

**Kingston Planning Board
Public Hearing
January 7, 2014**

The Chairman called the meeting to order at 6:48 PM. There were no challenges to the legality of the hearing.

Members in attendance:

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

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

**Trendezza, LLC
22 Marshall Road
R33 Lot 27**

Joseph Nichols of Beals Associates presented a copy of the NHDOT's approval for the entrance to the proposal. He provided the Board with 11x17 plans with revisions per the Town Engineer's comments; these plans had not been available for anyone to review prior to the meeting. He stated that they had been in touch with DES for the well study; Fish and Game is requiring some minor changes specific to the area around the vernal pool and widening the edge for any migrating species. Mr. Wilson noted receipt from the Town's Post Master that the placement of the mail kiosk was approved. Mr. Nichols stated that the hydrogeologic study was in progress. Nicki Roy and Andrew Ashton were introduced as doing the hydro study. Ms. Roy explained where they were in the process; she hopes that the analysis will be done for the next meeting.

Mr. Coppelman asked if the work being done for the hydrogeologic report would help to answer issues raised about possible lead contamination on the site. Ms. Roy stated that the analysis focuses on nitrates, not lead noting that DES will require additional testings for the well which may address potential lead contamination. Mr. Nichols stated that he had not been briefed on that issue; studies will be done regarding well protection and location.

John LaRiviere, owner of Trendezza, explained that when doing a community water system, lead will be part of the sampling and they will have to address any contaminants above drinking water standards as part of a community water system. Mr. Coffin stated that there may be localized surface contamination from lead shot that would need to be addressed before moving the large soils; it would be better to remove a small area before contaminating the rest of the site when combining the soils for the fill and preparation of the site. (*Board note: Mr. Shalett arrived at this time*).

Ms. Roy stated that lead is a direct contact issue; if information as to the location is available, it would be good to compare with the grading plans to see if it is an area of concern. Mr. Coppelman said that his point is that since this has been brought to the Board's attention by an abutter with environmental expertise, it would be good to determine whether it has an effect and what that effect might be; it should be addressed and noted with the application. Mr. Nichols stated that the area had not been a commercial shooting range or source of large contamination, it was just an occasional person shooting; if necessary they can take a look at it. Ms. Faulconer suggested asking the abutter to show the location she was referencing in a way to end the discussion one way or the other; she assumed that if there was lead contamination, the property would rather know. Mr. Heitz talked about the history of the site and the area where the shooting occurred adding that it was probably off-site. Mr. LaRiviere said there is a drop at the back edge of the property that might be the location of the shooting; he stated that if the abutter was willing to show the location she was referencing as possibly contaminated, he would be glad to have her show them the site. Mr. Nichols said that they can do a site walk with her regarding these issues and fill for the property.

ACTION ITEM: Ms. Faulconer to contact Andrea Kenter, abutter, to ask if she was available to show the location of possible lead contamination on the site.

There was further discussion about past interest on the site; previous monitoring wells, target shooting on and near the site.

Mr. Wilson asked Mr. Greenwood if he had any comments; Mr. Greenwood said that any of his comments had been from a recent review of a plan that had just been replaced that he had not been able to review yet. Mr. Beals will provide full-size plans to the Board to be distributed for review and comments.

MM&S to continue to January 28, 2014 at 6:45. (Motion by Mr. Pope, second by Mr. Coffin)
PUNA

PSNH
14 Mill Road
Tax Map R11 Lot 11

Mr. Wilson announced that PSNH had asked for a continuance of this hearing to January 21st.

MM&S to continue to January 21, 2014 at 7:45. (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

Board Business

- Lot Line Adjustment received; a piece of information was missing; this will be reviewed again at next meeting.
- PSNH report from Town Engineer – review 1/21/14
- Update on Solar Hills, bond amount; Mr. Heitz reviewed his discussions with Mr. Pellegrino. Mr. Quintal reviewed issues regarding the Sieve Analysis, test minimums

and procedures for the Board's review; the Board needed to make a decision about the information received. Mr. Quintal explained that he contacted the testing company due to the discrepancy in the numbers of the provided information; he was told that one of the results received was from a different project/location; that company had the information but would not release it without an authorization from Mr. Pellegrino. Mr. St. Hilaire explained the Town's alternative options to obtain the information including boring through the existing pavement to get to the base.

