

**Kingston Planning Board
Public Hearing
July 17, 2012**

The Chairman called the hearing to order at 6:46 PM. There were no challenges to the legality of the meeting.

Members in attendance:

Richard Wilson, Chairman	Adam Pope
Glenn Coppelman, V. Chair	Ernie Landry
Mark Heitz, BOS rep. (arrived with the meeting in progress)	
Stanley Shalett	Ellen Faulconer, Alternate (Administrative Assistant)

Absent: Peter Coffin, Richard St. Hilaire, Alternate
Also Present: Glenn Greenwood, Circuit Rider/Planner.

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

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

Jim Dufresne was present representing Diamond Oaks. Ms. Faulconer informed the Board that Attorney Loughlin was looking for more information including a colorized map that referenced the pertinent section of the condo. docs; she suggested that the Board would like a copy of this information for its records. Mr. Wilson referenced comments from Attorney Kalman regarding the land swap, escrowing of funds and tax-issues in the bankruptcy proposal as unusual, but reiterated that this was within the Selectmen's purview. He asked Ms. Faulconer to discuss the bankruptcy documents that pertained to the Planning Board. Ms. Faulconer explained that, during her discussions with Attorney Kalman, he had explained that the objection he had filed dealt specifically with the Selectmen's issues regarding taxes; anything on behalf of the Planning Board would need to be discussed with Attorney Loughlin. She had compared the last two bankruptcy documents, the last one filed on June 25th and the previous one filed in February; both documents say that the plan will be given to Mr. Dufresne for recording, which is contrary to the Board's policy adding that this is a small point. She continued that the February document requires that the Planning Board record the Lot Consolidation Plan in conjunction with the taxes being paid however the latest bankruptcy plan requires that the Design Plan, which is defined as the overall plan, will be given to the applicant to be recorded at the time the taxes are paid which wouldn't be correct since the conditions have not been met at this point. Mr. Dufresne says that he would have Attorney Sullivan deal with this but agreed that it would have to be changed since it is supposed to be the Lot Consolidation Plan that is being recorded at this point. Mr. Dufresne asked that Attorney Sullivan be emailed about the Board's issues. Ms. Faulconer explained that Attorney Kalman was not currently dealing with this issue and at this point no one representing the Town will be concerned with this point during the objection hearing; she continued that she is not familiar with bankruptcy procedures and does not know if the bankruptcy plan, as

currently presented, has any direct bearing on requiring the Planning Board to record the overall Design Plan in conjunction with the taxes being paid.

MM&S for Ms. Faulconer to contact Attorney Loughlin regarding the bankruptcy plan concerns for the Board, inform him about Town objection filed by Attorney Kalman.
(Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

Mr. Dufresne confirmed that the date to finalize the land closing is scheduled for August 2nd; he explained that Attorney Kalman and Attorney Gagnon seemed to have worked out the issue with the amount of the taxes. Mr. Dufresne said that the Lot Consolidation Plan issue should be able to be addressed simply and that Attorney Sullivan and Attorney Gagnon can fix the plan issue with court. Mr. Dufresne explained that the money issues would be worked out; Mr. Wilson said there were two issues, the money issue was the Selectmen's issue; the Board's current concern is the requirement of registering the wrong plan; Mr. Dufresne agreed that this was a problem.

Mr. Dufresne asked the Board if there were other outstanding issues. Ms. Faulconer said that there was just one issue that she couldn't find addressed in the documents but did say that, knowing there was a problem with the bankruptcy documents, she had only taken a cursory look at them; she had brought this up in the email to Attorney Sullivan after the last meeting and it was whether there should be something in the document establishing which association was responsible for the State's water/well testing requirements. Mr. Dufresne said that it is a requirement from the State and it would either be up to the public utility or the homeowner's association and was just something that needed to be done. Ms. Faulconer said that this would be the assumption but she did ask the question about whether it should be reflected in the document and she did not get an answer back from Attorney Sullivan and didn't find it in the document; it should be clear who is responsible in case the testing does not get done.

