

KINGSTON PLANNING BOARD
November 17, 2020
Public Hearing

Minutes

Lynne Merrill, the Acting Chairperson called the hearing to order at 6:30 PM; she noted a quorum present through the Zoom platform for a remote hearing; there were no challenges to the validity of the hearing. Ms. Merrill began the hearing by reading the Right-to-Know checklist explaining the requirements, workings and access information for the remote hearing via the Zoom platform; contacting the Planning Board through emails and phone during the meeting was also noted as available. She reviewed the hearing and review process.

A roll call vote of the Board members present occurred; each member noted whether any one was present with them in the room while attending this meeting.

Members present:

Peter Coffin; alone	
Lynne Merrill, Acting Chair, alone	Robin Duguay, alone
Chris Bashaw, alone	Peter Coffin, alone
Peter Bakie, alone (arrived with the hearing in process)	
Richard Wilson, Board of Selectmen (BOS) rep., alone	
Ellen Faulconer, alternate/admin. asst., alone in the room	

Members absent: Glenn Coppelman, Steve Padfield, alternate.

Also present: Glenn Greenwood, Planner; Dennis Quintal, Town Engineer

Ms. Merrill announced that due to Mr. Coppelman's absence, Ms. Faulconer would be a voting member this evening.

Fieldstone Industrial Park

34 Rte. 125

Tax Map R2 Lot 13

Ms. Merrill read the public notice; she explained that this hearing had been continued pending DOT approval. Doug MacGuire, representing the owner, said that progress had been made; there was sign-off and approval for one septic; the other was pending. He stated that they had DOT's review of the driveway and there are a few items that needed revision and have been re-submitted to NHDOT (NH Department of Transportation). He stated that an electronic copy of the plan had been sent to Mr. Quintal. *<Board note: Mr. Bakie joined the hearing at this time. Due to technical difficulties, Mr. Coffin briefly took over the meeting,*

pending Ms. Merrill's return.> Mr. Coffin noted Mr. Bakie's attendance and confirmed that Ms. Faulconer would be voting. *<Board note: Ms. Merrill returned to the meeting.>*

Mr. Greenwood stated that the easement was sent for review by the Town Attorney who wanted to ensure that the Fire Department (FD) had signed off on the plan. Mr. Coffin was not sure if that had occurred. Both he and Ms. Faulconer recollected that the FD's comments stated that it would need to comply with NFPA. Mr. Greenwood continued with his comments that included noting that the punch list from Mr. Quintal was received with a couple of items unresolved; the attorney would like to see a final sign-off from the FD.

Mr. Quintal stated that his comments were addressed. Mr. Greenwood stated that the Board is in receipt of a letter from Conservation. Ms. Merrill read the comments regarding the wetlands issues on the site in relation to a previous approval of the mitigated wetland and DES conditions on the property. Mr. Greenwood said that he read comment #5 differently as there are no proposed alterations to the wetland; there are no further alterations of the wetland so it is not an issue. Ms. Nathan said that the Commission is not asking for a reconsideration of the vote but wanted the issue on the record. Mr. MacGuire explained that the DES wetland restoration was a 5-year program and expired a year ago and was no longer an open permit; he added that they are not proposing to impact the wetland. Ms. Faulconer asked Mr. MacGuire to review DOT's issues. Mr. MacGuire explained that DOT was proposing a re-alignment; they did have a heated discussion as they are improving the entrance. He anticipates that DOT will accept the proposal as there were some design changes made; DOT got the new plans on Tuesday.

Mr. Greenwood suggested that the issues raised by the attorney regarding the Fire Department's sign-off would need to be a condition of any approval. Mr. MacGuire replied that they would need to comply with Fire codes and there is a note on the plan. Mr. Wilson stated that he spoke with the Fire Chief and the driveway is ok. He continued that they have the AoT permit, water supply permit, one septic permit with the other pending and the DOT permit is pending. Mr. Quintal said that he had reviewed the septic plans and the Health Officer had signed off on both which were then sent to the State; he expects no problem with receiving the approval.

