



Town of Burlington  Planning Board

Minutes of the Planning Board Meeting of October 21, 2010

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1. Chairman Covino called the Regular Planning Board Meeting to order at 7:30 p.m. with Member Clerk Cummings and Members DeFrancesco, Raymond, Hyde and Impemba present. Vice Chairman Roth was absent.

2. **Minutes**

**MOTION** – To accept the minutes of June 17, 2010, as corrected.

**APPROVED: 6-0-0** (Member Roth absent)

3. **Citizens Time**

Greg Smith, 36 College Road, spoke about flooding on Stonybrook Road. He asked the Board how the homes there got built. Director Fields said that at the time the homes built there were no environmental protection laws to prevent filling of wetlands. Member Raymond added that no Conservation Commission existed at the time the homes were built. Director Fields said that a higher level of government would need to be involved in order to buy some homes to create some compensatory flood storage.

4. **Announcements/Chairman's Comments** (By Director Fields)

- a. Fall Harvest Festival, Town Common, Saturday, October 23, 2010
- b. 2010 Halloween Spooktacular - Simonds Park 3:30-6pm, Saturday, October 30, 2010
- c. State Election, Burlington High School, 123 Cambridge Street, Tuesday, November 2, 2010
- d. Zoning Bylaw text amendments and rezoning proposals for the January 2011 Town Meeting need to be submitted by next Tuesday, October 26, 2010.

5. **Legal Notices of Interest** None.

**MOTION** – To take items “8.d”, “8.e”, “8.f” and “8.g” together out of order.

**APPROVED: 6-0-0** (Member Roth absent)

**8. Matters of Appointment**

- d) Continued Public Hearing – Application for Approval of a Special Permit pursuant to Section 12.1.5 “PD Special Permit Requirements” – 90 Middlesex Turnpike – Dave and Busters, Inc., Applicant
- e) Continued Public Hearing – Application for Approval of a Special Permit pursuant to Section 3.7 of the 90 Middlesex Turnpike Planned Development District Bylaw “Restaurant” – 90 Middlesex Turnpike – Dave and Busters, Inc., Applicant
- f) Continued Public Hearing – Application for Approval of a Special Permit pursuant to Section 4.9 of the 90 Middlesex Turnpike Planned Development District Bylaw “Commercial Amusement Uses” – 90 Middlesex Turnpike – Dave and Busters, Inc., Applicant
- g) Continued Public Hearing – Application for Approval of a Special Permit pursuant to Section 5.7 of the 90 Middlesex Turnpike Planned Development District Bylaw “Discharge from Manmade Structures into the Wetlands” – 90 Middlesex Turnpike – Dave and Busters, Inc., Applicant

Continued without discussion or comment.

**MOTION** – To continue these matters to the Planning Board meeting of November 4, 2010, as requested by the applicant’s attorney in a letter dated October 19, 2010

**APPROVED: 6-0-0** (Member Roth absent)

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**6. Non-Approvals**

- a) Request for Endorsement of a Plan Believed Not to Require Approval – Lexington Street – Mark Potter, Applicant

Mark Potter and Bill Pero were present to request endorsement of a plan reflecting an intention to sell the rear portion of Mr. Potter’s property to Mr. Pero. Director Fields said that the plan meets the criteria for endorsement.

**MOTION** – To approve and sign as an Approval Not Required a plan entitled “Subdivision Plan of Land in Burlington, Massachusetts” dated October 8, 2010, prepared by Dresser, Williams & Way, Inc. reflecting a lot line revisions between two abutting lots conveying Lot B from Lot A to Lot 2A. The Planning Board finds that this is a proper submission of an Approval Not Required Plan, since no new lots are created and the existing frontage of the affected lots is unchanged. The applicant shall submit four (4) copies of the endorsed Approval Not Required to the Planning Board office within four (4) weeks of this approval.

**APPROVED: 6-0-0** (Member Roth absent)

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**7. Administrative Matters**

- a) Continued Discussion – Application for Approval of a Minor Engineering Change – 141 Cambridge Street– Michael Santullo, Applicant

Director Fields said that he has been in touch with the Santullos and that they do not seem to regard the MEC application with any sense of urgency. The matter was continued without discussion or comment.

