

**TOWN OF KITTERY
PLANNING BOARD MEETING
Council Chambers**

APPROVED
Thursday, January 8, 2009

Meeting called to order at 6:12 p.m.

Members Present: Russell White, Megan Kline, Joseph Carleton, Douglas Muir, Michael Luekens (arrived at 6:26 pm), D. Scott Mangiafico (arrived at 8:22 following Port Authority meeting)

Members absent: Ernest Evancic

Staff: Sandra Mowery, Town Planner

Minutes: December 18, 2008

Mr. Carleton moved to approve the minutes as amended and subsequently amended

Ms. Kline seconded

Motion carries unanimously

PUBLIC COMMENT – Earledean Wells asked if the problems at the Golden Harvest property had been resolved, and has the sale price of the metal wetland signs been determined to charge developers? **Town Planner** advised the Board that Golden Harvest has been instructed to follow the plans as approved and are addressing the concerns brought to their attention, in conjunction with the Town's review engineers and the owner's engineer. Regarding wetland signage, the consensus of the Board is for the Town Planner to prepare the necessary ordinance language to charge property owners for the cost of the signs.

Because of the temporary absence of Mr. Mangiafico, Chairman White requested Board defer Item 1 and begin review with Item 2. Members agreed.

ITEM 2 - Plenary Site Plan Review – Determination of Completeness/Preliminary Review– Stephen Pelletier, Owner, proposes to construct a 28,571 square foot building for York Hospital consisting of 8 medical offices and 4 dwellings units at 35 Walker Street, located on Map 4 Lot 168, situated in the Local Business 1 (LB1) Zoning District, parcel area is ±2.5 acres. The owner's agent is Joseph Cheever, EIT, of Attar Engineering, Inc.

Chairman White announced that Ms. Kline will not be participating in review of this item.

Steve Pelletier, York Hospital, summarized the project and introduced the project consultants. This project includes staff apartments on the second floor over the medical offices. **Joe Cheever, Attar Engineering**, summarized the site plan proposal noting that the entrance from Route 1 has been moved to address earlier concerns of pedestrian and vehicular safety. The boundary survey has been completed. Because the president of Attar Engineering is a district engineer with the YCSWCD, it is requested that CMA review the stormwater management and erosion control plan. The traffic report has been delayed due to the construction on Route 1, but is currently being developed for review. The lighting plan was discussed. **Mr. Carleton** asked if, because of the four apartments above the offices, whether they would be reviewed as a subdivision, unless the site review process is at least as stringent as the subdivision review process. **Mr. Pelletier** stated that the apartments would be for staff of York Hospital working at the offices. **Wendy Anderson, Woodburn & Co.**, summarized the landscaping design plan to screen the parking lot and dumpster areas, shade trees in the parking area, façade plantings, and buffer planting at the rear of lot to blend naturally into existing green area. **Earledean Wells** commented that notes 25 and 26 on the plan were contradictory regarding replacement of plantings, and the area abutting the wetland should not be mowed. **Town Planner** suggested the owner be responsible, not the contractor, for the plantings. The notes will be amended to reflect the requirements of the ordinance. The applicant suggested natural plantings to delineate the edge of the mowing area to prevent activity at the edge of the wetland. The **Town Planner** inquired about the building's location from the back of the sidewalk based on the concerns of Rick Rossiter, Public Works, regarding snow removal along Walker Street, where the building is only 4 feet from the back of the sidewalk, where 10 feet is preferred. **Mr. Cheever** noted that if the Board wishes the building be further

back, they can re-review the buildings location and parking to accommodate this request. **Mr. Pelletier** noted that there are no doors from the Route 1 or Walker Street side of the building, but from the rear of the building. **Chairman White** suggested that the applicant address Mr. Rossiter's concerns directly without changing the design. **Andy English, Lassel Architects**, summarized the architectural design sketches and building materials proposed, noting that the building meets the 40' maximum height allowed; the pitches are 6/12 and 8/12; the building is fully sprinkled; lighting will include cut-offs, and further elevations will be submitted. **Mike Lassel, Lassel Architects** stated that the lot is awkward and that the building's design symbolizes the prow of a boat and the landscaping softens the edges of design. **Earldean Wells** inquired about snow storage and snow removal on site. This will be clarified in future submissions. **Chairman White** asked if this application is sufficiently ready for a public hearing. **Town Planner** stated that the application is sufficiently complete, with additional materials forthcoming.

Chairman White moved that this application as represented is substantially complete to move to a public hearing.

