Meeting Minutes, Monday, November 27, 2017

Call to Order: Chair Denis Hebert called the November 27, 2017 meeting

at 6:30 p.m., followed by the pledge of allegiance.

**Present:** Chair Denis Hebert; Vice-Chair Christopher Cross; Board

Members: Bernie Christopher; Jim Weiner; Alternate Members: Ken

Latchaw; Rick Stern and Peter Welch; Town Planner, Gerald

Coogan and Jane Kendall, Recorder

**Absent:** Board of Selectmen's Representative, Mike Marconi

**Public Guests:** Town engineering consultant, Eric Weinrieb with Altus Engineering;

Attorney Rick Mann and Attorney Suzanne Brunelle representing Bernie and Phyl's Furniture; Attorney Joel Cahn, representing the seller; Larry Rubin; Scott Muller, PE; Gary Thomas, General Contractor; Mark Phillips with Storage Barn of Newington, LLC; John Lorden, PE with MSC Engineering; Noreen McCosker,

representing Northeast Medical Properties

#### I) New Business: Public Hearings

 A) Site Review for proposal for a change of use to a furniture store by Convertible Castle, Inc. regarding property located at 30 Fox Run Road, Tax Map 26, Lot 2.

Scott Muller, engineer for the applicant appeared before the Board to present their plan to redevelop the site where Chuckee Cheese and Planet Fitness was formerly located.

Chair Hebert commented that proposals were usually presented to the Town's engineering consultant and the Technical Review Committee (TRC) before coming to the Board for Site Review. He added that the Board had only reviewed the old plans and not had a chance to review the revisions that they were presenting. Attorney Rick Mann, representing the applicant replied that the only changes were in response to Town engineering consultant, Eric Weinrieb's comments.

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Mr. Muller reviewed their proposal for parking that would reduce the spaces from 192 to 152 spaces with six ADA compliant spaces. Chair Hebert asked where the employees would park, and Mr. Thomas said they would park off to the side of the building.

Mr. Muller noted that Planet Fitness had done some drainage upgrades in 2013 and stated that they were willing to replane and repave the parking lot and retain the existing drainage patterns. He said they would be requesting a waiver for the stormwater plan because there would be no changes in the hydrology and their parking lot reconfiguration would reduce the impervious coverage.

Chair Hebert asked Town engineering consultant, Eric Weinrieb with Altus Engineering if the plan that was previously submitted by Planet Fitness was acceptable. Mr. Weinrieb replied that the applicant would need to provide certification and an inspection by the Town to confirm that the corrugated metal pipes had not deteriorated, and the outfall was still in good condition.

Mr. Muller noted that the usage on municipal systems would be drastically less than current use. Mr. Thomas said only concern would be regarding the water pressure flow test. Chair Hebert commented that the old water pressure flow test should be sufficient. Chair Hebert asked if the sprinkler system was recent. Attorney Mann replied that he thought it had been installed with the updates in 2013. Mr. Stern commented that the fire department should have the plans for the sprinkler system.

Mr. Muller presented a lighting plan, which had not been included in the packet that was submitted earlier in month and it addressed concerns voiced by Board during preliminary consultation. He stated that the values of the overall lighting plan would be under the average illumens, so they were requesting a waiver.

Alternate Board member, Ken Latchaw asked if there would be any moving lights on signage facing the Spaulding Turnpike. Gary Thomas, the general contractor said the sign would only be backlit. Chair Hebert pointed out that neither neon or neon-like lights were allowed.

Mr. Weinrieb asked what the three lights between the building and the Spaulding Turnpike were illuminating. Mr. Thomas replied that they were ground up lighting. Chair Hebert stated that they needed to comply with the Town's dark sky ordinance. Mr. Muller replied that they intended for the lights to wash the side of the building. Mr. Thomas said might like to do some LED lighting to wash wall. Chair Hebert asked that they return with an updated lighting plan.

Mr. Muller went on to say that their landscaping plans were being prepared by Woodburn and Company. Discussion ensued regarding the possibility of adding a few additional trees to the outside perimeter of the parking lot for shade. Mr. Weinrieb also suggested that the islands in the parking lot be cut out to reduce pavement, made to grade and possibly planted for green space. Mr. Thomas agreed with the concept except for concerns with maintenance, plowing and longevity. He suggested that they add green space at the end of the striped areas. Mr. Weinrieb replied that the islands

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could prevent traffic cut-throughs for a safer environment when the parking lot was emptier.

