

York Planning Board
Thursday January 27, 2022; 7:00 P.M.
Zoom Platform

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

Call to Order; Roll Call; Determination of Quorum; Appointment of Alternates

Chair Kathleen Kluger called the meeting to order at 7:00 P.M. A quorum was determined with five people voting: Kathleen Kluger, Vice-chair Wayne Boardman, Board Secretary Gerry Runte, Peter Smith, and Al Cotton. Alternates Ian Shaw and Kenny Churchill were present but did not vote. Planning Director Dylan Smith and Land Use Planner DiCarlo Brown represented staff. Lee Jay Feldman of the Southern Maine Planning and Development Association was the peer reviewer for the Mt Agamenticus Parking & Bathroom Improvements application. Chris Di Matteo was the peer reviewer for Long Sands Village Elderly Housing. Patience Horton was the Recording Secretary. Votes were tallied via roll call.

Field Changes

There were no field changes.

Public Forum

This was opened without objection. No one came forward to speak.

Application Reviews

Mt Agamenticus Parking & Bathroom Improvements 17& 21 Mt A Road
Map 405, Lot 29-02 and Map 403, Lot 23-02
Application is a Site Plan for new parking and bathroom facilities at Mt Agamenticus.

Robin Kerr, Mt A Conservation Coordinator
Ryan Wingard, Wright Pierce Environment Engineering
Lacy Kremer, Mt A Coordinator

A lease amendment has been made between the Town and the Water District. It runs through 2050. The use of the mountain has not been changed.

Parking exists at the base, half-way up, and at the summit. Seventy-five parking stalls are recommended at the base. Seven stalls are proposed half-way up. At the top, there will be 57 slots, including bus parking with “no idling” signs. Boulders and ticketing will deter parking along the gravel portion of Mt A Road. The boulders will be outside the right-of-way and are set back far enough for Town snowplows to avoid them. The Town will plow the parking lots.

Because maintenance is too burdensome, pervious pavement has not been proposed at the any of the parking areas. At the midpoint lot, stormwater will be controlled with a level-lip spreader. At the top and bottom, water will drain into underdrain soil filters.

ADA access will be available in the top and bottom parking lots, also the proposed visitor barn and the restrooms. Clivus composting toilets will be installed at the base and summit. An outside company will be contracted to service the toilets. Seasonal help will be hired to staff the

40 park during peak season. The top and bottom parking lots will have user access fee kiosks, the
41 funds from which will help maintain the parking areas, no-parking zones, and the restrooms.

42 Construction will have a quick timeline without long-term phasing. The Mountain should be
43 open for business this summer.

44 Six waivers are requested.

- 45 1) A traffic study was done in 2016. Use is not being changed. Traffic is not being
46 changed. The parking is sufficient, and a waiver of a traffic study is requested.
- 47 2) A lot coverage waiver is sought. Bio-retention basins will protect the water quality.
- 48 3) Because the large parcels are 218 and 1,700 acres respectively, a waiver of the full
49 property boundary setbacks is requested. A partial survey of the project area is proposed,
50 instead.
- 51 4) The Maine Department of Fisheries and Wildlife has looked at habitat on this site.
52 Because there are no threatened areas or species, a waiver of the full wildlife analysis is
53 requested.
- 54 5) Test pits were dug in 2018. The restrooms are self-contained. A waiver of the High
55 Intensity Soil Survey is requested.A
- 56 6) A waiver of the Planning Board fee is requested because the Town is the applicant.
- 57 7) Motion: Pete Smith moved to accept the application for Mt Agamenticus Parking &
58 Bathroom Improvements, Map 405 Lot 29-02 and Map 403 Lot 23-02, as complete.
59 Gerry Runte seconded. The motion was passed 5-0.

60 Motion: Al Cotton moved to open the public hearing for Mt Agamenticus Parking & Bathroom
61 Improvements, Map 405, Lot 29-02 and Map 403, Lot 23-02. Gerry Runte seconded. The
62 motion passed 5-0.

63 No one came forward to speak. The Chair closed the public hearing.

- 64 1) In discussion, Waiver Request No. 1, Site/Sub Regulation 6.6.3, Traffic Study,
65 cannot be waived, but the 2016 traffic study can be accepted to satisfy the waiver. With
66 that action, Zoning Ordinance Article 15.a, the DPW's Traffic Assessment, can also be
67 justifiably waived. This will be a Condition of Approval.

