

**TOWN OF YORK PLANNING BOARD  
THURSDAY, MARCH 23, 2006, 7:00 PM  
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Before the meeting started, Planning Board members signed mylars for the Pine Hill Subdivision brought in by its engineer, Ken Wood.

Chairman Barrie Munro began the meeting at 7:00 by introducing the board and the staff. Barrie Munro, Vice Chairman Glen MacWilliams, Richard Smith, Tom Manzi, and alternate Lee Corbin were present. Glenn Farrell was absent, and Barrie Munro asked Lee Corbin to vote in Glenn Farrell's place. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised. Barrie Munro announced that the agenda order would be somewhat shifted.

**Public Input Open to the public to address any issue.**

Kenny Churchill said he had bought the Moulton/Willowbrook Farm in 1994. It is now called the Lightning C Ranch. In 1996 and 1997, Kenny Churchill won the World Championships in bull riding. He had on a big silver and gold trophy-style belt buckle. He said he hopes to develop his thirty-or-so acre ranch and stage rodeo events there, including professional bull riding. There is a drawback. The flattest, most suitable portion of the property, a former hay field, is located in the limited residential zone, and the part that is in the GEN-1 Zone, where recreation and amusement uses are permitted, is not optimal land for a rodeo setup. He might have to ask that the whole farm be taken out of the residential zone and placed in the mixed-use zone to make his rodeo a reality.

Steve Burns said that Kenny Churchill had sent an introductory letter to the Board of Selectmen, a copy of which was passed out to the Planning Board members. Kenny Churchill had also met with Code Enforcement Officers Mark Badger and Tim Decoteau. Steve Burns said that he was not sure how rodeo use is permitted. Code Enforcement would have to be the authority on it.

Kenny Churchill said he hopes to hold a rodeo event during the weekend of August 4 and 5. He described the rodeo's 80-foot by 150-foot portable arena with horseshoe-shaped bleachers, also portable, for 1,500 to 2,000 people. Competition bulls cost between \$200,000 and \$300,000, making them more valuable in the bull riding industry than in the meat industry. Though only one rodeo would be held this year, he anticipates weekly shows in the future. He spoke enthusiastically about the benefits that working with bulls and horses can have on youth, and he will offer that opportunity to the community. He said he was creating the rodeo from his heart. Lee Corbin asked if there are safety issues with bulls. Kenny Churchill described bulls as athletes that can be calmly approached and touched. He distinguished that bull riding is nothing like the inhumane bull fighting associated with Hispanic and Portuguese cultures.

Steve Burns said that if the use codes do not trigger Planning Board involvement, the rodeo might never come before the board. A rodeo having no floor would keep it from

coming before the board. Board members had positive reactions to the rodeo. Glen MacWilliams said this use is similar to that of farmers who hold public events, like hayrides, with their animals. He liked the idea, but said that the size was a little “scary.” Tom Manzi said that it could possibly turn into a big business. Lee Corbin finished by saying she also was in favor of it.

Chairman Barrie Munro turned the discussion to parking at York Beach. William Burnham, Chairman of Ellis Park Board of Directors, told the Planning Board that his group had planned to give a presentation that evening, but were postponing it to give themselves more time to make sure their information is complete and accurate, when they do. The public input session was closed.

## **Business**

### **Public Hearing for Amendments to the Comprehensive Plan. Conduct a public hearing on the posted draft of the Natural Resources Chapter of the Inventory & Analysis Section of the Comprehensive Plan.**

Chairman Barrie Munro opened the public hearing. No one came forward to speak, so he closed the public hearing and asked the board for comments. Lee Corbin acknowledged that Town Planner Steve Burns had worked hard on the very comprehensive document. Glen MacWilliams said it was amazing. Barrie Munro said he was flabbergasted by it. Tom Manzi said it was very professionally done.

Steve Burns said that this was the last Planning Board public hearing for the amendment, and it was next going to the selectmen for their upcoming meeting the following Monday. Lee Corbin asked Steve Burns to go over the maps again.

