

**TOWN OF KITTERY
PLANNING BOARD MEETING**

APPROVED

Council Chambers
Thursday, August 14, 2008
Meeting called to order 6:07 p.m.

Members Present: Russell White, Joseph Carleton, Megan Kline, Douglas Muir, Ernest Evancic, Michael Luekens

Members Absent: D. Scott Mangiafico (arrived at 7:43 pm)

Also Present: Staff: Sandra Mowery, Town Planner
Jan Fisk, Recorder

APPROVAL OF MINUTES – July 10, 2008 and July 24, 2008 meetings
Ms. Kline made a motion to approve the July 10, 2008 minutes as amended
Mr. Carleton seconded
Motion carries with one abstention (Mr. Luekens)
Ms. Kline made a motion to approve the July 24, 2008 minutes as amended
Mr. Carleton seconded
Motion carries with one abstention (Mr. White)

PUBLIC COMMENT

Chairman White opened the public hearing and asked if there was anyone present who would like to comment on any non-agenda items. There being none, the board proceeded to agenda item #1.

ITEM 1 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance – *Violation and Enforcement Ordinance - 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.

Chairman White asked if there was anyone present who would like to comment on any this agenda item. There being none, the public hearing closed at 6:36 pm

Board members discussed the amended ordinance and provided suggested changes. Town legal counsel will be contacted for clarification regarding reference to Section 16.32.490 –Shoreland zoning and no reference to Section 16.28.490 – Enforcement.

Mr. Carleton moved to approve the Amendment to Title 16 Land Use and Development Code Zoning Ordinance – *Violation and Enforcement Ordinance* and send to Town Council for approval subject to corrections as discussed and subject to review by legal counsel for clarification of the inclusion of section and 16.28.490.

Ms. Kline seconded

Motion carries unanimously

Applicant requested that Item #3 be heard before Item #2 as it is shorter. Board members agreed.

ITEM 3 – Amendment to an Approved Site Plan – *Final Review* – Kittery Commons, LLC, proposes to split a parcel of land located at 9 Lewis Road 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.

Mr. Carleton recommended that the applicant remove “proposed” from the easement on the final plan, add a signature block and submit to the Town Planner for Board signatures.

Chairman White read the Findings of Fact:

1.i. Conformity with Local Ordinances and Plans. Vote 6 in favor 0 opposed

Conditions of Approval

1. Approval of this Division of Land is an agreement between the town and the owner, incorporating as elements the application, the board’s findings of fact, and such conditions as the board imposes herein.
2. A copy of this Division of Land map and all deeds must be submitted to the Kittery Assessor within six months of this approval. Should the owner fail to comply the Board will rescind this approval.
3. The developer must submit a mylar copy of the Division of Land map that provides a signature block for planning board approval, and with the word ‘*proposed*’ removed from the description of the 50-foot right-of-way easement.
4. The Code Enforcement Officer will issue no building permits for the undeveloped lot before the owner submits development plans and all applicable local, state and federal documents to the Planning Board for review and approval.
5. Signing of this instrument by the Planning Board constitutes approval.
6. By vote of the Planning Board herein, the Chairman is authorized to sign the Final Plan and this Findings of Fact on behalf of the Planning Board.

Vote of 6 in favor 0 opposed

ITEM 2 – Beatrice Way Subdivision – a Major Subdivision – *Final Review* - Operation Blessing Limited Partnership, Owner, proposes to create 3 lots and a 50-foot right of-way on ±4.1 acres between Kittree Lane and Highpointe Circle, at 22-24 Old Farm Road, the proposed site located on Map 61 Lot 08 consists of ±65.3 total acres situated in the Rural Residential (RR) zoning district. The Owner's agent is Civil Consultants.

Mr. Sparkowich, applicant, requested that Item #8 in the Findings of Fact Conditions regarding construction start and completion be amended.

Mr. Carleton recommended including: Construction of improvements shall be started within one year and completed within three years of approval, and the Board agreed to include in the conditions.

Mr. Carleton read the Findings of Fact for board vote.

(Mr. Mangiafico joined the Board for the vote. Vote now includes all seven (7) Board members.)

FINDINGS OF FACT

1.a. Pollution. i.; ii.; iii.; iv.; v.; and vi. Vote 7 in favor 0 opposed

1.b. Sufficient Water Supply. Vote 7 in favor 0 opposed

1.c. Municipal Water Supply. Vote 7 in favor 0 opposed

1.d. Erosion. Vote 7 in favor 0 opposed

1.e. Traffic. Vote 7 in favor 0 opposed

First statement included in the complete Findings of Fact for Board signature will be removed
(At 02/12/04 Planning Board meeting, Russell White did stipulate, "...that after the approval of the lot 61-81C, no further construction would be allowed without finishing the road to town standards from Highpointe Estates through Kittree Lane.)

