

# TOWN OF KITTERY PLANNING BOARD MEETING

**APPROVED**

Council Chambers  
Thursday, July 24 2008

Meeting called to order 6:04 p.m.

Members Present: Vice-Chairman, D. Scott Mangiafico, Joseph Carleton, Megan Kline, Douglas Muir, Ernest Evancic, Michael Luekens

Council Members: Frank Dennett, Glenn Shwaery, George Dow, and Jeffrey Brake

Members Absent: Russell White

Also Present: Staff: Sandra Mowery, Town Planner  
Earldean Wells, Kittery Conservation Commission  
Jan Fisk, Recorder

## **APPROVAL OF MINUTES** – July 10, 2008 meeting

In the interest of time with Council and Board members present, the minutes were postponed to the end of the meeting.

## **PUBLIC COMMENT**

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

**Councilor Dennett** asked that addresses be included in agenda items for those who do not know the location by map and block.

**ITEM 1– Amendment to Title 16 Land Use and Development Code Zoning Ordinance – *Workshop* – *Workforce Housing Ordinance*** - The Town administration, endeavoring to promote workforce housing in order to support moderate working class families who choose to live and work in Kittery, and in accordance with the Comprehensive Plan propose to amend Title 16 *Land Use and development Code* Section 16.08.020. – Definitions and Section 16.12.130 - Mixed use (MU) zone.

The Town Planner summarized the workforce housing concept as presented to the Planning Board on July 10, 2008.

Workforce Housing Coalition (Diane Hartley) approached the Town to develop workforce housing, either through an ordinance amendment specific to workforce housing development or generally through zoning amendments. It was generally agreed that the housing market in Kittery far exceeds the financial ability of those working in Kittery to purchase homes in town. There was considerable discussion of the type of housing that would qualify, who would be eligible for the housing (and enforcement of the eligibility requirements), whether there would be covenants/deed restrictions vs. an ordinance to “manage” the development, and where workforce

housing could or should be located (either in one area of development or interspersed throughout the community).

Type of Housing: Single family, duplex, multi. Will there be minimum lot size for each unit or cluster-type space and bulk zoning for a complete development? Will the quality of construction be different from a standard subdivision development? Will there be a minimum square footage for each unit or type of unit? Will subdivision (street, sidewalk, setback) standards apply?

Eligibility for Workforce Housing: How is eligibility established – income only? Would there be a mix of families, singles and seniors? Would a mix of singles, families and seniors work? An example provided was done in Wells where each individual would be part of a lottery system – one ticket if you're a resident of the town, an additional ticket if you work in the town, one if you graduated from the local high school, etc. up to seven "chances" to be selected for the housing.

Location: Smaller, compact locations vs. large, multi-unit developments that may be outside the town and, therefore, less expensive to develop? If outside of the town center, as in the case of the Yankee Commons parcel, development may be less attractive because of difficult access to businesses, schools and other town services, creating a sense of segregation. Do existing zoning regulations limit the development of residential dwelling units in those areas large enough to provide for workforce housing? Availability of sewer, roads, transportation services, etc. in a specific area should be considered.

Management: Will a workforce housing ordinance "manage" these types of developments or will the proposed covenants and/or deed restrictions provide the oversight necessary? Will management services be required? How involved does the town need to be?

Valuation: Would workforce housing be taxed differently from other housing? Is there an imposed limit to the value of workforce housing to the owner? Is there a minimum number of years a property needs to be owned before a return on investment is realized? Are there caps on the resale of workforce housing, and how will those caps be established?

Council and Planning Board members instructed the Town Planner to research other communities and provide examples of how some of these questions have been addressed there.

Item #1 closed at 7:04 pm

**ITEM 2 – Amendment to Title 16 Land Use and Development Code Zoning Ordinance – *Workshop Wetlands Ordinance*** –Discussion of proposed revisions to Article XII –Conservation of Kittery Wetlands; Title 16.28.380 through 16.28.500 to incorporate certain State requirements and other amendments.

