

Memorandum

To: York Planning Board
From: Glen MacWilliams
Subject: York Police Station and Connector Road
Reference: Notes on sketch plan review 2/20/2014

Refer to the letter from Lee Jay Feldman, Director of Planning, Southern Maine Planning and Development Commission (SMPDC) & Steve Bradstreet, Civil Engineer, Ransom Consulting dated 1/30/2014.

First paragraph: the authors appear to have joined two projects into one, the Police Station and the proposed Connector Road. What are the reasons and/or consequences for joining these two projects into one project? The majority of this sketch review appears to be about the Connector Road, not the Police Station.

Second and third paragraphs: caution should be taken that while this is called a sketch plan submittal; is it really more than a sketch plan review? The amount of information provided and the presumptions made, could lead the Planning Board to consider the information provided in the Preliminary Plan, which would create standing for the Town and lead to more difficult issues to resolve. For example, there is a presumption that the issues are about environmental violations to be remediated rather than the more difficult problems of land titles, site access, traffic control on Route One, and restoration of wrongfully cleared town land.

The issues for discussion:

1. Accounting? There are no specific account summaries in this package. What are the costs to date and what are the expected costs to complete this project?
2. Who is paying for the Restoration Plan and Work and why?
3. The boundary disputes are not just about survey lines. What are the consequences of real estate claims concerning agreements?
4. The jurisdiction issue is more complex than clarification will resolve. Who will ultimately be responsible for what is the big question? It seems that the normally responsible entities have not been responsible and the consequence has been illegalities involving environmental violations, zoning violations, and additional time and costs to the Town of York.
5. Additional cost to the Town of York? Paragraphs 5, a,c,d etc. Last paragraph presumes that the issues are about wetland violations and time to correct. The issues do not include land titles, traffic control on Rt One, or additional costs.

The Process:

Can we make this any more difficult? Is the message here that the Planning

Board has not been able to give this project their "undivided attention" or is there an attempt to make the process less transparent by keeping meetings away from cable access? Again caution is noted; what is the intent of unnecessary confusion?

Do we still have a subdivision? The Director of Community Development thought so. What has changed? What is the consequence of only doing Site Plan Review on the former Blinn Property, Craigin Property, Horn Property, Town Property, and Wild Kingdom property?

SMRT's York Police Department - Sketch Plan Narrative - York Police Department Public Safety Building (again, seems that the projects are being joined as the police department building separate from the connector road.

Executive Summary: Includes the police station and connector road...but draws some false conclusions.

1. The site selection presented in this application is not the same as was submitted in 2010, and it is not concluded since there are unresolved environmental and zoning violations, and title and land agreement problems that have not been resolved.
 2. Is the plan and budget that was approved by referenda still appropriate? For example how will the proposed Rt One/connector road intersection be controlled without the required lighting, which was specifically not approved by referendum.
 3. Apparently not all the required design was submitted for permits since there are so many environmental violations, and zoning violations.
 4. The project(s) were not all approved at the same time. The construction work on the connector road was commenced prior to getting the Planning Board permit, which was a violation of the Zoning Ordinance, not after as stated here. What are or were the procedural violations noted? In addition, there were many violations of articles of York's Zoning Ordinance which have not been addressed or corrected, for example the clearing and grubbing of the site violated the Rt One 4 Zoning Requirements for landscape buffers and tree removal along with the removal of vegetation required for erosion control. While there are remediation measures in place and there are plans to correct the State and Federal violations, there has been no attempt by the Town to correct its own violations, which are different than the State and Federal requirements. Who is responsible for these violations and who will make the required corrections? Who is paying for the extra costs for all these violations?
- The Executive summary has too many errors to be taken seriously, except that it appears that the same erroneous process continues, which is grossly negligent or worse.

Background: No one is debating the need for a new police station. The issues

are not about need. The issues are about two things, the failure of the process that caused the problems we are faced with today, which appear to be continuing, and the additional time and costs required to correct the mistakes that have been made or are continuing to be made. Here we see acknowledgement that there were to separate referenda dealing with the Project(s). The current narrative by the SMPDC authors to combine these projects into one project following a vote by the Board of Selectmen, conceals the obvious attempt to misdirect and obscure the facts, and promotes the continued failure of process and lack of transparency.

Project Site:

Conspicuously missing from this section is any discussion of flora and fauna. This is because a large portion of the site was essentially stripped of its vegetation in violation of York's Zoning Ordinance and contrary to the Comprehensive Plan requirement for a green enterprise zone. Again, we are being led to believe that the protected "identified natural resources and buffers were used in developing the designs for the connector road alignment and police station". If so, how did the violations occur? Who was responsible? Who pays the cost of violations, for any additional design, and for the services of Stantec Consulting and SMPDC?