**MOTION** – To continue this matter to the Planning Board meeting of November 4, 2010.

**APPROVED: 6-0-0** (Member Roth absent)

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**8. Matters of Appointment**

- a) Public Meeting – Application for Approval of an Preliminary Subdivision – 150-156 Cambridge Street & 1-5 Center Street – LWJ Realty Trust

Engineer Paul Marchionda represented the applicant. Mr. Marchionda described the property as containing six acres, now the site of the Building 19 ½ complex on Center Street. He said that the roadway plan, with three lots, is intended to freeze zoning.

Member Cummings read departmental comments:

***DEPARTMENTAL REPORTS***

<b>Department</b>	<b>Recommendation</b>	<b>Date Received</b>
Board of Selectmen		
Inspector of Buildings	Favorable	October 6, 2010
DPW/ Engineering	See Comments	October 20, 2010
Police Dept.		
Fire Dept.	Favorable	October 5, 2010
Board of Health	See Comments	October 4, 2010
Conservation	See Comments	October 10, 2010

Director Fields said that the proposal is a reaction to the recent Town Meeting article to place a moratorium on permitting of new multi-family residential development within the town center.

Member Impemba asked if Mr. Marchionda had been asked to file a definitive plan. He said that he had not.

Business person Victoria Kustov, a tenant in the Building 19 1/2 complex, asked how the proposal would affect her business. Director Fields said that the proposed layout does not directly affect the building in which Curves, Ms. Kustov's business, is a tenant. He added that future redevelopment would require a buffer between residential and commercial development, and that may affect existing buildings. Chairman Covino said that the plan freezes zoning, and that this sort of move is typical under similar circumstances. Director Fields said that Ms. Kustov would be notified of further developments.

Board discussion ended without further comment from the audience.

**MOTION** - Pursuant to Section 2.4 of the Planning Board Subdivision Rules and Regulations, the Planning Board hereby finds the Preliminary Subdivision Plan application for 150-156 Cambridge Street & 1-5 Center Street, submitted by LWJ Realty Trust to be a complete and proper submission.

**APPROVED: 6-0-0** (Member Roth absent)

**MOTION** - To approve the Preliminary Subdivision plan entitled "Preliminary Subdivision Plan Building 19 Site 150-156 Cambridge Street & 1-5 Center Street, Burlington, MA" submitted by LWJ Realty Trust, plan prepared by Marchionda & Associates, LP, dated September 15, 2010, to reconfigure and consolidate four (4) existing lots in the General Business (BG) and Central Business (CBD) Districts to three (3) Lots along a cul-de-sac roadway for a total of three (3) lots, subject to the following terms and conditions:

1. The applicant shall comply with the recommendations and conditions of the Board of Selectmen, Board of Health, Building Department, Engineering Department, Department of Public Works, Recreation Department, Police Department and Fire Department
2. The drainage system design shall be subject to the recommendations and conditions of the Engineering Department, Board of Health, Conservation Commission, and the Planning Board.
3. The applicant shall explore relocating the proposed cul-de-sac roadway to an alternative location for better sight distances and traffic flow entering and existing onto Cambridge Street.
4. Any test pits conducted to assess for percolation rates shall be witnessed by a representative of the Board of Health. Findings of the test pit/percolation test shall be submitted to the Board of Health and Town Engineer for review.

5. Upon submission of a Definitive Subdivision application the applicant and/or property owners shall submit details of the proposed stormwater area including its composition, slope, outflow area and information on who will maintain it once constructed. Details on the type of basin, associated drainage calculations, construction and maintenance schedule should be provided; If a sub grade basin is proposed all details of said system must be presented at the time of definitive subdivision.
6. Vertical granite curbing is required throughout the subdivision, and cement concrete sidewalks.
7. Street trees of a species and number to be approved by the Planning Board shall be shown on the Definitive Subdivision Plan.
8. All catch basins shall be equipped with oil water separator hoods, oil absorbent pillows, and four (4') foot sumps; the size and material of the proposed water main should be labeled. (Minimum 8" CLDI) and shown on the plan.
9. The slope calculations for the lots that exceed a 10% slope must be shown on the plan and reviewed by the inspector of Buildings prior to submission of the Definitive Subdivision Plan.
10. Upon submission of a Definitive Subdivision, the applicant shall submit the following:
  - a. A locus plan
  - b. Specific width and paved width of Cambridge Street shall be given along the frontage of the property
  - c. Names of proposed streets.
  - d. Exact location of any easements
  - e. Size of drainage structures and location of water and sewer lines
  - f. Deed lines
  - g. Proposed method of sewage disposal
  - h. Water use and sewage generated
  - i. Center line profile of proposed streets not provided

