

**TOWN OF KITTERY
PLANNING BOARD MEETING**

Thursday, December 8, 2005

APPROVED
Council Chambers
Meeting called to order at: 6:10 p.m.

Present: Chairman Russell White, Janet Gagner, Ron Ledgett, Doug Muir, Megan Kline, Ernest Evancic, Scott Mangiafico

Also Present: Planner Jim Noel, Mark Eyerman, Earledean Wells, Councilor Dennett, Councilor Shwaery, Jeff Brake, Judith Spiller, Town Manager Carter

1. ROLL CALL

Roll call noted.

2. WORKSHOP/DISCUSSION WITH TOWN COUNCIL: 6:15-8:30

See Action Items 12-8-05.

3. PUBLIC COMMENT ON NON-AGENDA MATTERS

None.

4. SKETCH PLAN: EASTERLY SURVEYING, INC., FOR THE ESTATE OF JAMES E. SPONSLOR C/O HOLLY SPONSLOR, 76 BARTLETT ROAD, KITTERY, ME. APPLICANT IS PROPOSING A PRIVATE RIGHT OF WAY TO PROVIDE FRONTAGE TO CREATE A REAR LOT. MAP 62, LOT 24, ZONED RR.

Ray Pape does not work for Easterly. He is a real estate broker for Holly Sponslor. The proposed lot is being created to accommodate a new house. He has prepared packets to show how it would work. There would be a 40' wide right of way to provide a driveway to the property. They have a building permit on the property. They have condo'd the lot so far. They would like a division of the lot now. He will answer any questions from the Board.

Mr. Ledgett says we need to go look to see if there is a wetland crossing requiring a wetland permit.

Mr. Pape says there is an existing wetland crossing. There are photos in the packet. He says they are allowed to maintain those right of ways and passages. He refers the Board to 16.36.083.d and he thinks it is referenced on the Plan also. It is number 6 on the notes. 16.28.410.f states that with existing wetlands, they can maintain that. He says CEO Heather Ross was already out there.

Planner Noel says there are no photographs, nor are there elevations in there.

Mr. Pape pulled the permit last week and put in a photograph of the crossing. He thought Planner Noel had it.

Chairman White asks what part has been condo'd.

Planner Noel says that lot is large enough to support two dwelling units.

Chairman White is not sure what has been condo'd.

Mr. Pape says that if a second house were bought and sold, it could be condo'd. Instead, they would like to make it two lots.

Planner Noel says the right of way would provide frontage for the rear lot.

Chairman White asks if the Board has any questions prior to doing a site walk.

There are none.

Chairman White says we should schedule a site walk. We will schedule it via e-mail through Planner Noel.

Mr. Pape asks who the Board would like to have there.

Chairman White says maybe the surveyor. He thinks the questions will come around the wetland crossing and what changes will be made to the existing road course.

Mr. Pape says that they are replacing a culvert that has partially broken down. They will be adding grading material to the road. As far as the actual crossing, his evidence when he brought CEO Ross out was that there were what looked like telephone poles on both sides of this with a culvert running through the middle and it was heavily vegetated. The purpose of replacing the culvert would be to build those up and put some grading material on them so they would be passable by a vehicle. It would be a gravel way. There is silt fencing on the plan and bales of hay along the perimeter.

Planner Noel asks Mr. Pape to contact him Tuesday or Wednesday of next week so that he can facilitate a time for the site walk.

Mr. Pape thanks the Board for its time.

5. SKETCH PLAN: CLD CONSULTING ENGINEERS, YORK, ME, FOR JIM PECK DBA FULLER BROOK ESTATES. APPLICANT IS PROPOSING A 9-LOT SUBDIVISION OFF HALEY ROAD. MAP 39, LOTS 17A, 17A-1, ZONED RURAL RESIDENCE.

Greg Orso is expecting Jim Marchese, who has not yet arrived.

Chairman White asks if he wants to switch and let the other item go before him.

Attorney Orso agrees, but then Mr. Marchese walks through the door.

Attorney Orso is the attorney for Fuller Brook Estates and his client Jim Peck. CLD Engineers has done a lot of the work on this plan. He has a couple initial comments. This is something that the Board has probably seen before. This is a project that has been around for a little while. They are here for a sketch plan review and they intend to proceed on that tonight. This is a revised plan. The intent is to maintain the integrity of this area. The intent is to utilize this property owned by Fuller Brook Estates and also allow for low or economically priced homes for workers. There will be nine lots on 23.47 acres, with the homes concentrated on the back of the lot. 10 acres will be maintained as open space to preserve the wetland and maintain the residential nature. With a road going through, there will be some wetland infiltration, but that has been minimized. They are trying to cross them at current crossings or narrow areas. They have done some selective clearing. They are trying to make this an eco-friendly process. They are not trying to create the most density. They do have a couple important points. They do have some questions for the Board. They also have some waiver requests. They would ask that the Board address those to identify the applicant's ability to get those waivers so that they know where they are going and are not wasting the Board's time or their time. Otherwise, all three are

here to answer any questions that the Board has. They would like to get a site walk in the near future and then move to the preliminary plan stage.