The Town Planner reported that, after meeting with Earle Wells of the Conservation Commission, an update to the draft ordinance submitted to the Council and Planning Board had been prepared. Members decided to work with the ordinance submitted rather than reviewing another edited document, sight unseen.

Discussions followed regarding grammatical changes, corrections and re-wording of proposed definitions and new sections added to the existing ordinance. Where there are changes in

definitions (eg. 'development'), how would these changes affect the remaining ordinance sections where that definition is used? Additionally, the Town Planner will check with the state to confirm the use of various state definitions proposed to be used (eg. *wetlands of special significance*) and whether they would be necessary if already defined in the NRPA. Members recommended removal of "assistance to the Kittery Land Trust" under Mitigation Plan, Required Compensation.

The ordinance is not ready to proceed, requiring additional work and clarification. Members requested that the Town Planner re-visit definitions and sections that may be confusing or vague.

Item #2 closed at 8:50 pm

**Break – 10 minutes**

**ITEM 3 - Beatrice Way Subdivision – a Minor Subdivision – Final 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 Carl Beal, Civil Consultants.

**Carl Beal**, Civil Consultants summarized the proposed subdivision. Note #8 was added indicating that Operation Blessing would relinquish their rights to the woods road where it traverses part of a proposed lot. The remaining woods road will remain as is to be held and managed by Operation Blessing. The proposed road will be a private roadway built to town standards. The name of the road has been removed pending determination by the town. Mr. Beal acknowledged that 4-5 truckloads of fill brought into the project area was type-D base gravel material for use on the proposed roadway.

**Linda Gasbarro**, 11 Highpointe Circle, requested clarification of the location of the second hammerhead.

**Mary Ellen Sealley** 10 Kittree Lane, requested clarification of what road will be used for construction of the development as she is concerned that Kittree Lane is not currently paved and is privately maintained, and believes that construction vehicles would negatively impact the Lane. She also asked if the three homes on Kittree Lane would be included in the agreements for the proposed subdivision.

**Carl Beal** stated the maintenance agreement would only include the three lot owners and Operation Blessing as shown on the plan. The two lots in Highpointe Estates could be included, but that has not been confirmed. It is possible that both roads, Highpointe Circle and Kittree Lane, would be used by construction vehicles.

**Town Planner** stated that the applicant has supplied a road maintenance agreement but it is not recorded. This could be a condition of approval.

**Michael Luekens** noted that it was previously agreed that traffic to the new development would be via Highpointe Circle and not Kittree Lane and questioned why construction vehicles would be allowed on Kittree Lane.

**Carl Beal** stated that Operation Blessing would maintain Kittree Lane following construction and Highpointe Circle does not yet have the final road layer.

**Scott Mangiafico** noted that Operation Blessing does own the portion of Kittree Lane and use by smaller vehicles could legitimately occur.

Discussion Continued discussion regarding use of Kittree Lane and/or Highpointe Circle by construction vehicles.

**Richard Sparkowich**-Operation Blessing, agreed to maintain and return Kittree Lane to prior condition following construction.

**Joe Gasbarro**, 11 Highpointe Circle would like to see some of the construction traffic be shared by all parties, not just Highpointe Circle and the extension.

**Town Planner** proposed a condition: Prior to the use of Kittree Lane for construction traffic, the developer must verify in writing and photograph the condition of the improved roadway and must, prior to the completion of the new roadway in the right-of-way, repair any damage that occurred to Kittree Lane, through use or abuse.

Public comment closed at 8:45 pm

**Megan Kline** asked if the Board should review the July 10, 2008 minutes regarding this agenda item prior to making any motions.

Members agreed to review the minutes for this item. Miscellaneous spelling and grammatical errors were noted.

The issue of sidewalks was discussed; however the Board had not required sidewalks up to this time. **Carl Beal** noted that this could be done at a later time as there are swales that could be filled in for sidewalks with a curb line should additional development be done in the future.