Chair Hebert asked if they had appeared before the Conservation Commission to present their landscape plan. Board member and Conservation Commission Co-Chair, Jim Weiner said they had not.

Mr. Muller informed the Board that there would be eight to twelve employees at the furniture store and there would be two to three deliveries per week before 8-12 employees. Chair Hebert replied that he thought the store was only going to be a showroom and not a warehouse. The applicant, Larry Rubin responded that their warehouse was two hours away, so deliveries were for customer pickup.

Mr. Muller stated that they had reviewed current traffic generation on Fox Run Road and determined that their proposal would have no impact.

Chair Hebert pointed out that the northbound exit off the Spaulding Turnpike had been closed so now delivery trucks had to take a left turn crossing traffic from Fox Run Road and he thought there might be a need for a larger radius for safety on the curb cut. Mr. Thomas replied that the Rubins discussed sending smaller trucks, but it was their preference would be to use their 62' tractor trailer trucks.

Alternate Board member, Rick Stern asked why they couldn't enter from Woodbury Avenue by Walmart and Chair Hebert replied that it was a private way.

Discussion ensued regarding various approaches to improve the turn including the removal of the existing pylon sign and grading. Mr. Thomas stated that there was a downward grade in both directions and grading to increase the radius would increase the steepness, causing a bigger problem.

Mr. Thomas added that removing the pylon would be a logistical problem because it was very high and heavy and replacing it would also be a major expense. Mr. Weinrieb suggested installing a bollard at the base of the pylon for protection.

Chair Hebert suggested that the delivery trucks utilize the turnaround at the end of Fox Run Road. Attorney Mann replied that the drivers were employed by Bernie and Phyl's, so they would be able more compliant with those instructions. Vice-Chair Cross agreed that utilizing the cul-de-sac the DOT for company controlled drivers would be adequate. Chair Hebert suggested posting a "no left turns" sign and directing traffic to use the cul-de-sac at the entrance. Mr. Thomas agreed that would be acceptable.

Mr. Weinrieb said the real concern was not for truck drivers making deliveries before business hours, but for patrons making the turn. Vice-Chair Cross suggested that the applicant return to the Board if there were any traffic accidents as a result of the tight turn.

Vice-Chair Cross commented that the small sign at the northwest corner was in poor condition and nearly obscured from view with shrubs. He asked if the applicant would consider removing the sign. Mr. Rubin said they were considering going before the Zoning Board of Adjustment (ZBA), so they could keep the sign. Chair Hebert

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replied that regulations only allowed so many square feet of signage and he thought they would be better of concentrating on the sign on their building.

Vice-Chair Cross discussed the possibility of paving a path for offsite walkers and bike riders. Mr. Thomas agreed that could be done while paving. Vice-Chair Cross said could ride a bike on the path as well.

Town Planner, Gerald Coogan and Mr. Muller addressed items that were to be addressed from Mr. Weinrieb's letter, including clarifications on easements, the grease trap, and granite curbing, which the applicant agreed to.

Attorney Mann asked if the Board could grant a conditional approval. Chair Hebert asked what their reasons were for requesting conditional approval. Attorney Mann replied that they were running out of time on their purchase and sales agreement. Mr. Thomas added that there were a lot of internal offices in the former Planet Fitness space that they needed to work on. Chair Hebert noted that it was too late in the year to start paving until the spring, but that he could continue the hearing to December 11, 2017. Attorney Mann agreed. Chair Hebert added that they needed to provide changes to the plans a week in advance for review to Mr. Weinrieb and the Board.

Ken Latchaw moved to accept the waiver request for stormwater facilities requirement for the proposal for a change of use to furniture store by Convertible Castle, Inc. regarding property located at 30 Fox Run Road, Tax Map 26, Lot 2 after inspection and repairs if necessary. Jim Weiner seconded the motion. The motion passed. (Alternate Board member, Peter Welch abstained).