Chairman White asks if we have seen this before in some form.

Attorney Orso says March 11, 2004, was the last time and it was similar.

Planner Noel says the last time it was 4-6 lots and a lot line adjustment. He shows that now they are going through behind the power line to the stone wall.

Chairman White says Attorney Orso may know the ordinance here is a bit in flux. We are very close to scheduling a public hearing on this zone, and the new ordinance would apply 700' from the center line of Haley Road. There may be uncertainty as to some feedback we can supply as a result.

Mr. Ledgett says the current ordinance requires we be consistent with and conform to the Comprehensive Plan.

Chairman White would expect a public hearing sometime in January on the new ordinance and if we are successful, he would expect it to be in place in February. The Board should provide feedback based on what we can say at this point.

Mr. Mangiafico says that on the waivers, given the fact it's nine lots, we will need a letter from all the department heads. He asks if there is anything in particular the applicant was looking for.

Mr. Marchese says that they have proposed a rural gravel road, 18' wide, and they will keep it as environmentally sensitive as possible. There are a lot of wetlands out there and to create a larger roadway is unsuitable for the environment.

Chairman White says that there are competing interests - on the one hand, we want less impact on wetlands and on the other hand, there must be sufficient safety.

Attorney Orso says that there are competing interests and the Planning Board must make that decision. They could put a highway through there and that would be the easiest in terms of maintenance, but the Planning Board needs to decide on the competing interests. The intent is to create the least intrusive road that would still satisfy the needs of the area.

Mr. Ledgett asks how many wetland crossings there are.

Mr. Marchese says there are three.

Attorney Orso says that the road has some history to it. He does not remember it exactly. If he drove out there, how far does the road go?

Mr. Peck says that he can go all the way with four-wheel drive to Kittree Lane.

Attorney Orso says that it is ultimately anticipated that the project will link with the Operation Blessing area. There have been discussions with the owner of that property. There are verbal agreements soon to be put into writing for usage of this as an access point. His client does not own the property where the stone wall is.

Chairman White thinks that we need the overview.

Mr. Ledgett says there was another right of way that went in there.

Mr. Muir says it was for High Point Estates.

Chairman White says there was a subdivision called High Point Estates that we approved 1.5 years ago that intersects with Kittree Lane and he would like to see how that intersects with this. There is a lot of area in here that is hard to develop.

Mr. Ledgett says that we need to pay attention to 16.28.450 (review criteria for wetlands permit application) in here.

Planner Noel has a question that perhaps Mr. Marchese could answer. On environmental impacts, it shows 14,600 sf of wetland impact. What is that?

Mr. Marchese says that is fill and the culvert to create the roadway. Tier one impact is 4,000 sf

with the DEP.

Planner Noel says they will give you a tenth of an acre. He thinks it is 15,000 sf.

Mr. Marchese agrees.

Planner Noel did write Ms. Friar a letter that he believes everyone has in regard to the peer review that projects such as these will go through. He would offer to Mr. Peck and Attorney Orso that the sooner that they have a complete packet, the sooner he can send this out.

Attorney Orso says that they will get that information in to him right away.

Planner Noel says there is one other thing. On the warranty deed for lot 17A, the first paragraph after the description - it indicates this is a deed held by Mr. Peck along with Mr. Wiggin and Ms. Rogers? Who are they? Property owners? Partners?

Attorney Orso says they are unrelated property owners.

Planner Noel asks if they own part of this. He did not see their name on the list of abutters.

Attorney Orso says that it probably does not show up on there. He will delineate it on there.

Planner Noel says that's all he has other than what Ms. Friar is to be providing.

Mr. Ledgett asks if it is clear to the applicant that they not only have DEP requirements to meet, but also the most stringent code requirements?

Planner Noel has not passed that along. There is an application that we have for wetlands alteration.

Mr. Marchese says that they wanted to get Board input before going to the time and expense of preparing that.

Mr. Ledgett reads from the requirement - 16.28.450 (review criteria for shoreland zoning), page 283 - that provides that the Board shall not approve the application unless it meets the requirements listed. The burden is clearly on the applicant to meet this. The applicant is obligated to look at reducing size and scope, look at different access routes, etc. It is very specific.

