

**York Planning Board**  
**Thursday, February 21, 2013, 7:00 P.M.**  
**York Public Library**

**Call to Order, Determination of Presence of Quorum**

Chairman Todd Frederick presided. A quorum was determined with four people voting: Todd Frederick, Torbert Macdonald, Jr., Dave Woods, and alternate Al Cotton Jr., who voted in place of Lew Stowe. Lew Stowe, Dave Glazebrook, and Brud Weger were absent. Christine Grimando, the Town Planner, represented staff. Patience Horton took Minutes.

**Public Input**

**Open to the public to address issue other than topics scheduled public hearings.**  
No one came forward to speak.

**Field Changes**

There were no field changes.

**Minutes**

Minutes from the January 3 and January 24, 2013 meetings were reviewed and corrections were requested.

**Motion:** The Chairman asked if there is a motion to approve the minutes of January 3, 2013. Torbert Macdonald said, "So moved," seconded by Dave Woods, and passed unanimously.

**Motion:** The Chair asked if there is a motion to approve the minutes of January 24, as amended. Torbert said, "So moved," seconded by Dave Woods, and passed unanimously.

**Application Reviews and Public Hearings**

**York Storage Solutions II 1950 US Route 1. Map & Lot 0100-0029-B & 0100-0029.**  
**Revision to a previously approved site plan to modify a guardrail**

Project Engineer Joe Cheever said York Storage Solutions II is the second phase of a 3-phase build out for mini-storage units on Route 1. It was initially approved in 2005 and amended in 2012 for phasing in three additional buildings. In this time, they had planned for 160 feet of timber guardrail, but since the blasting done for the buildings left several large boulders, lined up along the slope, the rocks could replace the guardrail. This is designed as a low-rated barrier for lower speeds, 15 MPH, rather than 60 MPH, and at a lower (25%) angle. A 10,000-pound truck (25,000 pound force) might come on the site. A calculation showed the rock barrier that would stop the vehicle. The four foot of separation between 32-inch boulders meet the necessary parameters. The **Public**

**Hearing** was opened and closed. No one came forward to speak. Dave Woods said rocks should sit 12”in the frozen ground, with 32” above. In his experience, at the 6-inch sunken level, rocks can be moved during plowing. Joe said that any vehicle that hits from any angle will hit would hit two boulders.

**Motion:** Dave Woods made the motion that we approve the change from a timber guardrail to the boulder-barrier design as submitted. Torbert Macdonald seconded. No further discussion. Passed 4-0.

**York High School Main Entry and Canopy. 1 Robert Stevens Drive. Map & Lot 0038-0005. Revision to a previously approved site plan - proposal to modify the main entry of the High School**

Dan Ellingson, an architect with Harriman Architects & Engineers, reviewed the proposed plan for a vestibule with canopy. No new impervious area is being added. The vestibule will create an airlock with the front door. The canopy gives protection from weather. There is a “York High School” sign above the canopy, because the main entry is difficult to find right now. There is a bench is below the sign. The existing building is ‘70s era, and because there is no strong architectural language to respond to, the additions are minimal, straightforward, and sleek looking.

Todd Frederick opened the **Public Hearing**. No one came forward to speak. Al Cotton asked about the practicality of using aluminum in this windy place. Dan Ellingson said there is a four-foot concrete base. Steel columns and studs hold the aluminum panels. The structural engineer took wind factors into account.

**Motion:** Torbert Macdonald moved that we approve the York High School Main Entry and Canopy, 1 Robert Stevens Drive. Map & Lot 0038-0005. Al Cotton seconded the motion, and it passed 4-0.

**Ledges Golf Course. 1 Ledges Drive Map & Lot 0089-0045-A; Revision to a Previously Approved Site Plan: 16x28 addition to clubhouse.**

Bill Anderson described the minor change. The Ledges clubhouse was approved in the mid-‘90s. The last planning board approval was for a golf cart building. It has been constructed. They are adding a little room to the kitchen for prepping stuff, he said. It adds 440 square feet to the footprint. The siding will blend in with the same siding. The Chair opened and closed the **Public Hearing**. No one came forward to speak.

**Motion:** Torbert Macdonald moved we approve Ledges Golf Course addition 16 x 28, Map & Lot 0089-0045-A. Dave Woods seconded the motion, which passed 4-0.

