

**York, Maine
Planning Board Meeting Minutes
Thursday, February 11, 2021; 7:00 P.M.
Remote Meeting via Zoom**

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

Chairwoman 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, Al Cotton, and Peter Smith. Peter Smith recused himself during the Moorehouse Place review. Kenny Churchill was asked to serve as a voting member in his place for that application only. Alternate Ian Shaw was present but did not vote. Planning Director Dylan Smith represented staff. Chris Di Matteo, principle of Longmeadow Planning and Landscape Architecture, served as compliance and peer reviewer. Patience Horton took Minutes. Votes were tallied via roll call. The meeting lasted three-and-a-half hours.

Field Changes

There were no field changes.

Public Forum

Opened and closed by unanimous consent, no one came forward to speak.

Application Reviews

**Moorehouse Place—Workforce Housing, 296 U.S. Route 1
Map/Lot 0059-0021 owned by Moorehouse Place LLC**

The intent of this project is for final plan review of a workforce housing development.

Jeff Clifford, Altus Engineering [Portsmouth]

Bob Metcalf, Lighting and Landscaping

Patricia Martine, Director, York Housing Authority

Chris Di Matteo: The project is in the Route 1-2 District in the Workforce Affordable Housing Overlay District. The parcel is 6.5 acres and includes a single-family residence. Preliminary approval was granted February 27, 2020. This is for 52 workforce affordable housing dwelling units—42 in Phase 1, and 10 in Phase 2. A stormwater permit has been received from Maine DEP. The application is complete and all items are addressed in Site/Sub Regs 6.4.

- Motion: Al Cotton moved to accept the application for Moorehouse Place—Workforce Housing, Map/Lot 0059-0021, as complete for purposes of review. Gerry Runte seconded. The motion passed unanimously.

Jeff Clifford: Permission was received in November, 2020, from Maine DOT to allow an increase of stormwater volume. The Sewer and Water Districts allowed changes to the

preliminary proposals to have a gravity pump system. The Fire Chief proposed a second hydrant for the project. It has been placed in Phase 2.

Jeff Clifford further went over Chris Di Matteo's review points:

1. A recording block will be included on the final plan.
2. A build-out concept plan with the correct signature blocks for the two phases should be presented for the Planning Board's approval.
3. Signature blocks should be placed in other appropriate places.
4. The sidewalk that terminates at Route 1 should be shown circling the site leading to Route 1, but, per Dean Lessard, does not include the sidewalk along Route 1.

Jeff Clifford: There were comments from Ransom Engineering. One was about the Landscape Plan. There was a suggestion about tree placement. There were comments about updating signature blocks. Parking space and the snow storage locations will be adjusted.

Jeff Clifford: A letter from Ransom Engineering dated January 13, 2021, related to traffic volume and trip generation. Gorrill Palmer responded that the trip count report, originally issued in October 25, 2019, was purposely done on August 20, 2019. They made sure it was not done after Labor Day.

Jeff Clifford: Comments from abutters have been taken into consideration. The home on the property that is being rented will continue to be rented. It will be demolished in Phase 3. The garage will be taken out in Phase 1 to make way for the road coming into the housing property. Parking spaces for the house will be in a new location. Landscaping has been added next to those parking spaces to buffer headlights for the residents on River Bend Road. The project driveway has been aligned with River Bend Road. Therefore, headlights will be directed down the road, not into homes.

Wayne Boardman noted that the plan shows wall-mounted lights that are not dark-sky compliant. He asked for it to go on the public record that there is a requirement that all non-residential lighting be dark-sky compliant.

Bob Metcalf: Lights meeting dark-sky requirements are being put into the plan.

- Motion: Al Cotton moved to open the public hearing. Wayne Boardman seconded. The motion passed 5-0.

Alica Johnson-Grafe of the abutting Montessori School

1. Does any of the stormwater drain-off go into the boundary area that her school shares with the housing project? [Jeff Clifford shared his screen. He showed drainage areas along Route 1 ditch, stormwater filters, abutting wetland, and an unnamed stream.]
2. She'd like the projected timeline for Phase 3, especially relating to the sidewalk. [Clifford: There is no timeline for Phase 3. It will be in at least two years.]