Rick Stern moved to accept the waiver from the lighting illumens requirement in the proposal for a change of use to furniture store by Convertible Castle, Inc. regarding property located at 30 Fox Run Road, Tax Map 26, Lot 2 as the lighting plan was for fewer illumens. Jim Weiner seconded the motion with the modification that the applicant would modify the lighting plan if there was undue glare reflecting on the Spaulding Turnpike. The motion passed. (Alternate Board member, Ken Latchaw abstained.)

Ken Latchaw moved to accept the proposal for a change of use to furniture store by Convertible Castle, Inc. regarding property located at 30 Fox Run Road, Tax Map 26, Lot 2 as substantially complete. Bernie Christopher seconded the motion with all in favor. (Alternate Board member, Rick Stern abstained.)

Chair Hebert opened discussion up to the public. No members of public commented.

Mr. Weinrieb requested that updates to their plan be submitted to his office by December 4, 2017 for review. Mr. Muller asked if he could work directly with Mr.

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Weinrieb and Mr. Coogan replied that would be acceptable so long as he was copied on the correspondence.

(The Board took a brief recess at 8 p.m. at which time Bernie Christopher left the meeting. The meeting reconvened at 8:11 p.m.)

B) Site Review by the **Storage Barn of Newington**, LLC regarding property located at 2211 Woodbury Avenue, Tax Map 19, Lot 12.

Mark Phillips with Storage Barn of Newington appeared before the Board with John Lorden, PE with MSC Engineering, a division of TF Moran and Noreen McCosker, representing Northeast Medical Properties. Mr. Phillips stated that he had the property under agreement for just under a year and he was hoping to close in the next week. He explained that although he didn't own the property yet, he decided to put the application in his company name, rather than changing it after the sale.

Chair Hebert pointed out that there were two lots of record. Mr. Phillips stated that he intended to merge the two pistol shaped lots.

Chair Hebert stated that two separate actions would be required, with the site review following the merger. He said the merger could be done by form or through the Planning Board, but both actions were not listed on the agenda.

Mr. Coogan commented that the Board also needed to confirm that self-storage businesses fells under warehouse use. Vice-Chair Cross commented that warehouse uses started as moving van companies and now the industry had evolved and most facilities in Greenland found other uses or converted to interior warehouse storage.

Mr. Stern agreed that self-storage was essentially a personal warehouse and the rest of the Board members agreed.

John Lorden with MSC Engineering stated that the Zoning Board of Adjustment (ZBA) granted a variance in March 2017 to allow the caretaker's apartment. Mr. Lorden went on to present the plan for three storage units, one of which would include a manager's apartment on the 1.46-acre lot. Mr. Lorden went on to discuss grading and noted that they would need an Alteration of Terrain (AoT) Permit for construction.

Mr. Lorden discussed lighting and parking and pointed out that there would be parking for customers visiting the office and the manager's apartment, but that additional parking would not be necessary as mostly users would park in front of their units for drop off and pickup. Chair Hebert commented that most residents had two vehicles and asked where they would park and Mr. Lorden pointed out the shared parking area for the caretaker and customers visiting the office.

Mr. Phillips stated that there would be a Department of Transportation approved right turn in and out on Woodbury Avenue and then an additional exit on River Road. Vice-Chair Cross expressed concern for the 25-foot radius of the curb cut off Woodbury Avenue and suggested that a 35-foot radius would encourage vehicles to slow down

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more at the turn. Mr. Lorden replied that the utility pole would have to be moved, which could interfere with parking within setback.

Mr. Phillips stated that New England Homes had designed the office and wood frame structure and the metal buildings would be put together by TracT.

Mr. Weiner asked if greenery could be added in front of the barn façade and Mr. Phillips agreed.

Mr. Weinrieb commented that they discussed the challenge of runoff from the long flat buildings during their preliminary presentation. Mr. Phillips said they were proposing a 1.5% slope that would not be visible in a 100-foot-long building.

Mr. Latchaw asked how they proposed to address the water flow from increased roofing and pavement. Mr. Lorden reviewed the topography and drainage where the water would run into a swale and be treated in the focal point that did pretreatment and treatment in one unit. He added that the water draining down the private way toward River Road would also be caught in the drainage units.

