

**Kingston Planning Board
June 22, 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	Glenn Coppelman
Jay Alberts	Ernie Landry
Chuck Hart, BOS rep. (arrived late)	Dan Mastroianni

Members Absent: Richard Wilson; Rich St. Hilaire and Marilyn Bartlett, Alternates
Also present: Mr. Greenwood, Circuit Rider/Planner

Board Business

Critical Correspondence:

- Carbone Voluntary Lot Merger – Mr. Greenwood explained that the Tax Maps had not been corrected for a sale done years ago; it was a legitimate lot merger; Board consensus for the Chairman to sign.
- Mr. Hurley signed completed mylars.
- Boutin Engineering Bond reduction was reviewed; Mr. Greenwood noted that the Town Engineer told him that his review was complete at this time; Mr. Greenwood confirmed that the Engineer's review was done prior to the receipt of an engineering bond from the Boutin's; Mr. Coppelman suggested that the Town not incur these expenses in the future prior to receipt of an engineering bond.

MM&S to reduce the Boutin's engineering bond to \$500. (Motion by Mr. Mastroianni, second by Mr. Alberts) **PUNA (5-0)**

ACTION ITEM: Ms. Faulconer to contact the Boutin's re: providing the \$500 engineering bond and whether they are moving forward with their application.

MM&S to accept the minutes of May 25, 2010 as written. (Motion by Mr. Alberts, second by Mr. Mastroianni) **PUNA**

Committee Updates

- HDC: Mr. Coppelman reviewed the meeting that took place on June 8th.
- ZBA: Mr. Alberts reviewed the hearings held on June 10th.

- BOS: Mr. Hurley asked if there were any available funds for Thursday night's LGC meeting; Mr. Hart suggested that Mr. Greenwood contact the BOS Administrative Assistant to set that up. Mr. Hart discussed the permitting process for the Renaissance Faire; garage on Exeter Road permit.
- CIP: It was noted that there was a meeting on July 20th; an updated spreadsheet was recently received. Mr. Greenwood had received member comments on the draft for updating.
- Grant Updates (Stormwater Mgmt): Mr. Landry said that the Stormwater Subcommittee had met to prepare this; this process has brought about discussion about a possible watershed project.
- Grants: Map Update: Mr. Greenwood provided a list of what maps should be available for the Board for long-term planning; may want to include a community facilities layer that would include municipal and school district properties, churches and cemeteries, as examples. Mr. Hurley said that the State was going to require a more detailed map of communities and didn't know if these projects could be tied together. It was noted that this would also require private facilities such as day care centers, roads, routes. Mr. Greenwood said that the paper maps would be \$75 each and the mylar would be \$125 each; the application for the TBG funds would be going out to the Planning Boards the first week in July. Mr. Coppelman stated that he thought that this would be a good use of the Board's matching funds.

MM&S to authorize the Chairman to submit an application to use the Board's matching grant funds toward the TBG application as described by Mr. Greenwood. (Motion by Mr. Coppelman, second by Mr. Alberts) <Mr. Hurley noted that, as this was an expenditure of Town funds, it would also require approval by the BOS, via purchase order, if the grant was approved.> **PUNA**

ACTION ITEM: Mr. Greenwood to look into the State mapping, GIS system that may be available to tie in with the map project.

- Grants, continued: Estuary Project: Mr. Coppelman contacted the new director; the project has a new name: P.R.E.P.; on June 8th the new funding was made available for this year; Mr. Coppelman explained the proposed project to her and the Director would like to see an application but it needs to come in quickly; due to the timeframe, Mr. Coppelman offered to do the submission for the Chairman and the Board; he added that this does not require matching funds. He explained the criteria for the grant, the area that the Town falls into would be for projects that result in the adoption of natural resource protection overlay districts. He would be writing the proposal as a grant to assess the current Aquifer Protection Zone with the idea toward making suggestions of amendments based on best science and best practices; he asked for Board input. Mr. Hurley stated that he would be pleased for Mr. Coppelman to write the grant for the Board. Mr. Hurley said that the Board had discussed determining whether expanded use would deter the protections that are currently in place; if there are ways to expand protection and use at the same time by best practice and new methods; if there was a better