68 Motion: Peter Smith moved for the application for the Town of York and the York Water
69 District Mt A Parking & Restroom Improvements, 17 Mt A Road, Map 405, Lot 29-02 and Map
70 403, Lot 23-02, that the preexisting traffic study from 2016 will satisfy the need for a traffic
71 study of this application. Al Cotton seconded. The motion passed 5-0.

- 72 2) Board discussed Waiver Request No. 2 Site/Sub Regulation 10.4.4, Impervious
73 Cover of 10,000 square feet. However, waiving this performance standard might not be
74 allowed. This point has to be checked with Code. The applicant feels the soft surface of
75 porous pavement does not handle heavy traffic like busses. The surface would have to
76 have special treatment, including vacuuming sand out of the surface. Until it is
77 understood if the waiver is acceptable, it will be tabled.

78 3) The Board discussed Waiver Request No.3, Site/Sub Regulation 6.3.2, to waive
79 the requirement for a boundary survey. The Board found the request reasonable without
80 discussion.

81 Motion: Pete Smith moved to waive the requirement of Site Plan/Subdivision Regulation 6.3.2,
82 Boundary Survey, for the application by the Town of York and the York Water District Mt A
83 Parking and Restroom Improvements, Map 405 Lot 29-02 and Map 403 Lot 23-02. Wayne
84 Boardman second. The motion passed 5-0.

85 4) The Board discussed Waiver Request No. 4, Site/Sub Regulation 6.3.16, to
86 waive the analysis by a wildlife biologist. Kathleen Kluger was not in favor for the
87 waiver; Mt A was called out to specifically require the services of a wildlife biologist.
88 The incorporation of the proposed retention system might make a difference to the
89 wildlife.

90 Motion: Pete Smith moved to waive the requirement from Site Plan Subdivision Requirement
91 6.3.16, Analysis by a Wildlife Biologist, for the Town of York and the York Water District Mt
92 A Parking & Restroom Improvements, Map 405 Lot 29-02 and Map 403 Lot 23-02. Gerry
93 Runte seconded. The motion passed 4-1 with Wayne Boardman, Al Cotton, Pete Smith, and
94 Gerry Runte voting yes; and Kathleen Kluger voting no.

95 5) The Board discussed Waiver Request No. 5, Site/Sub Regulation 6.3.32, to
96 waive the requirement for a High Intensity Soil Survey. In discussion, Ian Shaw
97 objected to the general principle of waiving the survey.

98 Applicant environmental engineer Ryan Wingard stated that the principal use of the
99 survey is to analyze soil for subsurface waste water disposal—a leach field. Composting
100 toilets do not use leach fields. Secondly, a survey is often necessary to understand
101 pavement design. In that case, test pits have been analyzed, and the parking lot design
102 can go forward. There is enough soils information to complete the design.

103 Motion: Pete Smith moved to waive the requirements of Site/Sub Regulation 6.3.32, High
104 Intensity Soil Survey, for the application the Town of York and the York Water District Mt A
105 Parking & Restroom Improvements, Map 405, Lot 29-02 and Map 403, Lot 23-02. Al Cotton
106 seconded. There was no discussion. The motion passed 5-0.

107 6) The Board discussed Waiver Request No. 6, Site/Sub Regulation 6.3.35, to
108 waive the requirement for Paying the Planning Board review fee. There was no
109 objection.

110 Motion: Wayne Boardman moved to waive the requirement for payment of a Planning Board
111 Review Fee, based on Site/Sub Regulation 6.3.35. Al Cotton seconded. The motion passed 5-0.

112 Motion: Pete Smith moved to grant preliminary approval for the Town of York and the York
113 Water District Mt A Parking & Restroom Improvements, Map 405 Lot 29-02 and Map 403 Lot
114 23-02. Al Cotton seconded the motion, which passed 5-0.

115

116

117 ***Long Sands Village Elderly Housing Development, 122 Long Sands Road***
118 ***Map/Lot 0044-0038 owned by James Paolini***
119 ***Application is a Subdivision Development to create 10 units of elderly housing.***

120 Geoff Aleva, Civil Consultants
121 James Paolini, Owner/Applicant
122 Attorney Greg Orso

123 On November 10, 2021, the Zoning Board of Adjustment (Appeals Board) reviewed the
124 application and granted preliminary approval. The application has been returned to the Planning
125 Board for consideration of final approval.

126 Motion: Al Cotton moved to accept the application for Long Sands Village Elderly Housing
127 Development, Map/Lot 0044-0038, as complete for final approval. Gerry Runte seconded. The
128 motion passed 5-0.

129 Motion: Al Cotton moved to open the public hearing for Long Sands Village Elderly Housing
130 Development, Map/Lot 0044-0038. Pete Smith seconded. The motion passed 5-0.

