

**Kingston Planning Board
Public Meeting
May 1, 2012**

The Chairman called the meeting to order at 6:45 PM. There were no challenges to the legality of the meeting.

Members in attendance:

Richard Wilson, Chairman	Adam Pope
Peter Coffin	Ernie Landry
Mark Heitz, BOS rep.	Stanley Shalett
Richard St. Hilaire, Alternate (Arrived with the meeting in progress)	
Ellen Faulconer, Alternate, Administrative Assistant	

Also in Attendance: Glenn Greenwood, Circuit Rider Planner

Absent: Glenn Coppelman

Mr. Wilson announced that Ms. Faulconer would be a voting member this evening.

Board Business

Correspondence:

- Sustainable Community Initiative Letter from RPC received from BOS Administrative Assistant for discussion prior to BOS Chairman's signature.
- Correspondence received from Attorney Loughlin regarding Granite Fields/Diamond Oaks.
- Affordable Housing Workshop notification
- Grant Notification reviewed for possible Board interest; specifics were reviewed by Glenn Greenwood; he added that there are "mini-grants" of \$10,000 available for a consultant to review and audit the Town's ordinances for inconsistencies; he is going to a workshop and can bring any information back to the Board adding that there is a very small cash requirement; he confirmed that the Board would not be committing to any changes with the audit process. There was some Board interest in pursuing the \$10,000 grant for the audit.

<Board note: Mr. St. Hilaire arrived at this time but had to leave almost immediately due to a fire/ambulance call.>

- Letter received from Attorney Loughlin, for the Board's information, regarding a lot's status.
- Invoice and report received for the Town Engineer's review of the Rte. 125 Storage Facility.
- Right-to-Know Information from "Town and City" magazine was handed out to the Board for their information.

- Report from GeoSphere re: Groundwater Withdrawal reports at Diamond Oaks.

Wicked CAS
43 Route 125
Tax Map R4-3

Mr. Wilson stated that the Board had received a noise complaint which led the Board to question whether there had been an expansion of the approved use at this location. Nazar Demir, introduced himself as the co-owner of Wicked CAS which had originally been located in Unit 1; had expanded to Unit 2 a couple of years ago and had expanded to customization in Unit 3 approximately 7 months ago. He explained that they didn't think that they needed to come back to the Board to expand for customization and the use of the dynamometer adding that they want to do what it takes to make their neighbor's happy. Mr. Heitz explained that at the previous meeting, the property file had been reviewed which indicated that the approval had been for car audio systems and electric starters and the Board's decision was to ask the owners in to determine if the dynamometer use was considered an expansion of the approved use. Mr. Wilson added that a determination needed to be made regarding whether the noise is spilling over to residential zone or a residential use zone. Mr. Demir said that he had spoken with a neighbor, Roger Young at Bump and Grind, who didn't have a problem with the use. He said that he is willing to work with the Board and add in sound insulation if necessary. Justin O'Neil, co-owner of Wicked CAS explained that the dynamometer is only used during normal operating hours; he added that there is no noise ordinance against this as far as they could tell. Mr. Wilson explained that different types of noise affect people in different ways. Mr. Heitz suggested that the Board review the Noise Ordinance. The owners confirmed that the normal hours of operation are 9-6 weekdays, 10-5 Saturdays, closed on Sundays unless there is a car show. Ms. Faulconer asked the owners if they knew of a business named Granite State Dyno and Tune located at this address at Unit 3. Mr. Demir said that this was another business in conjunction with Wicked CAS; he confirmed that "Brian" was an owner of Granite State Dyno and Tune but was not a partner in Wicked CAS; the grand opening of Granite State Dyno and Tune was scheduled for May 12th.

Mr. Pope asked if the Board was talking about noise in a residential district or for property with a residential use. Mr. Coffin said the noise restrictions would apply at the property line in a residential district which would be abutting properties at Happy Hollow or Newton Junction Road. Ms. Faulconer referenced the Board's previous discussion as a reminder that the Noise Ordinance issue was determined to be a Board of Selectmen issue and the issue for the Board tonight was to determine whether this was considered an expansion of use requiring Planning Board review. Mr. Heitz explained that it would be helpful for any BOS enforcement action if the Planning Board would give specifics on any part of the ordinance being violated. Upon review of the tax maps, Mr. Wilson determined that the property does abut residential properties, while at least 700 feet in one direction, it did abut the residential district, specifically Tax Map R4, lots 17-17 and 17-19. Mr. Pope noted that this was what made the Noise Ordinance now pertinent to this site. Mr. Coffin referred to Article 408; upon review that Ordinance was determined to apply to vehicles and roads. Mr. Heitz asked if the Board was not receiving complaints from those abutters, did the Board expect that the BOS would go onto those

properties to review the noise levels. Mr. Pope suggested that the BOS measure the levels at the abutting line on the commercial property.