**Megan Kline** made a motion to approve Beatrice Way, a 3-lot, minor subdivision by Operation Blessing Limited Partnership, located on Map 61 Lot 08 consisting of ±3.2 acres situated in the Rural Residential (RR) zoning district with the following conditions:

1. The use of Kittree Lane for construction traffic is not permitted until the developer has notified the Town Planner, in writing and in photographs taken at 100-foot intervals, of the preconstruction condition of Kittree Lane. Prior to completion of the new roadway for this project, and prior to the issuance of building permits, the developer must demonstrate to the satisfaction of the Town Planner and Code Enforcement Officer that any damages incurred due to the use of Kittree Lane for construction are repaired.
2. Prior to the issuance of building permits by the Town's Code Enforcement Officer, the Developer must submit copies of the recorded deeds for Map 61 Lots 8D, 8E and 8F referencing the rider for the *Common Right of Way Agreement* and the recorded book and page for that instrument.

**Joe Carleton** seconded

Michael Luekens inquired if this motion for approval is to grant preliminary approval with final approval granted at the reading of the findings of fact. Easements will be shown as part of the final plan drawing. Mr. Mangiafico confirmed that the motion is for preliminary approval with conditions.

**Motion for Preliminary Approval with Conditions carries unanimously**

The Findings of Fact will be read on August 14, 2008 for final approval.

**ITEM 4 – Amendment to an Approved Site Plan – 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.

**Joe Hogan**, co-owner, Durgin Pines Nursing Home, stated it was a financial decision to split off the parcel of land. In September permanent financing for the facility needs to be secured and the owners do not want to encumber the surplus land in the new mortgage on the nursing home. Should they wish to develop a complementary use on this parcel, though no plans are under consideration, it would be difficult for a lender to be a second on an institutional loan.

**Scott Mangiafico** explained to the applicant that by not providing for a means of access to the rear parcel limits the viability of receiving development permits for that separate parcel. The Board may not grant a wetland crossing if there are other alternatives for access.

**Megan Kline** stated the Board needs an access right-of-way to the back lot.

**Joe Carleton** advised that receiving approval without access to the rear lot would be at your own risk, should the Board not approve access to the rear parcel through the wetland lot. You may create problems for yourself if you don’t provide for access across the nursing home lot.

**Joe Hogan** stated that they are not opposed to providing that particular easement, but thought they would do that when they come back to the Board for review of the rear lot.

**Joe Carleton** advised that the development probably does not have the votes with this Board without providing the easement, now. It is in your own interest to do so on these plans. The property can be financed subject to an easement – this is done all the time.

**Scott Mangiafico** stated that the Board could move forward with this project with the easement as a condition of approval.

**Megan Kline** voiced concern that the corner lot on Lewis Road should have a driveway access off the entrance road to the front parcel to avoid having multiple entrances close together onto Lewis Road.

**Joe Carleton** stated that this would have to be an easement as well, not just a driveway.

**Megan Kline** made a motion to grant Preliminary Approval with Conditions for the Amendment to an Approved Site Plan for Kittery Commons, LLC located on Map 61 Lot 27 in the Mixed Used (MU) and the Rural Residential (RR) zoning districts. Plans submitted by Appledore Engineering with the following conditions:

1. Easements shall be added to the division of land map providing access to the rear land area and the front land area of the new lot.

**Joe Carleton** seconded

Michael Luekens inquired if this motion for approval is to grant preliminary approval with final approval granted at the reading of the findings of fact. Easements will be shown as part of the final plan drawing.

Kittery Planning Board

July 24, 2008

**APPROVED**

**Motion for Preliminary Approval with Conditions carries unanimously.**

The Findings of Fact will be read at the August 14, 2008 meeting for final approval.

**PLANNER'S TIME**

**William Pierce** presented a draft for a proposed ordinance for Accessory Dwelling Units in order to provide owner-occupied homes, of sufficient size, the opportunity to develop a smaller dwelling unit to rent. This would provide additional income to the owner-occupied home.

**ADJOURNMENT:**

Meeting adjourned at **10:00 pm**

Submitted by Jan Fisk, Recorder  
July 29, 2008