way to protect with these new methods and allow more usage in that protected zone. Mr. Hurley clarified that he was not looking to make the Aquifer any more vulnerable to damages; he was looking to more utilize the areas, expand the use within the Aquifer; he wanted to determine, with newer technology, if it was able to do this while still protecting the Aquifer. He stated his belief that the Town's biggest asset is the Aquifer and re-iterated the need to protect it but wondered if there was an opportunity to utilize newer technology to allow additional uses and still keep the protection. Mr. Landry also commented on the need to protect the Aquifer. Mr. Hurley suggested that newer technology might not only allow for expansion of uses but also provide a higher level of protection. Mr. Coppelman stated that he thought the Board was basically in agreement on the hopeful outcome of the project. Mr. Alberts agreed. Mr. Mastroianni said that if there was a possibility of better use of the land in the Aquifer while still protecting it, then it was worth looking into. Mr. Coppelman explained that the Program needed a pledge that the Board will give a good-faith effort to implement the recommendations that come from the process. Mr. Hurley stated that if done correctly and provided the information that the Board is looking for, showing the appropriate uses based on updated technology, then the Board would go forward. Mr. Greenwood explained the options of the Board based on the information received.

MM&S to authorize Mr. Coppelman to submit an application to the P.R.Estuaries Partnership and their Community Technical Assistance Plan for a project to assess the Aquifer Protection Ordinance and to make recommendations based on best science and best practice with the goal of protecting the resources to at least the current extent, more if possible, and to make recommendations on land uses in that District, perhaps to a different degree than is currently available; the Town is looking into possible expansion of uses in that zone. Mr. Coppelman is also authorized to submit a copy of this meeting's minutes to be included in the application. The Kingston Planning Board will put forth a good faith effort to implement the findings and recommendations. (Motion by Mr. Alberts, second by Mr. Hart) Mr. Hurley said that the motion was adequate as the minutes would also show the Board was looking for a combination of equal or better protection with hopefully more use within the Aquifer; appropriate utilization of the land with equal or better protection. **PUNA (Passed Unanimously: 6-0)**

ACTION ITEM: Ms. Faulconer to provide minutes to Mr. Coppelman for submission for the grant.

Public Hearing:

**Diamond Oaks Golf Club, LLC
NH Rte. 125 and Granite Road
R3-4,4C,13
Site Plan Review**

Mr. Hurley opened the public hearing; distributed maps to the Board members; he added that these were the maps received at the last meeting.

Mr. Hurley said that he and Mr. Greenwood had spoken about tonight's hearing; Mr. Greenwood had spoken with the project's engineer. He was aware that the applicant was providing new information to the Board this evening. The applicant's representative noted her belief that the previous issues had been addressed; some of these changes were explained. The uses of the Club House and Golf course were discussed. It was noted that the documents were changed to address these issues. Mr. Greenwood explained that these were received today so the Board's administrator would not have received them yet.

Mr. Hurley stated that normally the Board would invoke jurisdiction to get into more of the specific discussion; he added that none of the Department Heads, Town Engineer or Circuit Rider have received or reviewed any of the changes. Therefore, he added his assumption that the Board would not be invoking jurisdiction at this time as none of the Town officials have been able to review for completeness. Mr. Greenwood did not recommend accepting jurisdiction.

Mr. Cummings submitted amended plans to the Board; a letter of response to the Town Engineer's comments; another letter addressing Mr. Greenwood's previously stated concerns. Mr. Hurley read these letters. Mr. Hurley said that he didn't mind having the discussion with the applicant but since the information was not provided earlier, there is nothing that says whether the Circuit Rider or Town Engineer are satisfied with the answers. He added that the Board needs to hear whether there are now other outstanding issues or if the ones addressed have been done satisfactorily. Mr. Alberts discussed the possibility of having the comments from the Department Heads and the applicant prior to the next hearing; electronically if possible.

