

**Kingston Planning Board
Public Hearing
March 20, 2012**

The Chairman called the meeting to order at 6:30 PM. There were no challenges to the legality of the meeting.

Members in attendance:

Richard Wilson, Chairman	Adam Pope (Arrived with the meeting in progress)
Glenn Coppelman, V. Chair	Peter Coffin
Mark Heitz, BOS rep.	Stanley Shallette (Arrived with the meeting in progress)
Ernie Landry	Richard St. Hilaire, Alternate

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Ellen Faulconer, Administrative Assistant; Dennis Quintal, Town Engineer.

Mr. Wilson welcomed Mr. Coffin to the Board. <Board note: Mr. Shallette arrived at this time.> Mr. Wilson welcomed Mr. Shallette to the Board. He noted that he had received notification from Mr. Pope that he would arrive a little late to the meeting.

ACTION ITEM: Mr. Wilson confirmed that the Board wanted to send a letter to Mr. Alberts thanking him for his service to the Board.

Board Business

Correspondence:

- Vacation request approved.
- Mr. Wilson noted that all Board members Oaths of Office had been received.
- Complaint letter received from Mr. Mastroianni representing Tupello, LLC about excessive noise at Wicked "CAS"
- Request for dealer plates from Wicked "CAS"

The Board combined the two issues relative to Wicked CAS into one discussion; the question of a possible expansion of use, issues on the site and prior approvals. Mr. Greenwood suggested that the owners of Wicked CAS be brought in to respond to the complaint and discuss the request for the dealer plates; he added that it would appear to be an expansion of use if it was as described in the complaint. <Board note: Mr. Pope arrived at this time.> Mr. Shallette questioned whether the noise ordinance would apply. Mr. Wilson explained that the Board had no verification of the noise levels at this point. Mr. St. Hilaire suggested that the dealer request be signed as the Board had no information that the site was not in compliance at this time. The Board agreed that the dealer plate request would be signed and forwarded to the BOS; the complaint will also be forwarded to the Board of Selectmen. Mr. Heitz agreed that he would look into the complaint and return with this information to the Board.

- Bond Balance list was reviewed; the Shribco bond was reviewed.

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P.3, Par.3, add "does not allow" after "Aquifer Protection Ordinance"; remove "allows"

- Letter from Danna Truslow was received with possible minor corrections to the Aquifer Protection Ordinance.
- NHDES notification encouraging property owners to test their wells.
- Notification of Climate Workshop on March 29th.
- Letter from RPC re: yearly dues
- Court decision for Galloway v. Kingston received
- Letter from Mr. Maroney/Commerce Park about piano refinishing on the property; Mr. Greenwood will review the new ordinance during the meeting to see if there are any additional requirements and will return to this item at the end of the meeting.

Town of Kingston
Lot Line Adjustment
Church Street
U10-12 and 13

Mr. Coppelman reminded the Board that the parties had been told to reach an agreement before returning to the Board. Mr. Wilson noted that none of the parties involved, other than Mr. Heitz, were currently in attendance. Mr. Heitz reviewed the history of the discrepancy in the ownership of the parcels involved clarifying that the Town had no problem with the land swap as long as the Town did not incur any expense in the process. Mr. Wilson stated that the Board did not have anything in writing from representatives of the Church or the Masonic Lodge. Mr. Greenwood clarified that the Masonic Lodge would have to confirm their acceptance of the land transfer. Mr. Heitz stated that if the Masonic Lodge was opposed to the “swap” then the Town would just go forward with the land swap with the Church.

ACTION ITEM: Mr. Heitz stated that he would contact the Church to contact Gideon Lodge for a letter agreeing to the land adjustment or re-do the plan not including the Gideon Lodge.

MM&S to continue this hearing to April 17th at 7:00 PM. (Motion by Mr. Coppelman, second by Mr. Heitz) **PUNA**

Tupello, LLC
Dan Mastroianni
49 Route 125
Tax Map R-4, Lots 2, 2A and 2B

Mr. Quintal told the Board that he was representing Tupello, LLC and was the engineer for this project and inquired whether the Board was comfortable with him speaking for the applicant. No one on the Board had an issue with Mr. Quintal presenting the plan. He explained that currently there are three large lots and his client wants to make 2 smaller lots with one large lot; he explained the changes shown on the plan adding that they had received State Subdivision approval. Mr. Quintal noted that lot 2A has wetlands on the site but there is well over the required 60,000 sq. ft. of contiguous land. Mr. Wilson reviewed Mr. Greenwood’s comments which included a question about the different setbacks shown for the wells. Mr. Quintal stated

that there is a not on the deed for the northerly lot that if the land is sold they have to move the well. Mr. Wilson said that the plan needed to show the 100 ft. well radius per the Town's requirements. Mr. Quintal agreed to have the plan reflect that change; he read the Health Officer's comments. Mr. Middlemiss added that the septic system for the larger lots was oversized; the current nitrate setbacks comply with the current use but if expanded to its approval, the nitrate setbacks could be a problem. Mr. Heitz questioned why the required setbacks would be based on the possible build-out instead of the current use. Mr. Middlemiss explained that the setbacks were based on current usage, not future usage. Mr. Quintal agreed that any expansion of the use would require a review that would then require that the setbacks would all be met.