Mr. Coffin asked if there was anything on the plan about a sign and if there were plans for a sign. Mr. MacGuire said that he did not believe that the sign location is part of the easement and in order to have a sign would need to acquire an easement. Mr. Coffin said that there are currently 2 signs on Comcast property; there is a billboard-type sign on the property that wouldn't have received a permit to be located on the property. Mr. MacGuire said that the signs would need to be taken care of; if being added they would need to come back to the Board and would need to notify abutters. Ms. Faulconer asked Mr. MacGuire if the circumstances had changed enough from the last hearing that they were comfortable with not continuing. Mr. MacGuire said the he is comfortable for his client with moving forward.

There was no public comment.

MM&S to conditionally approve pending receipt of the DOT driveway permit, remaining septic permit, receipt of bond for drainage features with the Board authorizing Mr. Quintal to determine the amount needed for the bond. (Motion by Mr. Wilson, second by Mr. Bashaw) Ms. Faulconer noted that due to Mr. MacGuire’s explanation of the expiration of the DES permit, she was comfortable with the wetland issues.

Roll Call vote:

Lynne Merrill – yes	Peter Bakie – yes	Ellen Faulconer – yes
Robin Duguay – yes	Peter Coffin – yes	Chris Bashaw – yes
Richard Wilson – yes		

Motion carries - **PUNA** (Passed Unanimously) Timing needed for conditions was discussed.

MM&S to allow 180 days to meet the conditions of the previous approval. (Motion by Mr. Bashaw, second by Mr. Wilson)

Roll Call vote:

Lynne Merrill – yes	Peter Bakie – yes	Ellen Faulconer – yes
Robin Duguay – yes	Peter Coffin – yes	Chris Bashaw – yes
Richard Wilson – yes		

Motion carries - **PUNA**

266 Rte. 125, LLC
266 Rte. 125
Kingston, NH 03848
Tax Map R41 Lot 17-1

Ms. Merrill read the public notice. She reviewed the previous hearings and suggested review of the minutes as a recap of those hearings. She explained the difference between a distribution facility and a fulfillment center. Ms. Merrill explained the approval process and the requirements.

Ms. Merrill stated that the Board had received multiple letters and emails; due to the amount they would not be read individually; she would do a recap of the issues raised in the letters.

MM&S to post the comments on-line and attach them to the minutes. (Motion by Mr. Wilson, second by Mr. Bakie)

Roll Call vote:

Lynne Merrill – yes	Peter Bakie – yes	Ellen Faulconer – yes
Robin Duguay – yes	Peter Coffin – yes	Chris Bashaw – yes
Richard Wilson – yes		

Motion carries - **PUNA**

Ms. Merrill reviewed the concerns in the letters adding if one was not mentioned for the attendees to add the concern in the “Chat” function of the meeting:

1. Traffic: Access Road should be for emergency vehicles only; traffic delays; pedestrian traffic between Kings Landing and the Library
2. Noise: idling of engines, back-up alerts, suggested buffers similar to those on highways
3. Fumes
4. Light Pollution; Ms. Merrill noted that they would need to meet requirements of the Dark Sky Ordinance
5. Wildlife Migration and the Blandings Turtles
6. Clarification of the Tenant.

Mr. Greenwood noted that there were several requests that all the letters be read aloud and a request to post the letters immediately. Mr. Bakie stated that the letters were repetitive. Ms. Faulconer explained that the letters were not able to be posted immediately as she did not have access to the web site to be able to accomplish that and would have to wait. She also stated that in the "chat", there was a request to add "environmental" concerns.

