

**York, Maine  
Planning Board Meeting Minutes  
Thursday, April 8, 2021; 7:00 P.M.  
Remote Meeting via Zoom**

**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, Al Cotton, and Pete Smith. Alternates Kenny Churchill and Ian Shaw were 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**

**Garrett Homes, LLC—Mic Mac Motel, 317 U.S. Route 1**

**Map/Lot 0059-0004, owned by Kittery Indian LLC--Mark Dellapasqua**

**Route 1 use permit/site plan application to redevelop the existing lot into a retail shopping center containing two buildings.**

**Rick Lundborn, Fuss & O'Neill**

Rich Lundborn made a presentation for a field change for the southern Garratt Homes building, Sherwin Williams. A 5.25-foot-wide “strip” is being aligned along the 46.5-foot-long wall. It adds 244 square feet to the building size, he said.

- Motion: Peter Smith moved to approve the recommended field change for Garrett Homes, LLC, 317 U.S. Route 1, Map/Lot 0102-0031 for the addition of approximately 245 square feet to the south side of the Sherwin Williams building, and that this information will appear on the plan before it is signed by the Board. Al Cotton seconded. The motion passed 5-0.

**Public Forum**

Kathleen Kluger opened and closed the public forum. No one came forward to speak.

**Application Reviews**

**Cliff House Revision, 591 Shore Road**

**Map/Lot 0004-0029 owned by RDBB Cliff House Acquisitions**

**The intent of this project is to review an existing approved plan to create a permanent gatehouse for use on Bald Head Cliff Road**

**Nancy White, Cliff House**

**Andrew Bartlett, Cliff House**

Chris Di Matteo said this is an amendment to the approved 2016 site plan. The application is straightforward and complete.

Andrew Bartlett: The gatehouse was constructed to facilitate compliance with the State's COVID protocol of June 2020. It allowed an even flow of traffic onto the site and coordinated occupancy for guests and visitors in the restaurants. It served as the data point for the collection of compliance forms, and guests' temperatures were taken there. People were given placards for their cars to allow them to come and go frequently. Neighbors were given placards, and when they drove in, they were waived straight through. People and businesses that take care of the private residences also had placards for their cars. Sometimes there was a small backup.

The new road design accommodates the large ladder fire truck through the check point that Chief Welch of the York Beach Fire Department had requested. For security purposes, the widened area cannot be used to allow local cars.

- Motion: Al Cotton moved to accept the application for the gatehouse at Cliff House, 591 Shore Road, Map/Lot 0156-0015 for the purpose of review. Seconded by Peter Smith, the motion passed 5-0.
- Motion: Al Cotton moved to open the public hearing for Cliff House, 591 Shore Road, Map/Lot 0156-0015. Peter Smith seconded. The motion passed 5-0.

Abutter Kate Avallone asked if there will be a separate entrance for neighbors, or if neighbors will have to wait in line for guests to go through. In the past we have had to wait for five or ten minutes on weekends, she said. Andrew Bartlett answered that there will not be a separate lane, but since the protocol has changed and is not as stringent as it was last year, access should be quicker. There should only be two or three cars backed up.

Abutter Alison Gralow, 103 Bald Head Cliff Road North, said that the gatehouse has been in that location for several previous summers and was not put there because of COVID. There are delays for accessing her private road. She sometimes has to wait in line to get to her road. She would like to see residents move through freely. She wanted it noted that sometimes unwarranted guests wander into her private neighborhood.

We have used the service entrance to the Cliff House, Alison Gralow continued. The road is narrow and treacherous. When two vehicles come from opposite directions, there is a safety concern. We are looking for the ability to pass safely without having to wait fifteen to twenty minutes.

Nancy White answered on behalf of the Cliff House. This gatehouse is new and replaces a shack that was in that location for a few years. It was used for collecting tickets to lobster cookouts. There are two entrances to the resort. We try to get the neighbors to come in through the main entrance, but they can go in the service way and through the parking lot. We own the service road. We provide access for the neighbors on it.

Mark Johnson, 93 North Baldhead Cliff, said the streamlined processing of cars this summer will make things go faster. One day he was so far back in the line, his car was backed onto 1-A. He read a section of his deed into the record: “[The entrance] shall not unreasonably interfere with the use and enjoyment of the adjoining land of the grantor corporation.” He has had guests turned away.

Alison Gralow came back on and reemphasized that there should be no unreasonable interference, as promised in the deed. Kate Avallone came back on and said there are numerous neighbors who would have liked to have been, but were unable, to be on the call.