Mr. Hurley suggested that Mr. Cummings show the changes to the Board from the newly submitted plan to the previously submitted plan. Mr. Cummings pointed out the changes to the Board. Additional buffering was proposed; making 34 units instead of 35; parking was increased.

Mr. Hurley read comments from the Health Officer dated 6/16/2010 including the comment that several critical pieces are missing from the plan; if the proposal is using Innovative Zoning the total development must be shown, any phasing must be shown on the proposal; if not Innovative Zoning, then each resident requires 80,000 square feet for septic; he added these are the only options per Town Zoning. He added that without knowing the housing requirements, he can not verify that the land will support adequate sewage disposal system. He needs to know number of houses (residential units), bedrooms per house (residential units), elderly housing, all 55+ or normal housing units. He ended with the comment that without that information, any further comment would be speculation.

Mr. Hurley said that he had a note describing the land area and square footage. There were no questions from the Board.

Mr. Coppelman commented that if the applicant was proposing residential use and without any additional standards in the current zone other than allowing that use, then the applicant would need to follow the existing residential zoning as guidance; the Elderly Zoning would not apply as that zone is specifically defined. He said that it is either established as if it were a single family development that required 80,000 square feet per lot or it is Innovative Zoning. He added if it was Innovative Zoning than density calculations were needed but he questioned the Open Space requirement. He would like to see for the next presentation, an explanation of how the Open Space requirement fits the Ordinance as there are specific ownership, use requirements and protections per that Ordinance. Mr. Cummings said the plan was revised to show maintenance; discussed the condo. docs. Mr. Landry also commented on Innovative Zoning and the Open Space requirement; the ownership requirements of Open Space in Innovative Zoning; he noted that one option available specified ownership by the Condo. Association. Mr. Cummings referred to the proposed condo. docs., ownership and conservation easements. Mr. Coppelman asked for a map that showed all the elements of the property, the golf course, open space, residential development. Ms. Merrill stated that the condo. docs state that a change of the golf course to another use requires approval of the condo. association.

Mr. Coppelman stated that the Innovation Zone Ordinance's Open Space requires a permanent conservation easement and the Ordinance identifies these requirements. Mr. Alberts stated that the Supreme Court has stated that a golf course is open space and the condo. docs. say that it has to be a golf course. He feels like it is well protected and if it is Innovative Zoning than it has to remain open space unless the Ordinance changes, based on what he had been told tonight by the applicant. Mr. Coppelman said that currently being discussed is a commercial entity constituting the Open Space requirement; he said that the Supreme Court may have determined that a golf course is suitable as open space, that's different than Open Space being determined per the ways identified in the Ordinance. Mr. Hurley didn't believe the Ordinance precluded this from happening. Mr. Coppelman said that the issue is the ownership of the Open Space land, not the use of the Open Space. He explained that the Ordinance lays out very specific options regarding the ownership of the Open Space in the Innovative Zone.

At this time, Mr. Hurley asked for public comment. There were none at this time.

Mr. Alberts asked if the Open Space interpretation was something that could be referred to Peter Loughlin to address the issue of ownership and use. Mr. Coppelman agreed that he, too, would be interested in hearing from Town Counsel as to how this proposal squares with the Town's Ordinances. Mr. Alberts re-stated that he thought it would be a good idea. Mr. Cummings commented on the proposal's intent. It was confirmed that any review by the Town's attorney would be at the applicant's expense. Mr. Hurley noted that at the beginning of this process he stated that the

Open Space issue would probably be one of the major sticking points for Board members for this proposal. He commented on getting attorney involvement similar to that done by the Town and applicant's engineers. Mr. Greenwood said that he had not received density calculations yet; Mr. Coppelman asked that these be provided shortly.

ACTION ITEM: Mr. Greenwood to contact Attorney Loughlin about Open Space requirements per the Town's Innovative Zoning Ordinance; Attorney Loughlin can also have discussion with applicant's attorney for appropriate language, as necessary.

