

**Kingston Planning Board
May 25, 2010
Public Hearing/Meeting**

Minutes

The Chairman called the meeting to order at 7:00 PM; there were no challenges to the validity of the meeting.

Members Present:

Norm Hurley, Chairman
Rich Wilson, Vice Chair
Ernie Landry

Glenn Coppelman
Jay Alberts
Dan Mastroianni

Members Absent: Chuck Hart, BOS rep., Rich St. Hilaire and Marilyn Bartlett, Alternates
Also present: Mr. Greenwood, Circuit Rider/Planner; Dennis Quintal, Town Engineer

Board Business

Critical Correspondence:

Mr. Hurley noted that some of the critical correspondence had been sent via email to the Board members.

- Letter from Jones and Beach re: Arata subdivision

Mr. Greenwood said that he confirmed with the State that they do not require any additional information regarding the subdivision; the merger was not reflected at the state level so the original subdivision stands. The information provided satisfied the Board; meets the condition of the Board's approval of the subdivision.

- Konover Balance release signed by Mr. Hurley; Mr. Greenwood confirmed with Attorney Loughlin that none of his charges would be charged to this bond.
- MetroPCS letter regarding non-interference with emergency communications on the tower; the Board agreed that this letter was sufficient to meet the condition in the approval.

MM&S to approve the April 27, 2010 minutes as written. (Motion by Mr. Wilson, second by Mr. Landry) PUNA

- Carbone, 20 10th Street, Proposed Lot Merger; Mr. Greenwood explained that normally he would simply recommend that the Board sign this type of proposal, but he reviewed the parcels and deeds and thinks that there are some problems that need to be addressed including the addresses, non-abutting parcels trying to be merged; he recommended that the Board put this request on hold while he contacted the applicant.

ACTION ITEM: Mr. Greenwood to contact Mr. Carbone about the proposed Lot Line Adjustment; return to the Board with clarification and recommendation.

- Memo: re Ms. Faulconer attending workshop in September on Successful Grant Writing; Approved by the Planning Board; Mr. Hurley suggested that Board members could also consider attending the workshop if interested in grants.
- Question that had been brought up regarding Renaissance Faire; BOS can permit by Individual Event permitting process; special event permit form attached to the memo; BOS asked if this met Planning Board concerns.

ACTION ITEM: Ms. Faulconer to email copies of the Special Event forms to the Planning Board members for their review to be discussed at the next Planning Board meeting.

Non-Critical Correspondence was distributed to the Board members for their review.

Muriel Ingalls
First Congregational Church

Ms. Ingalls introduced herself as representing the First Congregational Church of Kingston. She explained that they are planning an addition to the church facility and wanted to inform the Board of their intentions; she stated that they would be coming to the Board once the full plans were established. She was asking for any input from the Board to bring back to their Building Committee. She explained that the social facilities in the church needed expansion and improvement; the kitchen and bathrooms were archaic. They hadn't decided on the final designs yet. Once in the design and construction phase, the engineers would be coming to the Board with the actual proposal. Ms. Ingalls' asked if the Board had any advice regarding specific guidelines that they should be aware of for this process. Mr. Hurley stated that he assumed the engineers would be aware of current guidelines but did ask them about sprinklers, as an example. Ms. Ingalls said they intended to meet with all of the Inspectors and get all of the necessary permits to cover all their bases. Mr. Hurley suggested that a possible issue with the expansion could be parking. Mr. Coppelman explained that prior to coming to the Planning Board, the applicant would need to have received the certification from the Historic District Commission. He added that he thought that there had been some boundary line issues that would need to have been resolved prior to any site plan approval. Ms. Ingalls stated that they were hoping to be before the Board in July; Mr. Hurley suggested that they work closely with Mr. Greenwood during the site plan submission process. Mr. Greenwood said that, due to the July holiday, there were some time constraints for submission in June that she should be aware of. Mr. Hurley said that there should be a Design Review prior to the full Site Plan Review; it is a non-binding meeting that does not need to include everything required for the full site plan review which does need to be complete to be on the agenda.

Board Business, Continued

Mr. Greenwood informed the Board that the meeting with the Local Government Center and other Boards would be on Thursday, June 24th. Mr. Hurley encouraged all the Board members to attend the meeting. Mr. Greenwood said that the reminder notice would be sent by RPC by Friday or Tuesday of next week.