3. She is concerned about the landscaping adjacent to the school's property. How will it be maintained? [Bob Metcalf showed a 25-foot-wide area on the school property line where current vegetation (pines) will be left and supplemented with more pine, hemlock, and birch for greater density.]
4. Does any lighting come over onto the School's property? [Bob Metcalf: We will have no trespass of light coming across the property line.]

Richard Wier, 10 River Bend Road:

1. Wants to make sure there is good noise and visual screening for River Bend Road.
 2. Believes that the Planning Board should be having a traffic study done in the middle of summer. [Kathleen: The traffic study was done before Labor Day. It was done August 20. It meets the requirements.]
- Motion: Al Cotton moved to close the public hearing. Gerry Runte seconded. The motion passed unanimously.

Kathleen Kluger: Abutters across the street have requested the applicant to install plantings and/or noise abatement on their property. I have scoured our ordinances. There is nothing that addresses the requirement for the applicant to plant material across the street from a development. This is up to the applicant.

Al Cotton: The applicant is trying to be as responsible as possible. The residents across the street are not abutters. They abut Route 1, which is hardly a source of silence.

Patricia Martine: We have discussed the possibility of putting some plantings across the street on the left-hand side looking down the street.

Approval

- Motion: Al Cotton moved to give final approval to Moorehouse Place Workforce Housing, 296 U.S. Route 1, Map/Lot 0059-0021, with the conditions that: all wall-mounted lights will be dark-sky compliant; Town-standardized plan notes will be added to the plan; and all outstanding fees due to the Town of York will be paid prior to the issuance of the building permit. Gerry Runte seconded. The motion passed unanimously.

Alica Johnson-Grafe put her hand up to speak again. The public hearing had been closed and the Chair moved the meeting to the next agenda item.

**Discussion/Review--Comprehensive Plan Update/Climate Action Plan
Scope and Schedule Review**

Len Loomans, Susan Covino, Rozanna Patane, and Susan Silberberg were promoted to panelists. Susan Covino and Len Loomans are Co-chairs of the Energy Steering Committee. Rozanna Patane is the past Chair. Susan Silberberg is with CivicMoxie.

Kathleen Kluger: The Board of Selectmen, in their contract discussions of the Comprehensive Plan and Action Plan review, has turned over the process of both projects to the Planning Board. The Energy Steering Committee will not be participating as an entity. They will have representation on the steering committees of both the Climate Action Plan and the Comprehensive Plan.

Wayne Boardman: How flexible is your plan? **Susan Silberberg:** We always have to be flexible. There are always things that change within a contract. We never redo an estimate. There will always be things that might take a little bit longer, or not even longer. They always tend to balance out in the end.

Kathleen: It says that we, as the client, are to prepare the meeting notes of these meetings.
Susan Silberberg: There is usually somebody on the committee who takes notes. Typically, one or two people are assigned to that.

Rozanna Patane: How do you see the support of the working groups and the Climate Steering Committee? The work that the Steering Committee and the Climate Council did was also heavy duty, she continued. It took all of the work product of the working groups and turned it into actual cohesive strategy. The co-chairs of the working groups did a lot of work taking the raw ideas from the participants, writing them down, and “schmoozing” around so that duplication of ideas was eliminated, making sense of the strategies. Our working groups will need your support.

Susan Silberberg: That is the best part of the process, the best part of our planning. You are hiring us to provide a technical framework for you to always be there. Our role is also to give you a range of potential solutions and recommendations. That is strong support. We help you come to a cohesive whole. It is the best part of the project.

Susan Covino: Our philosophy is that how you plan is as important as what you plan. This plan and the Comprehensive Plan have widespread ownership. A lot of people have to feel ownership of this plan in order for it to be implemented. The things that engage people to understand behaviorally what kind of issues they are going to have are important parts of the planning process. We need to be thinking about what are the barriers financially, technically, and psychologically and behaviorally as well.

Susan Covino: I am hoping we can frontend the process with surveys on line, education, and planning. Once people who don't know one another before are part of a working group, the ability to have an introduction in person creates trust that participants are going to need when going gets rougher and tradeoffs occur.

Susan Silberberg: We have been doing icebreakers in Zoom meetings. Some of them have been fun.

Wayne: Between all of us, we know a lot of people who might be interested, but what are some strategies for reaching out and making sure we invite a broad range of people to participate?

Susan Silberberg: It tends to be word of mouth. Key areas for the working groups always work out of having discussions. It helps to be clear. We generally sit down and strategize about working groups and what we need in terms of expertise and representation.