**Pine Ledge Residential Subdivision. 4 Turner Drive. Map & Lot 0099-001-E; Continued preliminary Review of a major cluster subdivision application.**

Project Engineer Joe Cheever said the outstanding issue is how stormwater moves across the site. The final form with the hydro-cad modeling, showing how both York and DEP standard in quantity and quality are met, will be given at final. 95% of the impervious area and 80% of the developed area will need to be treated. The forested buffer is a BMP for this site. Different lengths of forests in conjunction with the level lip spreader are used to treat certain areas of impervious or developed.

Some sub-catchments go toward Muddy River (which becomes Josias River, then Perkins Cove). Other sub-catchments head into the stream that is on-site (which eventually flows under Mountain Road and into Cape Neddick River). Those flows will stay the same, but the road crown might send some (a couple of acres' worth of) water the other way. The flows in the existing conditions will not increase in the proposed developed conditions under requirements for 2-, 10-, 25-, and 100-year storms.

In the linear portion of the project, we have to meet the quantity standards showing the developed has no more peak-discharge existing at the linear part of the project, the road, than before getting where the houses are. We need to treat 75% of the developed and 80% of the impervious. In the BMP scenario, the 75% is being treated with forested buffers or the underdrain soil filters. Those plus level lip filters are going to meet the treatment.

The level lip spreader is about 20 or 30 feet long. It collects the storm water and puts it into sheet flow into a deeded stormwater forested buffer. It will be on each deed as undisturbed forested buffer. There will be a deed restriction that will tell homeowners they can't go past a certain point with their grass and their tree cutting. Joe Cheever described stormwater treatment for the entire property.

BMPs include forested buffers, swales, level lip spreaders, and underground soil filter. The key components are the forested buffers and underdrain soil filters. Forested buffers give great treatment and are used for quite a bit of our treatment on the property. The underdrain soil filters gives added storage capability, which helps with the peak discharge.

The Chairman opened the **Public Hearing**. **Mike Mahlman**, Chairman of the York Conservation Commission described his group's activities, including its 4-0 vote not to be considered a candidate to be the as temporary open space easement holder, as requested by applicant representative Rob McKee (Atlantic Construction) on January 22. Mike cited Town regulation 7.6.3.c.2.b.

The conservation commission takes these positions:

- The conservation commission recommends the planning board not approve the application.
- 7.6.3.a, the project does not meet the threshold for 50% of the buildable area included in an open space.
- 7.6.4.b.1 states applications for a cluster development cannot have more units than would be in conventional development on the same property, and that 32

units are more than would be buildable using conventional standards. (Christine spoke out and said the figure is correct.)

- 7.6.4.b.2.b, there are four lots that do not have the at least 200 feet of frontage on the abutting wetland: 9, 11, 17, and 21.
- 7.6.1.c, there is currently no conservation easement holder. An easement holder has not participated in defining the open space and drafting the appropriate descriptions.
- With 33 septic systems, stormwater and runoff impact on the wetland open space and the Cape Neddick tributary will be substantial. An independent assessment should be made before the application is accepted.
- There is inadequate buffering health of the wetland and the wildlife habitat.
- Regarding waivers, a project of this size should have a second entrance; the fire safety concerns lack clarity; and the conservation commission questions whether the underground power and cable requirement should have been waived.

**Linda Scotland** of the Cape Neddick River Association is past vice president of the York Land Trust. She currently works with the Kennebunk Land Trust.

She said Cape Neddick River is in violation of the Federal Clean Water Act. A watershed management study was conducted in 2011. Pollution comes from over-building, poorly functioning septic systems, stormwater runoff, runoff from the street, fertilizer applications to lawns, and lack of vegetative buffers.

The study shows section N1 at the base of the river is overbuilt by 224 homes. The number of homes in N1 has increased. Pine Ledge is in area N3, which drains into N1. N1 has no capacity to filter what comes from the N3 uplands. Thirty-three additional septic systems and lawns and wells will further degrade the flow needed to flush pollutants. We are very close to having the Cape Neddick beach closed, she said.

If it ends up with taking someone to court, it costs a lot of money, and we have to incur the costs. Court actions work, but they don't work in a situation like this when we have 33 homes backing up to this common land.