Diamond Oaks Golf Club, LLC
Route 125

The applicant decided to hear Comments first before their presentation.

Mr. Greenwood told the Board that he received, by mail, the copy of the Wetland Scientist's review of those wetlands closest to the development which establish a 25 foot building setback; he thinks that the Town needs to send this out for review by its own Wetland Scientist per the Board's normal protocol; he said the Board needed to discuss this for its recommendation. He said that he has two major concerns with the plan set; he still needs information in how the applicant arrived at the number of units for the parcel; there is a real distinct site plan issue with the Clubhouse being proposed for the Golf Course. He said the site review regulations affect that property, this piece; lots of things are missing from the site plan review side of things. He explained that they were basic things such as number of employees, hours of operation, building elevation showing entryways and pathways, parking reserved for this operation; all of these elements were missing from the plan. He added that the Board did not have the elements necessary to review this section as a site plan. Mr. Greenwood continued that there were also basic issues with the Community Center that were discussed at the site walk; additional information was to be provided that explained the uses and function of the building with the possibility of moving beyond the 1,000 foot setback line depending on the use. He finished by saying that he does not think that the plan is at the point where jurisdiction could be invoked; information is still missing; he noted that the Town Engineer had a significant list of missing items. The Board consensus was to follow Mr. Greenwood's recommendation and not invoke jurisdiction at this time.

Mr. Hurley read comments from the Fire Inspector stating the need for sprinkler system, fire pond or cistern; fire department access requirements; key system for Fire Department access; NFPA code compliance; proper signage indicating house numbering sequence similar to that done at 11 Scotland Road.

Voluntary Lot Merger Forms were provided in the file; Mr. Greenwood explained that there have been discussions between the applicant and Health Inspector about the lots being merged correctly on site.

Driveway Permit application from NH DOT received for the Board's information; no approvals for this at this time, information from the Planning Board can be supplied if necessary.

Mr. Hurley noted that some of the abutter notices were incorrect; this information to be given to the applicant for any future notices.

Mr. Quintal, Town Engineer, reviewed his comments. He said that he met with the Design Engineer, Steve Cummings, who provided revised plans and a Drainage Analysis that had not been previously submitted for his review. He said that during the review he felt that there were still some issues he felt were pretty severe regarding access to the site and concerns about traffic which should be resolved prior to moving forward. He added concerns with surveying of the property; areas, metes and bounds – some of the property (4B) is shown as part of the project but not listed as part of the application; he commented that this was confusing. He referred the Board to page 2 of his report where he notes that he generally supports a cluster development but in this case, there are so many units so close together that there are no provisions during a major storm event for snow storage; parking for the cars which he sees as a problem; there was no copy of a landscape plan that showed how the site would be vegetated, tree plantings; there was no additional parking for those instances of an event or family gathering that usually require additional parking. He said these types of issues, if left un-addressed, cause real problems. He said that the plans still need a lot of work to be complete and clear; there is not enough detail. He supplied the Board with his list of comments that at this point number 50, so he did not go over each point separately. He stated that once he reached that number of comments, he did not go further as they would require changes in the information and he would continue the review at that time. He is looking forward to revised plans based on his comments; if not, he would continue with those submitted.

Mr. Coppelman commented that this applicant had been before the Board on numerous occasions and was well aware of the process and requirements and was surprised as the comments needed to be as extensive as they are and wondered if it was the applicant's intent to try to get a feel from the Board regarding the development.

A letter from Steve Cummings, dated April 27, 2010 as part of the application, was read by Mr. Hurley. He read that the proposal was for the construction of a clubhouse and 35 single family detached housing units with a limited common area; the parcel is designated as R3, Lots 4, 4C and 13; the letter continues that it was his understanding that these lots were combined with prior approval of the existing golf course, if not, that will be requested along with the approval of the Board. He continued reading the letter's list of submissions.

Mr. Hurley read the request for waivers for the Town's subdivision regulations:

- 905.9 B Continuation of Street Layout (including reduction of pavement width to 20 feet).
- 905.11 J 5 (a) Pavement width – 20 feet

Mr. Hurley noted that the Board had received the Wetland Functionality Evaluation; the Condominium Documents were also received by email.