Mr. Landry had a question about the Open Space Easement; Attorney Sullivan said that the language was going to be all included in the condo. docs about the Open Space and preserving in perpetuity; in reviewing the condo. docs., he didn't see much in there about the Open Space easement; he saw a sentence that said that the Open Space would be preserved in perpetuity but at another spot there was something that indicated a portion of Limited Common Area 3 would be preserved but it didn't identify what the Open Space was going to be so that if an entity such as the Town wanted to see if the Open Space was being preserved in the state it should have been, how could they get to the site and identify which Open Space they would be looking at. Mr. Wilson said that he thought this was discussed last week and Ms. Faulconer asked that this be defined better on the plan and Attorney Loughlin has also asked for a better representation of this on a plan. Ms. Faulconer thinks that the plan asked for by Attorney Loughlin should hopefully address this; the Board had a plan that showed this but we were told recently that that plan was outdated. Mr. Dufresne explained that the entire Golf Course is Limited Common Area 3 on the plan; the whole golf course is the Open Space; not part of it, the whole Golf Course. Mr. Wilson agreed that it was the whole Golf Course. Mr. Landry said there is a section in the documents that say it is a "portion of". Mr. Wilson stated that he had suggested that they remove the greens from the description of the whole golf course. Mr. Landry asked if there would be a plan showing this; Mr. Dufresne said that this is shown in the Lot Consolidation Plan. Mr. Landry says that it doesn't show the Conservation Area for Common Space; he said he could

read the section of the condo. doc. that says a portion of area 3. Mr. Wilson said that this was talked about last week and Attorney Sullivan was going to correct it.

ACTION ITEM: Ms. Faulconer to send this to Attorney Sullivan again. The Board specifically said the “whole golf course” with the possibility of not including the greens.

**MM&S to continue to July 24th at 6:45. (Motion by Mr. Coppelman, second by Mr. Pope)
PUNA**

<Board note: Mr. Heitz arrived at this time.>

Board Business

Correspondence:

- Letter received from Shane McKeen, 91 Route 125; currently 1600 sq. ft. Antique Shop, he wants to open up an area for an Ice Cream shop, open from 10 to 10 with picnic tables; pick-up window on the North side; portable bathrooms that will not be visible from the street. Mr. McKeen says that he has spoken with Chief Briggs adding that he would like a quick conditional approval. Mr. Wilson said that he questioned the ability to have portable bathrooms adding that the Health Officer would need to be contacted about this. Mr. Greenwood explained the expedited review process as a minor modification where the use did not change adding that this proposal would constitute a change of use and would not be the same process as expedited review. Mr. Wilson stated that an amended site plan would be in order. Mr. Greenwood said it is a different activity for this site. Mr. Coppelman commented that the traffic alone will be a different activity adding that it is not that this is a prohibited use but an amended plan requires the public review process; it is not a small change to an existing use. Mr. Wilson agreed citing the addition of outside picnic tables, port-a-potties and added traffic. Mr. Wilson explained that the timing for the next possible hearing is due to public notification and posting requirements. Mr. Shalett said that he is concerned about the parking at that location; Mr. Wilson noted that this issue would certainly be discussed at the site review. The Planning Board advised Mr. McKeen to submit a site plan review application.
- Letter was received from Trudy Abood, Vice President of Gourmet Gift Baskets; planning on sharing space in the Sears building. Mr. Wilson read Building Inspectors comments regarding lack of building permits; he suggested that Ms. Abood meet with the Building Inspector. Health Inspector comments were read about the septic system approved in 1982 with no cafeteria and asking what is going to be on-site. Ms. Abood said the only food preparation was popcorn; there was no other food prep. Mr. Wilson suggested that she meet with the Health Officer. Mr. Wilson read the Fire Department's comments requiring an independent review to confirm that the sprinkler system will not challenge the fire load. Mr. Heitz stated that Chief Briggs had no concerns; the BOS had no concerns. Mr. Greenwood's concern in determining whether additional site review was needed had to do with the retail operation. Ms. Abood explained that the State requires a “convenience store” with a liquor license so they need to be open for retail sales but they only have this occurrence about four times a year; it is nothing they advertise. Mr. Wilson stated that if the Inspectors become satisfied, it seems like a

similar use. Ms. Abood noted that they are an internet company but the State has not addressed the rules regarding Internet Sales. Mr. Coppelman reviewed the uses in C-II and this is a permitted use; Mr. Greenwood stated that materials distribution is allowed.

Ms. Abood explained that they are going to use ½ of the office area and ½ of the warehouse; they are not currently separated which is an issue they will need to address; Sears has the other half of the building; she noted that they have about 74,000 square feet; the office is about 12,000 sq. ft. Mr. Wilson stated that once the Inspectors are satisfied, he is okay with the use.

Mr. Coppelman suggested there should be a plan on file showing the building and what it was being used for; Mr. Heitz said that there should be no problem submitting this and identifying the space being utilized. Mr. Wilson said that Ms. Abood should ask the building owner to provide this map showing an update of the building.