Kathleen: We must remember to include high school students in our plans for both plans. If we have the vision for 10 years in our future, how could we not have the voice of a high school student?

Kathleen: With the realization and confidence with which the Board of Selectmen have placed in the Planning Board to oversee this process, we all have been talking about managing respective steering committees for each plan. It is my contention that there should be a Planning Board representative chairing the Comp Plan Steering Committee and a Planning Board member chairing the Climate Action Committee. Wayne Boardman has agreed to be the Planning Board representative chairing for the Climate Action Plan with Rozanna Patane. The Planning Board will need to decide who they want to have for the representative to chair the Comp Plan Steering Committee.

Peter Smith: Kathleen Kluger is clearly heavily invested in this and has shown to be a good leader. All agreed.

- Motion: Al Cotton moved to forward our recommendation to the Board of Selectmen to enter into a contract with CivicMoxie and Susan Silberberg for their review and signature. Peter Smith seconded. The motion passed 5-0.

Susan Silberberg expressed her appreciation for the care and thought everyone has put into this.

Discussion/Review—Open Space Conservation Subdivision Development Ordinance Review Amendment Request for Conservation Commission

The Planning Board members reviewed the draft ordinance the Conservation Commission had submitted.

Wayne Boardman: In 7.4.b, which talks about the density in the yield plan, I am not sure it is reasonable to ask where each house and septic will be located on each site. We should tighten up the yield plan in terms of reasonability standards, but locating the septic systems is not reasonable. The detail of locating the well and the septic system is asking a lot. It is not reasonable for the yield plan to show the specificity of the location of every house, driveway, and septic.

Dylan: You want to show a building envelope with setbacks on a conventional lot. If there is no sewer, there should be an acceptable area to support a septic system. Soil scientists can tell if it can hold a septic system. I would recommend that. You need to be assured of where the water table is, and there should be something in writing saying how the system can be achievable in that area.

Kathleen had issues with amending 7.6.1.g, which she described as being jumbled around and out of context. Their recommendation for the timing of a site visit is impractical. The terminology of “open space owner” and “open space easement holder” has to be tightened up. Before the applicant comes in for the design concept review, and before there is a site walk, they should know:

1. This is what I believe my open space is.
2. This is why I think it is valuable.
3. This person has agreed to hold the easement.
4. This person is the land owner.

Wayne: They can own the land outright, or they can own the easement. The homeowners’ association can own the land. Sometimes there may be the case where an open space conservation subdivision is not the best.

Kathleen: I think our time is better spent on this whole concept of the easement holder and the land owner, so the applicant isn’t looking through three sections of the zoning ordinance to figure out what applies to their application. The ordinance looks like there are more conditions to be met that don’t have a unifying theme.

Dylan: I wanted to get an idea of what the Conservation Commission presented, and what themes or ideas there are that they put in place that the Planning Board might like to see as part of the amendment. I want to tighten up the language of the yield plans. I want to take a look at the language as it relates to either holding the easement or owning the easement. Perhaps there are innovative things we can do like putting in a density bonus for workforce housing or for putting solar panels on the roof.

Dylan: I was thinking of starting by putting my ideas and clarifying comments in the actual zoning amendment. We have to have it ready by May for a hearing in June and placement on the November ballot. Get me the overall bullet points you would like to see addressed, including comments about what you liked or did not like about the Commission’s draft.

Discussion/Review—New Ordinances During Comprehensive Plan Update?
Docks and Resource Protect Sub-district
Green Enterprise Overlay District
Other?

Kathleen: An outright moratorium on new ordinances during the Comp Plan update is not appropriate. Some of the ordinance changes we might be talking about will be really impacted if there is a change in the Comp Plan. I don't think the same concept applies to the Green Enterprise Overlay District. It does however apply to talking about docks in the Resource Protection Subdistrict.

We have promised the Board of Selectmen that we would go over, review, and create change to amending docks in the Resource Protection Subdistrict. We promised we would have something ready for the November ballot. I went back and looked at the Comp Plan regarding this area, as well as the zoning ordinance, at the request of Mike Sinclair, Harbor Board Chair, and the Comp Plan is very clear: leave it alone. Don't change this. It is pretty clear that this is what we wanted. The ordinance was crafted. This is what it said. So, regardless of what another research project uncovered about the Resource Protection Subdistrict being more restrictive or you could make it a little less restrictive, that doesn't counteract what the base Comp Plan said about putting docks along the York River. It is crystal clear in the Comp Plan and crystal clear in the ordinance. I am hesitating about how can we craft or amend an ordinance that deliberately goes against the Comp Plan. It is one thing if an ordinance doesn't bear out against the Comp Plan in an application process. It is another to deliberately amend an ordinance that goes against what the Comp Plan says.

