

**TOWN OF KITTERY
PLANNING BOARD MEETING**

APPROVED

Council Chambers

Thursday, July 10, 2008

Meeting called to order 6:11 p.m.

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

Members Absent: Michael Luekens

Also Present: Staff: Sandra Mowery, Town Planner and Mike Asciola, Planning Dept., Earledean Wells, Kittery Conservation Commission, Jan Fisk, Recorder

APPROVAL OF MINUTES –

Planning Board Meetings: April 10, 2008; May 8, 2008; May 22, 2008; June 12, 2008

Megan Kline motioned to approve the minutes of the April 10, May 8, May 22, and June 12, 2008 Planning Board meetings as amended

Seconded by Ernest Evancic

Motion carries unanimously

*Site Walk: June 5, 2008 – Kittery Commons LLC, Lot Split
ROW Proposal, 76 Bartlett Road*

Megan Kline motioned to approve the minutes of the June 5, 2008 site walk as amended

Seconded by Joseph Carleton

Motion carries unanimously

PUBLIC COMMENT – Public comment is welcomed on non-Agenda Planning Board matters. The Planning Board is a quasi-judicial Board and issues regarding items on the Board's agendas are subject to comment only during the official review process.

Chairman White asked if there was anyone present who would like to comment on any non-agenda items.

Earledean Wells presented a GIS aerial of the Denunzio wetland crossing (2006 aerial photo) to illustrate that there does not appear to be a maintained "tote road". She reminded the board that the plans submitted to the board show a clearly defined and consistent width for a tote road.

Chairman White advised those present that this should be discussed only when the applicant is present and said site walk minutes and information received will be shared with the applicant.

Joe Carleton advised those present that applications pending before the board should not be discussed during public comment when the applicant has received no notice. **Chairman White** noted that the Conservation Commission is advisory and can bring such items to the Board's attention, and noted that the information received will be forwarded to the applicant. He went on to say the Board should not discuss a pending application during public comment.

Town Planner will re-word the Public Comment description included in the Planning Board agenda and share with the Board members via email before the next agenda is published.

William Pierce, a resident residing on Rogers Road requested to speak to Item 5, *Workforce Housing*, appearing later on the agenda. **Chairman White** said his comments would be heard at that time.

ITEM 1– Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Workshop - The Town administration, endeavoring to establish the size, location and type of perimeter fences, freestanding walls, and retaining walls proposes to amend Title 16 *Land Use and Development Code*.

Michael Asciola, Planning Department, presented the proposed new ordinance. Board discussion followed with suggestion for revision to the proposed ordinance draft. Members concluded the workshop discussion and deferred action for further discussion and a joint Planning Board/Council review on July 24, 2008.

ITEM 2 – Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Discussion/Schedule a Public Hearing – An ordinance to amend Section 16.16.050 - Violations and Enforcement of the Land Use and Development Code Zoning Ordinance for the Town of Kittery by Amending sub-Section 16.16.050 (D) – Notice of Violation and Order and sub-Section 16.16.050(I) – Penalties.

Background: The State requires that the Town of Kittery implement an illicit discharge ordinance as part of the State’s MS-4 program. The Kittery illicit discharge ordinance will be located in Title 8, Health and Safety; however enforcement of Title 8 will remain in Title 16, Land Use, and therefore requires Planning Board review and recommendation to Council to approve. Duncan McEachern, the town’s legal counsel, has worked with Mike Asciola, Planning Department, Heather Ross, CEO, Rick Rossiter, Director of Public Works, and Kristine Rabaska, an outside consultant with Sevee & Maher Engineers, Inc., to amend the violations and enforcement section of Title 16. **Micheal Asciola** said Mr. McEachern advises that the amendment of Title 16 be approved by council before the amendment to Title 8 is approved by Council.

Michael Asciola presented the proposed ordinance to Board members. Discussion

Mr. Carleton motioned to forward the amendment of Section 16.16.050 as presented to Council for approval, the draft of Section 16.16.050 as presented and amended

Megan Kline seconded

Motion was approved unanimously

Break – 5 minutes

ITEM 3 - Beatrice Way Subdivision – a Minor Subdivision –Public Hearing/Preliminary Review - Operation Blessing Limited Partnership, Owner, proposes to create a 3-lot subdivision on Beatrice Way, an existing 50-foot right-of-way; the proposed site located on Map 61 Lot 08 consists of ±3.2 acres situated in the Rural Residential (RR) zoning district. The Owner's agent is Civil Consultants.

Carl Beal, Civil Consultants summarized the proposal as previously presented to the Board. It was noted that a draft maintenance agreement was submitted to planning staff.