1.f. Sewage Disposal. Vote 7 in favor 0 opposed

1.g. Municipal Solid Waste Disposal. Vote 7 in favor 0 opposed

1.h. Aesthetic, Cultural and Natural Values. Vote 7 in favor 0 opposed

1.i. Conformity with Local Ordinances and Plans. Vote 7 in favor 0 opposed

1.j. Financial and Technical Capacity Vote 7 in favor 0 opposed

1.k. Surface Waters – Outstanding River Segments Vote 7 in favor 0 opposed

1.l. Ground Water. Vote 7 in favor 0 opposed

1.m. Flood Areas Vote 7 in favor 0 opposed

1.n. Freshwater Wetlands. Vote 7 in favor 0 opposed

1.o. River, Stream or Brook. Vote 7 in favor 0 opposed

1.p. Stormwater. Vote 7 in favor 0 opposed

Conditions of Approval

1. Approval of the three lots and the associated right of way is an agreement between the Town and the Developer, incorporating as elements the application, the Board's findings of fact, and such conditions as the board imposes herein.

2. PRIOR TO THE COMMENCEMENT OF WORK: Tree removal, grading of the site, construction work in the right of way and onsite is not permitted until all Performance Guarantees are complete and building envelopes are taped off to identify areas of non-disturbance.

3. The Developer must submit to the Town Planner a Performance Guarantee in the form of a bond or escrow account to cover the full costs of the required improvements for the general public. The performance guarantee must be acceptable to the Town Manager and filed with the Town Treasurer.

4. 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.
5. 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.
6. Performance guarantees are for improvements that are for the common use of lessees and/or the general public, and must be monetarily sufficient to pay for said improvements and the associated field inspections by the Town's engineer.
7. The Code Enforcement Officer will issue no occupancy permit until all conditions of this agreement are satisfied.
8. Signing of this instrument by the Planning Board constitutes approval. Construction of improvements must commence within one (1) year of planning board approval and be completed within three (3) years of such approval.
9. By vote of the Planning Board herein, the Chairman is authorized to sign the Final Plan and this Findings of Fact on behalf of the Planning Board.

Vote of 7 in favor 0 opposed

ITEM 4 – Plenary Site Plan - Sketch Plan Review – 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.

Wayne Morrill summarized the proposed sketch plan and requested the Board's direction regarding the 15' landscaping buffer and 4:12 roof slope as required by ordinance. The buffer would reduce the available parking area by 24 spaces. The relaxation of the slope would allow the developer to add more lodging floors and not exceeding the height limitation in the zone.

General discussion followed regarding the building design and layout, parking lot separation with vegetation, location of driveway entrances and exits in relation to the fire department and proximity to the intersection. **Ms. Kline** noted that landscaping should be located on Gorges Road where it would be more visual, not on Ranger Drive which is more to the rear of the project. Also, what will be done with existing building along Rt. 1? **Chairman White** asked how stringent does the Board need to be regarding flat roof lines in the Commercial zone. **Town Planner** reminded the Board that the existing building at Route 1 will require parking spaces as long as it exists on the parcel. **Chairman White**

suggested that shared parking could be utilized depending upon use and may still meet the parking requirements; therefore allowing for more landscaping and buffering than would otherwise be allowed. **Mr. Carleton** recommended to the applicant that they discuss their plans further with the CEO and Planner to further review the issues of building design, landscape requirements and parking before proceeding.

PLANNER'S TIME

- Town Planner presented new Planning Department and Code Enforcement application forms that will help applicants and administration process and follow development applications.
- The wetland ordinance amendment is still under construction and will be provided to the Board at a later date. State required ordinances, shoreland and drainage, will be reviewed in the winter.
- Future workshops and zoning map corrections were discussed. **Mr. Muir** inquired about the revision of zoning language to be in compliance with the comprehensive plan, specifically for low-density use.

Ms. Kline – Inquired about ordinance language in table 16.32.490 *Permitted land uses in the shoreland zone* (page 312-313, #17) regarding the numerous zones that do not allow marine accessory structures. **Ms. Kline** asked the Board to once again review the Public Comment statement that is included on the agenda. **Mr. Mangiafico** stated that citizens have the right to make comment, however the Board should not respond if those items are not on the agenda. (**Ms. Kline**) If the item in question is under review, the Board should state so and decline to comment.

Ms. Kline moved to adjourn

Mr. Luekens seconded

Motion carries unanimously

ADJOURNMENT:

Meeting adjourned at **9:45 pm**

Submitted by Jan Fisk, Recorder

August 20, 2008