- j. A copy of all environmental studies completed for the property should be submitted to the Board of Health. The location and designation of all soil borings advanced and monitoring wells present at the Site should be indicated on the Site plan.
- k. Should any underground tanks or system components be identified during Site development, soil samples must be collected from the soils surrounding the system and submitted to the Board of Health.
- l. Prior to installation of any roof drain/stormwater infiltration areas, a percolation test, observed by the Board of Health, must be conducted in the proposed infiltration area(s) to determine percolation rates. The test pit(s) shall be witnessed by a Board of Health representative. Findings of the test pit/percolation test shall be submitted to the Board of Health for review.
- m. Details of the Proposed Stormwater Management Areas should be provided including composition, slope, outflow area and information on who will maintain it once constructed. A plan for inclusion of fencing should be considered if slope is steep.
- n. If fill is brought to the Site, the source of the fill must be documented and the fill sampled if donated or acquired from a site that is not a quarry or virgin sand and gravel source.
- o. Catch basin design should be included in the Subdivision Plan details and should have at least 4' sumps, consisting of Snout™ systems or equivalent (inclusive of a vent) and should contain oil absorbent pillows.
- p. A Drainage Plan shall be developed by an engineer to ensure stormwater at the site is properly controlled and does not impact neighboring properties.
- q. The Site shall meet DEP and Burlington stormwater standards during construction.
- r. Topography for a distance of 300 feet in each direction from the proposed subdivision. Extrapolation of the topography from the Town Maps is acceptable to indicate the topography of abutting properties.
- s. Drainage computations for the proposed storm drainage system, at the storm intervals determined to be appropriate and acceptable by the Town Engineer, Conservation Commission, and the Board of Health.
- t. Clear delineation of any wetlands, watercourses, and areas subject to flooding.

- u. Proposed street light locations. Further, all electrical, telephone, gas and other utility lines shall be constructed underground.
- v. Specification whether this proposed way will remain and be maintained as a private way, or submitted for consideration of acceptance as a public way.
- w. Test borings in the proposed right-of-way to verify the locations of ledge or other subsurface conditions that require consideration in the road or utility placement and design should be done to the satisfaction of the Town Engineer.
- x. An Environmental Impact Statement pursuant to Section 6.1.16 and Section 6.5 of the Subdivision Rules and Regulations shall be submitted.
- y. All information required for Definitive Subdivision Plans in the Planning Board Subdivision Rules and Regulations, or requests for waivers there from any specific requirements or design standards.
- z. Location of all bounds to be set at tangent points and at turning points on the way lines and property lines.
- aa. “Stop” signs and way sign shall be installed at the intersection of the proposed way with Cambridge Street.

**APPROVED: 6-0-0** (Member Roth absent)

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- b) Public Hearing – Application for Approval of an amendment to a Special Permit pursuant to Section 4.2.6.9 “Fast Order Food Establishments” – 29 Winn Street –Subway– Arvu Parth Radhe Dada LLC, Applicant

Attorney Tom Murphy represented the applicant. Mr. Murphy gave a history of the business. He said that Subway customers want to eat on site, so the business owner is submitting a proposal for three tables and seating for 18 people. He added that relief on parking is needed as 41 spaces are required and 39 exist, so that the plan is deficient by two spaces. He said, though, that a limited parking waiver is justified by the fact that the adjacent dance studio functions nights and weekends and other businesses are closed at night. Thus, the business can use spaces that are empty.

Member Impemba asked if the proposal involves an expansion. Mr. Murphy said that the business will expand internally into the adjacent vacant tenant space. He added that an ice cream counter is part of the proposal.

