

**TOWN OF KITTERY
PLANNING BOARD MEETING**

Council Chambers

Meeting called to order at 6:08 p.m.

APPROVED

Thursday, October 9, 2008

Members Present: Russell White, Douglas Muir, Ernest Evancic, D. Scott Mangiafico, Joseph Carleton

Members Absent: Megan Kline, Michael Luekens

Staff: Sandra Mowery, Town Planner

Minutes: September 25, 2008

Chairman White moved to approve the minutes with no changes

Mr. Carleton seconded

Motion carries unanimously, 5-0

PUBLIC COMMENT – There was no public comment.

ITEM 1 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Official Zoning Map - *Public Hearing* - **The Town administration, endeavoring to define zoning in accordance with the official zoning map, proposes to amend Title 16 Land Use and development Code as follows:**

- The amendment of Title 16.12.060 - Urban residential (UR)
- The amendment of Title 16.12.100 - Local Business (LB)
- The amendment of Title 16.12.101 - Local Business 1 (LB1)
- The amendment of Title 16.12.110 – Commercial (specifically zone C-3)
- The amendment of Title 16.12.150 – Kittery Foreside (KF)

Public Hearing opened at 6:13 p.m.

The **Town Planner** summarized the history of the official zoning map, the need to correct existing errors and the process used to create an accurate and up to date map. This amendment creates no new zoning districts, identifies areas left undefined by the 2005 zoning amendment, is consistent with the comprehensive plan, fixes drafting errors, and creates a current, correct official zoning map for the town of Kittery.

Elaine Hansbury inquired about her house lot (Map 8 Lot 28B) that currently situated in both the UR and the LB-1 districts. The Town Planner explained that per this amendment Mrs. Hansbury's lot would lie wholly within the LB-1 district as per the comprehensive plan but would remain taxed as a single-family residence as taxation is based on usage.

John Marr owner of Beach Pea asked if there were any use changes in the zoning amendment. Board members explained there are no changes in use; that current district criteria will remain unchanged.

[10/9/08 letter submitted by **Richard Marshall** in support of the amendments proposed]

There being no further public comment, the public hearing for Item 1 closed at 6:26 pm.

Mr. Mangiafico moved to forward the zoning map amendments to the Town Council for their approval at the recommendation of the Planning Board.

Mr. Carleton seconded

Motion carries unanimously, 5-0

The Town Planner noted that the Planning Board's recommendation to Council to amend Title 16 of the Land Use and Development Code Zoning Ordinance, along with a revised Official Zoning Map, would be taken to the Council when mapping is completed, in approximately one month.

ITEM 2 – Plenary Site Plan - Public Hearing: B & F Land Development, Owner, proposes to remove the existing building and parking lot and to construct two new office buildings and parking lot on 1.29 acres at 240 US Route 1, located on Map 22 Lot 13 situated in the Commercial 1 (C-1) zoning district. The Owner's agent is Christopher Baudo, RA

Public Hearing opened at 6:30 pm

Chris Baudo summarized the project to date and the work completed in compliance with the ordinance and peer review observations.

Bill McCarthy, abutter, provided ordinance handouts noting that a side yard of 40 feet between residential and nonresidential use is required in the Commercial zone (16-12-110.E.5). In accordance with 16.32.430 a buffer strip shall be maintained by the developer between nonresidential and existing residential areas. In a July 12, 1991 ZBA decision, an adequate buffer to the abutters property would be installed to the satisfaction of the Code Enforcement Officer.

Mr. Muir asked what was triggering the 40' side yard setback?

Chairman White noted that a side yard can have activities, such as a driveway, whereas a buffer has no activity.

Town Planner noted that the proposed building is located 40' from the property line.

The definition of a buffer was read and Mr. McCarthy noted that the plan should adhere to the requirements of the ordinance and the decisions of the ZBA.

Dave Darling, abutter, explained that they share the driveway with the proposed development and was concerned that the development would change the character of the neighborhood.

