

York Planning Board
Thursday, July 25, 2013, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Todd Frederick called the meeting to order at 7:11 (video problem). A quorum was determined with four people voting: Chairman Todd Frederick; Board Secretary Lew Stowe; Al Cotton, Jr.; and Brud Weger. Christine Grimando, the Town Planner, represented staff. Patience Horton took Minutes.

The Board of Selectmen re-appointed Lew and also appointed Al Cotton and Brud Weger as full members. Peter Smith has been appointed as a new alternate, but was not present. There are openings for one alternate and one full member. A consolidation act of June 30, 1997, which incorporated the Beach into the Town, requires that the next full member comes from the York Beach area.

Public Input

Torbert Macdonald said he is on the Board of Selectmen but speaks as an individual. He apologized to Dave Woods and Lew Stowe for the way they were treated by two members of the Board of Selectmen during the appointment process.

Field Changes

There were no Field Changes.

Minutes

The June 27, 2013, minutes were reviewed, and no corrections were requested.

Motion: The chairman asked for a motion to approve the minutes. Al Cotton said, "So moved," seconded by Lew Stowe and passed unanimously.

New Business

Public Hearings on Proposed Comprehensive Plan Amendments to be considered at the November 2013 Special General Referendum:

- **Sea Level Rise Amendments: Inventory & Analysis/Policy**
- **Municipal Separate Storm Sewer System (MS4) Amendment**
- **KACTS**

Sea Level Rise Amendments: Inventory & Analysis/Policy

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Christine Grimando said this is the second public hearing on three Comp Plan amendments. The review of the **Sea Level Rising** Inventory and Analysis and Proposed Policy (which is funded by a State grant) makes York the first Town in Maine to address this.

Chairman Todd Frederick opened the **Public Hearing**. **Torbert Macdonald** said the board should be more careful about speaking into the microphones. People viewing the meeting can't hear well enough.

He went through the draft Sea Rise Inventory/Policy chapters pointing out syntax and grammatical errors to correct for the final draft. Christine Grimando noted his corrections. The upgraded document will be in the packets for the Planning Board's next meeting. Todd Frederick closed the **Public Hearing**.

Lew Stowe encouraged people to look at the **Sea Level Rise** maps in the neighborhoods of Long Sands, York Beach, and Cape Neddick. Those maps have the best detail for the three different heights of sea level rise. The most extreme rise shown is two feet. At that sea level, he said, Long Sands Road completely disappears in storm events.

Municipal Separate Storm Sewer System (MS4) Amendment

The **Public Hearing** was opened for the Comp Plan amendment, **Municipal Separate Storm Sewer Systems, MS4**. **Torbert Macdonald** said this item should be discussed between the Planning Board and the Board of Selectmen when you meet. There are six or seven storm sewer outfalls along Long Beach, and they are the source of the pollution on Long Beach. Sections of the Comp Plan amendment dealing with sea level rise, erosion and quality of water can pertain to the high moon tides we've had in the last months, which have already eroded the marsh and is undercutting the Shore Road near the loading zone on the marsh side, he said. That **Public Hearing** was closed.

KACTS

The **Public Hearing** was opened for **Kittery Area Comprehensive Transportation System, KACTS**. **Torbert Macdonald** encouraged Todd Frederick to talk to Ron Nowell about setting a meeting between the Planning Board and the Selectmen to discuss KACTS and the other issues. Chairman Todd Frederick closed the **Public Hearing**.

York Village

The Chairman opened the **Public Hearing**. **Torbert Macdonald** said parking should not be described as the primary use of the 6 acres the town owns around Coventry Hall. The area is for a variety of multiple and municipal uses, and the Comp Plan should say so. The chairman closed the **Public Hearing**.

Application Reviews and Public Hearings

Pine Ledge Residential Subdivision. 4 Turner Drive. Map & Lot 0099-0001-E; Final Review of a major cluster subdivision application 7:48

Town Planner Christine Grimando said this application for a major cluster subdivision received preliminary approval last time it was before the board, February 21, 2013. She recommended acceptance of the plan for final review, being submitted tonight.

Motion: Al Cotton said he'd make the motion. Lew Stowe seconded it.

In discussion Lew Stowe said the board was trying to move a lot of the information for the applicant into the sketch review or the site review, but now all of the sudden, we're going to final and not every thing is there. Todd answered that there is jeopardy on the applicant's part.

Vote: The motion to accept the application for final review passed, 4-0.