Member Cummings read comments:

***DEPARTMENTAL REPORTS***

<b>Department</b>	<b>Recommendation</b>	<b>Date Received</b>
Board of Selectmen Inspector of Buildings DPW/ Engineering	See Comments	September 13, 2010
Police Dept.	Favorable	October 6, 2010
Fire Dept.	Favorable	September 23, 2010
Board of Health Conservation	See Comments	September 8, 2010

Director Fields said that the planning department has no issues with the proposal.

Board discussion ended without comment from the audience.

**MOTION** – To close the public hearing on this matter.

**APPROVED: 6-0-0** (Member Roth absent)

**MOTION** – To approve the request of Arvu Parth Radhe Dada LLC, for approval of a Special Permit pursuant to Section 4.2.6.9 “Fast Order Food Establishments” of the Burlington Zoning Bylaw, subject to the terms and conditions contained in Exhibit “A” attached.

**APPROVED: 6-0-0** (Member Roth absent)

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c) Public Meeting – Application for Approval of a Site Plan Waiver – 63 Second Avenue – The Nordblom Company, Applicant

Engineer Frank DiPietro and Steve Logan of Nordblom represented the applicant. Mr. DiPietro said that the proposal is being made to complete a covered walkway between two buildings for the tenant L’ Maitre.

Member Hyde asked why connect the buildings. Mr. Logan said that the same tenant occupies both buildings and that a covered walkway will better enable its employees to walk between the two buildings in inclement weather.

Member Cummings read departmental comments:

***DEPARTMENTAL REPORTS***

<b>Department</b>	<b>Recommendation</b>	<b>Date Received</b>
Board of Selectmen		
Inspector of Buildings	Favorable	October 4, 2010
DPW/ Engineering		
Police Dept.	Favorable	October 6, 2010
Fire Dept.	Favorable	September 29, 2010
Board of Health	Favorable	October 6, 2010
Conservation	Favorable	October 6, 2010

Member Impemba sought to clarify handicapped parking. Mr. DiPietro addressed parking and handicapped access on the plan.

Board discussion ended without comment from the audience.

**MOTION** – The Planning Board finds that this is a proper request for a site plan waiver, since only minor changes are proposed.

**APPROVED: 6-0-0** (Member Roth absent)

**MOTION** – Pursuant to the Zoning Provisions of the Northwest Park Planned Development District for Nonconforming building, structure or premises for nonconforming impervious surface coverage in the Aquifer and Water Resource Districts, the Planning Board finds that the proposed covered walkway represents only a de minimis increase in impervious area and will not be substantially more detrimental to the neighborhood than the existing nonconforming ratio.

**APPROVED: 6-0-0** (Member Roth absent)

**MOTION** - To approve the request for approval of a Site Plan Waiver for property located at 63 Second Avenue, to allow for the addition of a covered pedestrian walkway to connect 53 and 63 Second Avenue, as detailed on the plans entitled, “Proposed Covered walkway Connector, 63 Second Avenue, Burlington, Massachusetts” said plan prepared by Vanasse Hagen Brustlin, Inc., dated September 30, 2010, subject to the following terms and conditions:

1. All previous conditions of approval affecting the property shall continue to apply, except as may be specifically modified by this decision.
2. The applicant and/or property owner shall revise the plan to show the following:
  - a. A detail of the covered connector walk and roof structure should be added to the plan.
  - b. Revised parking calculations shall be shown on the plan.
3. Prior to occupying the space, the applicant and/or property owner shall re-stripe the parking lot to ensure visibility of all paint markings on-site.