Public Comment:

Joe Gasbarro, 11 Highpointe Circle, Highpointe Estates, voiced concerns about the impact of the proposed road, and asked if the Town would be accepting both the new road extension and existing road (*Highpointe Circle*). The **Town Planner** explained that construction of Highpoint Circle is ongoing and the roads is not ready for acceptance (*as a public road*) which must meet 911 compliance requirements and town road standards. **Mr. Gasbarro** continued: Additionally, there is concern over the impact of three additional lots proposed in a poor economy, considering the existing vacant lots are currently being used for dumping and there are unfinished foundations. The **Town Planner** explained that developer is required to provide performance assurances that assure the project will be built to plan and town standards. **Mr. Gasbarro** continued: What will be the impact of new lots on the existing covenants of Highpointe Estates (i.e. minimum lot/house size/cost)? **Chairman White** said the existing covenants for Highpointe Estates are separate from this development and do not apply. **Mr. Gasbarro** requested that the Town consider the abandonment of the existing woods road and to note such on the plans. There was discussion as to how the woods road is used and the amount and type of vehicular traffic on that road.

Board members noted that if an owner has existing deeded rights to that road it cannot be abandoned by the Town.

Deborah Belanger, Highpointe Estates inquired as to what determines an abutter, voiced concern about increased traffic and the impact of construction vehicles on Highpointe Circle. Who will be responsible for repairing the existing roadway (*Highpointe Circle*) following construction of the new parcels?

Richard Sparkowich, applicant, representing Operation Blessing Limited Partnership, spoke to the woods road issues previously discussed. This road has been in existence for many years and used infrequently, but provides emergency egress when needed, is used to remove firewood, and as a cross-country ski trail. **Mr. Sparkowich** spoke about the process of this development with the Town over the past five years.

Public Hearing closed at 8:43 p.m.

Board discussion followed regarding the ownership of the woods road, continued vehicular usage over the remaining portion, and non-vehicular use of the woods road. **Town Planner** inquired if a rider could be placed on the deed of the new lot (*Lot 61 – 8F*) that would allow the crossing of the lot in perpetuity, and if so, what affect would a future driveway into the lot have over such access to the woods road? **Carl Beal** noted that a portion of the woods road would be discontinued since there would someday be a house on the lot; but as it is now, it could continue. Regarding the covenants of the subdivision, this is a separate subdivision from Highpointe Estates, with separate covenants and deed restrictions. That (*development*) would not impact this development. **Town Planner** stated that the Maintenance Agreement received from the developer is not complete.

Ms. Kline said Operation Blessing needs to clarify how the woods road is to be used in the future considering the 3 new lots and the relationship of the remaining portion of the woods road to the other lots. **Town Planner** stated that the applicant had done most of what has been asked

and she would work with the applicant to address the issues discussed this evening to prepare them for final approval at the next Planning Board meeting.

Mr. Muir motioned to table this item and continue discussion at the July 24, 2008 regularly scheduled meeting.

Ms. Kline seconded.

Motion carried unanimously.

ITEM 4 – Amendment to an Approved Site Plan – *Public Hearing/Discussion with Action* – Kittery Commons, LLC, proposes to split a parcel of land so that the nursing home and associated improvements are situated entirely on one parcel of land in the Mixed Use (MU) zoning district and the second parcel is comprised entirely of undeveloped land situated in both the Mixed Used (MU) and the Rural Residential (RR) zoning districts on Map 61 Lot 27. The owner’s agent is William Gillis.

Brad Mezquita, Appledore Engineering, summarized the proposal as previously presented and the location of the parcel split. The developable portion of the split parcel to the front can be accessed, but the larger portion to the rear would require a wetland crossing or through the existing, developed parcel.

Board members discussed the intended use of the rear parcel and noted that the Board can place a deed restriction stipulating that development of the rear parcel would require Board review and an access easement would need to be provided, other than over the wetland.

Chairman White asked if there were any public present wishing to speak. There being none, the Board further discussed the issue of access, easements, and the crossing of the wetlands.

Mr. Carleton motioned to table this item to the July 24, 2008 meeting.

Ms. Kline seconded.

Motion carries unanimously.

ITEM 5 –*Workshop* –Discuss notes, comments and drafts to develop an ordinance for Workforce Housing in Kittery.

Following a presentation by Diane Hartley, Workforce Housing Coalition, and Stephen Hynes, Yankee Mobile Home Parks, regarding the workforce housing concept (versus affordable housing) and its use in other communities, questions and discussion continued between the board members, D. Hartley and G. Beers. Chairman White recommended that the draft be discussed at a joint Council/Planning Board workshop so the board would know if or how council may want them to proceed.

ADJOURNMENT:

Meeting adjourned at **10:02 pm**