Mr. Hurley invited the Applicant and his representatives to speak to the Board. Lynn Merrill introduced herself and Kathy Sullivan, the attorney for the project and the engineer, Steve Cummings. She's hoping that they can answer some of the questions for the Board. Ms. Merrill re-iterated that the plan is for 35 single-family dwelling units; she said that they could talk to the Board to explain how the density was derived and the lot merger

situation. Ms. Merrill stated that the additional information regarding the proposed community center, its purpose and information is explained in the condo. docs; the activities that currently take place in the soccer building will take place in the proposed clubhouse without any additional employees; the plan is to take the existing commercial activity in the soccer building and move to the new clubhouse.

Attorney Sullivan explained the condo. docs did not have any significant changes other than to address the style of the project which had changed since the duplex units were proposed. Due to the 35 detached units, the responsibility of the unit owner is to now maintain the whole shell of the building as well as the interior; she reviewed some of the other changes pertinent to specific individual construction. She continued that the documents state that this will be a phased project; the plan is to have a first phase of 7 single family buildings with the opportunity to add up to 28 additional units; additionally, provisions have been made for the "residential clubhouse" that this is limited in use to mailboxes, office space, community activities and other uses compatible to a residential community and can not be used as a residential unit. That maintenance is left up to the residential owners.

Attorney Sullivan continued that this has the potential to become a mixed-use condominium project with one unit being the golf course and the golf course clubhouse which will be its own land unit; there will be the specific individual residential units and there will be some other land units which may, in the future, be used for some type of commercial uses with no plans being submitted for that at this time. Definitions explain who can live in the units; one occupant must be 55 years or older as explained in the document.

Mr. Hurley, regarding the phasing of the project, asked Mr. Greenwood about timing involved in the phasing. Mr. Greenwood said that the Board, before granting final approval, would need to make a determination on substantial improvement for the developer to vest the project. Attorney Sullivan said that there is a five-year limitation with the ability to ask for another 5-year extension.

Mr. Hurley said that the applicant may need to address septic issues, regarding the ages of the occupant, with the Health Officer; he asked if this had been addressed to everyone's satisfaction. Mr. Cummings said that the Health Officer's concerns had not been addressed at this time; they are going to design the whole 35 units as if they were two bedroom units, not 55 and older; with the system to be designed for 300 gallons per day for each unit; they are going to work with "Clean Solutions" with a "green-type" septic system that will allow them to still fit within the footprint. He added that he thinks that this will resolve the issue with the Health Officer.

Mr. Hurley asked Mr. Greenwood if the Town had restrictions for anyone under the age of 55 based on Mr. Cummings comments. Mr. Greenwood stated that this project is not located in either of the Town's Elderly Zones so the requirement in the warrant article that passed to allow this type of development is really a developer-instituted restriction; the age restriction is coming from the developer.

Mr. Alberts referred to Mr. Quintal's concern with the congestion of the area, snow removal, additional parking needs, and wondered if there were similar developments the applicant was familiar with in New Hampshire that was consistent with the proposal that the Board could look at; inquire with them about how things were going with their development. Mr. Wilson suggested Lamplighter Estates, in Kingston.

Ms. Bartlett said that a similar development was Mill Pond in Brentwood. Mr. Alberts asked the applicant to comment on Mr. Quintal's concerns that he noted. Mr. Cummings said it was a development that could address these issues; some of the driveways could be considered close and they might flip-flop some of them and change the house position so that snow-blowers wouldn't be putting snow in a neighbor's driveway, adjust to provide snow storage on either side. He said that there might be a minor issue with snow but he saw that they could take care of it; he continued that the plowing would be done with a small snow plow; most of the people probably wouldn't even be living in the development in the winter.

Mr. Wilson questioned that if this was a private road that the Town wasn't maintaining, if snow plowing was an issue for the Board. Mr. Hurley said that, as a general rule, that part of the charge of the Planning Board was to make sure that they weren't creating a situation that could become an issue; not set-up something that is destined to fail. Mr. Wilson stated his concern that, with the phasing, the initial buyers would face problems with the trucking, etc. as the phase continued; he added that the building numbering would need to be addressed with the Town Clerk, the numbers on the plan were not addresses at this point; they were simply building numbers. Mr. Cummings said that the addresses he put on the plan were based on input he received from the Fire Department, to number like a street. Mr. Hurley suggested getting the Fire Chief and Police Chief together to review the numbering; he agreed with Mr. Wilson that the numbering was not good.