Project Design:

This paragraph acknowledges the two parts of the projects and notes the survey discrepancies but does not identify the concerns with land agreements, which may prevent a through road at ridge road. All boundary and land agreements must be resolved before permitting.

Through Road:

The proposed road design did not "avoid and minimize impacts to adjacent natural resources to the maximum extent practical". This is simply nonsense. In addition, the proposed roadway does not take into consideration any of the Green Enterprise Zone or York Zoning requirements with regard to preservation of natural resources, scale, and accessibility except perhaps from Ridge road to the new Police Station, though that remains to be seen.

The description of the Connector Road with Rt 1 is a serious oversight because there is no provision for the additional cost of traffic control. The obvious conclusion is that the Town does not want this intersection, not that alternative funding might be found.

Regardless of the Town referendum to approve an agreement between Craigin and the Town as noted here for the land-swap at the Ridge Road end of the Connector Road, there still remains unresolved issues with the land agreements, specifically with the Horn's.

Police Station Site:

Access and Parking:

Communications Tower:

Utilities:

Sewer:

Water:

Stormwater Management:

I have no comments about the above issues except that collectively they are dependent upon the Connector Road, which still has many significant problems to be resolved.

Natural Resources:

Its not possible to take this section seriously because of the current unresolved violations and the overall condition of the Connector Road site. Anyone viewing the site can see that the author has attempted to spin this narrative as if there are no problems but to accept the restoration plans. Let's look again at the site when the snow melts and consider how to restore the whole site in a way that the Town Zoning Ordinance would require.

Project History:

O.K. the author seems to want to redeem themselves, but not really. "Some clearing of the site was undertaken prior to the vote of final approval by the Planning Board" Again, this is not a serious statement. The entire Connector Road site was essentially stripped of vegetation, cleared and grubbed without permits. This issue is central to the entire history. It is not to be minimized because there are unresolved zoning violations beyond those addressed by the State and Federal requirements.

A legal opinion by the Town does not resolve the land ownership problems. Ask the land owner.

The full extent of the clearing noted finally. So what is to be done about it? The Violation letter noted as Attachment #3 dated August 17, 2012 states, "A final report and action to correct local, state, and federal errors will be required..." How have the local errors been resolved? The August 30, 2012 letter omits any further mention of local errors and instead focuses only on the restoration proposal and the USACOE approval. Have we seen the restoration plan? Does it include the restoration of those parts of the site that were not affected by the State or Federal protected natural resources?

Current Status:

What about the local ordinances? "The restorative action letter issued by the Code Enforcement Department" is not included here. The implication is that there is an actual letter to this effect, which we might believe requires specific correction of violations of local zoning ordinance. Is this so or just more deception? Neither of the attached letters from the Assistant Code Enforcement

Officer identifies any specific corrections of the violations of the local ordinance. Finally, some accounting... Current expenditures as of January 2014 are approximately "\$2M" (two million dollars) "leaving \$6.4M" (six-million four-hundred thousand dollars) "in available funds." What is the amount of the balance to completion shown on the AIA document, Application and Certification for Payment? What is the amount scheduled for Site work on the AIA document Schedule of Values? What is the amount used for resolving additional costs due to all the problems with the site?

Jurisdiction:

There may be a reason for subdivision review in addition to site plan review.

Summary:

The narrative continues..."most appropriate available site...design has been tailored to meet...road and safety standards...avoid and minimize impacts to natural resources." Then the obfuscations begins again, " The project was originally reviewed by the Planning Board and State and Federal agencies in the period of 2011 and 2012, resulting in approval of the site permits and the start of construction." This part of the narrative puts the start of construction following approval of the site permits. This is false and misleading. In addition, restorative actions are not identified with regard to the local zoning.

The narrative does not address all the issues or the local errors and reveals that the problem of truthfulness is endemic to the whole process, which has been and is being affected by the continuing concealment and the obvious attempts to misrepresent and obscure the facts, which promotes the continued failures of process and lack of transparency.

A fresh start would include: a factual and discerning narrative that does not omit important matters like local zoning regulations, accurate telling of actions and events, how and why the violations occurred (procedural and permitting violations conceals, misdirects, and obscure the facts, and promotes the continued failure of process and lack of transparency and does not account for the increased time and costs to these projects and does not justify continuing projects because some of the violations are being remediated). The need for these projects is quite real but it is not hope that will assure success. These projects will succeed when the process is orderly, when the facts match the events, and responsible parties step up and do the right things. So far this has not happened.

Conspicuously missing from all this is the Architect. Who authored the Sketch Plan Narrative? Where are the certifications required for all professional submissions?

The Town has acted as if it has the right to ignore environmental regulations, zoning requirements, and due process. The Planning Board has an easy job to do. Uphold your oath of office and require the applicant to meet all the requirements.