Ilene McCarthy explained that they have lived on the property for over 20 years and have a licensed B&B on the property, and the aesthetics of the business and the property will be negatively affected by this development. Photographs were presented to the Board of the lane along the property that would be removed if the development occurs. If the 40' buffer is required, vegetative screening could help mitigate the impact of the commercial use. A second site walk was requested so the Board could see the impact of the plan on the abutting properties.

John McCarthy spoke about the balance between the possible temporary commercial development and the long-term residential use of the area under review.

Bill McCarthy spoke about the over-development of a lot that is limited in size and shape and the impact on the abutters, and whether the plan fits into the scope of the ordinance.

Jonathan Mapes owner of the property, explained that there was a foreign auto body and repair garage with gas tanks and a canopy on the site previously, and noted that the proposed development is superior to the existing site condition.

Bill McCarthy stated that the impact is greater with the proposed development because of the size of the building.

Chris Baudo stated that the buffer was required on the previous use of the property by the ZBA, but that use is no longer in existence. The developer intends to retain the buffer as required by the 1991 decision. In conformance with zoning, the proposed use is in conformance with the ordinance and is a permitted use in the C-1 zone, and he does not see any adverse affects that would be created by this

level of development. The developer has attempted to work with the abutters throughout the proposal process.

The public hearing for Item 2 closed at 7:15 p.m.

This item will be reviewed at the October 23, 2008 scheduled meeting for compliance with remaining requirements under peer review and other remaining issues.

Mr. Carleton reviewed the ordinance and asked if 16.32.430 compels the developer to provide a full vegetative buffer vs. a setback? Board members further reviewed definitions of buffers and setbacks. The possibility of amending the site plan to accommodate some of the concerns of the residential abutters, including moving, reducing or eliminating some parking spaces was reviewed and discussed.

Chairman White noted that this project cannot have a zero negative impact, but the Board can provide conditions that would make the impact less so, such as: limited business hours of operation, regulation and placement of lighting, specific hours of trash pick-up and deliveries, etc. and suggested that the entire strip not be used for business purposes, including parking.

Board members asked that section 16.32.430 (*Buffer Areas*) be referred to the Town Attorney for further clarification with section 16-12-110.E.5 [Commercial zone setbacks].

Break

ITEM 3 - Amendment to an Approved Subdivision –Preliminary Review – for *Long View Farms, a condominium development*: Spruce Creek Ventures II, LLC, Developer and part Owner, proposes to amend the River Knoll Farm plan, an approved 1988 cluster residential development. The proposed amendment consists of four (4) existing condominium units and ten (10) new condominium units at 9 Cook Street, Map 3 Lots 74, 77 and 77A, in the Urban Residential (**UR**) District. The owner's agent is Oak Point Associates Engineers and Architects.

Steve Towne, Oak Point Associates, summarized the project with additions and changes made since the June 2008 preliminary review and requested action on three waiver requests. Following discussions with the homeowner's association, Mr. Towne discussed revising the trail network around the project, away from the roadway for safety.

Mr. Mangiafico moved to approve three waiver requests:

1. Where the ordinance requires 3-foot wide gravel shoulders on both sides of a private lane, the applicant is proposing curbs for both sides of the roadway with a 3 foot grass shoulder. The curbing eliminates the need for a gravel shoulder.
2. Where the ordinance requires a 100' minimum roadway curve radius, the applicant proposes constructing the road with a 90' curve radius and is requesting a waiver. The anticipated vehicle speeds will be relatively low and therefore the reduction of the roadway curve radius appears reasonable.
3. Applicant is requesting a waiver of York County Soil and Water Conservation review of the stormwater management and erosion control plan as CMA, Inc. is reviewing the plan.

Mr. Evancic seconded

Motion carries unanimously, 5-0

Members reviewed open space requirements for the project and whether unusable areas can be counted toward open space requirements. Members concurred that under 16.32.680.E.3 the open space calculations provided by the developer would be accepted as useable open space toward ordinance requirements. Board Members reviewed the staff notes and remaining technical items to be completed prior to final review and approval.

Chairman White moved to grant preliminary approval of the plan provided the remaining conditions identified in the staff notes are satisfactorily addressed prior to submittal of Final Plans.

