

**York Planning Board  
Thursday, March 22, 2007, 7:00 PM  
York Public Library**

**Call to Order, Quorum Determination, and Appointment of Alternates**

Chairman Glen MacWilliams began the meeting at 7:00 by introducing the Planning Board and staff. He determined presence of a quorum. Glen MacWilliams, Vice Chairman Tom Manzi, Glenn Farrell, Barrie Munro, and Lee Corbin were present. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised. There was no appointment of alternates.

**Public Input**

**Open to the public to address any issue other than the scheduled public hearings**

Richard Smith of Cape Neddick came forward and said that with the proposed contiguous lot amendment, when there are two adjoining acres and one is non-conforming, the owner should be able to keep both lots in his name. Currently, the requirement for the lots to be granted back is that they must meet the setbacks without variances. Steve Burns replied that the approval can be granted under that condition, but if they are in the same name, they cannot be built on. The name has to be changed. That is an extra step that has to be taken, if someone wants to build on the non-conforming lot.

The chairman closed the public input session.

**Field Changes**

There were no field changes.

**Minutes**

**Review and approve draft minutes.**

The February 22, 2007 minutes were reviewed. The anagram TIF had the word "Incentive" where the work "Increment" should have been. There were other small changes. The description of seamless curbing at the hospital was corrected and made clearer.

**Motion** Barrie Munro moved to accept the February 22, 2007, minutes as submitted with minor changes. Tom Manzi seconded the motion, which passed 3-0. Glen MacWilliams and Glen Farrell did not vote because they were not present at that meeting.

### **Public Hearing**

**Conduct a public hearing regarding proposed amendments to the Site Plan & Subdivision Regulations. This is the second of two public hearings on this matter.**

The chairman opened the public hearing. Richard Smith came forward and referred to Pages 11 and 12 of the amendment. He began a debate about the selection of the word “shall” over the word “may” in reference to conventional subdivision developers designating 10% of the land for open space. He said that the landowners should be given the option between the two subdivision types. If a person *has* to give up house lots (as with the ordinance using the word “shall”), the builder would most likely go to cluster design, because giving up house lots could constitute a \$300,000 loss, or so.

There was no one else to speak. The chairman closed the public hearing. The board continued to discuss the five Draft Amendments to the Site Plan & Subdivision Regulations, which follow.

### **Subdivision Phasing**

Steve Burns said that in a case like the Whippoorwill subdivision—which is not rural—it has taken 10 years to build out 100 lots. Glenn Farrell said he understood that the intent behind phasing a subdivision would be to prevent someone from phasing two subdivisions that are next to each other. Barrie Munro said his understanding was that phasing would slow development down and make it easier for the town to assimilate the growth. It would also prevent a single developer from monopolizing available growth permits.

### **Findings of Fact**

Steve Burns said that applicants are now given the template they need to write their own findings. The process is relatively new, but the applicants who had already handed back the first findings had done a nice job. Barrie Munro said that having the applicant write them increases planning board productivity because the board no longer has to go over the long list of findings during meeting time. Glen MacWilliams suggested that when applicants present the findings, the findings should be in the correct order.

New **Road Design Standards** make allowances for alternative minor roads possible, said Steve Burns. Hammerhead turnarounds for streets with nine residential units or less are encouraged. It lowers the amount of imperviousness. The Comp Plan calls for this. Road design standards for subdivisions with up to 50 lots are included in the amendment. There is language warning that planning board approval of a road does not guarantee Town acceptance of that road. The amendment also covers classification of local (minor streets accessing properties), collector (the connector between small and big roads), and arterial (major) traffic ways.

With the amended **Wildlife Standards** policy, applicants with properties in areas designated by State Fish and Wildlife will have to have wildlife assessments done by a professional, and the cost of the assessment can be charged to the applicant.

Before the fifth draft amendment was discussed, the board shifted to the **Subdivision Phasing** draft amendment to and issue of using the word “shall” instead of “may.”