Chairman White asks if a site walk is premature at this time. The concern is that he does not know how if the new ordinance is enacted how that will change the lots in the back.

Attorney Orso would assume the ordinance will pass, as in most towns, the ordinances pass. He would also assume that we have to go forward under the current ordinance until the contingency occurs. He understands there is potential for another order to affect this project. He would like to move it forward as soon as he can.

Chairman White says that it is a new process with peer review included. If we make you go through all of it, and then the new ordinance has taken effect, you may have to revise your plans.

Attorney Orso says that may be a decision for another entity to make also. This has been in the pipeline for quite some time.

Chairman White agrees that it is time for a site walk.

Attorney Orso introduces Mr. Sparkowitz from Operation Blessing. Mr. Sparkowitz would like to speak to Attorney Orso for two minutes outside before we conclude this item.

Chairman White grants permission for that to happen.

Planner Noel asks for a date from the Board for a site walk for this item also.

Attorney Orso returns and thanks Chairman White for waiting. He will provide more information to the Board to make the Board clear on the access points.

Chairman White says that the waiver request included something about wells and the Fire Chief letter indicated that the applicant needs an eight-inch water main with two hydrants. They don't have to respond to that at this time, but they do have some combined issues. Maybe with hydrants, the road issue will be taken care of.

Jim says the first house in is probably 1,000 feet back.

Planner Noel says that the potential for the new LD district to affect this is minimal, then, because that is 750 feet back from the road.

Mr. Marchese shows where the first house will be - right on 750'. The first new house is just inside the line. There is a shed on the property right now.

Ms. Kline has two sheds on hers.

Mr. Marchese says there are two.

Attorney Orso asks for a time for the site walk.

Chairman White says that we need to confer by e-mail first.

Attorney Orso asks who the Board would like on the walk.

Chairman White would like the engineer.

Attorney Orso thanks the Board.

6. PRELIMINARY PLAN/SCHEDULING HEARING: OEST ASSOCIATES FOR TOWN OF KITTEERY. THE TOWN IS REQUESTING A REVIEW AND APPROVAL FOR THE CONSTRUCTION OF A NEW FIRE STATION TO BE LOCATED AT 3 GORGES ROAD, MAP 13, LOT 5-14, ZONED C-3.

Chairman White introduces the application.

Chief O'Brien figures that since he has done most of the speaking on this, he should continue. He passes out a copy of C-2.

Mr. Ledgett says that he needs a magnifying glass for it and would appreciate a full-size point.

Chief O'Brien says the difference between this one and the prior one is that they put some trees in behind the generator to deaden the noise from the generator. The Board will also see the old one had to the right of the building a set of grass pavers. Those were removed to promote parking because they took three spaces away from the wetland area and they also did it for firefighter safety. They need to be able to effectively drive ladders in there and get things up on the hose tower. So, he guesses his job here tonight is to take the Board through where they are and what they think need to do to move forward. There were a lot of letters back and forth as they were progressing down the check list and getting ready.

Planner Noel says that Oest sent a letter to Ken Wood re: erosion control.

Chief O'Brien found out he can't send the letter directly to Ken. They have to send the letter to York County Soil Conservation Service (YCSCS) along with \$500. Ken knows it is in process.

Planner Noel says that for the Board's information, Chief O'Brien did mention lighting and did receive a lighting plan from Oest this morning. He spoke to Eric Righter, the engineer doing peer review on this, and he will be in touch with Mr. Stockman in short order.

Chief O'Brien says that they show two areas of leakage. One is .1 candle power and the other is .1 or .2 in one spot. This was forwarded down to CMA (the Town contract engineers).

Chairman White asks if the package is complete.

Planner Noel would suggest that it is substantially complete at this point in time.

Chairman White asks for Board questions.

There are none.

Chairman White solicits a motion that the application is substantially complete and in order for scheduling.

Mr. Mangiafico moves that the Board find the application substantially complete, having reviewed the Land Use and Development Code section 16.36.060.D and the preliminary plan

requirements, for Gorges Road Fire Station prepared by Oest Associates, with a plan dated February 1, 2005, including Drawing G-1, C 1-5, D1, D2, A1 and A2 and including a request for waivers and that this matter be scheduled for public hearing by the Town Planner.

Mr. Ledgett seconds for discussion. Mr. Ledgett wants to know what we have received from peer review.

Planner Noel has been assured that the plan is in compliance with our ordinance.

Mr. Ledgett asks if we will get a report from the engineer that we will review in advance of the public hearing.

Planner Noel can arrange that. The most recent letter was November 10 and Oest addressed that on November 29.

Mr. Ledgett wants to make sure we have their whole checklist.