Mr. Weinrieb commented that the drainage system was the same as what had been proposed for SigSauer's parking lot expansion, but he had never seen one before. Mr. Coogan said that discussion involved providing a manual on maintenance and management of the system.

Chair Hebert asked how they would keep the weeds and shrubs from growing up. Mr. Lorden replied that they would keep the area mowed.

Discussion ensued regarding the water that flowed down the private drive and turned to ice in the cold weather. Mr. Lorden responded that they would redirect the flow from the road to the swale along the road. Mr. Weiner replied that the issue was that the redirected water would still flow down to River Road.

Mr. Phillips said the idea was to use the private way as an exit for larger trucks rather than exiting onto Woodbury Avenue. Vice-Chair Cross commented that he understood that the grass along the road absorbed water, but expressed concern that there was no shoulder off the 19-foot-wide private road that was lined with hemlock trees only eight feet off the pavement, making the passing of a truck and another vehicle a problem. He suggested that they could cut the lower branches, but the pavement would still be three feet short of roadway requirements.

Discussion ensued regarding issues with increasing pavement for limited traffic. Mr. Weinrieb suggested widening the shoulder on the other side of the trees to allow vehicles to pass and drainage. He also suggested placing a swale and trees along the conservation easement and property line.

Noreen McCosker, representing Northeast Medical Properties (NMP) stated that they mowed and maintain the conservation easement and that the Town wanted to put a fire pond in for a proposed building at one time. Chair Hebert asked if the applicant could divert drainage to easement. Ms. McCosker replied that there was a lot of salt in the runoff. She added that the trees on the other side of the private way developed a disease and had to be cut. Mr. Latchaw suggested that the Conservation Commission

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consider if the trees on the private road had needle cast, which was an incurable, airborne disease that affected several evergreens and could only be managed by cutting and discarding the affected trees.

Vice-Chair Cross asked how the front setback area would be landscaped and if the boulders and field stones on site would be used to rebuild the stonewall to a reasonable height. Mr. Lorden replied that they intended on using some of the stones for the bottom of the swale and to shore up the back. Vice-Chair Cross requested that they donate any leftover attractive stones to the Historic District rather than burying them.

Ms. McCosker asked about the pylon signs that were marked as to be removed. Mr. Phillips explained that the sign ordinance required that there be no offsite signage.

Mr. Coogan asked what the procedures for storage were and Mr. Phillips replied that there would be open hours rather than gates and passcodes. He said there would be cameras with lighting in the exterior corridors and motion detectors, lighting, outlets and a trash barrel in the interior corridors, but no lighting or outlets in the units to discourage night time activity. Mr. Phillips went on to say that patrons would be required to sign a lease agreement on restrictions for self-storage. Chair Hebert asked Mr. Phillips to provide a copy of the lease to show what would be allowed for chemicals.

Mr. Weinrieb commented that some facilities did exterior seasonal storage of RV's and boats. Mr. Phillips replied that he had purchased an adjoining lot from Eversource, which was riddled with underground gas and sewer easements that would prevent a structure, but could be a place for fenced storage, which would also have a better radius for larger vehicles. Vice-Chair Cross added that such an operation could be managed off-site at this facility.

Vice-Chair Cross asked about pedestrian access for site from the sidewalks along Woodbury Avenue and discussion ensued. Mr. Phillips stated that he didn't see the need for a walkway from the sidewalk to his storage facility. Mr. Lorden added that a waiver could be a good use for a waiver.

Mr. Weiner commented that a path would be good in any other scenario, but he didn't think anyone would walk to the building except on the rare occasion someone was at Walmart or getting their tires changed at Tire Warehouse and were willing to cross the busy road to check on costs. Mr. Stern agreed that there was no need. Mr. Weinrieb stated that could see reasons for not having a walkway as well as having one to keep pedestrians from walking in from the driveway.

Mr. Latchaw asked if they had a landscaping plan and Mr. Phillips replied that he left an area available for another use, but he could consider a landscape plan. Chair Hebert advised Mr. Phillips to go before the Conservation Commission with a landscape plan by a licensed landscape architect or designer.

