaborative contingency plan. He stated that if that cannot be done he would recommend that the Board of Selectmen put something in place. Ms. DeVeuve asked how Boulder Capital would be at risk. Mr. Coolidge stated Boulder Capital could come back in 2 weeks with a new preliminary plan and he understands the developer's standpoint. Mr. Coolidge stated there are a lot of questions from the audience here tonight and the public in general. He added he is sure Mr. MacDowell wants the questions answered as well and urged the Board to do its job and work

on the article. Mr. Markey stated it is a little more complicated than that because the Board of Selectmen and the negotiation team are involved.

Mr. MacDowell stated the negotiating team suggested the moratorium article before Boulder Capital had the opportunity to withdraw the preliminary plan. He stated that as a developer he does not think a moratorium is a good thing and the OSMUD is best for the Town. He stated that Boulder Capital decided to take a bold approach and pull the preliminary plan to show good faith. He recommended the Board follow Ms. Kramer's suggestion to continue discussions with Town Counsel to come up with something all parties can agree on. Ms. DeVeuve stated she is in favor of placing the moratorium article on the warrant unless the negotiation team feels they have come up with a fallback position acceptable to all parties. Mr. Miyares stated the team has not met since this idea was presented and only heard of the developer's decision to withdraw the plan a couple of hours ago. He stated that if the Board can come up with a mechanism to allow the team additional time, he is optimistic that it can come up with an acceptable solution.

The Board discussed timing for a continued discussion on this matter and voted 6 in favor, 1 opposed (Abate) to continue the discussion regarding the placement of a moratorium article to Tuesday, March 4, 2007 at 7:00 P.M. to be concurrent with the Board of Selectmen's meeting.

Ms. Pratt asked what would happen if MEPA contradicts the scope of the OSMUD article. Ms. Sticklor stated that the OSMUD district article falls under the local permitting process but putting the zoning in place is just one step and they will require other permits at different levels. Mr. Markey questioned whether the MEPA process outcome would supersede zoning.

Mr. Bernald asked which Town board or committee would be able to answer questions regarding a holistic approach toward the new development. Ms. Kramer recommended that he start with the Town Manager or Planning Director who will direct his questions to the appropriate entity for feedback.

b. Stormwater Management & Erosion Control Bylaw. The Board voted unanimously to submit the Stormwater Management & Erosion Control bylaw into the warrant for Annual Town Meeting.

**9. Continued Public Hearing – Open Space Mixed Use Development (OSMUD) District Zoning Bylaw**

Ms. Lazarus stated it would be a good idea to dedicate an entire meeting to this subject. The Board voted unanimously to continue the public hearing to March 17, 2008 at 7:30 P.M. It was noted that the OSMUD District article will be the only agenda item.

Adjourned: 10:45 P.M.

Cobi Wallace  
Administrative Assistant

Approved: March 10, 2008