ACTION ITEM: Ms. Faulconer to send a letter to Pellegrino asking him to provide a release authorizing the company that performed the testing to provide the sample results to the Town.

Zoning Amendments – Public Hearing

The Board reviewed the proposed amendments that had previously been posted and reviewed for tonight's hearing.

Bed and Breakfast in HDCI: Mr. Coppelman explained the proposal that had been proposed by the HDC and moved forward by the Planning Board.

MM&S to move this zoning amendment to the ballot for the 2014 Town election. (Motion by Mr. Coffin, second by Mr. Pope) **PUNA**

Article 109, Commercial Zone C-II: Mr. Heitz explained the proposal for adding lot 20 to the list of RR lots with commercial use; Lot 20 is surrounded by the other lots and commercial uses; this lot at the time of the change had been a single family home. Public comment: Ms. Merrill, speaking as a representative of the Kingston Business Group stated that at the time, the discussion and intent was to include all the lots along that side of the road. Mr. Pope was concerned it was spot zoning; Mr. Greenwood explained that it would be spot zoning if the other lots were not already included. Mr. Heitz announced that he would be recusing himself for this vote.

MM&S to move this zoning amendment to the ballot for the 2014 Town election. (Motion by Mr. Coffin, second by Mr. Coppelman) **Motion carries 6-0** with Mr. Heitz recused and not part of the vote tally.

Article 205: Amend language to include the other State recognized Great Ponds.

MM&S to move this zoning amendment to the ballot for the 2014 Town election. (Motion by Mr. Coffin, second by Mr. Pope) **PUNA**

Article 207: Amend Res. Home Occupation, section G.6 to comply with State code: The Board agreed to move to the warrant but there was concern that due to the brevity of the language for the ballot, there would be confusion. Ms. Faulconer will add previous sections of the ordinance, not being amended, to add clarity to the changes; add clarifying language to section "6"; due to these changes, the Board will continue this to the next public hearing.

MM&S to continue this hearing to January 21st at 6:45. (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**

Article 303, Sign Ordinance: The Board reviewed the proposal; there was not public comment.

MM&S to move to this zoning amendment to the ballot for the 2014 Town election.
(Motion by Mr. Pope, second by Mr. Coffin) **PUNA**

ACTION ITEM: The Board instructed Ms. Faulconer to bold or italicize changes, as necessary, to make them stand out for the voters.

Diamond Oaks
Residential Village at Granite Fields
NH Rte. 125
R3-Lot 4 (Land Units 1, 2, 3, 4)

Mr. Greenwood reviewed his conversation with Attorney Loughlin that he had this afternoon; as the proposed changes in the condominium documents stand, the working constitutes a subdivision; he explained that it changes 32 house units on an overall parcel of land to 32 units with 32 individual lots; this does not comply with any of our regulations. Mr. Coffin said this would be a change to the review; the Board had been looking at condos; they had not been looking at setbacks and other issues of land ownership. Mr. Wilson noted that the Town Engineer basically said the same thing in his comments, that this was a subdivision not meeting Town and State regulations.

Attorney Kathy Sullivan introduced herself as representing the applicant. She stated that her client was trying to deal with a combination of two or three lenders who want specific units. She had brought this to Attorney Loughlin who said that it was a change and needed to go to the Planning Board, which they have done. She stated that she received a call from Mr. Greenwood today about this issue; she was able to pull out three different land unit projects that used this model in Dover, Concord and Manchester, albeit none of them are residential developments. She also had a book discussing the use of land unit projects. Ms. Faulconer stated that during today's discussion with Attorney Loughlin, he also reviewed other communities that had used this type of project but stated that Kingston's ordinances and regulations did not pertain this type of land development. Mr. Wilson suggested that Attorney Sullivan would want to speak with Attorney Loughlin as it would be unlikely that the Board would go against advice from our own Attorney.