GIS Manager Brett Horr had created most of the maps. Steve Burns sometimes fondly referred to their bold or pastel color scheme choices in terms of Brett Horr’s mood phases. *Bedrock Geology* is the first of 13 maps. Different rocks are represented with different colors. The red (granite) areas are places most likely to contain radon. *Surficial Geology* shows different soil types. *Erode-ability of Soils* shows places in York that are most likely to have erosion problems. *Soils by Slope* shows steepness. *Farmland Soils* shows prime soils. *Hydric Soils* shows wet places and watershed boundaries. *Low Density Development* gives an overview of which areas are best for low-density development. *Surface Waters and Watersheds* features rivers (York, Cape Neddick, Mighty Josias, Ogunquit, and Great Works Rivers) as well as the larger ponds. As well, dam locations are featured on that map, though not all dams have been documented. The planning office totally originated the map showing *Stream Order*, which breaks down water sources into four orders. Headwaters are labeled as the 1<sup>st</sup>, or the lowest, order. When 1<sup>st</sup> order streams come together, they form the 2<sup>nd</sup> order. When 2<sup>nd</sup> order streams come together, there is a 3<sup>rd</sup> order stream. And when the 3<sup>rd</sup> order streams blend, they form the only 4<sup>th</sup> order river in York, the York River. These categories are important for analysis of impervious surfaces by watershed. Steve Burns next showed the map of *Existing Land Use* in which watershed boundaries are delineated and acreage is calculated within those

boundaries. The *100-year Floodplains* map indicates elevations. There is a map of *Public Access to Coastal* waters showing beaches, parks, town docks, and boat launches. The Mt. Agamenticus-to-the-Sea Conservation Initiative coordinated with the Planning Office to determine the information for the *Conservation Lands* map, which includes many parcels, including the York Land Trust and Rachael Carson.

The maps are available for the public to view at the York Library. Otherwise, they are attainable through the Town website, from which they can be downloaded and printed in full color.

**Motion** Glen MacWilliams moved to request the selectmen to place the Amended Natural Resources Chapter of the Inventory & Analysis Section of the Comprehensive Plan on the May referendum. Lee Corbin seconded the motion, which passed, 5-0.

**Preference Vote** Chairman Barrie Munro asked each member of the board if he or she had preference in favor of the Natural Resources amendment. To that, each person, Richard Smith, Glen MacWilliams, Tom Manzi, Lee Corbin, and Barrie Munro all answered, "yes."

**Item 4 Final Review of Mylars for York Storage Solution. 1950 U.S. Route One. Map & Lot 0100-0029. This is expected to conclude the Board's review of this application. Not scheduled for a public hearing.**

Steve Burns said that the six conditions had been completed, and the board could approve the application. Those six items were the correct revision date on the landscape plan, the chain link fence being black, Ken Wood's certification of the office building design, signoffs from the three department heads, the added sheet index, and the inclusion of the financial security note. The chairman asked for comment. Nothing further was said.

**Motion** Tom Manzi moved to approve the Route 1 Use Permit for York Storage Solution. Glen MacWilliams seconded the motion, which passed, 5-0.

Barrie Munro asked the board to take five minutes to sign the mylars, which they did.

**Preference Votes for Proposed Ordinance Amendments. There are three Zoning Ordinances amendments for which the Board should offer a recommendation:**

- a. **Professional Certification of Project Compliance**
- b. **Condominium Conversion Standards**
- c. **York Village Center Overlay District**

The board members had been prepared for this item with a Memo from Steve Burns dated March 17, 2006, containing the draft language for all three amendments. Richard Smith suggested that the board members vote on all three items at once, to which the chairman and the rest of the board agreed.

**Preference Vote** Chairman Barrie Munro asked each member of the board if he or she had preference in favor of the Professional Certification of Project Compliance, Condominium Conversion Standards, and York Village Center Overlay District Ordinance Amendments. Each board member, Richard Smith, Glen MacWilliams, Tom Manzi, Lee Corbin, and Barrie Munro said “yes.”

**Discuss Work for November General Referendum. Review priorities for the year and time available to complete work. Take public input regarding requests for ordinance amendments. Review work completed to date.**

Chairman Barrie Munro observed that there was no one in the audience to provide public input or request amendments. Therefore, there was no public input hearing. He opened board discussion. Steve Burns gave an overview of the Comp Plan policy amendments. The growth policy is not clear in the Comp Plan and perhaps should be explained in terms of map-based growth areas rather than zones. Where public water and public sewer expansion is wanted and where it can go will be an amendment. Accomplishments, like the cluster subdivision policy, should be updated. There should be a zoning rewrite defining what can go into what zone, while keeping consistent with the Comp Plan, and should be addressed in terms of getting rid of specifics. In this effort, the legal status of the Comp Plan would be bolstered. Also, watershed-based policies should be further developed with regard to standards.

The proposed ordinance amendments to be considered at the November 2006 Special General Referendum were discussed. Steve Burns had passed out 26 pages of draft language for the amendments to the board members in the following categories. He then summarized their content.