Ms. Merrill continued with the list of concerns:

7. Environmental and Watershed

Mr. Greenwood noted that he had no new comments at this time; the Board had received draft comments from the Rockingham Planning Commission (RPC) regarding regional impacts. He added that the Board's Traffic Engineer would give his review; he got additional information yesterday that could have additional questions that would need to be closely reviewed by the Planning Board. He stated that the hydrogeologic study was supposed to have been done by Nov. 5th and must be provided to the Board's consultant which could take up to three weeks but without receipt of the study, there is no date at this point. He reiterated that abutter concern letters had been received with concerns about traffic and noise generated on-site. He stated that abutters and the design team would need to determine if restoration is needed on private property.

Mr. Quintal reviewed his comments; he stated that he received revised documents but only 16 of the 86 pages of the plan with an 11/4 revision date; he also received the Supplemental Drainage Analysis dated 11/5. He continued that there were other items not fully satisfied: wetland note/stamp and signature; conditional use permit requires no reduction in water volume of the Aquifer. The Stormwater Analysis shows a reduction in groundwater recharge. He continued that there is to be no damage to spawning and wildlife habitat and the plan shows there is proposed damage. He added that the plan needs to meet the Shoreland Ordinance; there is a drainage structure at pond level that is 8 ft. lower than the seasonal level that could affect the abutting property; these impacts need to be explained. Mr. Quintal continued with issues including: rip-rap area shown on A-6, Shoreline summary which would require a variance for impervious surface over 20% for Lots 17-1-1 (over 47%) and 17-1-2 (over 27%); sheet 4 refers to note #7 which is not actually there; outlet control structure info. doesn't match; need to list all waivers granted; list all State approvals and date of approval; determine sheets to be recorded; add a note that the full plan is in Planning Board office; need 4000 sq. ft. area with 2 test pits provided or a waiver requested and

granted; stormwater management report in accordance with current minimum requirements; need to protect the quantity and quality of Aquifer Protection Zone and water supplies; the volume of run-off increases 47% (2 yr. event) and the applicant needs to provide information regarding the impact to the Aquifer and downstream with the increased volume; while the infiltration of the storm events has been shown and reduced, there is still a significant amount; bond established; performance guarantee amount finalized prior to Board approval; recording of document; run-off additions needed to the plan; location of overflow spillways (Sheet 3) not shown on the plan.

Robert Duval of TF Moran, the Board's consultant for review of the traffic study, reviewed the study dated 10/2020 and provided his conclusions to the Board. He stated that the study area seems to be appropriate. He compared a fulfillment center to a high-cube warehouse. He said that there are appropriate numbers in the study and a reasonable, and conservative, trip generation rate. He added that the Town should make it clear that this property will NOT be operating as a fulfillment center and if that changes, they would need a new traffic study. He reviewed activity for a high-cube warehouse that was expected to operate 24-hours daily with 3 shifts which could fall outside of peak hour traffic. He estimated 600 employees with 200 per shift with the peak hours being 7:30 – 8:30 AM and 4:15 – 5:15 PM; the increase on Route 107 would be approximately 35 vehicles in the AM and 39 in the PM; increase on Rte. 125 would be 60 going North at PM peak and 106 going South at PM peak. He said the trip generation in peak hours is a reasonable approach in the projections. He added that during the peak times and when on the rise to near peak and continuing after peak could be significantly impacted by the shift hours; if the site generates a higher peak traffic when the roadway is near peak, it could change the peak hour and make it longer. He suggests submitting possible changes to the shifts; there should be additional information regarding the schedules and shifts; the schedules need to be added to the outside traffic to see when the peak volumes will be and then be analyzed; staggered shift arrangements for 3-4 hours could reduce the peaks rather than dumping the traffic on the roadway all at one time; this would be a pro-active method and the Planning Board may want to require a Traffic Demand Management Scheme to show that the anticipated work schedule conforms to assumptions in the study. He stated that the items in the study are reasonable and customary methodology was used. Mr. Duval stated that the signal warrants analysis was reviewed as were the turning lanes which is an appropriate solution. He reviewed the capacities of the driveways and turning lanes. He reviewed the capacities of the intersection and assumed delays. He said that based on trip generation assumptions, there were no significant safety concerns. Mr. Duval stated that the applicant should provide supplemental information regarding site generation peak hours along with traffic peak hours and a supplemental analysis may need to be run; they need to verify that worse case scenarios are addressed.