Mr. Weinrieb recommended that the drainage, sewer, water and emergency access plans be reviewed and discussed further with the Technical Review Committee

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(TRC). Chair Hebert agreed and added that he should address any issues to Mr. Coogan.

Mr. Coogan noted that Mr. Phillips application also mentioned a cell tower proposal. Mr. Phillips replied that he added the cell tower on the application comments because he wanted full-disclosure that a cell tower might be added in future.

Mr. Coogan responded that a cell tower proposal was only hypothetical at this point and not related to the self-storage facility site review. He added that a cell tower would also need a sufficient fall line and ice fall area. Mr. Lorden agreed that it would need a separate application.

Chair Hebert commented that it was good to know what Mr. Phillips had in mind for the Eversource property that was somewhat related, and he was interested in knowing that he was considering a cell tower in the future, but he didn't want to see a reference on the plan for this proposal so there would be no confusion that approval for the plan would include a soft approval for a cell tower.

Mr. Phillips replied that the cell tower reference was a caveat because most towns state that plans could not be changed after they were approved. Chair Hebert replied that changes to a specific approval couldn't be made without returning to the Board. Mr. Coogan added that an applicant could return with a plan amendment.

Chair Hebert added that although cell towers were not allowed in the Office Zone, he could request a variance; however, the ice and fall back areas would not meet the setback requirements. Mr. Phillips responded that Federal law dictated that cell tower applications could not be denied. Chair Hebert replied that he would discuss it further if he applied.

Vice-Chair Cross clarified that there could be no implication that a non-permitted use would be permitted in the Office Zone without applying a waiver.

Jim Weiner moved to approve the proposal by the Storage Barn of Newington, LLC regarding property located at 2211 Woodbury Avenue, Tax Map 19, Lot 12 as substantially complete. Rick Stern seconded the motion, and all were in favor.

Chair Hebert asked what time frame Mr. Phillips was hoping to begin his project. Mr. Phillips replied that the AoT permitting process would take time, but he hoped to cut trees while the ground was still frozen and begin construction in the spring. Chair Hebert replied that he hoped they could schedule the TRC around December 14, 2017, then schedule the first public hearing on January 8, 2018 and continue to a date certain of January 22, 2018 if necessary.

(Mr. Weinrieb left at this point in the meeting at 9:26 p.m.)

#### C) Additional Discussions:

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Mr. Latchaw brought up a discussion regarding procedures in filling vacant spots on the Board since the resignation of Jack Pare and Mark Phillips. Mr. Latchaw stated that he had sent the Chair a letter of interest in filling a vacancy as the longest standing alternate member now that he had completed a three-year commitment in a project with the U.S. Albacore.

Discussion ensued regarding Mr. Latchaw's past statements that he wanted to move his seniority as an alternate behind Mr. Welch and Mr. Stern when they were appointed as alternates. Mr. Latchaw agreed that he had said that because of his commitment with the U.S. Albacore project, but he had since become available in July 2017.

Mr. Latchaw went on to say that he was not comfortable with the potential appointment of an alternate that had previously run for the position of a full Board member and lost to someone else.

Chair Hebert replied that there was an RSA that permitted the appointment of any alternate regardless of seniority. Mr. Latchaw said it had nothing to do with the individual or the RSA, but he thought that such an appointment from within would be biased and circumvent the wishes of the voters. Mr. Latchaw responded that he wanted to consider the subject further, but that he was willing to table the topic for another time. Chair Hebert replied that the RSA was not based on any precedent, but he would not request a vote at this meeting because of two Board members missing.

Mr. Latchaw suggested that the Board consider a regulation that would require that cell towers be camouflaged as a tree.

#### II) Other Business:

### A) 2018 Zoning Ordinance Amendments Discussions:

(Comments and testimony may be submitted in person or in a written statement by December 21, 2017 to Chair Denis Hebert, Newington Planning Board, Town of Newington, 205 Nimble Hill Road, Newington, NH 03801. Public Hearing to be held on Monday, December 11, 2017. If necessary, a second Public Hearing will be held on Monday, December 18, 2017.)

1) Amendment #1: Article II, Definitions Section 2 – List of Definitions, **Building Height**:

Mr. Coogan passed out general building heights and areas definitions from the International Building Code and read through four options.