Glenn Farrell said that using the word “shall” to describe the set aside 10% of a subdivision for recreational purposes indicates that the planning board is going to require it. He said that if that were the case, he would go with cluster design, himself, though he prefers conventional subdivision design, because the development costs would be less. Barrie Munro said that the requirement could be waived, if an applicant came forward with a sketch plant that showed illustrated why a ten percent set aside did not make sense. The proposed amendment is the result of the planning board’s concerns regarding subdivisions. Specifically, the amendment is the result of the public coming forth asking the Board to find ways and means to protect and preserve the land and York’s natural resources.

Lee Corbin said that the word should be “may” and not “shall.” The net effect is going to push cluster subdivisions, and it is questionable if that is more attractive. Cluster designs would become an unintended consequence. Consistency with the Comp Plan is good, but it would be better to have an eye toward wildlife management. Also, she continued, who is going to take care of the 10%? Perhaps it would be best to restrict the open areas, as with no-cut zones for benefit of the wildlife.

**Motion** Barrie Munro moved to approve the 7.13.1 language that includes the word “shall” and is opposed to the current language, which uses the word “may.” Tom Manzi seconded the motion.

**In discussion**, Glen Farrell said that the board should look at a mechanism to hold the open space. Steve Burns said that it is answered in the following article, 7.14.

**Vote** The board passed the motion, 3-2. Lee Corbin was opposed.

The fifth item of the Draft Amendments to Site Plan & Subdivision Regulations was discussed: **Historic & Archeological Resources**. Steve Burns described the differences between the York Historic District Commission, which emphasizes buildings, and the Main Historic Preservation Commission, which emphasizes archeological. The planning board would be directing people to both organizations for respective historic information.

**Motion** Barrie Munro moved to accept the Draft Amendments to the Site Plan & Subdivision Regulations, numbered 1-5, which had been reviewed. Tom Manzi seconded the motion, which passed, 5-0.

## Old Business

### 1. **Time Requirements for November Amendments Discuss which will be ready to move forward in November, and which will need to wait.**

Steve Burns said that the board was getting more amendments this year than usual. Typically, there are about 15 amendments of which only one is a big item. This year, there are two very big items. The current amendments have required a significant amount of input, and it is very difficult to get many people through the public hearing process. The Shoreland Amendment and the Resource Protection Amendment will both be bringing in a lot of people.

Glen MacWilliams suggested having overview nights with educational programs and an objective discussion of the issues. Glenn Farrell said that an assistant planner should have been hired to help with the work, but the public voted down hiring an assistant planner. Steve Burns said that storm water management, which will be dealt with in 2008, is the next big amendment. Barrie Munro suggested getting Southern Maine Regional Planning to help, or possibly the MMA. Steve Burns said that it is possible to get the town engineer to do the bulk of the writing for the storm water management, and that that could begin now.

### 2. **Comprehensive Plan. Discuss draft amendments for the November 2007 General Referendum.**

Steve Burns showed a number of new maps that accompany the draft amendments. The Coastal Bluffs map, Coastal Landslide Hazard map, Contours map, Slope map (showing if an area is flat or hilly), and Watersheds map to accompany the stream order report were part of the presentation. He discussed the watersheds management policy recommending use of natural features for boundaries. The Comp Plan does not seem to call for more than that, he said. He added that York should participate in the Natural Flood Insurance Program. To do so would call for a public discussion of the plan. He also talked about the state's manual on low impact design, concerning impervious surfaces.

### 3. **Ordinance Amendments. Discuss draft amendments for the November 2007 General Referendum**

This portion of the meeting referenced the document, "Draft Ordinance Amendments, Materials to be Posted for Consideration at the November 2007 General Referendum," dated March 16, 2007, containing 83 pages. During discussion, Steve Burns summarized the contents, and there was board made comments.

- **Article Ord-1, Public Road Acceptance**

Steve Burns said that the amendment is being adapted so applicants can follow a process toward having a road they are building accepted by the town. He is working on this amendment with public works director, Bill Bray.