1. Zoning Ordinance—Historic Landmark Designation of Trinity Church
2. Zoning Ordinance—Landmark Designation for Historic Building Conversions
3. Zoning Ordinance—Seasonal Conversion Appeals
4. Zoning Ordinance—Board of Appeals’ De Novo Authority
5. Zoning Ordinance—Shoreland Setback Variances
6. Zoning Ordinance—York Beach Village Amendments
7. Zoning Ordinance—Non conforming Situations Amendments
8. Zoning Ordinance—Bed & Breakfast Amendments
9. Zoning Ordinance—Apply Campground Regulations Town-wide
10. Zoning Ordinance—Define Front, Side and Rear Lot Lines
11. Zoning Ordinance—Town-wide Lot Coverage Standards
12. Zoning Ordinance—Shoreland Map Amendments
13. Zoning Ordinance—Shoreland Septic System Setback
14. Zoning Ordinance—Building Size and Scale Limits
15. Zoning Ordinance—Building Size and Scale Limits
16. Zoning Ordinance—Eliminate Old Floodplain Management Definitions
17. Zoning Ordinance—Uses Permitted in the Route 1-6 Zone

**Trinity Church (#1)** had requested **Historic Landmark Designation. Landmark Designation for Historic Building Conversions (#2)** places the buildings' architectural integrity in perpetuity. Steve Burns described how, if the buildings are lost somehow, they must be rebuilt exactly as they were. **Seasonal Conversion Appeals (#3)** allows for a special exception granting seasonal conversions. The request for **Shoreland Setback Variances (#5)** may be a problem, because setback size variance is tricky.

Steve Burns and the Planning Board discussed at length the **Board of Appeals De Novo Authority (#4)** that the Board of Appeals sometimes faces. The amendment sprang out of the complicated Dunkin Donuts appeal. Under De Novo authority, the appeals board has to start working on an appeal with no paperwork or evidence. They have to build their own public record from which to approach the appeal. The process creates an inability for the board to examine the procedures in light of what errors were made. Steve Burns said that the appeals board should be able to focus in on what they need to, i.e., the mistake. De Novo is appropriate for other cases, administrative cases. Glen MacWilliams said that the process has to be consistent with state law, and that the ordinance should determine which approach to take. When the ordinance does not specify, the Board of Appeals should know how to handle the appeal. Barrie Munro said that the Planning Board is careful with the process. Steve Burns commented that if the appeals board could go in and find the point of error, the process would be greatly simplified. With De Novo, the laborious work has to start over. Lee Corbin said that with De Novo, in a special exception, the Board of Appeals would look at what the Planning Board has not even reviewed. Otherwise, they would review the Planning Board decisions. Barrie Munro said that perhaps the Planning Board should change the way it deals with controversial things, because that might be the best way to deal with the Board of Appeals. Steve Burns said that he would see if the appeals board members might meet and discuss the issue with the Planning Board at the next workshop meeting.

The board discussed the **York Beach Village Amendments (#5)**. Steve Burns thought that the York Beach Renaissance Commission, an *ad hoc* committee to the Planning Board, should have a charter. Renaissance's chairman, Cathy Goodwin, had been asking for more clarity in defining its responsibilities. Glen MacWilliams, who has been the Planning Board's advisor to the Renaissance Commission, said that if their meetings are not held in a formal context, he does not feel needed there. He suggested that he work with Steve Burns to narrow down the commission's procedures. Steve Burns said that the commission might feel more comfortable working without the Planning Board. Glen MacWilliams commented that the Renaissance Commission's charge has not been described. Lee Corbin said she did not see why an *ad hoc* could not be taken as authority for recommendations, rather than as an authority for decisions, when they present facts to the Planning Board. Their guidance should be limited under the Planning Board's purview only to what the Planning Board reviews, like setbacks, lot coverage, and height limits. Barrie Munro agreed that the commission has to narrow its duties and probably not include parking in its objectives.

The **Bed & Breakfast Amendment** (#8) had been motivated by questions surrounding the newly built B&B next to the York Harbor Inn. The Board of Selectmen has asked the Planning Board if B&Bs were just for existing homes. The definition of B&Bs is wrong and has to be fixed, said Steve Burns. At the same time, a new set of standards has to be made. Steve Burns gave an overview on **Apply Campground Regulations Town-wide** (#9). If campgrounds are not included in certain zones, there are no standards for them. Some places have them. Others do not. They should be applied to all standards by applying them everywhere else. With **Define Front, Side, and Rear Lot Lines Lot Lines** (#10), Steve Burns said that there is a weakness in the code when it comes to looking at road frontage and shapes of lots.