Mr. Wilson explained that if the company expanded, they would need to come to the Planning Board for a review of the expansion. The previous approval and previous uses of Unit 3 was questioned; Ms. Faulconer found a letter from 2009 noting the approval of a “soap” company in Unit 3. Mr. Greenwood noted that an expedited site plan usually referred to construction of some kind; different examples of types of expansions were proposed and discussed. Mr. Pope explained that the issue before the Board was concerning the expansion of the use and whether the current use was beyond the original approval. Mr. Heitz read an agreement from the property file that had been recorded at the Registry of Deeds regarding the approval of future retail and wholesale uses; Mr. Pope noted that tuning a vehicle is auto servicing, not retail or wholesale sales. Mr. Wilson said that the company is now servicing engines not just doing installations. Mr. Demir said that there used to be a motorcycle shop on site as well as a speed shop. Ms. Faulconer said that the concern is not whether this use would be allowed in this zone but what the Planning Board’s responsibility is about reviewing the use and granting an approval; she would recommend that there be a public hearing, with abutter notification, to review the proposal and would suggest waiving the need for the submittal of an engineered site plan. She added that this would work for the benefit of the owners because the issue would be addressed for the record eliminating future confusion and questions about the allowed use on the site.

Mr. Heitz referred to the recorded agreement; Mr. Wilson stated that he understood Mr. Heitz’ point but added that the agreement was for retail and wholesale which did not address anything about auto repair. Mr. Demir questioned approval of an auto sales facility; Mr. Pope explained to the applicant that a review of an auto sales facility would have also included auto repair in the initial review thus eliminating the need for two reviews. Mr. Wilson explained that the Board did not have an issue with the physical expansion; it was the expansion of the use itself. Mr. Pope suggested that when writing the letter to the Board about the use on the site, they might want to be less specific; the previous approval was very specific to audio equipment which caused him to see this as an expansion of the original use and approval.

MM&S that the Planning Board determined that this was an expansion of use for Wicked CAS; the Board will require a letter describing the uses on the site to be reviewed at a noticed public hearing including the notification of abutters; waive the requirement of an engineered site plan for this review. (Motion by Ms. Faulconer, second by Mr. Pope) Motion carries 6-1 (Mr. Heitz opposed).

The applicants were given the deadlines and procedures for making an application for the June public hearing.

Project Priorities

Mr. Wilson reviewed the project list previously established to determine the Board’s priorities; he read his list and Mr. Coppelman’s prioritizations. He gave a brief recap of each of the items on the list: he noted that the Aquifer Clarifications only had a couple of changes and Ms. Faulconer had made a first attempt at the language based on Ms. Truslow’s comments; CIP

although done automatically was added to the list so as not to be forgotten; Water District follow-up was important; Mr. Heitz will speak to Attorney Radigan about meeting with the Board; the Board needs to clarify its intent regarding Paving requirements; Master Plan Update was reviewed – the Board will update portions yearly. Mr. Wilson continued with Stormwater Management Enforcement stating that the Board knows this needs to be done; Livestock will be re-visited. The Board reviewed Business Licensing to help pay for Stormwater Management Enforcement; Ms. Faulconer suggested that this discussion be combined with Stormwater Management Enforcement; Mr. Pope agreed. Mr. Wilson reminded the Board that there was a question as to whether to require timers for Signs/Lights; Rural Residential Agricultural would be to encourage farming; Impact Fees was included on the list so as not to lose track of it and it might require ordinance changes from the Board; Global Issues was explained by Mr. Landry. He stated that instead of the Board just looking at smaller items in specific zones it might be more beneficial to review them on a larger scale; have the Board determine the types of businesses that they would prefer and how to encourage them and to get an overall picture for the Town. Mr. Wilson returned to the list and the question whether the Board would discuss whether the non-commercial lots along Rte. 125 were zoned properly; Blasting had to do with Groundwater. The Board discussed removing Blasting but will wait to get input from the Town Engineer to see if any additions to the Ordinances were necessary.

Action Item: Ms. Faulconer will get the Blasting permit from the Fire Department for Mr. Quintal's information; ask Mr. Quintal if any amendments are necessary.

Mr. Wilson asked if there were any additions. Ms. Faulconer suggested that there are residential lots with Commercial uses that were not readily found due to its placement and suggested the Board put in the right section of the Ordinances. This will be added to the list. Mr. Landry suggested that if the Board received the grant previously discussed then a lot of the conflicts would be found and corrected; if the Board did not receive the grant then the Board would have to review and make the corrections.

Mr. Pope said that the Noise Ordinance should be added since the Board may need to establish guidelines within the Commercial Zones. Mr. Landry questioned whether C-III may need to be amended regarding a possible conflict with the Aquifer Protection Zone.

The Board established the following priorities; the first two items are already proceeding and just being kept on the list as place-holders:

0. CIP Update
0. Impact Fees
1. Aquifer Amendments
2. Water District
3. Stormwater Management (Enforcement) and Business Licensing
4. Master Plan Update
5. Paving Clarification
6. Watershed
7. Global Issues
8. Signs/Outdoor Lighting (timers, etc.)
9. Noise Ordinance/Commercial Zones

10. Livestock
11. Rural Residential Agricultural Zone
12. Non-commercial (along Rte. 125)
13. Residential Lots with Commercial Use (relocation in ordinances)
14. Recreation Zone
15. Blasting

Mr. Landry added that the Board needed to have a plan to publicize any proposed changes.

Mr. Wilson explained that at the next meeting, the Board will need to determine which sections of the Master Plan would be updated and set goals to be able to concentrate on specific proposals as it was unrealistic to assume that all of the items on the list could be achieved or put forward on the ballot.

ACTION ITEM: Ms. Faulconer will contact Diamond Oaks to see if they are still planning on coming in to the next public hearing.

MM&S to adjourn at 8:55. (Motion by Mr. Pope, second by Mr. Landry) PUNA