Mr. Wilson commented on the 40 foot easement that was on the middle lot feeding back to the proposed 14 acre lot stating that it was very close to the building; he suggested that this was not pertinent to the Lot Line Adjustment and should be removed from the plan adding that it would be addressed with a future property owner and any required further review.

Mr. Heitz stated that the updated Aquifer Protection Ordinance does not allow lots with less than 3 acres for residential use; there is residential use on the property so why would less than 3 acres be allowed. Mr. Quintal stated that property was mixed use. The Board reviewed the ordinance and it does refer to residential use, not residential zones. Mr. Quintal clarified that the property was not in the Aquifer zone; Mr. Greenwood explained that since the property was not in the Aquifer zone, then the lot size changes did not apply and 3 acres would still be required. Mr. Quintal said that he could move the lot line a little to make each property at least three acres.

Mary Chagnon, 15 Pillsbury Pasture Road, asked about the changes in the property lines and the use of the property.

The Board determined that there were three issues needing to be addressed: corrections to the well radius, removal of the easement and bump the lot lines to make each lot a minimum of three acres. Mr. Quintal said that these things could easily be done and asked for a conditional approval.

MM&S to conditionally approve the lot line adjustment plan requiring the following changes: show Town-required well radius for all wells, remove easement shown on the center lot, bump the proposed lot line out so that all lots are at least three acres. These conditions to be completed within thirty (30) days. (Motion made by Mr. Landry, second by Mr. Pope) **PUNA** Mr. Quintal added that they would comply with all other requirements, such as but not limited to, Certificate of Monumentation.

Diamond Oaks Golf Club
Route 125
Tax Map R3 Lots 4, 4A, 4B, 4C and 13

Kathleen Sullivan, Attorney representing Diamond Oaks Golf Club, explained that her client was asking for two changes to the conditional approval. They would like to change the condo. docs. from one Master Association as it made sense to make two associations with a sub-association

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for the residential units to manage their affairs without having to go to the Commercial Units; they would have a vote in the Master Association but wouldn't have to go to the Commercial Unit owners when managing their own residential affairs. Attorney Sullivan added that both condo. docs. still have the same language regarding open space; she stated that the new language is cleaner language for the unit owners. Mr. Greenwood asked if there was the ability of the golf course to be sold and be separate from the residential units. Attorney Sullivan explained that this could have happened before but they have separate units; the property is one lot with multiple land units; the golf course is one land unit. Attorney Sullivan confirmed that the residential condos. still have access to the golf course as open space; they still have the intention to merge the lots as they have cured the title issue. Mr. Landry asked if the easement holder remained the same; Attorney Sullivan confirmed that it did.

The next issue that Attorney Sullivan asked to discuss was the lot consolidation requirement; they need to consolidate the lots to sell a land unit to pay the back taxes but can't sell a unit without first merging the lots; there is a plan that includes a P&S to buy one of the land units where the soccer building is located but they can't create the condominium association without the plan first being recorded; they can't record the condo. docs. until the lots are merged into one lot. Mr. Wilson suggested that as long as Attorney Loughlin and the Board of Selectmen worked something out then the Planning Board might think it was okay. Mr. Heitz confirmed that the property is currently in re-organization. Mr. Greenwood stated that Attorney Loughlin was on vacation so unable to provide the Board with any information about the changes to the condo. docs. Attorney Sullivan explained that they are not waiting to have a closing any time in the next couple of months so waiting to hear from Attorney Loughlin doesn't create a problem. Mr. Heitz asked if the merger was a condition of approval; Mr. Greenwood confirmed that it was and that the Board would need to vote to alter a previous condition of approval. Mr. Wilson clarified that the properties couldn't be merged unless the taxes were paid; Mr. Heitz noted that the applicant was asking for the Board to sign off without the taxes being paid. Mr. Coppelman reiterated that the Board would have to modify the condition of approval which might be possible as long as there are the right protections based on the escrow. Mr. Heitz suggested a possibility of requiring that if not completed within 60 days, the approval is revoked.

ACTION ITEM: Mr. Greenwood will contact Attorney Loughlin. The Board needs to know if there is a way to transition the process regarding a possible escrow with requirements and the Board wants to hear about the restructuring of the documents and how it has changed for the original and the impact of those changes.

Attorney Sullivan stated that they would do what is needed to satisfy the Board. Mr. Greenwood clarified that there is an open space restriction on the property.

Ms. Faulconer commented that the current documents refer to 7 land units while the previous plan appears to show 5 land units. Attorney Sullivan will double check the land units shown on the plan. Ms. Faulconer asked about an addition to the proposed condo. docs. that states that the commercial land unit owner will keep ownership of the residential well and have a utility company take over the water supply system. Ms. Sullivan stated that it would be for a company such as Pennichuk to take over the system; they have no intention of selling water off of the property and will clarify that in the condo. docs.

