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

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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.

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Field Changes

There were no field changes.

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Public Forum

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

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Application Reviews

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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.

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

27 A lease amendment has been made between the Town and the Water District. It runs through
28 2050. The use of the mountain has not been changed.

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

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

37 ADA access will be available in the top and bottom parking lots, also the proposed visitor barn
38 and the restrooms. Clivus composting toilets will be installed at the base and summit. An
39 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.
- 56 6) A waiver of the Planning Board fee is requested. Mt A is a division of the Town, as is
57 the Planning Board.

58 Motion: Pete Smith moved to accept the application for Mt Agamenticus Parking & Bathroom
59 Improvements, Map 405 Lot 29-02 and Map 403 Lot 23-02, as complete. Gerry Runte
60 seconded. The motion was passed 5-0.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

113 Motion: Pete Smith moved to grant preliminary approval for the Town of York and the York
114 Water District Mt A Parking & Restroom Improvements, Map 405 Lot 29-02 and Map 403 Lot
115 23-02. Al Cotton seconded the motion, which passed 5-0.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

206 Sections 1.1, 8.1, and 8.2 have to be clearer. In the event units are leased out to a third party or
207 are subject to the Right of Survivorship, the disposition of the age of the residents shall remain
208 62-or-older. Greg Orso agreed to make that point clear in the Condo Documents.

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

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

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

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

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

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

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

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234 ***Brookside Landing, 1400 US Route 1***

235 ***Map/Lot: 0097-0020; Owner: 1400 Group, LLC***

236 ***Application is a Site Plan Amendment to include a 1,400-sf storage garage with paved***
237 ***driveway.***

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

239

240 ***Pine Ledge Motel, 1963 US Route 1***
241 ***Map/Lot 0001-0004 owned by Michael Ramsey***
242 ***Continuation of site plan review to re-develop existing seasonal workforce housing***
243 This application is scheduled to be heard on February 24.
244

245 ***Minutes***

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

249 ***Other Business***

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

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

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

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

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

262 ***Adjourn***

263 10:30 P.M.

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