4. The applicant shall provide the Planning Department and Building Inspector a Northwest Park Planned Development District Zoning Block Table which reflects the change in impervious surface area due to the addition of the walkway.
5. The applicant and/or property owner shall comply with all building and fire safety and conditions of the Inspector of Buildings and Fire Department pertaining to such codes. The applicant and/or property owner shall review handicapped accessibility requirements with the Inspector of Buildings. The applicant shall be considered advised of the requirement to obtain a Dumpster Permit from the Fire Department pursuant to 527 CMR 34:00, for any permanent dumpster. All required permitted confined spaces shall comply with 29 CFR 1910.146 and shall be listed with the Fire Department.
6. Prior to any demolition or renovation, the applicant shall inspect and remove all hazardous building components from the portion being remodeled. Hazardous building components include, but are not limited to, fuels, solvents, storage tanks, mercury switches, Freon, dielectric fluids, fluorescent light tubes, and asbestos. The applicant shall submit to the Board of Health an inspection report that outlines the number and type of materials observed. The applicant should also submit to the Board of Health a copy of the disposal or recycling records for all hazardous building components.
7. The applicant and/or property owner shall provide a fluorescent light management plan, which outlines how the lights will be collected, managed and recycled to prevent the release of mercury into the environment.
8. A dumpster shall be used during the building renovation process to contain waste construction materials and debris. The applicant and/or property owner shall ensure the proper disposal of all such material and debris.
9. All handicapped parking shall be properly posted in accordance with the requirements of the Americans with Disabilities Act. All handicapped accessibility improvements shall comply with the Massachusetts Architectural Access Board Rules and Regulations.
10. The applicant and/or property owner shall be considered advised of the Department of Environmental Protection (DEP) moratorium restricting changes in use and increases of discharge into existing sewer lines.
11. The applicant and/or property owner shall prepare and submit to the Planning Board a snow removal management plan. There shall be no use of salts or other de-icing chemicals or compounds on the property, except for calcium chloride, pursuant to Article XIV Section 4.4 of the General Bylaw. Further, snow removal operations shall not involve the storage and stockpiling of snow adjacent to any on-site wetlands areas.

12. Any proposed construction activity within 100' of any wetland or resource area shall be submitted to the Conservation Commission for review and approval. The applicant and/or property owner shall comply with all conditions of the Order of Conditions issued by the Conservation Commission. In the event that the conditions of the Conservation Commission necessitate any revision to the approved Site Plan, the applicant and/or property owner shall be required to submit a revised plan for Planning Board approval in accordance with the Planning Board's Site Plan Rules and Regulations.

**APPROVED: 6-0-0** (Member Roth absent)

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- h) Continued Public Hearing – Petition to Amend the Zoning Bylaw, Article V “Density Regulations”, Section 5.2.0 Density Regulations Schedule, by amending footnote “\*\*\*” addressing the calculation of building height in the Business and Industrial Districts where such districts abut RO, OS, RC, RG or PD Districts, and within 1800 feet of the center point of Middlesex Turnpike at the Burlington/Lexington town line, and within the Town Center Overlay Districts – Submitted by John D. Kelly, TMM3

Continued without discussion or comment.

**MOTION** – To continue this matter to the Planning Board meeting of November 4, 2010, as requested by the applicant in a letter dated October 20, 2010

**APPROVED: 5-0-1** (Member DeFrancesco abstained; Member Roth absent)

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- i) Continued Public Hearing – Petition to amend the Zoning Bylaw, Section 2.34 “Home Occupation”, Section 4.3.1.2 “Use of a portion of a dwelling as an office ...”, and to create a new Section 10.1.1 “Additional Regulations for Home-Based Businesses” – Submitted by the Planning Board

Continued without discussion or comment.

**MOTION** – To continue this matter to the Planning Board meeting of November 4, 2010.

**APPROVED: 6-0-0** (Member Roth absent)

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**MOTION** – To take items “j” and “k” together for discussion purposes.

**APPROVED: 6-0-0** (Member Roth absent)

- j) Continued Public Hearing – Petition to amend the Zoning Bylaw, Section 8.50 “Town Center Overlay Districts” and Section 8.5.8 “Design Requirements” to include Signs in Design Review – Submitted by the Planning Board on behalf of the Route 3A Committee
- k) Continued Public Hearing – Petition to amend the Town Center Design Rules and Regulations by creating a new Section 9 “Signage” – Submitted by the Planning Board on behalf of the Route 3A Committee

Continued without discussion or comment.

**MOTION** – To continue these matters to the Planning Board meeting of November 4, 2010.

**APPROVED: 6-0-0** (Member Roth absent)

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- l) Continued Public Hearing – Petition to amend Article XIII “Signs”, by amending Sections 13.1.2, 13.1.3, 13.1.4, 13.1.4 to further regulate Wall Signs – Submitted by the Sign Bylaw Committee

Continued without discussion or comment.