Planner Noel suspects that we would like that for every project.

Chairman White and Mr. Ledgett say yes, that it was helpful.

Mr. Ledgett says it points us to all the requirements.

Chairman White asks if there is any further discussion on the motion.

All in favor of finding the application substantially complete and ready for scheduling.

Mr. Mangiafico has one question on the sign detail. What colors will it be?

Chief O'Brien does not have a clue.

Mr. Mangiafico says that we try to avoid internally lit signs, and especially those with a white background because of the glare.

Chief O'Brien will take that under advisement. He has struggled with the photometric side of the application.

The engineer says that the height of the tower is about 45'.

Chief O'Brien says that the hose is 50'. They have to have the device above to pick the hose up and then have the platform that the firefighters walk on for training.

Mr. Muir asks what the standard is for height in that zone.

Chairman White says it is industrial.

Mr. Ledgett says it is commercial. Probably 45'.

Chief O'Brien says that it is an average.

Mr. Muir wanted to raise that issue because the applicant will want to make sure the structure is in compliance with the ordinance.

Chief O'Brien knows that they met the ordinance at that time. He does not think they will need the request for a waiver.

The architect says that they have 1.5' - 2' to spare as he recalls.

Chief O'Brien will get the Board a full-size plan sheet C-2 to review. He should realize it's necessary because he can't see it well, either.

Ms. Wells would like to ask a question. On plan sheet C-3 there is a detail of a catch basin. She can't find where it is located on the plan.

The architect says to look at the label for Gorges Road. He shows where it is in relation to that.

Ms. Wells thanks him.

Chairman White asks for any other items or issues.

There are none.

Chairman White asks for calculations on building height.

Ms. Kline came up with 40' for Commercial District C-3.

Chief O'Brien will get the calculations to the Board.

Chief O'Brien asks if they are all set.

Chairman White says that they are.

Chief O'Brien appreciates that and appreciates the site walk. They have worked hard at making this site as easy as possible.

Chairman White says that he hopes to see him in January, but that's up to Planner Noel.

Chief O'Brien says to enjoy Christmas and the holidays.

The Board wishes him the same.

7. PLANNER'S TIME

Planner Noel thinks he advised all the members that the Council needs a charge for the Design Review Committee for the Foreside and he hands out what has been developed. If the Board has any suggestions or changes, if we could do that now, they would like to have this on their agenda. They would like a sense of the Board. They insist on a charge.

Mr. Ledgett says we created this.

Planner Noel says one other item that he has is Atty McEachern is not around today, so Planner Noel has not heard back from him on the language regarding increasing the Planning Board membership to seven. He should get back to him tomorrow morning. There is one other section that requires ZBA packet applications to be turned in to the town clerk. She would rather see them turned in to the Development Staff Assistant or to the CEO.

Chairman White says seems like a sensible change.

Mr. Mangiafico says that the reason it was done that way was because sometimes the applicant is appealing a CEO decision.

Mr. Ledgett thinks that it should not go to the CEO.

Ms. Gagner asks if Planner Noel wants them.

Planner Noel says that if the Board could get back to him on this tomorrow, that would be helpful.

Mr. Ledgett has a comment about how a building comes down. The state has that language in a number of documents. Willful is not an exclusion anymore.

Planner Noel thinks the language is directly out of our ordinance.

Ms. Kline says the new state model shoreland zoning ordinance.

Mr. Ledgett is pointing out that there is an interesting shift here.

Mr. Muir says that there is not much sentiment for tearing down buildings on this committee. We would not have put that language in ourselves.

Mr. Mangiafico thinks that they are trying to say that you can relocate a building, but you need to put it as far back as possible.

Planner Noel says that most ordinances say that as long as it is not a willful act, you can reconstruct the building as is.

Chairman White did not like it because it allowed for it to be done without review.

Ms. Gagner says that it also can increase without our knowledge.

Mr. Muir says that perhaps at the next Planner's Time, we can submit mark ups.

Planner Noel says that we have three public hearings next time - the Rec Center, Housekeeping on membership, and a re-delineation of the lot line at Hutchins Cove Development. It's the big, beautiful yellow building with the barn.

Mr. Ledgett says it's the former Jimmy Austin property that is an art gallery now.

We have not done a site walk on that.

Mr. Muir asks about an opinion from Attorney McEachern on the deed issue.

Planner Noel says that Mount A to the Sea will not have a lot of area that impacts Kittery.

8. OLD BUSINESS: REVIEW OF PREVIOUS MEETING MINUTES

N/A

9. ADJOURNMENT

Mr. Muir moves to adjourn. Mr. Mangiafico seconds. All in favor. The meeting adjourns at 9:53 pm.