

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

**APPROVED**  
March 11, 2010

Meeting called to order at 6:05 p.m.

Board Members Present: Scott Lincoln, David Kelly, Michael Luekens, Joseph Carleton, Earnest Evancic

Members absent: Russell White, George Burke

Staff: Gerry Mylroie, Town Planner

Minutes: February 25, 2010 Planning Board Meeting

**Mr. Luekens moved** to accept the minutes as amended

**Mr. Kelly seconded**

**Motion carries by all members present**

**PUBLIC COMMENT** – There was no public comment.

**ITEM 1 - Amendments to Title 16 Land Use and Development Code - Shoreland, Resource Protection and Related Zoning Amendments. - Public Hearing/Decision.** The mandatory Shoreland Zoning Act, (38 M.R.S. Section 435-449) and guidelines from the Maine Board of Environmental Protection require municipalities to adopt shoreland/resource protection zoning law consistent with, or no less stringent than, the minimum requirements. A proposed amendment to the Code including the Zoning Map incorporates the requirements into Kittery's Municipal Code. The amendment must be reviewed by the Planning Board and recommended to the Town Council for adoption.

**Mr. Mylroie** stated this item will not be a Public Hearing, but a workshop. The Public Hearing will take place on March 25, 2010, followed by a Council hearing on April 14, 2010. He asked the Board members to review the latest changes emailed to them and be prepared to discuss at the next meeting and public hearing. General discussion followed regarding the codification process.

**ITEM 2 - Sluiceway Condominiums - Minor Subdivision/Condominium Ownership - Preliminary Plan Review/Decision.** Tudor and James Austin, Owners, propose a four (4) unit condominium development on a 6.25 acre parcel located at 37 Pepperrell Road, situated on Map 18 Lot 22 in the Kittery Point Village (KPV) Zoning District. The owner's agent is Thomas Harmon, PE with Civil Consultants. (Issue: Reservation of additional dwelling unit, etc.)

**Mr. Carleton** recused himself. There remained a quorum of members to review the plan. **Mr. Luekens** chaired this item.

**Mr. Mylroie** advised the Board this plan is still under preliminary review, but the Board may approve the project at this stage with any final conditions to be met between the Planning Department and applicant prior to signing of the plan mylar and Findings of Fact by the Chairman.

**Mr. Evancic moved** to grant a waiver to Title 16.32.470.C., stormwater management and erosion control endorsement by the York County Soil and Water Conservation District.

**Mr. Lincoln seconded**

**Motion carries unanimously by all members present**

**Mr. Kelly moved** to grant a waiver to Title 16.26.060.B.2.a., plan scale, from 1"=30' to 1"=50'.

**Mr. Lincoln seconded**

**Motion carries unanimously by all members present**

**Mr. Mylroie** advised the Board the applicant has withdrawn the previous request to reserve the right to add a fifth unit to the project. **Mr. Lincoln** asked Mr. Harmon if the septic field easement noted on the plan

meant there was a system under the driveway. **Mr. Harmon** stated he was not aware of a functioning system under the road because the contours and soils would not support a system. No records were found showing a system was installed for the adjoining parcel. **Mr. Lincoln** voiced his concern that access and egress on the driveway would be impacted if there was a system needing maintenance. **Mr. Harmon** reiterated he did not believe there is a system at that location under the driveway, but the abutter retains the right to use the easement. **Bill Tredwell**, Sparhawk Lane, requested removal of Article 5.2 in the condominium documents related to phasing of additional units.

Discussion followed regarding the new Public Works director's request that the applicant provide curbed sidewalks along the extent of the property, along Pepperrell Road. Board consensus was the curbing should not be required at this eleventh hour of review, when the remaining sidewalks and curbing along Pepperrell Road have not yet been constructed. **Kathy Conner**, abutter, asked the Board to support the sidewalk request as there is precedent to building sidewalks to connect to sidewalks not yet constructed. **Bill Tredwell** stated he believed a sidewalk is unnecessary as the project is located deep into the parcel.