Karl Dubay asked to summarize a few items before answering questions. He stated that this is not a fulfillment center; there will be no drones. He stated that Mr. Pernaw of Pernaw and Co. met with Mr. Duvall and the Town staff in late October and prepared a supplemental

analysis and they are proceeding; they have updated septic information per the Town Engineer's comments; they have provided extra treatment for the septic.

Tim Stone said that the Town's hydrogeologic consultant will be getting the report shortly and expects that it can be reviewed by the December hearing. Mr. Dubay said that, in regards to the Shoreland, will be happy to comply with the State requirements and will be performing to those standards and are meeting design requirements. They will be aggregating the designs and criteria for everyone's review.

Mr. Dubay stated that, regarding mitigation, the Army Corps. Of Engineers have weighed in as did NHDES and they are happy to announce that the mitigation is going to Kingston and is wrapping up nicely.

Mr. MacGuire reviewed drainage; he gave background on the original designs that met BMP's for a standard project but the Town Engineer is asking for more than standard due to the size of the site; he said the design shows reductions from existing conditions; they did additional soil testings and evaluation to infiltrate in more areas; added 2 additional pond systems and converted to infiltration systems; in any design storm there is no water coming out from them.

Mr. Dubay said that they have modified the administrative lines in the subdivisions and impervious percents; the lots now reflect the corrections and they meet the Town and State regulations. He continued that they are finishing a wildlife migration study and will provide a copy by next week. Mr. Dubay said that the Town of Kingston has an aggressive lighting ordinance and they will meet the requirements; they are Dark Sky friendly and will meet the variables; they will meet the noise ordinances at the property line. Mr. Dubay added that the interior buffers are shown and landscaping requirements will be met. He said they are following the rules; they will be submitting: wildlife study, hydrogeologic study, they will aggregate the plans and get back to everyone; they would like to get the volume date to Mr. Quintal.

Ms. Merrill asked the Board if there were any questions. Ms. Duguay asked what was being stored in the warehouse; were there any toxic or hazardous substances stored in the regulations. Mr. Dubay said there was no storage of hazardous substances. Mr. Wilson asked about the access road to Rte. 107; he questioned the use by 35 employees and how that would be controlled and why was it needed. Mr. Dubay answered that it was a 24-foot driveway with an electronic security feature; a gated security system so that only certain employees can enter in that way; he said that it is really about warehouse management so they can control the use of the "back door"; the rear access road is important for safety. Mr. Pernaw said that this would be used for passenger cars only, 38 vehicles in the evening peak hour, a gated system. Mr. Wilson questioned whether 34 vehicle trips meant 17 in and 17 out; Mr. Pernaw said it would more likely be 13 in and 21 out; in the AM it would be mostly arrivals. Ms. Faulconer noted that while he fully explained how it would be used, Mr. Dubay

has not explained “why” it was needed. Mr. Pernaw said there was an advantage to having a driveway on Rte. 107. Mr. Greenwood said that this access point has been a problem with him from the beginning; it is a commercial site but for the majority of the residents, it wasn’t originally commercially zoned. He expressed concern that the driveway isn’t necessary and the study shows that; this is one of the major issues and the cost benefit analysis is in favor of the residences. He thinks it is safe for emergency access and he thinks it is not needed for the proposal. There was discussion regarding enforcement of the limited numbers of cars allowed to use the entrance. Mr. Coffin asked why the back road was so important; there were issues with the buffer and transformer which would need waivers for the buffer and he doesn’t see the benefit. Ms. Merrill confirmed with Mr. Pernaw that lights at 125 and 107 will be installed if acceptable to NHDOT. Ms. Merrill questioned the number of cars entering and exiting Rte. 107 at Kings Landing and asked if a comparison could be made. Mr. Pernaw said that he could run the analysis and give the comparison.