Mr. Coppelman noted that, should the retail aspect of the business increase, then there would be the need for additional review from the Planning Board. Ms. Abood re-iterated that she had no plans on expanding to be waiting on customers. She stated that there would be 48 full and part-time employees which increases by 10% to 50% at holidays. Mr. Wilson stated that they would need to get a Business Occupancy Permit from the Inspectors. Ms. Faulconer reminded the Board that there was no letter of authorization from the property owner submitted to the Board at this point.

MM&S to deem that no further site plan review is required from the Planning Board conditional upon receiving an updated plan of the use within the building and a Letter of Authorization from the owner. (Motion by Mr. Heitz, second by Mr. Pope) **PUNA**

ACTION ITEM: Ms. Faulconer can write letter to this effect for Ms. Abood to give to the Liquor Licensing Board.

- Letter received today from Jim Lavalley requesting extension of conditional approval for the Solar Hills approval. Ms. Faulconer suggested adding them to next week's agenda so Mr. Greenwood could speak with Mike Cuomo and Army Corps. about approvals and review update. Mr. Greenwood suggested making a motion to extend until next week since it hadn't been determined when the deadline was yet.

MM&S to extend the Solar Hills approval to July 24th. (Motion by Mr. Coppelman, second by Mr. Landry) **PUNA**

<Board note: Mr. Heitz left the meeting at this time due to illness. >

- Site walk for Wicked CAS has been rescheduled to August 18th at 9:00 AM.
- Letter received from Town Engineer regarding re-inspection at Rte. 125 Storage facility; erosion issue resolved.
- Bucco's restaurant requesting tent with beer sales outside in parking area during Kingston Days. The Board agreed that this use would be permitted without any further review during Kingston Days, 2012 only; any other time would require additional site plan review.

ACTION ITEM: Ms. Faulconer will write letter to this effect for Mr. Bucco who needs this for liquor licensing.

- Notice received that Ducks on the Pond Letter of Credit will be expiring/not being renewed in September.

ACTION ITEM: Mr. Greenwood will add to last week's letter to include the need for this to be extended or provide construction bond for any continued work on the site.

- Circuit Rider contract received.

MM&S to approve the Circuit Rider contract as presented and forward to BOS. (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

- REDC letter and CD received with updated plan
- New Law HB1223 re: Right to Know law reviewed
- Town and City magazine received

Master Plan Update

Mr. Greenwood reviewed previous memo: Natural Resources or Transportation need the most update; Transportation hasn't been looked at for a long time. Mr. Coppelman suggested that the update to the Natural Resources might be less involved and possibly handled by a TBG grant. Ms. Faulconer expressed concern that the Natural Resources section needed to be the priority and done first with language incorporated as discussed with Attorney Ratigan. Mr. Wilson and Mr. Coppelman agreed.

Tax Map Review

Ms. Faulconer explained that due to the changes and the list created, it now appeared that lots that are within the HDC by the zones description appear to be left out if not on the list. Mr. Greenwood explained that it does not require a vote at Town meeting to include lots on the list that are already described as in the zone. There are other lots, pointed out by Ms. Sanford in the BOS office, for the Board to look at for any possible changes.

ACTION ITEM: Mr. Wilson and Mr. Greenwood will review and get back to the Board. Ms. Faulconer will review Ms. Sanford's questions with them.

MM&S to approve June 19th minutes as written. (Motion by Mr. Landry, second by Mr. Shalett) **PUNA**

MM&S to go into non-public session to review a legal issue and a personnel issue. (Motion by Mr. Coppelman, second by Mr. Pope) The Board was polled:

Mr. Landry: yes	Mr. Shalett: yes	Mr. Wilson: yes
Ms. Faulconer: yes	Mr. Pope: yes	Mr. Coppelman: yes.

The motion carried unanimously.

The Board discussed an email regarding legal advice from Attorney Loughlin.

Ms. Faulconer's vacation was approved.

MM&S to come out of non-public session. (Motion by Mr. Coppelman, second by Mr. Pope)

The Board was polled:

Mr. Landry: yes

Mr. Shalett: yes

Mr. Wilson: yes

Ms. Faulconer: yes

Mr. Pope: yes

Mr. Coppelman: yes.

The motion carried unanimously.

MM&S to adjourn at 8:10. (Motion by Mr. Pope, second by Mr. Coppelman) **PUNA**