131 Caroline Macdonald came forward and read a statement written by Torbert Macdonald. The
132 stormwater drainage system does not make sense. Waiving the High Intensity Soil Survey was a
133 mistake. The Appeals Board did not have the authority to grant preliminary approval. This is an
134 application the Planning Board should reject.

135 Kevin O'Shaughnessy came forward. The civil matter between him and the applicant must be
136 decided in Court before the Planning Board makes an approval. Tree height should be increased
137 to 10-feet. Installation of an eight-foot fence is supported by 15.1.5.2. The Condo Documents
138 should state that parking is disallowed on Fernald. The owner of the Long Sands Mall has
139 forbidden condo parking on his property. The project should not be approved.

140 Kathryn Mulhern came forward. Where is the mailbox kiosk? Where will the permanent sign
141 identifying the condo community be placed? Legally, shouldn't ownership be limited to
142 individuals or their estate trusts instead of a Limited Liability Corporation, LLC? Will a
143 volunteer board be responsible for the stormwater system, landscaping requirements, and
144 parking? What is the status of the railing along the walkway to Long Sands Road? The entrance
145 walkways into the units are ugly and impractical and should be changed.

146 Allan Cawrse came forward. The proposed snow removal plan is inappropriate. The discharge
147 of water onto Long Sands Rd. will pour sand, debris, and ice onto the sidewalk and road. The
148 Planning Board cannot approve the project during the contested boundary litigation. The plan
149 should not be approved.

150 Rebecca Boyle came forward. Tree height should be eight-feet tall, or greater, as proposed by
151 the peer reviewer. The design directs water toward her property. A berm, ditch, and lip spreader
152 have been proposed to direct stormwater off her property, but what happens if this proposed
153 water system does not fix the water issue?

154 Motion: Al Cotton moved to close the public hearing for Long Sands Village Elderly Housing
155 Development final application review, Map/Lot 0044-0038. Pete Smith seconded. The motion
156 passed 5-0.

- 157 Geoff Aleva responded to the public hearing with the following comments.
- 158 • A High Intensity Soil Survey has been taken, and stormwater designs have been based
 - 159 on its results.
 - 160 • The drainage design has been reviewed and accepted by the peer design engineering
 - 161 firm, Gorrill Palmer. DPW has no further comments about drainage.
 - 162 • The project has been reviewed by Police, and Fire. They did not request changes.
 - 163 • The stormwater system is designed to meet extra capacity caused by climate change.
 - 164 • The berm and level-lip spreader will capture stormwater and decrease stormwater
 - 165 discharge onto the Boyles' property.
 - 166 • Landscaping has been added along the Boyles' property line. Landscaping buffering has
 - 167 been added in many areas.
 - 168 • The fence along the western property line will remain at 5-feet.
 - 169 • Based on the elevations of the property, it is not possible to put underground piping from
 - 170 the level-lip spreader to the storm drain on Long Sands Road.
 - 171 • As the Town requires, there is a maintenance plan for stormwater, including a
 - 172 maintenance log. If there are issues with stormwater, they will be addressed by the
 - 173 owner/developer.
 - 174 • A snow-removal company will remove snow.
 - 175 • There is a maintenance plan for snow removal in the Homeowners' Association
 - 176 documents.
 - 177 • Details about movement of cars during snow removal will be added to the declarations.
 - 178 • Storage and removal of trash and recycling are already in the Condo Documents.
 - 179 • Where the ordinance requires 10 parking spaces for this development, 14 have been
 - 180 provided, one for each unit and four for visitor parking.
 - 181 • The project design allows room for people to pull over to the side on Fernald. Their cars
 - 182 will be partially off the pavement. People will not be parking in the travel lane.
 - 183 • There are no signs forbidding parking on Fernald.
 - 184 • The Homeowners' Association is charged with taking care of the common space. All the
 - 185 areas outside the 10 units and their decks are considered common space.
 - 186 • The placement of the entranceways into the buildings is based on the orientation of the
 - 187 inside rooms, not appearance.
 - 188 • The Assessor's office has deemed the address for this project is 49 Fernald Ave.
 - 189 • The name of the property will continue to be Long Sands Village.
 - 190 • The postmaster has indicated the location of the mailbox kiosk. The location is on the
 - 191 plan.
 - 192 • A sign bearing the name of the project will meet ordinance requirements.
 - 193 • It is understood that there will be no parking on the Long Sands Plaza, which is private
 - 194 property. A letter has been received from the Plaza owner to that extent.
 - 195 • There will be a note on the plan about a handrail along the path to Long Sands Road.
 - 196 The rail has not been designed. It will be at the discretion of an engineering firm.
 - 197 • Attorney Greg Orso said, legally, a Limited Liability Corporation can own a condo.
 - 198 LLC ownership is not a way to get around the age requirement.