Mr. Coffin said that pages 9,12 and 15 buffer updates have not been changed to show the 50-foot buffer; there were additional pages that have the buffer shown incorrectly. He stated that this had been previously discussed and he was surprised that they hadn’t been cleaned up; he suggested that the engineers review all the sheets with residential boundaries to remove any reference to a 20 ft. buffer. Mr. Dubay said that he will do that and show the 50 ft. buffer. Mr. Coffin clarified that the plan can’t show two buffers; they must show the current requirements; if anything changes in the future, they would need to return to the Board to modify the buffer; optional, possible changes could not be part of the recording of the plan.

Ms. Merrill asked about any comments during “chat”. Ms. Duguay said that there were a number specific to traffic and most have been addressed; the Rte. 107 access road is still an issue; other issues: Shoreland buffer, environmental impacts, impact on re-sale value, reference to drones, traffic study. Ms. Duguay said that there were questions about traffic going south on Rte. 125 that needed to be addressed.

Public comment: Martha Jaquith, 16 Reinfuss Lane, talked about issues heading toward Atkinson and said that there hasn’t been anything addressed about other development on Rte. 125. Mr. Wilson stated that Mr. Dubay would like to see all the comments and questions to be able to review and address at the next hearing. Ms. Merrill said that it made sense to consolidate and answer at one time. Mr. Wilson said that the traffic study stopped at Rte. 107 and 125 and wanted to know the impact to Kingston’s border. Ms. Merrill noted that this project was declared one of Regional Impact and other Towns were invited to comment. She stated that the Town did receive a report from RPC and there were recommendations which included them wanting to see the study extended to Rte. 125 and Rte. 111. Ms. Duguay said that there were people asking to speak to the Board.

Ms. Merrill recognized Scott Ouellette, 189 Main Street; he said that the intensity of the site is a key issue; he added that when the area was approved for commercial development it was

with the understanding that it would entrance onto Rte. 125, not Rte. 107; that was the public discussion. Mr. Ouellette noted that the Board did not have to accept everything proposed on the plan; he didn't think the rear entrance was necessary but could be limited to emergency access. He stated that they had the right to develop but that did not mean it had to be approved at 800,000 sq. ft. He referred to Mr. Quintal's comments regarding the Conditional Use review noting that it was important as the Board's chance to protect the environment; it is a safety relief for a property owner to get to the dry buildable land which is not the case here; they don't have to build within the 300 ft. setback; it can be re-engineered to meet the requirements. Mr. Ouellette added questions regarding Lot B and Lot C becoming more non-conforming which is not allowed; he stated that he can provide ordinance numbers and citations if requested.

James Hasselbeck, 19 Elkins Road, addressed the Board; he recognized the challenge of maximizing the shared benefits and minimizing the shared problems. He stated that this is a once in a generation project with tax impact benefits for everyone and thanked the Board for the transparency in the review process. Mr. Hasselbeck noted that the PB role is not one of personal opinion and the Board and the application team should work together for mitigation; they should work on limiting the environmental impacts and reduce the need for the CUP's; he suggested they work to propose a "clean" design.

Mr. Bashaw stated his appreciation of the comments from Mr. Hasselbeck and Mr. Ouellette adding that they make some great points regarding the DUP and needing exceptions to the requirements; he stated that he wants to encourage the use but they will have to follow the rules and there aren't a lot of hardships on the property.

Mr. Coffin suggested that Russell Prescott had earlier comments and asked if he wanted to speak to the Board.

Russell Prescott, 50 Little River Road, questioned why the traffic study included the design of a "non-sort" description which is not an ITT description. He said that is not what has been described; there can be very large packages delivered such as a kayak or construction equipment. He questioned why it was referenced as "non-sort" which is a "last mile" delivery of a large package.