Steve Burns said that the Board of Selectmen had rejected the amendment, **Town-wide Lot Coverage Standards** (#11), and it would not be pursued. There was not much said about **Shoreland Map Amendment** (#12), except that Dave Gittins was expected to request an amendment to remove a small (less than 4 acres) wetland from the map. Regarding **Shoreland Septic System Setbacks** (#13), Steve Burns said that Steve Bradstreet, the town's consulting engineer, has talked to him about how the standards work. Steve Burns skipped through **Building Size and Scale Limits** (#14) and **Building Size and Scale Limits** (#15). Regarding **Apply Non-Residential Performance Standards Town-Wide** (#16), he said the amendment concerns what jurisdiction Planning Board has, as opposed to that of the Board of Selectmen. It also deals with the fact that there are no performance standards in many sections outside the Route 1 corridor. **Uses Permitted in the Route 1-6 Zone** (#17), had not yet been written up. Conceptually, the amendment will deal with the size of large industrial uses in the Route 1-6 zone. Barrie Munro commented that enormous buildings are not wanted.

**Finalize the Findings of Fact for the Atlantic House. Board to review draft based on decision of February 21 and reconsideration on March 9.**

Board members already had copies of the Atlantic House Draft Findings of Fact before the meeting began. Town Planner Steve Burns said that the draft reflects the state of the alternative hours plan note.

Vice Chairman Glen MacWilliams asked to interrupt the matter in order for the board to approve minutes that might pertain to the Atlantic House.

**Minutes. Review and approval of draft minutes.**

Steve Burns said that everyone could vote on the minutes, even though every individual voting might not have attended the particular meeting. He had specifically looked up that issue and found that answer in *Roberts' Rules of Order*.

**February 21, 2006.** Glen MacWilliams noted that the minutes had been handed out before, and that his original set might have notes. Steve Burns replied that with all the late meetings recently, the board had not had time to get around to approving minutes. They were handed out again to make sure everyone had copy.

**Motion** Tom Manzi moved to approve the February 21, 2006 minutes as written. Glen MacWilliams seconded the motion, which passed, 5-0.

In the **February 23, 2006** minutes, in the Bayberry Ridge application, Glen MacWilliams asked a one word to be replaced for better clarity.

**Motion** Glen MacWilliams moved to approve the amended minutes for February 23, 2006. Lee Corbin seconded the motion, which passed, 5-0.

In the **March 9, 2006** minutes, Steve Burns pointed out that the heading read “February 9” and had been changed to “March 9.”

**Motion** Lee Corbin and Glen MacWilliams moved and seconded to approve the March 9, 2006 minutes as amended. The motion passed, 5-0.

### **Finalize the Findings of Fact for the Atlantic House [Cont.]**

With the minutes approved, the board returned to the Atlantic House Findings.

**Motion** Glen MacWilliams moved to approve the Atlantic House Findings of Fact as submitted. Lee Corbin seconded the motion, which passed, 5-0.

### **Standing Rules. Discuss policies of the Board and consider formalizing Standing Rules as allowed pursuant to Roberts Rules.**

Steve Burns’s Memo to the board on this subject, dated March 17, 2006, indicated that it had been desired and would be appropriate for the board to develop policies about how it approaches certain codes. Barrie Munro’s document, September 24, 2004 Meeting Notes, previously handed out, contained many areas of concern, some of which the board discussed. The possible areas of concern included the need to determine what constitutes adequate mitigation in Natural Resources §15.1.1.4, when there is a fine line between strict abeyance to a rule and the interpretation of the benefit of the doubt. The Planning Board’s ability to waive performance standards can also fall into the adherence of standing rules. As well, sketch plan reviews would benefit from policy. Barrie Munro added that any of the “show stoppers” were areas of concern around which policy could and should be standardized. He hoped to have the board arrive upon a standard definition of elderly congregate care as part of the process, as well.

### **Other business/Adjourn**

Steve Burns said that on behalf of the **Passaconaway by the Sea** application, Attorney Bill Knowles had appealed the decisions of the Board of Selectmen and the Planning Board. As part of the process, he had asked Steve Burns to provide him with a written reason why the Planning Board had turned down the preliminary application. The Planning Board’s decision had been documented in the March 9, 2006, Minutes, so Steve

Burns suggested giving a copy of those Minutes to the attorney. Glen MacWilliams said that the board had not looked at the applicant's submittal; the denial was based on the Selectmen's decision. Lee Corbin said that Southern Maine Regional Planning had found the application complete before it got to the Planning Board, but the board had to deny it. Steve Burns said that the reason the board denied it was documented in the March 9 Minutes (the selectmen had determined to send sewer to that part of town) and that sending the applicant the Minutes would adequately serve the request. It was agreed to give a copy of the Minutes to Bill Knowles.

**In other business**, Steve Burns said that the sewer district had the project of replacing sewer on Beach Street all lined up. He asked the board if the work could be done in advance of mylars being signed, because that work is conditional to an application. Barrie Munro answered that, yes, any private individual could have paid for that, and it should go ahead. Everyone on the board was in agreement.

The meeting adjourned at 10:10.