Board members discussed the plan review notes and agreed to the following issues:

1. Acceptance of the existing driveway as constructed;
2. Approval of the driveway extension an additional 80' provided the private lane is constructed to private lane standards;
3. The proposed location of driveways from the lane to each building envelope is not required.

**Mr. Luekens moved** to grant a waiver to Title 16.32.490.N.6.F.G.i,ii,iv, regarding roadside drainage buffers.

**Mr. Kelly seconded**

**Motion carries unanimously by all members present**

The following issues need to be addressed prior to final plan approval:

1. The landscape plan shall be amended per sheet C4, received March 8, 2010;
2. Note #10, Conditions of Approval on Sheet C3, shall be amended to read: "No unit other than Unit A may have a pier", deleting "or rights to a riparian mooring".
3. *Article 5.2 - Phasing* of the condominium declaration shall be removed in its entirety.
4. Note #1, Conditions of Approval on Sheet C3 shall be amended to read: "No more than four dwelling units may be situated on this parcel", deleting all remaining language in this note.
5. Note #3, Development Restrictions on Sheet C3 referencing future division of the lots, shall be removed in its entirety.
6. Note #8, Development Restrictions #8 on Sheet C3, shall be amended to add limited common area B to the landscape maintenance provision.

**Mr. Mylroie** explained the Board could approve this plan with the Findings of Fact and conditions for the Chairman's signature. **Mr. Kelly** stated this is still at the preliminary plan stage, and he wanted to see these discussed changes on a final plan before final approval is given.

**Mr. Kelly moved** to approve the preliminary plan subject to the conditions 1-6 as discussed, in preparation for review of a final plan by the Board.

**Mr. Evancic seconded**

**Motion carries unanimously by all members present**

**Mr. Carleton returned to Chair the meeting**

**ITEM 3 - Spruce Creek Subdivision - Major Subdivision/Cluster Development - Preliminary Plan Review/Decision. (continued)** Terry Gagner, Owner, proposes to construct a 10-lot cluster residential development consisting of single-family dwelling units on ±15.2 acres, Tax Map 38 Lots 13 B through 13 F, situated in the Rural Residential (RR) zoning district. The owner's agent is Thomas Harmon, PE with Civil Consultants.

**Mr. Luekens moved** to grant a waiver to the requirement of Title 16.32.470.C., stormwater management and erosion control endorsement by the York County Soil and Water Conservation District.

**Mr. Kelly seconded**

**Motion carries unanimously by all members present**

**Mr. Kelly moved** to grant a waiver to the requirement of Title 16.32.500.B for a high intensity soil survey

**Mr. Evancic seconded**

**Motion carries unanimously by all members present**

Plan review notes were reviewed and remaining issues addressed:

1. Traffic Study: Board members agreed the impact of the development will be minor in comparison with the restaurant traffic.
2. The ADT of 100 daily trips meets the standard for private streets. No waiver is required.
3. A street name was submitted in August, 2009.
4. The applicant is providing sloped granite curbing, eliminating the need for a gravel shoulder.

**Mr. Luekens moved** to waive requirements of 16.32.110, Figure 1, requiring a gravel shoulder to the street.

**Mr. Kelly seconded**

**Motion carries unanimously by all members present**

5. Stone monuments are shown on the plan as iron pipes or stone monuments.
6. Open space dedication: Board members concurred previously this is not required due to the unique location and conditions of the open space areas on the parcel.
7. Cluster subdivision application: The Town Planner stated this has been submitted by the applicant.
8. The wetland areas as designated are acceptable.

Review of the final approval conditions were read. Discussion of condition #4, guaranty time for completion of required improvements, was discussed. The ordinance states: *A period of one year (or such other period as the planning board may determine appropriate, not to exceed three years) shall be set forth for the guaranty time...* Discussion followed, and the Board agreed the condition be changed to 2 years for those improvements included under a performance guaranty [no formal motion or vote]. Discussion followed regarding condition #6, adjoining property easement. It was agreed the condition will be refined to eliminate language that may not be allowed or enforceable.