Mr. Carleton seconded

Chairman White asked about the waiver requests. The **Town Planner** stated that CMA will be reviewing the soil and erosion control plan.

Chairman White amended the prior motion to determine the application as substantially complete and to waive the York County Soil and Water Conservation District review of the stormwater management and erosion control plan.

Mr. Carleton seconded

Motion carries 4 in favor, 1 abstention (Ms. Kline)

There followed general discussion regarding lighting design and photometrics. The **Town Planner** stated that a lighting plan will be required for further review.

ITEM 1 - Roadway Acceptance –Recommendation of Acceptance/Discussion with Action – Walter Woods, President of York Building and Design Center, Inc., the Applicant, has submitted a *Petition for Acceptance of a Public Street*. The private way known as Hill Creek Drive extends approximately 535 linear feet off the southerly right-of-way line of Lewis Road to the center of a cul-de-sac, providing access to fourteen dwelling units, on Map 61 Lot 19A1 through Lot 19A14, in the Rural Residential (**RR**) District. The owner/agent is Walter Woods.

Chairman White noted that it appears that there is a properly completed application for acceptance for a public street. The **Town Planner** summarized that a prior Planning Board had approved the subdivision and the future acceptance of the road by the Town of Kittery with specific stipulations, all of which have been met. **Pam Robinson, Izzy Lane**, spoke in support of the acceptance. **Jon Carter**, Town Manager, noted that this has been a long process, is in compliance, and should be forwarded to Council. **Mr. Carleton** stated he saw no reason not to proceed with the request. **Ms. Kline** noted that the plan has two waivers from subdivision regulations. The **Town Planner** stated that the project had been built per the approved plan.

Chairman White stated that Rick Rossiter signed off on the acceptance of the road following review of the as-built plans of the development.

Mr. Carleton moved that the Board determine that all required documentation has been submitted and that the Board forward the application of the road known as Hill Creek Drive to the Town Council.

Mr. Luekens seconded

Motion carries 4 in favor with 1 opposed (Ms. Kline)

ITEM 3 - Plenary Site Plan Review – Preliminary Review continued: 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.

Chris Baudo summarized the project to date, discussed the roadway to the residential parcels behind the commercial parcel, and the proposed improvements to the buffer between the commercial property and residential parcels. **Mr. Baudo** read a communication from Kyle Hall, MDOT, regarding a complaint filed by Mrs. McCarthy regarding buffer landscaping and his response. **Mr. Baudo** reviewed the remaining

outstanding issues included in the 12/29/08 staff notes and stated these would be addressed and completed prior to final review.

Earldean Wells asked about snow storage and removal and the life maintenance agreement that is missing on the landscaping plan sheet. **Mr. Baudo** stated there would be a notation that snow would be removed from the site. **Mr. Baudo** continued the review of the proposed elevations, noting the building materials, building height, parking areas, and buffer locations.

Chairman White allowed public comment as there was new information submitted by the applicant.

Dave Durling instructed the Board in ordinance review regarding street definition, buffers, and conflicting ordinance standards.

Bill McCarthy asked if the Board intended to hold another Public Hearing. **Chairman White** noted that a public hearing was held on October 9, 2008 and another meeting on October 23 where public comment was taken. **Bill McCarthy** argued that it is unclear whether the required buffer of 40' has been met according to communications from MDOT stating that the buffer would be stripped, and that a sidewalk had been proposed. He also stated that the height of the building was not measured correctly according to the ordinance. **Chairman White** suggested that this issue can be reviewed with the Code Enforcement Officer.

John Carter, Town Manager, stated that this application has been before the Planning Board for some time and requests that the Board allow this plan to move forward to the next review step to allow for third party review by CMA, the town's legal counsel and the code enforcement officer. **Chairman White** stated that should this plan receive preliminary approval, it is not the end of the process, and any changes are open to the public through the planning office

10 minute break

Mr. Carleton left the meeting for a prior engagement at 8:15 pm.

Mr. Mangiafico joined the meeting at 8:22 pm.

Ms. Kline noted that the buffer issue had not been resolved following the public hearing held on October 9, 2008. **Chairman White** concurred and stated that it will not be resolved at this meeting and it is his understanding that the existing vegetation in the buffer will remain and additional buffering has been included. The applicant has been responsive and, while the abutters are not pleased with the scale of the building, the question may remain that activities proposed in the buffer area may impact the definition of a buffer area. However, this should be moved along for peer review to receive additional input. The **Town Planner** agreed that third party review is needed as CMA has not reviewed the plans since the November 11 submittal and will ask CMA to clarify the buffer and setback issues. **Mr. Muir** asked if a paved driveway is part of a residential use. The **Town Planner** will ask the town's legal counsel to review and clarify, and will request CMA to review the issue against ordinance, not just state law.