Mr. Hurley asked the Engineer how the unit density was arrived at on this property. Mr. Cummings said he had done the density "roughly"; he said he based it on the 160 acres of land that was on the site; he felt that this was certainly enough land for the 35 units; he said that he based this on whatever ordinance they may fall under, either elderly or cluster, or whatever ordinance as the land is in a zone that had never been spelled out either way; he has not written down how it has been established but could for the Board.

Mr. Greenwood said that if this was being proposed through the Innovative Zone Ordinance, which is the natural way per the clustering proposed; in that instance, the open space associated with the project is going to have to be held in easement by an organization and he was not sure how this impacts the activity of the private golf course to have most of the land in a conservation easement that would be owned by the Homeowners' Association, for example, as opposed to the Society of NH Forests or the Kingston Conservation Commission. Mr. Hurley clarified that the question was whether the Homeowners' Association was considered the holder of the Conservation Easement for the Open Space.

Attorney Sullivan explained that the way the Condo. Docs. were drafted, the Condominium Declaration provides that the Golf Course is a Golf Course, a separate unit that can't be developed for something else; there is also additional common area managed by the Homeowners' Association. The Golf Course Unit Owner has sole right to control who plays golf there and to operate the golf course itself. She added that the condo. docs. make it clear that the land will be used as a golf course.

Mr. Landry agreed that the condo. docs. make it clear that it will be used for a golf course. He clarified that the issue is that the Innovative Zoning ordinance indicates that if a site is developed under this ordinance, then the density is based on a number of factors and that the Open Space is set aside which then falls under a conservation easement managed by "an organization" – either a Homeowners' Organization or a non-profit environmental organization but it needs to be under a conservation easement per that ordinance. He continued that the "golf course unit" being under the "golf course unit owner", unless he has a conservation easement on it, then it is not consistent with the Innovative Zoning Ordinance.

Attorney Sullivan questioned whether there had to be the easement if the documents say that it will remain as a golf course. She said that she thought the applicant could work with the Board to address the easement.

Mr. Coppelman said that he thought that the Board needed to come to a decision on this, earlier than later. He said that, in some respects, this looks and feels like a development under the Innovative Zoning Ordinance, but it does not follow the Ordinance in its entirety; just bits and pieces of it. The Board needed to decide if all of it needed to be followed or some of each type of Ordinance. Mr. Coppelman said that the change to allow this housing in the Zone was done by a Citizen's petition not at the Board level and therefore, unstructured.

Attorney Sullivan said that in drafting the documents, she used some of the Innovative Zoning and some of the Elderly Zoning and take what she thought was important from each of them.

Mr. Cummings stated that he also was trying to work the two zones; he was unsure as to whether the Innovative Zone specified that the Open Space had to be a conservation easement; he thought that the common land could be open space that is deeded and restricted to the Golf Course but held by the entity of the Golf Course and not built on by the residents.

Mr. Wilson said that he is looking for the protection of the Open Space; he is looking for protection that says that if the Golf Course goes broke that the next building can't occupy more than "x" number of feet. Attorney Sullivan said that she couldn't do that.

Mr. Hurley returned to Mr. Wilson's comments and said that if the Golf Course were to become anything else, it had to return to the Planning Board. Secondly, Mr. Hurley

commented that the Planning Board could have taken ownership of the previously noted Citizen's petition; leaving it open to possible interpretation.

Attorney Sullivan returned to Mr. Wilson's comments. She said that this was all one lot, in common ownership; all the land is owned in common ownership by all of the unit owners. She clarified her previous statement to Mr. Wilson, in case the golf course goes broke, because the contract is with the other unit owners. She added that, if the Golf Course is no longer being used as such, the initial decision is made by the unit owners who would need to come to the Board to have something else happen on the property.

Mr. Mastroianni said that the snow plowing appears to be a major issue; with a twenty-foot driveway and twenty-foot wide roadway, there just isn't enough room to get rid of the snow. He said in the very least there needs to be snow storage areas so a loader could be brought in to address the situation. He said with a couple of storms, there would not be enough roadway for the safety vehicles; particularly with the request for the 20-foot wide road. Mr. Cummings said that the 20 feet for the driveway was the minimum, some were 30 to 40 feet. Mr. Mastroianni stated that this needs to be designated on the plan.