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The Town vote in favor of the establishment of the Water District was discussed by the Board. Mr. Heitz explained that it was his understanding the Water District left an option to the Town, when going through the approval process and it is deemed to produce higher amounts of water than could be consumed, the municipality could take over the utility for future use; he added that this could be a condition of approval. Mr. Coppelman added that this lets the Town insert itself into the approval process. Attorney Sullivan re-iterated that there is no intent to sell the water off-site.

Attorney Sullivan asked to address one other issue; the Board had granted an extension of the site plan approval but it was not progressing as quickly as hoped. They recently received the DES comment letter which they now need to respond to and there might be another public hearing with associated comment period so they are asking for an extension to the end of the year. The Board discussed the bankruptcy's charge to not make any substantive changes to the property while the bankruptcy restructuring continued; the Board's year-end calendar was reviewed.

MM&S to continue the conditional approval deadline to January 15, 2013. (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**

Mr. Wilson asked if there was any public comment. Darlene Deptula-Hicks asked why she had been notified. Mr. Wilson explained the abutter notification process. She stated that the items discussed this evening did not appear to impact her. Dan Perkins, 19 Hillside Road, said that he noticed a large water withdrawal and had already had one well go dry and doesn't want another well to go dry. Mr. Wilson suggested that should the State have another hearing about the water withdrawal on the property that he should attend to make comment.

MM&S to continue to May 15th at 6:45. (Motion by Mr. Pope, second by Mr. Shallette) **PUNA**

Fire Protection Regulations

Mr. Wilson handed out the regulations and associated changes to site plan and subdivision; he explained that these had been adopted previously but never made it into the Ordinance book. Mr. Coppelman asked if the Board should put off a week so new Board members would feel comfortable with adopting the regulations.

MM&S to continue the hearing to March 27th at 7:00 so the new Board members can review the proposal. (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

Board Business, continued

MM&S to accept the February 21st minutes as corrected by changing the word "project" to "process" in the third paragraph under the Solar Hills Estates discussion. (Motion by Mr. Coppelman, second by Mr. Pope) **Motion carries 4-0-3 with Mr. Heitz, Mr. Coffin and Mr. Shallette abstaining.**

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Election of Officers: Mr. Wilson explained the process; that anyone who had an interest in either being Chairman or Vice-Chairman should say so and there should be a motion to that effect. Mr. Wilson expressed an interest in continuing as Chairman. Mr. Coppelman stated that had Mr. Wilson not wanted to be Chairman that he would have stepped up but since Mr. Wilson was interested, he would be happy to stay Vice-Chairman.

MM&S for Richard Wilson to be Chairman. (Motion by Mr. Pope, second by Mr. Landry)
Motion carries 6-0-1 with Mr. Wilson abstaining.

Mr. Wilson asked if anyone was interested in being Vice-Chairman; Mr. Coppelman said he was interested.

MM&S for Glenn Coppelman to be Vice-Chairman. (Motion by Mr. Wilson, second by Mr. Landry) **Motion carries 6-0-1 with Mr. Coppelman abstaining.**

The new copies of the law books were distributed to all Board members and alternates.

MM&S for Glenn Coppelman to remain as the Board's representative to the CIP with a recommendation that he remain Chair of that committee; Peter Coffin and Ernie Landry as the two other representatives and Richard St. Hilaire as the Board's alternate representative to the CIP. (Motion by Mr. Wilson, second by Mr. Pope) **PUNA**

Upcoming Projects: Mr. Wilson asked the Board members to think about what the Board wanted to achieve for next year for next week's meeting. Mr. Pope suggested that the Livestock Ordinance be one of the items; Mr. Wilson said that he felt that there was an issue with communication of the Board's intent for that proposal adding that the Board's intent was out for the welfare of the animal; he suggested that the Board should have written an explanatory letter to the paper.

HDC representation: Mr. Wilson stated that he had intended to recommend Mr. Coppelman continue as the Planning Board's representative to the HDC but Mr. Greenwood confirmed that RSA 673:7 states that no more than one member of the Planning Board can serve on another Land Use Board which includes the HDC. The composition of the HDC was questioned; Mr. Greenwood explained that the RSA's say that a member of the Planning Board may be on the HDC; Mr. Coffin noted that the Town's regulations say that a member of the Planning Board shall be on the HDC. Mr. Coppelman stated that this might mean that the HDC would now have 6 members instead of 7. Mr. Pope suggested that the Board agree to appoint Mr. Shallette as their representative to the HDC so he can resign his appointed position in order to allow the BOS to appoint someone else. The Board decided that this is an issue that the HDC would need to deal with, in conjunction with the BOS.

MM&S to adjourn at 8:30. (Motion by Mr. Pope, second by Mr. Coppelman) **PUNA**