Mr. Carleton seconded

There was further discussion regarding the direction of the walking paths and crosswalk locations.

Motion carries unanimously, 5-0

ITEM 4 – Plenary Site Plan -Discussion – Kittery Hotels, Inc., Owner, proposes to remodel and expand the existing hotel and hotel parcel located at 2 Gorges Road, Tax Map 13 Lot 8, situated in the Commercial 3 (C3) zoning district. The Owner’s agent is Wayne Morrill, Jones and Beach Engineers, Inc.

Board members and **Mr. Kamlesh Patel**, Applicant, discussed adding landscaping along Gorges Road by removing some parking spaces and the concept, as proposed, may be acceptable pending determination of parking spaces needed. Applicant has approached a new hotel franchisor that requires a flat roof design.

Mr. Mangiafico noted that existing roofs, including the new fire station and other buildings in the area are pitched and felt that the proposed flat roof does not satisfy ordinance guidelines and is not in context with other buildings in the area. Industrial type buildings use flat roofs, but this is not the same application.

The applicant stated that to install a pitched roof, and maintain the number of rooms needed to make the project financially workable, would require an additional 4-5 feet, exceeding the maximum 40’ allowed in the zoning district. **Chairman White** asked if the ZBA would allow the increase in height, as the Planning Board cannot grant that waiver. The applicant stated that because the tanks in the rear of the hotel are visible, a higher building is needed to visually conceal them. **Mr. Muir** suggested the applicant consider approaching the ZBA to request an increase in the height of the building. Board members discussed parking spaces and location, landscaping and shared parking between the two businesses on the site.

The Town Planner will check with Town Attorney regarding the relaxation of the height standard and will advise the CEO that the addition of a canopy to the existing building will be done under administrative review.

PLANNER'S TIME

Brad Dudley, Route 1 Fun: The Code Enforcement Officer denied an occupancy permit as parking requirements for an arcade use is not defined in the Kittery ordinance. Currently, the site has 62-65

parking spaces and typically only one-third of the spaces are used. The **Town Planner** stated Police Chief Strong said that the parking lot is never fully used. By reducing the 36 spaces the Planning Board required in 2003 for a mini-golf business, the applicant could receive his occupancy permit. **Mr. Dudley** noted that, in other towns, parking requirements for an arcade is 1 space per 200 sf of building area. His arcade is approximately 2,000 sf, so 10 spaces would be needed using this standard. Currently, there are 36 spaces for 18 holes of mini-golf. **Chairman White** stated that whatever changes the Board makes to this site plan will stay with the property should a new owner come on board. Therefore, the Board should make a decision of record to file with the plan.

Mr. Mangiafico moved to make a modification to an approved plan and to allow the Town Planner, in light of the testimony presented, to re-visit the parking standards used in the original decision for mini-golf, reduce the parking requirements and create a mechanism that, if parking were to become an issue, the Town Planner would return the item to the Board for review.

Chairman White seconded for discussion.

Mr. Muir questioned the numbers, noting that if there are an average of two people in a car arriving to play 18 holes of mini-golf, no more than 18 couples can play at any one time. Therefore, 18 parking spaces should be sufficient to meet the needs of the mini-golf parking requirements.

Mr. Mangiafico withdrew his previous motion and moved to make a modification to the approved plan to reduce the parking requirement to 1 parking space per hole, thereby reducing the parking requirement for the mini-golf area from 36 spaces to 18 spaces.

Mr. Carleton seconded

Motion carries unanimously, 5-0

York Hospital asked if a preliminary set of plans could be submitted without a site walk. Board members concurred that a site walk was not necessary and plans may be submitted to begin the review process. **Mr. Muir** asked that the applicant be made aware of the Board's concerns that were discussed at the first meeting on this project. Members viewed the site plan and discussed the problem with the entrance facing the street corner.

ADJOURNMENT:

Mr. Mangiafico moved to adjourn

Mr. Carleton seconded

Motion carries unanimously

Planning Board meeting of October 9, 2008 adjourned at **9:50 pm**

Submitted by Jan Fisk, Recorder
October 15, 2008