**Roland Labrie** of Logging Road said that is a very beautiful parcel, and it won't be if the development goes through. People have worked hard for 15 years to get the Cape Neddick River cleaned up. 33 houses with a lot of laundry detergents, a lot of lawn fertilizer, a lot of weed killers will filter through the wetlands, into the back river, and into the Cape Neddick River. We worked to get a comprehensive plan and a set of ordinances that would govern this kind of development in place. And now with squeezing, massaging, twisting, and trying to screw everything around somehow, we try to make it fit through a knothole so it can get approved. Why have all the rules and regulations in place and then have such an ordeal to try to get everything to fit and work? That makes me very suspicious.

**Joey Donnelly** of York Harbor said the comments of the conservation commission were valid. This is a fragile piece of land. It seems that the total number of houses being

suggested is inappropriate. The problems we will have as a result of passing this will be severe. Chairman Todd Frederick **Closed the Public Hearing.**

Torbert Macdonald asked how the forested buffer zones work in the spring when there is runoff coming off the land, but the ground is frozen? The wetland has capacity for filtration, but not if frozen. These things are designed to fail at certain times of the year, particularly during the heavy runoff time spring.

Joe Cheever said more studies are being made about moving storm water effectively in frozen climates. In this, Joe said he falls back on the standard, and he meets the DEP standard for forested buffers and underdrain soil filters. Torbert said the density of the project, the wells, and septic systems require a hydrogeology in performing a miraculous set of almost contradictory functions. He called for an independent analysis.

Todd Frederick asked about water quality calculations for storm events. Joe said a natural modeling standard for watersheds is called TR55. Calculations will show that there is no increase in peak discharge in developed conditions compared to the existing conditions. There will be a chart that shows which sub-catchments will be treated in which BMP infiltration manner. He said the bottom answer is that 95% of the impervious area goes through some form of treatment.

He said he didn't design the stormwater system in a vacuum. Cynthia Thayer, the hydrologic designer has worked with him. We are designing to good engineering practices, not to York ordinances.

Todd Frederick said there has been good discussion and heard testimony from citizens who have concerns about the project. There are issues with abutters that have not been met. Town Planner Christine Grimando said the board can't dig into the critical issue, the hydrological study, until Final. That is the configuration and number of lots that are actually going to work. Water quality will be more important on this application than the usual quantity measures we usually look at.

Torbert read from Christine's memo about the easement holder. The application will need to be approved under the current codes, not on the assumption of a change to the codes, which may or may not happen. There are issues about the open space that cannot be answered without the easement holder resolved. A future easement holder might have input that could change the current layout of the project. Such changes could send the application back to preliminary review. The lack of an easement holder could or could not defer preliminary decision.

Joe Cheever updated the open space easement holder issue. We are going to take advantage of a change in the ordinance, should the open space owner be the easement owner (then there would be no easement). On March 6, Tin Smith (Great Works Land Trust) is going to present his board the option to be the easement holder, in which case, we would find an owner that would be a corporation/entity that could own the open space, making Great Works would be the easement holder. The idea of being a

temporary easement holder will be presented to York Land Trust, and Great Works Land Trust being the owner, until the ordinance changes. Great Land Trust is our partner. They want to own it. It is a matter of coming up with the legal framework to make it work within your ordinance. Great Works is asking DLJ to look at every possibility.

Torbert referenced 6.3 of the Comp Plan, of keeping large, unfragmented blocks of undeveloped land in the rural areas of York and preserve these areas. Christine agreed we are not meeting our comprehensive plan, but so far it is meeting our zoning and site plan and subdivision regs. The board is addressing ordinances to go through preliminary, not final. The applicant understands that if certain things can't happen to make the final, it would be thrown back to preliminary for possibly a totally new schematic layout.

**Motion:** Chairman Todd Frederick said, "A motion was made by Al Cotton, seconded by Dave Woods, to grant preliminary approval for this project, Pine Ledge Residential Subdivision, 4 Turner Drive." There was no further discussion. The vote was 3-1 with Torbert Macdonald opposed.

The chair said is evident that a third-party review will be required.

## **New Business**

Christine said there are no dates or predictions on the police station and connector road situation. Todd said he would attend the upcoming selectmen's meeting to present the ADU and other ordinance changes.