Mr. Mastroianni also questioned that, if not everyone needed to be 55 years old to live in the development, there was a potential for children in the school system; his question was the ability to send a school bus down a private road. Attorney Sullivan re-iterated that at least one owner/occupant would need to be at least 55 years old; any other occupant must be a person in relationship to that occupant limited to a sibling or a spouse/non-spousal partner (co-habitant); there is no room in the definition for children. An exception would be for a care-giver or temporary family emergency; to keep this an adult community. Attorney Sullivan stated that there would be no children allowed in these homes.

Mr. Hurley asked for any public comments at this time. Darlene Deptula-Hicks, abutter at 30 Crane Crossing Road, Plaistow, stated that she was here for informational purposes; how close the condos would be coming to her property. She is hoping that the woods would remain. Mr. Cummings said that a 25 foot buffer of trees would remain at any point. Ms. Deptula-Hicks asked what the required setback would be to her property. Mr. Cummings thought it was 25 feet; Ms. Deptula-Hicks had spoken with Mr. Dufresne who told her, at that time, that there would be a 50 foot buffer to her lot line. She stated her unhappiness with a 25 foot setback.

Mr. Coppelman said that if this were developed under the Innovative Zoning Ordinance, the guidelines say that there is a 100 foot setback requirement with easement protection for the Open Space and very specific guidelines that would need to be followed. He said that if using the Innovative Zoning Ordinance as a way to achieve the density that they are looking for, then the rest of the guidelines should also be followed.

Mr. Hurley said that once jurisdiction is accepted, he thought that Plaistow and Newton would be able to comment and have input on the development. Mr. Greenwood agreed that the Board can decide to make the declaration that it may require regional impact.

MM&S to continue Diamond Oaks to June 22, 2010 at 8:00. (Motion by Mr. Wilson, second by Mr. Mastroianni) **PUNA**

Board Business, Continued

Stormwater Management:

Information from Seabrook's Stormwater Management policies were available for the Board. He said the information was fairly extensive. He said that Seabrook appears to have done a lot of the work on this already.

ACTION ITEM: Ms. Faulconer to copy Seabrook's Stormwater Management information for Mr. Greenwood and Mr. Quintal for their review; email the information to the Board.

Mr. Landry told the Board that the Pow Wow Pond Council and Kingston Lakes Association would be pleased to work on the Water Grant; they are meeting with the Board on June 1st at 7:15 to have the discussion and get the process started.

Workforce Housing Update:

Mr. Greenwood's last page of tonight's memo had some information that might need to be included that discusses affordability and how to maintain affordability; he is also looking at the NH Housing Finance Authority's mandatory requirements for maintaining affordability in units and will email to the Board. This is more comprehensive and the Town may want to include working with the NH HFA as a requirement, which will require using the NH HFA documentation.

ACTION ITEM: Mr. Greenwood will review the NH HFA mandatory requirements and bring back a proposal to the Board re: Workforce Housing.

Mr. Hurley explained to the Board that Stormwater Management and Workforce Housing will be standing agenda items to continue a measured progress on these ordinances.

Plan Review

Mr. Hurley stated that there were three plans for the Board to review. Mr. Greenwood said that one was a design review, so there was not a lot for the Board to look at in order to add to the agenda.

MM&S to add Tasbak, LLC to the June 15, 2010 agenda at 7:15 PM. (Motion by Mr. Coppelman, second by Mr. Alberts) **PUNA**

Boutin site plan review was received and reviewed by the Board. The Board also received a request to waive the \$5000 engineering fee.

MM&S to waive a portion of the engineering fee; \$1500 will be required. (Motion by Mr. Coppelman, second by Mr. Landry) Motion fails 3-2; with one absention.

MM&S to waive a portion of the engineering fee; \$1000 will be required. (Motion by Mr. Alberts, second by Mr. Mastroianni) Motion carries 5-1.

MM&S to add Boutin site plan to the June 15, 2010 agenda at 7:45 PM. (Motion by Mr. Alberts, second by Mr. Mastroianni) **PUNA**

Fraser Boundary Line Adjustment was reviewed by the Board.

MM&S to add the Fraser Boundary Line Adjustment to the June 15, 2010 agenda at 8:00 PM. (Motion by Mr. Alberts, second by Mr. Coppelman) **PUNA**

MM&S to adjourn at 9:15 PM (Motion by Mr. Coppelman, second by Mr. Alberts) **PUNA**