Chairman White motioned to grant preliminary approval to Item 3 to allow the project to move forward and receive additional review.

Mr. Luekens seconded

Ms. Kline asked about waivers. The **Town Planner** will work with the applicant to determine what waivers will be requested. **Chairman White** stated that public input and written materials will be accepted at future meetings if they are pertinent to new material or issues, but repetitious discussions do not always make issues more clear. Future public input should be at the Board's discretion.

Motion carries 4 in favor, 1 abstention (Mr. Mangiafico)

ITEM 4 – Sketch Plan Review - A Minor Subdivision – Tudor and James Austin, Owners of a 6.25 acre parcel located at 37 Pepperell Road, on Map 18 Lot 22 in the Kittery Point Village (**KPV**) Zoning District, asks for consideration of two alternative proposals. One alternative is a conventional subdivision and the other is a condominium development. The Owner's agent is Thomas Harmon with Civil Consultants.

Tom Harmon, Civil Consultants, summarized the history of the property under consideration, and whether a conventional subdivision can be created to meet subdivision ordinance standards or whether the lot should become a condominium development that would not require the higher setbacks from the road. Board members favored a condominium plan vs. the subdivision plan. A request was made to waive the high

intensity soil survey as septic systems have been designed for each lot. Board members felt that because a majority of the property is in the Shoreland Zone, a strong argument as to why a high intensity soil survey should be waived would be required.

ITEM 5 – Plenary Site Plan Review – Amendment to an Approved Site Plan – H & M Realty, LLC, Owner, proposes to amend lot lines between two parcels of land located at 4 and 6 Shapleigh Road, situated in Map 9 Lot 151 and Map 10 Lot 40; total parcel area is 3.45 acres in the Local Business 1 (**LB-1**) and Urban Residential (**UR**) Zoning Districts. The Owner’s agent is Thomas Harmon with Civil Consultants. **Tom Harmon, Civil Consultants** introduced the owner, Howard Patton, and summarized the proposed amendment to the site plan.

Board members reviewed parcel changes in relationship to zone lines. There appears to be no functional or physical changes proposed. It was unclear whether the applicant’s proposal and the zone boundaries matched. There was general discussion regarding whether the request must meet current zoning in regard to parking and buffering and if it requires a public hearing and notification as an amendment to an approved site plan. **Mr. Patton** stated that postponing a decision for another two weeks would adversely impact his discussions with Kennebunk Savings Bank.

The **Town Planner** asked if, according to ordinance, the Town Planner and CEO could review this request as not a substantial change?

Mr. Mangiafico moved to approve an amendment to the site plan at Map 9, Lot 151 and Map 10, Lot 40, to amend the lot lines as proposed with the following conditions:

1. that the Town Planner review the accuracy of the boundary lines, noting the zones on the plan;
2. that there will be no changes in the use of the property at this time;
3. that any changes in use shall be referred to the Planning Board for additional review.

Ms. Kline seconded

Mr. Luekens was concerned that if there is no public hearing, members of the public are not being informed.

Mr. Mangiafico amended the prior motion to include:

4. drainage easements shall be noted on the deeds.

Chairman White seconded the amendment to the motion

Chairman White noted that because there are no physical changes that will affect the neighborhood, members of the public should be satisfied with the process. If the process breaks down, it will go back to the Planning Board.

The **Town Planner** clarified that the motion is not an administrative review including the CEO, and that the decision will be the Town Planner’s alone. **Chairman White** agreed with her understanding.

Motion carries, 4 in favor, 1 abstention (Mr. Luekens)

PLANNERS TIME –

1. Dana Kimball – DEP notice of violation at 67 State Road.
2. Save the Village group – Request to amend the VR zoning ordinance to remove language included to accommodate the York Hospital attachment to the new recreation center that was not approved. The changes would amend the ordinance to its original language. The requested changes must be advertised, approved by the Planning Board and submitted to Council. Board members agreed to proceed.

Mr. Mangiafico moved to adjourn

Ms. Kline seconded

Motion carries unanimously

The Planning Board meeting of January 8, 2009 adjourned at 9:46 pm

Submitted by Jan Fisk, Recorder, January 13, 2009