Andrea Kenter, 23 Marshall Road, asked if the Board could explain what CUP's are and what is being asked for. Mr. Greenwood explained a Condition Use Permit as an additional set of parameters where certain features are given special credence; he cited a hydrogeologic study requirement as an example. Ms. Merrill explained that these types of reports are sent out to professionals for review on behalf of the Board. Mr. Ouellette clarified that he was referencing the Shoreland CUP. Mr. Greenwood said there might be a requirement for wetlands, too. Mr. Dubay said that there were 3 CUP's: Shoreland, Wetlands and Aquifer and they are generating these reports for submittal.

Ms. Faulconer asked if the Board would be scheduling a site walk. MM&S to have a site walk. (Motion by Ms. Duguay, second by Mr. Wilson) Discussion: Mr. Bashaw thought it was a benefit to the public and a date should be set with a couple of Board members available. The applicant asked that the Board members take a private site walk. Mr. Wilson said that was not possible; the Board can't have a site walk without the public able to be present. Mr. Coffin said that a site walk was supervised, not a free for all; the public has to stay with the Board, minutes are taken. Mr. Greenwood said a quorum of the Board is not necessary as the members present represent a subcommittee of the Board. Mr. Bakie stated he was familiar with the site and did not feel the need for a site walk. Ms. Faulconer stated her opinion that it was unconscionable not to have a site walk as it was a large proposal and a responsibility of the Board. Mr. Dubay said that he understands Ms. Faulconer's point and would normally agree but there were some issues and the attorney is advising not having a public meeting. There were comments and questions regarding public participating in a site walk on the property. Ms. Faulconer suggested that the applicant could always arrange to have a police officer present if there were concerns. Mr. Greenwood stated that the biggest proposal seen in Kingston warrants a site walk. Mr. Coffin stated that there is no application for drones and is not in the Board's purview. Mr. Wilson withdrew his second. Ms. Faulconer seconded Ms. Duguay's motion. Mr. Dubay, after consulting with his client, said that the client will agree to have a directed site walk; items will be staked out; it will be conducted as a Board hearing. The applicant may decide to have a Police Department person present; there may be requirements of waivers of liability. The date and time of the site walk was discussed.

There was a re-statement and clarification of the previous motion.

MM&S to conduct a site walk on 12/5 at 9:00 AM on the site of 266 Rte. 125. The Board and public will meet to begin the site walk by driving into the main facility and bearing right to the driveway of the office building. The applicant will provide documents and plans. (Motion by Ms. Duguay, second by Ms. Faulconer)

Roll Call Vote:

Lynne Merrill – yes	Robin Duguay – yes	Richard Wilson – yes
Peter Bakie – yes	Peter Coffin – yes	Chris Bashaw – yes
Ellen Faulconer – yes		

Motion carries: **PUNA**

MM&S to continue to Dec. 15, 2020 at 6:45; revised plans due by noon on Dec. 3rd.

(Motion by Mr. Wilson, second by Ms. Merrill)

Roll Call Vote:

Lynne Merrill – yes	Robin Duguay – yes	Richard Wilson – yes
Peter Bakie – yes	Peter Coffin – yes	Chris Bashaw – yes
Ellen Faulconer – yes		

Motion carries: **PUNA**

Ms. Merrill noted there was no critical correspondence for the Board to review.

MM&S to accept the minutes of October 6, 2020 as presented. (Motion by Mr. Coffin, second by Mr. Wilson)

Roll Call Vote:

Lynne Merrill – yes

Robin Duguay – yes

Richard Wilson – yes

Peter Bakie – yes

Peter Coffin – yes

Chris Bashaw – abstained

Ellen Faulconer – yes

Motion carries: **6-0-1**

Ms. Merrill stated that the minutes from 10/20/2020 will be accepted at the next hearing.

Mr. Wilson noted that the BOS has scheduled a site walk at Diamond Oaks Golf Club on Friday to see what they have done and plan to do to get the Cease and Desist lifted.

Ms. Merrill declared the meeting adjourned at 10:12.