

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

APPROVED
April 22, 2010

Meeting called to order at 6:06 p.m.

Board Members Present: David Kelly, Joseph Carleton, Russell White, Scott Lincoln, Ernest Evancic, George Burke

Members absent: Michael Luekens

Staff: Gerry Mylroie, Town Planner

Review of the Minutes of April 8, 2010 were deferred to accommodate a presentation by Councilor Beers, co-chairman of the Kittery Growth Management Program Update Advisory Committee. The Committee is targeting the end of 2011 for completion and State Planning Office approval of Kittery's Growth Management Program. Mr. Beers summarized the history of the GMP and the outline of the proposed update, including capital programming, central facility management, smart growth, committee makeup and targeted tasks. He spoke of current issues such as a possible bridge closure, creation of new sewer districts, and other impacts facing the community.

Mr. Beers announced the Council's Ordinance Review Committee has completed the first, final version of a new Title 16, incorporating over two years of work, including the Shoreland and Resource Protection ordinances. He complimented Mike Asciola and staff on their hard work, and attention to detail in their efforts to complete revisions to Title 16.

Mr. Lincoln offered to represent the Planning Board on the GMP committee.

Minutes: April 8, 2010 Planning Board Meeting

Mr. Kelly moved to accept the minutes as amended

Mr. Carleton seconded

Motion carries 5 in favor with 1 abstention (Burke)

PUBLIC COMMENT – There was no public comment.

ITEM 1- Pettigrew Road Right of Way Plan Amendment – Review/Decision. – 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.

[Note: Board began review with the wetland alteration request, out of agenda sequence]

Mr. Mylroie informed the Board the applicant had submitted a wetland alteration request because the Town's attorney advised that the Board may not waive wetland setbacks or road width. **Mr. Carleton** asked what standards the Board uses to determine the granting of a wetland alteration. **Mr. Mylroie** read the standards and objectives for review to the Board. **Mr. Mylroie** stated a Findings of Fact had been prepared for this request. A request by the Kittery Conservation Commission to provide for slope stabilization and upland wetland replication equal to 370 sf of wetland impact was discussed. Following discussion and a request by **Mr. Markley**, the Board decided another public hearing would not be necessary. Discussion followed regarding the two separate wetlands connected by a man-made channel. The Board reviewed the alteration request on April 15, 2010 and determined a public hearing was not necessary.

Mr. Carleton read the Findings of Fact for the wetland alteration request for the Pettigrew Road Right of Way Plan Amendments, the Board finds as follows:

A. There is no practicable alternative to the wetland alteration

Vote of 6 in favor 0 against 0 abstaining

B. The alteration request minimizes wetland impact

Vote of 6 in favor 0 against 0 abstaining

Now therefore the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact on the wetland and the Kittery Planning Board hereby votes to approve the wetland alteration for the development at the above referenced property.

Vote of 6 in favor 0 against 0 abstaining

Accordingly the planning Board hereby moves to:

1. Approve the Findings of Fact in the Plan Review Notes/Findings of Fact dated April 22, 2010,
2. Acknowledge their reading,
3. Hereby incorporate them into the meeting minutes by reference,
4. Record their unanimous approval by the Board members present,
5. Approve the final Plan and authorize the Planning Board Chairman to sign the final plan upon confirmation by the Town Planner of final plan compliance with any final plan approval requirements and plan note conditions.

Vote of 6 in favor 0 against 0 abstaining

[Note: The Board followed the wetland alteration review with the ROW plan amendment review, below]

Mr. Mylroie presented the application to the Board noting the road maintenance agreement will be reviewed by the town attorney, and waivers need to be reviewed. **Mr. Markley** noted a plan for stormwater and surface drainage was submitted to the Planner, who found it satisfactory, therefore not requiring a plan prepared by a registered engineer. He reviewed the 4/22/10 plan revisions relative to stormwater management, requesting action on the prior waiver request. **Mr. Markley** reviewed the remaining waiver requests remaining before the Board. **Chairman White** asked the Planner if the road length, width, surface and hammerhead design was approved by the Fire Chief. The Planner stated they had. The following waivers were acted upon:

Mr. Carleton moved to waive the requirements of Section 16.32.060.B.3.e relating to the requirement of a plan for disposal of stormwater and other surface drainage be prepared by a registered engineer.

Mr. Kelly seconded

Motion carries unanimously by all members present

Mr. Carleton moved to waive the requirements of Section 16.32.110.Figure 1 relating to the street length requirement of a hammerhead emergency turnaround not exceed 400 feet.

Mr. Kelly seconded

Motion carries unanimously by all members present

Mr. Carleton moved to waive the requirements of Section 16.32.110. Figure 1 relating to the street width standards.