Attorney Sullivan explained that the only difference was that the envelopes around the building sites are now the boundary description for the unit; there are still common areas maintained by the association; the boundary description is now an envelope around the building, not the land under the building. She reminded the Board that this hearing had been continued from December due to weather and indicated that the issue had not come up at that time. Ms. Faulconer noted that the Town Engineer had provided his comments in time for the December

hearing and he had raised this issue at that time; Mr. Wilson read the comments submitted from the Town Engineer.

Attorney Sullivan stated that it is their interest that the Board vote tonight; they do not want to continue to talk with Attorney Loughlin; they want to move one and try another way to get their financing.

MM&S that based on the applicant's desire to have a decision tonight and the guidance received from the Board's own counsel, the Board has no option but to deny the request to change the Condominium Documents. (Motion by Mr. Coppelman, second by Mr. Pope)
Discussion on the motion:

Mr. Greenwood asked Attorney Sullivan how it was possible that they did not see this as a subdivision; Attorney Sullivan said it is the same as previously presented as the other units do not exist until they are declared and therefore it remains part of the common area. Mr. Greenwood said the explanation did not convince him that this was anything but a subdivision. Attorney Sullivan stated that it is a conceptual issue different than the Board is used to seeing. They both agreed that further discussion between them would not change anyone's mind at this point. She added that this is a form of land ownership, not something they are making up at the moment. Mr. Wilson re-iterated that the Board's attorney says we shouldn't accept it. Mr. Heitz asked Attorney Sullivan if the Board was having this discussion today to simplify her client getting financing. Attorney Sullivan answered yes and to move the project forward.

VOTE on the Motion: PUNA

**SD YMCA/Camp Lincoln
GMAC Mortgage
R25-33 and U4-99**

Charlie Pearson stated that he was representing both parties as the engineer of the submission; the purpose was to clean up encroachments along lines at the Great Pond subdivision. He explained the project to the Board. Victor Manougian supplied paperwork confirming that he was representing GMAC Mortgage, LLC. Abutter, Russell Quintel or 15 1st Street, stated that he was in attendance to see what was happening on the properties. Mr. Pearson explained that it was fairly straight-forward, just cleaning up issues along the property lines. Under-drains from the site to Camp Lincoln property that were no longer being maintained were noted; not an issue for Camp Lincoln so not an issue for the Board.

MM&S to approve the Lot Line Adjustment as presented. (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

Board Business, continued:

Correspondence, continued:

- Bond Balance list reviewed
- Letter from BOS to Ash Drive condo. assoc. received

ACTION ITEM: Ms. Faulconer to get documents pertinent to the easements at Ash Drive for review at an upcoming meeting.

- Letter received re: Thrift Shop at 167 Main Street; no action required by the Board.
- Previous memo re: 53 Church Street – confirmed
- HYW Auto Sales requesting Inspection Plates – Ms. Faulconer will invite to Jan. 28th meeting.

Minutes:

MM&S to accept 10/1/13 minutes as written. (Motion by Mr. Pope, second by Mr. Coppelman) **Motion carries 6-0-1** with Mr. Heitz abstaining.

MM&S to accept 9/17/13 minutes as written. (Motion by Mr. Pope, second by Mr. Coffin) **Motion carries 6-0-1** with Mr. Heitz abstaining.

MM&S to accept 10/15/13 minutes as written. (Motion by Mr. Coffin, second by Mr. Landry) **Motion carries 6-0-1** with Mr. Heitz abstaining.

MM&S to accept 10/22/13 minutes as written. (Motion by Mr. Pope, second by Mr. Landry) **Motion carries 6-0-1** with Mr. Heitz abstaining.

MM&S to accept 11/19/13 minutes as written. (Motion by Mr. Coffin, second by Mr. Shalett) **Motion carries 5-0-2** with Mr. Heitz and Mr. Pope abstaining.

MM&S to accept 12/3/13 minutes as written. (Motion by Mr. Coppelman, second by Mr. Coffin) **Motion carries 6-0-1** with Mr. Heitz abstaining.

Committees:

Heritage Commission: Mr. Landry announced that the Town had received a LCHIP grant for the restoration of the Bandstand.

CIP: Mr. Coppelman stated that the CIP work was completed for this year and needed to be on the PB agenda for the Planning Board to accept the plan. This was added to the Board's Feb. 4th agenda at 6:30.

MM&S to adjourn at 9:00 PM (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**