From that perspective I would be in favor of holding off until the new Comp Plan is written. I know I would have an impossible time selling that to the Board of Selectmen, but my answer is, [they] can bring [their] own directed issue to the ballot. They reminded me that they don't need the Planning Board to do something that they want to take direct to the voters. It would be on them to handle the outcome.

I feel strongly that the Green Enterprise Overlay district needs to get along. We need to start talking about Short Sands district and enlarging it and including the Green Overlay. That will be part of the work of the Comp Plan, but we still have enough to do in parallel to continue our thoughts on that. Since Al has mostly worked on what is there to this extent, what do you think about that, Al?

Al: I think we can move ahead. The zoning is the number one step. The development is pretty much dependent on development getting picked up again. We have big time development that is expected to happen there, but it is going to take multi-hundred-million-dollar developers to get some of this done. We have to get COVID out of the way before we can do that. Zoning can be done right now.

Wayne: By calling all zones Resource Protection, that's where it says that no docks could ever be built in York River because every dock would cross, even it was just a foot, into a flood zone. That is not what the Comp Plan say. It says restrict it and control it. It doesn't say permanently ban any new docks.

Kathleen: What the overriding hope is that we can look at areas that would enable more public access to ramps or docks or enjoyment of the York River resources where that can happen. We thought we found a way around it by looking at the resource protection zones. Then it became complicated with defining the resource protection zone.

Do we want to tackle the issue of docks and the resource protection zone for November? Is that a reasonable option for us to consider from the point of view of working on a new Comp Plan (which may or may not change the base questions) or from the point of view of the huge pushback and reluctance we have encountered so far. Do we do that now? Do we wait?

Kathleen: With the Green Enterprise Zone Overlay District and zoning that area, I am hearing a consensus for just going ahead and continuing that, starting on that and not waiting.

Dylan: My thinking for November 2021 was to rezone that area close to Short Sands by extending York Beach Village District into that area where York Wild Kingdom and the Horn property are, and unfortunately, where Gary Woods is doing his subdivision right now, and to go a little bit beyond, up Short Sands Road. That really fulfills what the Comp Plan and the Green Enterprise are taking about.

Dylan: For the purpose of November, 2021, it is very simple change of figuring out where the lines on the map change and how we want to convey it to the public. I think there is a reasonable concern with the Planning Board and all the work that you are getting into with the Comp Plan and the guidance you'll get from the public in generating appropriate ordinances for managing docks on the river.

Kathleen made plans to discuss the delay of the dock work with the Selectmen during their upcoming meeting. Pete Smith said he would like to be in the Green Enterprise workgroup with Al Cotton.

Kathleen asked if the Planning Board wants to get into the business of creating ordinances while updating the Comp Plan. She felt that if something needs an amendment with immediate return, it shouldn't wait, but that starting from scratch should wait until the Comp Plan is finished. The Board members and Dylan agreed. He said that the Board is going to be elbows deep in Climate Action Planning and Comprehensive Planning for a while.

Minutes

- Motion: Al Cotton moved to approve the Minutes of January 14, 2021, with the suggested changes. Gerry Runte seconded. The motion passed unanimously.
- Motion: Al Cotton moved to approve the Minutes of January 21, 2021, including the changes as suggested. Peter Smith seconded. The motion passed unanimously.

- Motion: Al Cotton moved to approve the Minutes of February 4, 2021, as corrected. Peter Smith seconded. The motion passed unanimously.

Other Business

1. Findings of Fact
 - Motion: Al Cotton moved to authorize the Chair to sign the Findings of Fact for the Viewpoint Hotel amended site plan, Map/Lot 0025-0093-A, as corrected. Peter Smith seconded. The motion passed unanimously.
2. The Scope and Schedule for the Comp Plan Update/Climate Action Plan will be forwarded to the Board of Selectmen and Dylan and Steve Burns will work out the details.

Adjourn

The meeting adjourned at 10:15.

Respectfully submitted,

Patience G. Horton

Recording Secretary