Mr. Weiner suggested including definitions of mean, median and average. should be included.

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Mr. Latchaw suggested that former Board member, Jack Pare's suggestion would work better if they measured the 35-foot height limit from the definition of a building envelope or footprint from the former building foundation and original grade.

Chair Hebert recommended adding that special exceptions could be granted by the Planning Board for unusual circumstances.

Mr. Coogan recommended having Town counsel, Attorney John Ratigan read the wording for consistency. Vice-Chair Cross said Attorney Ratigan could add criteria if needed.

2) Amendment #2: NZO Article III, Zoning Districts Section 6 – **Waterfront Industrial and Commercial** District:

Chair Hebert discussed wording that restricts commercial cruise ships due to safety concerns for public in district. Chair Hebert suggested consulting Attorney Ratigan.

- 3) Amendment #3: Article XVII, Administration, Section 3 **Building Permit Time Restrictions**:
- Mr. Coogan said he had discussed the most recent wording with Attorney Ratigan. Discussion ensued whether to limit completion to one year or 18 months and the Board agreed to 18 months.
  - 4) Amendment #4: Article IV, General Provisions adding new Section 11 **Separate Septic Systems for Duplexes**:

Chair Hebert stated that the intent of this change was to prevent declarations of hardship should an owner attempt to convert a duplex to a condominium without a separate septic system. Board members accepted this recommendation.

5) Amendment #5: Article XVII – adding requirement for **Certified Foundation Plan**:

Chair Hebert was absent from the previous meeting and asked why this item had been added and Mr. Coogan explained that it was in response to the Board's discussions at the last meeting.

Mr. Coogan stated that Attorney Ratigan recommended that the building inspector make this request when there was a concern for small lots meeting setbacks, including wetland areas. He added that DES required that wetland boundaries of approved subdivisions be checked again if five years or more years passed before development proceeded.

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Chair Hebert commented that he understood there were good reasons for why towns established ordinances to prevent encroachments, but he expressed concern that the Board was adding too many amendments that would make the town top heavy and drive the costs of living in town up. He said the building. inspector could still question an applicant if he was suspicious of a proposal, but he wasn't sure the formality was necessary. Mr. Coogan replied that they could include the item with the public hearing and decide then whether they wanted it or not.

6) Amendment #6: **Driveway Regulations:** Driveways shall be designed and constructed so that runoff water does not flow onto a public or private road or traveled way.

(This item was added and not on the agenda)

Mr. Latchaw suggested that the building inspector could determine whether a driveway met regulations or not and another regulation was not necessary. Chair Hebert pointed out that issue had come up with the redevelopment of a new home on Nimble Hill Road and Old Post Road where the owners' driveways sloped straight down to the public road, washing sand and most likely ice onto the road. He said the issue was that there was nothing in the Ordinance to support the building inspector. Mr. Weiner added said existing curb cuts were grandfathered, but he thought this would provide a guideline to help the building inspector.

Chair Hebert added that he thought this item should remain with the Board as a condition of approval on subdivisions to cover the Planning Board and give authority to the building inspector. Mr. Welch agreed that this was standard in any town.

#### B) Master Plan Update:

Vice-Chair Cross stated that the next public comment session would be held on Wednesday, December 7, 2017 between 6:30 p.m. and 8:00 p.m. He went on to say that the committee would then meet with Glenn Greenwood from Rockingham Planning Commission to go over the materials and send out the items discussed to those that attended the comment sessions. He said comments would be consolidated and put in a separate chapter at the end of the Master Plan.

#### C) Correspondence and Status Report: Town Planner

Vice-Chair Cross mentioned an interest in discussion the establishment of manufacturing as principle use in the Waterfront Industrial Zone for another meeting.

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Minutes: Peter Welch moved to approve the Minutes for the November 13, 2017

meeting with corrections as noted. Chris Cross seconded, and all were in

favor.

Adjournment: Peter Welch moved to adjourn the meeting. Jim Weiner seconded

the motion and the meeting adjourned at 9:40 p.m.

**Next Meeting:** Monday, December 11, 2017

Respectfully

**Submitted by:** Jane K. Kendall, Recording Secretary