

TOWN OF KITTERY PLANNING BOARD MEETING

APPROVED

Council Chambers
Thursday, May 22, 2008

Meeting called to order 6:10 p.m.

Members Present: Chairman Russell White, Joseph Carleton, Ernest Evancic, Megan Kline and Michael Luekens

Members Absent: D. Scott Mangiafico and Douglas Muir

Also Present: Sandra Mowery, Town Planner, Earledean Wells, Kittery Conservation Commission, and Lisa Goms, Recorder

APPROVAL OF MINUTES – **Ms. Kline** made a motion to approve the Planning Board meeting minutes as amended for 3/27/08; the motion was seconded by **Mr. Carleton** with all in favor to accept minutes as amended. **Ms. Kline** made a motion to approve the Planning Board meeting minutes as amended for 4/24/08; the motion was seconded by **Mr. Luekens**.

PUBLIC COMMENT – Public comment is welcomed on non-Agenda Planning Board matters. The Planning Board is a quasi-judicial Board and issues regarding items on the Board's agendas are subject to comment only during the official review process.

Chairman White asked if there was anyone present who would like to comment on any non-agenda items. No public comment was heard.

Chairman White requested that a segment of the Planner's Time be presented before starting with Item #1.

Planner Mowery reported: In the Planner's Time at the last meeting we knew that Councilor Shwaery and Councilor Dennett were not satisfied with Section 16.12.105(1)(E) which refers to open space requirements. I forwarded a revision to Council. Council returned it to the Board for further discussion. I just forwarded a copy of that suggested revision, which I gave you at the last board meeting, with some writing on it. The writing is a recommendation from Durwood Parkinson. He is here tonight and would like to speak. So, Council has asked the Board to again submit a revision for recommendation to Council.

Planner Mowery and Board members revised the section. The planner will forward the revision to Council.

ITEM 1 Amendment to an Approved Site Plan – Sketch Plan: Kittery Commons, LLC proposes to split a parcel of land so that the nursing home and associated improvement are situated entirely on one parcel of land in the Mixed Use (MU) zoning district and the second parcel is comprised entirely of undeveloped land situated in both the Mixed Use (MU) and the Rural Residential (RR) Zoning Districts on Map 61, Lot 27. The owner’s agent is William Gillis.

Chairman White recognized Bill Gillis, owner of Durgin Pines

Mr. Gillis thanked the Board and stated: When we bought the property from the Durgins, about 32+ acres, we used about 14 of the 32 acres for the nursing home. This (*split*) is an attempt to carve out a subdivision on the remaining 18 acres. We don’t have a definitive plan at this time, but we want to divide the property so that when we do, the separation of parcels will have been resolved. I would like to introduce Bradlee Mezquita of Appledore Engineering, Inc., who has prepared the plans for this parcel separation.

Mr. Mezquita approached and stated: The application is for a subdivision because the property is part of a split that occurred within the last five years; therefore, the request is for a minor subdivision. We have submitted a plan that shows a subdivision line which creates two lots. The nursing home is shown situated on a 14 acre parcel; the remaining land area is a little over 18 acres. In addition, we have submitted a supplemental plan that verifies the proposed lots meet ordinance requirements, and that the 14 acre parcel on which the nursing home is situated meets the requirements of the December 2006 approval. The biggest area in question is the open space.

Chairman White asked if the Planner had any comments.

Planner Mowery responded: I have all the topographic information including the wetland delineations which were reviewed in 2006.

Discussion continued regarding the wetland crossing issue of the project.

A site walk was scheduled for Thursday, June 5th at 4:00 p.m.

ITEM 2 Right of Way – Sketch Plan: Don W. Denunzio, owner proposes to dedicate a 40-foot wide right-of-way on Map 62, Lot 24, thereby creating a lot with an existing house and an undeveloped lot in the Rural Residential (RR) Zoning District. The owner’s agent is Easterly Surveying, Inc.

Chairman White recognized Don Denunzio.

Mr. Denunzio approached the podium and as the Board reviewed the sketch plan. He answered various questions from the members. Discussion continued and a site walk date was recommended.

Site walk was scheduled for June 5th at 4:45 p.m.

ITEM 3 Major Subdivision – Final Review: DSS Land Holdings, LLC. Owner proposes to construct a mixed-use development with commercial development fronting on Route #1 and a 6-lot residential subdivision fronting Adams Road situated on 29.67 acres in the Mixed-Use (**MU**) and Rural Residential (**RR**) Zoning Districts. Map 60, Lots 24, 24A. The owner’s agent is Attar Engineering.

Planner Mowery commented that the applicant proposes to phase the project. I felt that before you read the Findings you should consider the proposed phasing plan in the event you want to include comment in the conditions.

Chairman White recognized Ken Wood, Attar Engineering.

Ken Wood approached the podium and stated: I believe that we have resolved most of the comments that were outstanding. Ben Walden will run through the phasing plan.

Ben Walden approached the podium and gave an overview of the phased project.

Earldean Wells commented on a May 10th, 2008, letter written by the Conservation Commission regarding the pond on Lot 6 and requesting ownership of the pond to remain with the hotel. Mr. Sowerby agreed to meet with the planner to make the changes.

Chairman White read the letter.