199 The Board reviewed Chris Di Matteo’s comments. In 7.8.2.3, Buffers and Landscaping, he
200 recommended installing 8-foot to 10-foot trees. James Paolini agreed to that and stated he
201 would raise the height of the trees to between 8- and 10-feet.

202 Town Attorney Mary Costigan has advised the Board that, per 18.15.b.1, the applicant must
203 come back to the Planning Board if the outcome of the pending litigation changes the net
204 developable. Pending litigation should not delay an approval.

205 Sections 1.1, 8.1, and 8.2 have to be clearer. In the event units are leased out to a third party or
206 are subject to the Right of Survivorship, the disposition of the age of the residents shall remain
207 62-or-older. Greg Orso agreed to make that point clear in the Condo Documents.

208 Chris Di Matteo said the requirements of 18.16.3, his Comment 10, Condo Conversions, no
209 longer apply.

210 Geoff Aleva said he will get the surveyor’s stamp on the Existing Conditions plan. He will
211 make sure the proper signature blocks go on in all the appropriate places and that the plan will
212 contain all the standard notes

213 Kathleen Kluger referenced four regulations that are in disagreement with the ordinance. Per
214 Site/Sub Regulation 7.6.1, the lot size, width, depth, shape, and orientation against the minimum
215 setback are inappropriate for the location and type of development and use contemplated. This
216 is demonstrated in the lack for flexibility for trash and snow storage, as well as parking for
217 service, maintenance, and visitor parking.

218 Kathleen said that regarding Site/Sub Regulation 7.6.2, owners have to store their garbage and
219 recycling inside their 800-square-foot units. Snow storage is relegated to a small area of the
220 parking lot and is only accessible for removal if cars are entirely removed from the lot. The plan
221 for owners to move their cars is not in the Condo Declarations.

222 She said regarding Site/Sub Regulation 8.1.9, landscaping and snow removal must work in
223 harmony with one another. There are too many units on the site. “They take up every square
224 inch.” There is no flexibility for “spreading out and breathing” as well as managing traffic flow
225 and allowing for maintenance vehicles.

226 Her fourth objection was is in Zoning Ordinance 15.1.1.2. If there were fewer units, the
227 pavement could be spread out a little more, and there would be room for more guest and
228 maintenance vehicles.

229 Motion: Al Cotton moved to continue the application for Long Sands Village Elderly Housing
230 Development, Map/Lot 0044-0038 to the date certain of February 24, 2022. Pete Smith
231 seconded. No vote was taken and the Chair continued the applicant to February 24, 2022.
232

233 ***Brookside Landing, 1400 US Route 1***
234 ***Map/Lot: 0097-0020; Owner: 1400 Group, LLC***
235 ***Application is a Site Plan Amendment to include a 1,400-sf storage garage with paved***
236 ***driveway.***

237 This application is scheduled to be heard on February 24.

238

239 ***Pine Ledge Motel, 1963 US Route 1***
240 ***Map/Lot 0001-0004 owned by Michael Ramsey***
241 ***Continuation of site plan review to re-develop existing seasonal workforce housing***
242 This application is scheduled to be heard on February 24.
243

244 ***Minutes***

245 Motion: Pete Smith moved to approve the Minutes for the York Planning Board workshop of
246 January 13, 2022, as amended. Al Cotton seconded. There was no discussion. The motion
247 passed 5-0.

248 ***Other Business***

249 1) Hannaford Workforce Housing has sent a letter requesting an extension for the Findings
250 of Fact.

251 Motion: Pete Smith moved to extend the expiration date for the Findings for Fact for Workforce
252 Housing Development, Map/Lot 0053-0024, to April 6, 2022, as requested. Al Cotton seconded.
253 The motion passed 5-0.

254 2) The Climate Action Plan will be presented to the Planning Board and Selectboard during
255 the February 10 workshop.

256 3) During the February 10 workshop, Kathleen Kluger will propose a schedule for Comp
257 Plan hearings and activities.

258 4) A public hearing for the proposed Dock and Resource Protection ordinance was
259 originally planned for the February 24 Planning Board meeting, but it is best to add a
260 special meeting on Thursday, February 17, via Zoom.

261 ***Adjourn***

262 10:30 P.M.

263 Faithfully submitted,
264 Patience G. Horton
265 Recording Secretary