**MOTION** – To continue this matter to the Planning Board meeting of November 4, 2010.

**APPROVED: 6-0-0** (Member Roth absent)

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- m) Continued Public Hearing – Petition to create a new Business Park (BP) District by amending Article II, III, IV, V, X and XIII and by creating create a new Section “Regulations in the Business Park District” – Submitted by the Planning Board

Continued without discussion or comment.

**MOTION** – To continue this matter to the Planning Board meeting of January 6, 2011.

**APPROVED: 6-0-0** (Member Roth absent)

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9) **Other Business:**

a) **Discussion**

- 1. Request for an Extension of time to complete Site Plan Improvements – 129 Cambridge Street – East Coast Developments Inc., Applicant

Director Fields discussed the status of the project.

**MOTION** - The Planning Board hereby grants a one (1) year extension of time from November 20, 2010 to November 20, 2011 to complete the required Site Plan Improvements for 129 Cambridge Street, as requested by the applicant in a letter dated October 20, 2009.

**APPROVED: 6-0-0** (Member Roth absent)

2. Prioritization of ongoing Planning Initiatives.

Staff presented a listed of long range planning initiatives and Zoning Bylaw amendments that staff have been working on, or have been requested to work on. Director Fields noted that some items are more readily achievable, but may be a low priority. Chairman Covino asked which items are housekeeping and which are close to final form. Senior Planner Kristin Kassner presented an overview of the initiatives organized by each article of the Zoning Bylaw, including new definitions for Article II, additional use regulations, such as for medical offices in Article IV, dimensional changes in Article V, nonconforming uses in Article VI, general regulations, such as parking, in Article VII, accommodating abutting town aquifer boundaries in Article VIII, home occupations in Article X, special residential regulations, including elimination of the restrictive 1989 date for accessory apartments, in Article XI, and updating the PDD regulations in Article XII.

Member Hyde noted that some non-zoning initiatives are started but not completed. Director Fields said that incomplete subdivisions is continually a priority but needs interdepartmental coordination. Chairman Covino suggested pursuing the matter.

Member Hyde then asked about what is left to complete on the 43D initiative. Director Fields named Site Plan Regulation revisions and incorporation of Low Impact Development among those issues to be addressed.

Chairman Covino asked what would be involved in changing section 5.2.0 of the Zoning Bylaw in response to the Town Meeting resolution. Director Fields said that some changes might be ready for May of 2011. Chairman Covino suggested including "Open Space" as a column. Director Fields asked whether frontage, setbacks, and similar criteria are important for the OS property or is the concern is more about impacts to adjacent properties.

Chairman Covino asked about how to rank priorities. Senior Planner Kristin Kassner said that staff will suggest a method to the Board and re-format the list.

3. 2011 Meeting Schedule

Staff presented a proposed meeting schedule for 2011, with only one meeting in April due to Holy Thursday, one meeting in July and August as is common for summer, one meeting in September due to Labor Day, and one meeting in December. The Board agreed that a meeting should be scheduled for September 1, 2011 even though that date falls prior to Labor Day.

**MOTION** - The Planning Board establishes the following meeting schedule for 2011:

January 6 and 20, February 3 and 17, March 3 and 17, April 7, May 5 and 19, June 2 and 16, July 21, August 18, September 1 and 15, October 6 and 20, November 3 and 17, and December 1.

**APPROVED: 6-0-0** (Member Roth absent)

- b) **Correspondence**      None.
- c) **Reports from Town Counsel**      None.
- d) **Subcommittee Reports**      None.
- e) **Unfinished Business**      None.
- f) **New Business**      None.

**MOTION** – To adjourn at 9:40 pm

**APPROVED: 6-0-0** (Member Roth absent)

**Donald Benjamin**

**Ann M. Cummings**

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Donald Benjamin, Recording Clerk

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Ann M. Cummings, Member Clerk

**1/20/2011**

Minutes accepted at the Planning Board meeting of \_\_\_\_\_.

**1/21/2011**

Minutes filed with the Town Clerk on \_\_\_\_\_.