Project engineer **Joe Cheever** said they submitted a sketch plan in July 2012 and did a site walk on September 11, 2012. There was a second site walk and four Planning Board meetings. Preliminary approval was on February 21. Since then at least one or more test pit has been dug at each septic location. The site location and development has been submitted to DEP. There has been a public informational meeting at the site. DEP accepted the application for review, including environmental review and stormwater design review. U. S. Corps of Engineers gave comments. Joe Cheever said he has reviewed the completed technical submittal with Town Planner Christine Grimando.

There are items on the final that were not on the preliminary, including the hydrogeologic study; the completed traffic study; and the completed stormwater management plan. There are also the deed for Great Works; bylaws for the homeowners association; and a set of covenants for the easement, which will be taken as a fee interest.

The deed transferring open space contains restrictions. Non-motorized, low impact recreation must not affect ecological character. There will be: no quarry mining; no commercial activities; no communication towers; no hazardous chemicals. Timber harvesting is allowed for forestry management including land management. There will be no tents or campgrounds. A minor structure (like a kiosk for posting information about natural features) is allowed. There will be no high impact structures like swimming pools and equestrian rings. There will be one gravel parking lot at the trailheads.

If 7643.b.c changes allowing the owner of the easement to become the owner of the open space, then the Great Works Land Trust would own the easement outright. The homeowners would no longer be associated with the open space. The developer will give Great Works Regional Land Trust the stewardship fee simple to take it and own it. "Fee simple" means "owning the ground."

Brud said timber harvesting does not jive with section g), where the property would be protected in its natural condition and wild character. Joe Cheever said timber harvesting

is for a purpose to maintain the nature of the area. Joe said he would check for language to that extent with Forestry Management.

Joe reviewed the mathematics used to arrive at 33 lots on 150 acres. Thirty-nine lots are permitted on the 80 buildable acres. Thirty-nine lots are possible on the site, but the developer chooses to build 33 homes on 0.4-acre lots. Each lot will have a septic system. The York supplemental plumbing code calls for septic treatment of 360 gallons per day for a three-bedroom house. State standard is 270.

The stormwater is collected through pipes and swales into different ponds. There are 26 sub-catchments, 13 soil filter ponds, a wet pond, and 27 forested buffers. Both quantity and quality must be addressed. Per DEP, the quality of the runoff from the developed lots must be by best-managed practice, such as underground soil filters, wet ponds, or forested buffers.

The Josias River watershed consists of 390 acres, of which 4 acres come off this property. That is 1%. The Cape Neddick watershed consists of 1,220 acres, of which 17 acres come from this property. That is 1.4%.

Chief Hydrologist **Cynthia Thayer** from R. W. Gillespie said that in April, 2013, soil scientist Kenneth Gardner did 150 test pits to find the locations of leach fields for the 33 lots. Each leach field will have a 100-foot sanitary radius, and each home will have individual bedrock wells outside the 100-foot sanitary radius. The wells should be spaced apart across the 60 developed acres. 40% of precipitation on the property will stay in the aquifer and not be extracted. Water coming off the lot (from the water usage in the homes) will percolate through the soil into the aquifer.

Joe Cheever said three waivers have been granted. The underground electric utility is waived. Another waives the immediacy of HHE 200 form. It will not have to be submitted until the building permit is submitted. The third waiver allows the subdivision to have one means of access.

Tonight, two more waivers are requested. One is for the 100-foot well protection radius. In one location, the radius goes over the lot boundary by 50 feet into the neighbor's lot. Town Planner Christine has discussed this with Joe. There has to be an easement for this.

For the final waiver, Joe asks for a waiver for cross sections of every 50 feet of road. Grading information will suffice. He would have to produce 160 cross sections for 8,200 feet of road.

The Chairman opened the **Public Hearing**. **Mike Mahlman** of the York Conservation Commission said his group had only a day and a half to prepare this meeting and presentation, because they were not notified properly.

The Conservation Commission feels the Town is at risk by not using independent information when approving a development project. There are very bad potential conse-

quences. An independent hydrological assessment will show that the number of units at this subdivision should be reduced. The application should not move forward based on Town ordinances alone.

We submitted recommendations about this application and its potential impact on water quality in February, and received a response yesterday, August 24. He questioned the Planning Boards vote for preliminary approval though the project did not comply with conservation easement ordinances. Some of the waivers given tonight will cost the town. The Town Planner's position that the cluster calculation for this project meets the 50% buildable rule is an incorrect interpretation of the ordinance, which is ambiguous and the language is flawed.