Planner Mowery will list the letter from the Conservation Commission in the Findings of Fact.

FINDINGS OF FACT

Chairman White read the following sections of Title 16.36.070.C. Findings of Fact and the Board voted as follows:

1.a. Pollution. i.; ii.; iii.; iv.; v.; and vi.

Vote of 5 in favor 0 against 0 abstentions

1.b. Sufficient Water Supply.

Vote of 5 in favor 0 against 0 abstentions

- 1.c. **Municipal Water Supply.**
Vote of 5 in favor 0 against 0 abstentions
- 1.d. **Erosion.**
Vote of 5 in favor 0 against 0 abstentions
- 1.e. **Traffic.**
Vote of 5 in favor 0 against 0 abstentions
- 1.f. **Sewage Disposal.**
Vote of 5 in favor 0 against 0 abstentions
- 1.g. **Municipal Solid Waste Disposal.**
Vote of 5 in favor 0 against 0 abstentions
- 1.h. **Aesthetic, Cultural and Natural Values.**
Vote of 5 in favor 0 against 0 abstentions
- 1.i. **Conformity with Local Ordinances and Plans.**
Vote of 5 in favor 0 against 0 abstentions
- 1.j. **Financial and Technical Capacity**
Vote of 5 in favor 0 against 0 abstentions
- 1.k. **Surface Waters – Outstanding River Segments.**
Vote of 5 in favor 0 against 0 abstentions
- 1.l. **Ground Water.**
Vote of 5 in favor 0 against 0 abstentions
- 1.m. **Flood Areas.**
Vote of 5 in favor 0 against 0 abstentions
- 1.n. **Freshwater Wetlands.**
Vote of 5 in favor 0 against 0 abstentions
- 1.o. **River, Stream or Brook.**
Vote of 5 in favor 0 against 0 abstentions
- 1.p. **Stormwater.**
Vote of 5 in favor 0 against 0 abstentions

Conditions of Approval

1. An approval by the board shall take the form of an agreement between the town and the developer, incorporating as elements the application, the board's findings of fact, and such conditions as the board may impose upon approval.
2. Prior to approval of the Final plan by the board, the developer shall submit copies of the recorded Declaration of Restrictions for Lots 2, 3 and 6 to the Town Planner.
3. Prior to approval of the Final plan by the board the developer must, in an amount and form acceptable to the town manager, file an instrument with the municipal treasurer to cover the full cost of the required improvements for Phase 1, including the cost of improvements for the 'right-turn only' lane in Route 1. A period of one year (or such other period as the planning board may determine appropriate and not to exceed three years) shall be set forth for the guaranty time within which required improvements must be completed.
4. Prior to the commencement of construction of subsequent phases the developer must have completed Phase 1 construction, must have acquired approval from the Town Engineer's field inspector for the completed stormwater management system and must have filed with the municipal treasurer instruments to cover the full cost of the required improvements for each subsequent phase. A period of one year (or such other period as the planning board may determine appropriate, and not to exceed three years) shall be set forth for the guaranty time within which required improvements must be completed.
5. Prior to the issuance of Certificates of Occupancy by the Code Enforcement Officer, the Developer must acquire written approval from the Fire Chief for Fire Department Connections.
6. Prior to the sale of Lots 2, 3 and 6, the Owner/Developer of said lots must, as part of the purchase and sale agreement, prepare a rider to the deed that indicates the owner(s) of Lot 2,3 and 6 must bear the responsibility to protect and maintain the conservation land area.
7. Prior to the issuance of permits for signs in the conservation areas, the Conservation Commission must have approved the proposed signage.
8. Prior to the issuance of plumbing permits by the Code Enforcement Office, the Developer must pay sewer impact fees to the Code Enforcement Office.
9. Prior to the issuance of building permits by the Code Enforcement Office, the Developer must formalize an agreement with the Town to pay the cost of a backup generator to be used at pump station #21. Payments to the Town shall be made over a five-year period. See September 10, 2007, letter from the Kittery Superintendent of Sewers.
10. The Code Enforcement Officer will not issue building permits until all conditions of this agreement have been satisfied.
11. By vote of the Planning Board herein, the Chairman is authorized to sign the Final Plan and this Findings of Fact, as amended, on behalf of the Planning Board.

Vote of 5 in favor 0 against 0 abstentions

BREAK 8:10 -8:15 p.m.

ITEM 4 **Amendment to Title 16 Land Use and Development Code Zoning Ordinance Wetlands Ordinance - Workshop:** Discussion of proposed revision to Article XII – Conservation of Kittery Wetlands; Sections 16.28.380 through 16.28.500.

ITEM 5 **Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Workshop:** The Town Administration, endeavoring to define zoning in accordance with the Comprehensive Plan and to update the official zoning map, proposes to amend Title 16 Land Use and Development Code Zoning Ordinance.

Chairman White read document regarding old business

Ms. Kline commented that there was an inventory done on all the street trees in Kittery. An urban forest management plan was completed March 15, 1995 and a tree management plan was done with Mr. Rick Rossiter. Since then many trees have been cut. Mrs. Kline would like an updated inventory, to show what trees have since then been replanted, and is advocating for a replanting plan.

ADJOURNMENT

The Planning Board meeting for 5/22/08 was adjourned @ 9:30p.m.