Discussion followed regarding the process of plan review, from preliminary to final review. **Mr. Mylroie** stated conditions for the final plan can be reviewed at the preliminary level, allowing staff to coordinate the final plan review and approval, streamlining the approval process. **Mr. Luekens** stated an informal review and agreement of the conditions and findings is not a formal vote of the specific Findings of Fact. The Board has discussed the issues included in the plan review notes and the Findings of Fact, but have not taken a formal vote. **Mr. Carleton** concurred. The Findings of Fact are voted on at final plan review, and should not be adopted at the preliminary plan review level.

**Mr. Kelly moved** to grant preliminary approval and to include final conditions on page 10 and 11 of the plan review notes, subject to further refinement of the easement language in condition #6.

**Mr. Luekens seconded**

**Motion carries unanimously by all members present**

Discussion followed regarding format of the Findings of Fact and final presentation for approval. Findings can be brief, referencing staff notes and plan submittals, but each criteria for approval needs to be read and considered at the final approval reading.

**ITEM 4 - Mitchell Elementary School Addition - Site Plan Amendment - Plan Review/Decision.**

Owners, Town of Kittery School Board propose an approximately 9,800 square feet gross floor area addition to the existing school building. The proposed expansion is located on School Lane in the Residential - Kittery Point Village (R-KPV) Zone, and recorded as Map 27 Lot 20 and Map 36 Lot 5. The owner's agent is Ken Wood, PE, with Attar Engineering and Mike Lassel, AIA, with Lassel Architects.

**Withdrawn**

**ITEM 5 - Shapleigh Middle School Addition - Site Plan Amendment - Plan Review/Decision.** Owners, Town of Kittery School Board propose an approximately 10,200 square feet gross floor area addition to the existing school building. The proposed expansion is located on Stevenson Road and Manson Road in the Residential - Rural (R-R) and Residential - Suburban (R-S) Zones, and recorded as Map 37 Lot 3. The owner's agent is Ken Wood, PE with Attar Engineering and Mike Lassel, AIA with Lassel Associates.

**Withdrawn**

**ITEM 6 - Pettigrew Road Right of Way Plan Amendment - Acceptance/Schedule Public Hearing or Review.** Gary E. And Angela E. Hayward, owners of 16 Shade Tree Lane propose an extension of an existing right-of-way Pettigrew Road to enable the division of land into two lots. The right-of way is located off Wilson Lane in the Rural Residential Zone and recorded as Map 54.4A. The owner's agent is Ken Markley with Easterly Surveying.

**Mr. Mylroie** presented a summary of the proposal and recommended the Board schedule a public hearing as they have received public inquiry on the project. **Ken Markley**, Easterly Surveying, concurred with Mr. Mylroie's summary, and requested the Board review and take action on the waiver requests before them.

**Mr. Kelly moved** to grant a waiver to Title 16.36.060.B.2.u., inclusion of contours and finished grade elevations.

**Mr. Evancic seconded**

**Motion carries unanimously by all members present**

**Mr. Kelly moved** to grant a waiver to Title 16.36.060.B.3.d., review of erosion control measures by the York County Soil and Water Conservation District

**Mr. Luekens seconded**

**Motion carries unanimously by all members present**

**Mr. Lincoln moved** to grant a waiver of Title 16.32.060.B.3.e., stormwater and drainage plan

**Mr. Evancic seconded**

**Motion carries unanimously by all members present**

**Mr. Mylroie** recommended the Board not waive additional requests at this time, pending review by the Fire Chief.

**Mr. Lincoln moved** to accept the plan as substantially complete and schedule a public hearing

**Mr. Evancic seconded**

**Motion carries unanimously by all members present**

**ITEM 7 - Planning Board Business Plan 2010 - Discussion about Goals and Implementation.**

**Mr. Mylroie** presented a handout of a Council presentation on the Comprehensive Plan, recent activities and studies by UNH students, bonded improvements to schools, and related discussions.

**Mr. Luekens motioned** to adjourn  
**Mr. Carleton seconded**  
**Motion carries unanimously**

The Planning Board meeting of March 11, 2010 adjourned at 9:30 p.m.

Submitted by Jan Fisk, Recorder – March 12, 2010