Mr. Kelly seconded

Motion carries unanimously by all members present

Based on Section 16.36.070.C.1, action by the Planning Board must be based upon findings of fact which certify or waive compliance with all the required standards of this title, and which certify the development satisfies the following requirements:

- | | |
|--------------------------------------|--|
| a. Water and Air Pollution Minimized | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| b. Water Supply Sufficient | Not applicable |
| c. Municipal Water Supply Available | Not applicable |
| d. Erosion Controlled | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| e. Traffic Managed | Not applicable |

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| f. Sewage Disposal Provided | Not applicable |
| g. Municipal Solid Waste Disposal Available | Not applicable |
| h. Aesthetic, Cultural and Natural Values Protected | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| i. Local Ordinances and Plans Conformance | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| j. Developer Financially and Technically Capable | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| k. Water Body Quality and Shoreline Protected | Not applicable |
| l. Groundwater Protected | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| m. Flood Areas Identified and Development Conditioned | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| n. Freshwater Wetlands Identified | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| o. River, Stream or Brook Identified | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| p. Stormwater Managed | Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby votes to grant Approval for the Development at the above referenced property, with waivers granted as noted below and contingent upon the following conditions per Title 16.36.070.D., Conditions of Approval.

Waivers Granted

1. Section 16.32.060.B.2.u – Existing contours and finished grade elevations
2. Section 16.36.060.B.3.d – Erosion and sedimentation control plan endorsed by YCSWCD
3. Section 16.32.060.B.3.e – Stormwater and drainage plan prepared by a registered engineer
4. Section 16.32.110.Figure 1 – Street length to hammerhead turn around not exceed 400 feet
5. Section 16.32.110.Figure 1 – Street width standard

Conditions

The road maintenance agreement shall be reviewed and approved by the Town attorney

Vote of 6 in favor 0 against 0 abstaining

Accordingly the planning Board hereby moves to:

6. Approve the Findings of Fact in the Plan Review Notes/Findings of Fact dated April 22, 2010,
7. Acknowledge their reading,
8. Hereby incorporate them into the meeting minutes by reference,
9. Record their unanimous approval by the Board members present,
10. Approve the final Plan and authorize the Planning Board Chairman to sign the final plan upon confirmation by the Town Planner of final plan compliance with any final plan approval requirements and plan note conditions.

Vote of 6 in favor 0 against 0 abstaining

(1a)Pettigrew Road Right of Way Wetland Alteration Request - Acceptance/Schedule a Public Hearing/ Review. – Gary E. And Angela E. Hayward, owners of 16 Shade Tree Lane propose to alter a wetland to construct a Planning Board requested town standard 18 feet wide gravel road. A six feet wide alteration in some places may be needed to protect a stone wall and row of trees as part of the extension of an existing Pettigrew Road right of way. The right-of way is located off Wilson Lane in the Rural Residential Zone and recorded as Map 54 Lot 4A.The owner’s agent is Ken Markley with Easterly Surveying. [reviewed above]

ITEM 2 - Loco Coco’s Tacos – Preliminary Site Plan Amendment to a Previously Approved Site Plan – Acceptance/Schedule Public Hearing. – Owner, Luis Valdez proposes to construct a 20 x 30 feet deck for outside seating on the western end of the existing building. The development is located at 36 Walker Street in the Business – Local and Kittery Foreside Zones and recorded as Map 4 Lot 160. **Mr. Mylroie** summarized the request to amend the previously approved site plan.

Mona Robinson, co-owner, addressed the following issues:

1. Handicapped parking spaces moved to a central location.
2. Employee parking was moved to the left of the deck in an area that would not be easily accessible by patrons.
3. Additional lighting will be on the fence posts and deck.
4. An awning will be installed on the deck with side panels that will be rolled up and down as needed.

Chairman White noted lighting fixtures and impact of lighting on neighbors will be reviewed.

Luis Valdez explained the employee parking area has existing lighting in the corner that was existing when the property was purchased. **Mr. Mylroie** further explained that concrete wheel stops will be installed to help define the parking spaces without paving the parking area.

Mr. Burke moved to find the application substantially complete and to schedule a public hearing

Mr. Lincoln seconded

Motion carries unanimously by all members present

ITEM 3 - Street Design and Construction Standards Amendments to Title 16 Land Use and Development Code – Review/Decision. Consider amendments recommended by Town Public Safety officials.

Following discussion regarding the use of terms not supported by definition, such as private roads, private lanes and private streets, the Board agreed these could be identified as classes within private streets (as the term street is defined).

Mr. White moved to forward the amendments to Council for further action

Mr. Burke seconded

Motion carries unanimously by all members present

ITEM 4 - Planning Board Business Plan 2010 - Discussion about Goals and Implementation.

Mr. Mylroie elaborated on comments made by Mr. Beers and the Board's involvement and role in the GMP process. Members discussed the need for bike lanes, and a sidewalk masterplan to help guide them in project reviews.

Mr. Kelly moved to adjourn

Mr. Burke seconded

Motion carries unanimously by all members present

The Planning Board meeting of April 22, 2010 adjourned at 8:30 p.m.

Submitted by Jan Fisk, Recorder – April 27, 2010