He spoke of his and Bob Tilley's walk of this application site. Applicant Duane Jellison interrupted him, saying he is not happy that an unarranged site walk has taken place. He must be notified before his property is entered. Chairman Todd Frederick explained the process by which the Town must abide during site walks and posted meetings, especially in avoiding ex parte discussion. Mr. Mahlman apologized to Mr. Jellison.

Mike Mahlman then encouraged the Planning Board not to accept the application as complete. The Conservation Commission recommends an independent peer-type assessment of R. J. Gillespie's work. He recommends the board not issue further waivers until the conservation easement holder is in place. He recommended that the board refer to Cape Neddick River Association's information and recommendations before continuing the project.

Caleb Smith, and abutter at 3 Turner Drive, said he would like to see the result of the new traffic study. Has it been brought to the attention of Police and Fire?

Bob Tilley has been on the Conservation Commission for five years. The five members of the Commission met last night and brainstormed their comments for this Public Hearing. We look at environmental, ecological, historical, and hydrological issues. We went on the site walk for Barrell's Cove, but our recommendations were totally ignored. Why does the Town have us exist at all if we are going to be ignored?

The Planning Board has discerning eyes and ears to make good decisions that support nature, not just entities that go and make the big buck. The board has to put its brakes on tonight and make sure these recommendations are met fully before a final decision is made. The Chairman closed the **Public Hearing**.

Returning to the review of the Pine Ledge Subdivision plans, Brud Weger said there are a bunch of septic systems on Lot 15. The septic for 15 is there, said Joe Cheever, and there are systems for three other lots in the area that have too much ledge. The systems were accounted for in the easement.

Brud asked about the existing house with the landscaping and that gate. Duane said a letter had been submitted and signed by both parties about a new well at a location to be

determined by the owners and a one time prepayment to Kimberly and Brenda for landscaping and buffering, payment to be made in 10 days after closing. He said that the homeowners association takes effect after 75% is built. He constitutes 100% of the homeowners association right now.

Joe Cheever said the Conservation Commission had asked for an individual peer review. Ransom Environmental has done that. Christine Grimando said the first round of comments have been received today. Joe said Great Works Regional Land Trust wants to own the land in fee. The homeowners association is going to be the easement holder. The relationship between the homeowners' association and the land trust was discussed. Joe said Great Works has shown plenty of the capacity to take the land and be the steward of the land and be partnerships with the homeowners' association.

Then the Board voted on the waivers.

Motion: Brud Weger said I'd like to move that we grant the waiver for 7.8.2.6, 100-foot well protection radius that is not contained entirely on Lots 30, 10, and 8. The motion was seconded by Al Cotton. There was no discussion. The motion passed, 4-0.

Motion: Brud Weger said, I'd also like to move that we grant the waiver from 6.4.1.4.2. that the applicant does not provide road cross sections for every 50 feet. Al Cotton seconded.

In discussion, Lew Stowe said it is not a major issue for us. We allow that with long roads. They provided detail drawings as to the contours, which we have seen. He has basically done that.

Vote: 5-0

Town Planner Christine Grimando then made a list of outstanding issues.

DEP approval, pending

Final Peer Review on stormwater

These documents were handed out tonight for review

Traffic report (this needs to be distributed)

Fire Cistern (Chief Bridges is okay on the final spec)

Workforce Housing

Is there any documentation to show agreement?

Duane answers that there will be 5 homes qualified under the workforce housing.

The Conservation Commission concerns

Other Business

• **Contract Review for Third Party Review of Police Station/Connector Road**

Motion: Lew Stowe made the motion that we go to 10:45. Al Cotton seconded, and it passed 3-1, Brud Weger opposed.

The board has selected a peer review team for the police station connector road consisting of Ransom (with Steve Bradstreet), and B.J. Feldman of Southern Maine Regional Planning Commission, jointly.

In discussing the pending contract with Steve Bradstreet, Brud Weger said the scope of services is narrow. Steve Bradstreet said there are 13 items, and they are the 13 items the Planning Board requested in the RFP. Brud said he'd like to see that as an addendum to the proposal.

Also, at the second interview with Steve Bradstreet, the fee was discussed in terms of a "not to exceed" figure, Brud said. That language is not on the draft contract and should go into the contract.

Al Cotton figured the Town Treasurer will probably sign the contract.

Adjourn

10:43