- **Article Ord-2, Road and Right-of Way Standards**

Clarification of terms for culvert diameter, road width, and road grades are part of the road and right-of-way standards considered in this amendment. The new standards will make administration of this ordinance easier for the board to work with than what is currently in place.

- **Article Ord-3, Control New Construction Below Elevation 12' in the Beach**

A 12-foot standard for the Shoreland area will facilitate flood proofing at the 12-foot elevation, rather than at ground level, as the designated level.

- **Article Ord-4, Density and Use Standards with Respect to Public Utilities**

This amendment indicates that extending sewer lines to areas outside of the growth area should not result in density bonuses. The amendment takes those incentives out that practice.

- **Article Ord-5, Watershed Protection Overlay District**

The Amendment contains the definition for advanced wastewater treatment systems.

- **Article Ord-6, Shoreland Amendments** came out of order.

This ordinance contains 45 pages of “sometimes subtle and sometimes obvious” information Steve Burns called “the cure for insomnia.” The State had changed some definitions and changed the Shoreland map. The amendment makes the effort to stay in step with the State. The first several pages cover the definitions. There are adjustments in stream order definitions, the upland edge of coastal wetlands, and wetland coastal water crossings, to name a few. Steve Burns showed a map with ten areas that are State-mandated for resource protection, including Lake Carolyn, Whippoorwill swamp Godfrey’s Cove, Dolly Gordon Brook, York Pond, Bell Marsh reservoirs, and Josiah’s River. Crosshatched areas on the map shows areas 2-acres-or-greater with slopes in resource protection. Some first order streams should be removed from that map. Steve Burns continued to the Article 4 Use Tables, where gravel pits are referred to by the State as mineral extraction areas. Logging roads and utilities lines were also discussed. The Shoreland amendments include new definition of water bodies, the State’s Erosion and sedimentation control, vegetation control language, standards about storm water runoff not in the ordinance at the present time, mineral extraction, road grade, culverts and ditches, subsurface waste water disposal, and timber harvesting.

The State of Maine gives the Town of York three options in handling timber harvesting: get rid of all standards and let the state regulate it; take the state’s language and keep it verbatim; or keep the regulations that the town has today. Steve Burns said he opted for the third choice.

- **Article Ord-7, York Beach Zoning**

This amendment has to do with new zoning districts and standards for the Beach area.

- **Article Ord-8, Vehicle Parking Limits in the RES-4 Zoning District**

This board discussed the limited number of vehicles that can be parked on a property. Lot coverage of 25% puts the cap on how many cars can be parked there. If a person does not exceed lot coverage, they can put out as many cars as they want. Glenn Farrell suggested that the number of cars that can be *seen* should be limited.

- **Article Ord-9, Special Exceptions**

The amendment includes standards for seasonal conversions and use in the Route 1-6 zone that currently do not match up with the allowed uses. Ord-9, **Special Exceptions**, also allows the planning board to give out a Shoreland permit when it is in conjunction a planning board application. Special exceptions also cover the style of appeal hearings for the Board of Appeals, either in De Novo, where all prior materials to the case will be put aside, and the case will be reconstructed, or with public hearings, in the case of appellate hearings. Public hearings and public scrutiny will be reserved for board decisions.

### **Other Business/Adjourn**

In other business, Tom Manzi brought up the letter received at the last meeting from a State Senator who implied that when notification of abutters for the Highland Farms hearings was made, many people had been left out, including the people served by the Kittery Water District, the planning board in Kittery, and the public works officer at the Navy Yard. Steve Burns added that those people were not required to receive notification. Lee Corbin said that she was offended that the senator had used his position to address the planning board, rather than as a citizen. Steve Burns said that legally, the planning office only has to directly notify the abutters who are within 200 feet of the property. After that, a notice is put in the paper, and one is posted at Town Hall. As well, notice is made for receiving public testimony.

The chairman handed out the Annual Report. For planning board members to read at home.

The meeting adjourned at 10:45.