Mr. Landry had questions about setbacks; Mr. Cummings commented about commercial setbacks and Innovative setbacks. Mr. Landry brought up density issues. Mr. Hurley said that this was a Commercial Zone that also allowed 55+ Housing. He said that the Board did need to decide soon whether this could go forward or whether the applicant was just spinning his wheels and going nowhere. Mr. Alberts asked whether someone could successfully argue that it was residential housing in a commercial zone and we don't have regulations to guide residential housing in a commercial zone so legally a free-for-all could be allowed where anyone could do whatever they wanted. Mr. Coppelman answered that, no, without anything else specific, the Board would be guided back to the zoning ordinances for residential uses. Mr. Alberts sees this as an opportunity to do something that the Board has not done before, which, on the surface, looks very attractive and unique; to be responsible and creative. Mr. Mastroianni said that this is a unique proposal as there are very few other places where something like this could even be attempted to be accomplished; it would be unlikely that the Board would be setting a precedent to be used in another commercial zones; that would seem to give the Board flexibility.

Mr. Hurley recapped that there were a couple of areas to still be addressed. He opened the floor to the public again. Darlene Deptula-Hicks, an abutter, spoke to the Board about her concerns; she questioned the zoning, the interpretations, and the setbacks. In answering Mr. Hurley's question, she stated that the use of her property was agricultural; the fields were hayed, there was a riding arena, horses. Mr. Hurley explained the application process; he stated that the proposal was not at the point of accepting jurisdiction; he continued that when it was, the Board would need to determine regional impact and get further into the details of the proposal. He added that the decisions would be reached by further discussion and legal opinion and interpretation.

MM&S to continue the Diamond Oaks public hearing to July 20, 2010 at 8:15 PM. (Motion by Mr. Alberts, second by Mr. Mastroianni) **PUNA**

Ms. Deptula-Hicks asked the Board to explain the current zone and the continuing process; the Board stated that based on the possibility of requiring regional impact, the fact that jurisdiction had not been invoked yet and the detail of the proposal, it was unlikely that the application would be approved at the next meeting. She was advised

that if unable to attend the meeting, she could send a letter of comments for the meeting via the Planning Board office.

Board Business, continued

- Stormwater Management Update (standing agenda item): Definitions section of Stormwater Management for Board review were handed out re: conflicts, etc.

Action Item: Ms. Faulconer to email Stormwater Mgmt. definitions comments to the Board members for their review at a later date.

- Workforce Housing Update: Mr. Greenwood had previously provided the Board with restrictive covenants and buffering information; the Board will need to discuss in depth at a later date.
- Mr. Hart told the Board that Ms. Sanford has been reviewing the tax maps due to errors found at the previous Planning Board hearing. He added that she has been making corrections. Mr. Greenwood said that Ms. Sanford has been up to the Planning Board office reviewing some of these maps. Mr. Hart stated that Mr. Gerrish had been in to see the BOS re: taking over St. Frederick's Church; he has met with Mr. Greenwood.
- Telecommunications Ordinance – proposal had been previously handed out; zones were added that had previously been omitted. Mr. Greenwood said that this would need to be part of the public hearing process and be voted on at Town meeting.

Plan Review

Mr. Greenwood noted that the Board had received one application for review. Mr. Mastroianni recused himself from this discussion. Mr. Greenwood said that the plan submitted met the conditions that the Board set at a previous work session; however, this plan will not be able to be recorded. Mr. Hurley read the request for waivers of the engineering bond to \$500 and the requirement of section 902.5, site plan review. Mr. Greenwood thought the \$500 would be a reasonable amount.

MM&S to grant the request for the two waivers of Tupello, LLC; reduce the \$5000 engineering fee to \$500. (Motion by Mr. Alberts, second by Mr. Hart) **PUNA (5-0)**

MM&S to place Tupello, LLC on the July 20th agenda at 8:30. (Motion by Mr. Alberts, second by Mr. Hart) **PUNA (5-0)**

MM&S to adjourn at 9:25. (Motion by Mr. Hart, second by Mr. Alberts) **PUNA**