- Motion: Al Cotton moved to close the public hearing for Cliff House Revision, Map/Lot 0004-0029. Gerry Runte seconded. The motion passed 5-0.

Kathleen Kluger commented that people will, against their will, in essence be living in a gated community. Pete Smith suggested that the service road is a reasonable alternative to waiting in line. Andrew Bartlett: We allow neighbors to go on the service road into the parking lot, which leads to Bald Head North or crosses straight onto Bald Head South. That road is used by delivery vehicles and sometimes by emergency services. It is also the employee entrance.

Dylan Smith: The service road is just for hotel purposes. It is not a deeded right-of-access for the residences. Nancy White agreed. It is not specifically deeded for the neighbors.

Dylan Smith: You have to make accommodation for the private property owners that have deeded right-of-access. Nancy White: There is no route specified in the deed. With our speeding up the process from last year, it will not interfere as much.

Kathleen Kluger: I do not support the idea of the gatehouse without making an accommodation for the private residents on the service road. Wayne Boardman: For the limited time that the gatehouse is going to be manned, three summer months, I don't think it's a problem. The residents know that the service road is there. They can use it if they want, or they can wait a couple of minutes coming in.

Andrew Bartlett: The service road is used by neighbors now. We can put in some extra signage and make sure all of our staff and vehicles understand that it might be used more. Dylan Smith: If there are legal issues and people feel they are losing their deeded access, they will take it up with the Cliff House.

- Motion: Al Cotton moved to authorize the Gate House at the Cliff House, 591 Shore Road, Tax Map 0156, Lot 0015, as a permanent/temporary installation with the condition that the access to the service road be made available and communicated to all the residents. Seconded by Pete Smith, the motion passed 5-0

**York Beach Surf Club, 780 York Street**  
**Map/Lot 0038-0059 owned by York Beach Surf Club LLC**  
**The intent of this project is to revise an approved plan by relocating parking and**  
**conducting building and site refurbishments.**  
**Tim DeCoteau, Project Manager**  
**Chris Reynolds, Wow Design Group**  
**Brian Nielsen, Attar Engineering**  
**Taylor Perkins, York Beach Surf Club**

This hearing was continued from March 25, 2021.

Kathleen Kluger asked the Board members if they have had a chance to review communications they have received today. No one was unaware they had received materials that day. Kenny Churchill said he had not had a chance to go through it.

Chris Di Matteo gave his review.

Item 1. Boundary survey.

With regard to the additional piece, the Carlton Street property, we have received their agreement to have use that property. The boundary survey to determine right-title-interest was forwarded to the Town Attorney, who suggested the applicant provide more information concerning right-title-interest.

Item 2. The initial assessment of traffic impacts.

Section 6.3.8, the traffic impact assessment, is a requirement of the zoning ordinance. It gives DPW an understanding if a traffic study should be required. The applicant is requesting a waiver, but the information has to be submitted to DPW, not the Planning Board. Thus, the Planning Board cannot waive Section 6.3.3, the traffic analysis. Dean Lessard has no recollection of reviewing any traffic information.

Item 3. Section 6.3.10, Proof of ownership of the paper street.

Through its attorney, the applicant has provided a commercial lease for the use and development of the Carlton Street property. It is important for the Town Attorney to review it, Chris said.

Item 4. Copies of all easements, rights-of-way, and encumbrances.

The documentation of the paper streets for the commercial use has been executed and provided.

Item 5. Information about historic and archeological resources.

This information was submitted in 2019. The applicant feels that connecting with those agencies about the additional piece of property is not relevant. The Board should determine if that is true, Chris said.

Item 6. Fire Chief letter.

An email from Chief Chris Balentine dated March 23 has been submitted.

Item 7. A waiver for the high intensity soil survey is being requested.

Item 8. Section 6.3.3

They are looking for a waiver of the traffic impact analysis that is required when 40 or more parking spaces are projected to generate more than 400 vehicle-trips per day.

Item 9. Section 6.4.3.1, Public water supply.

The applicant has addressed this.

Item 10. Section 6.4.4.1, Public sewer.

The applicant states that the prior to the Board's signing the final plan, both Water and Sewer will have signed the final plan.

Item 11. Section 6.4.5. Department heads.

Prior to the Board's signing the final plan, the applicant must submit proof that they have the approval of DPW, Police, and the Fire Departments.

Item 12. A list of construction items.

The applicant is requesting a waiver for cost estimates related to the performance guarantee.

Item 13, Section 6.4.25, Performance guarantee.

The applicant is requesting a waiver of the performance guarantee.

That was the end of Chris Di Matteo's review.

Tim DeCoteau: It is important to note that in 6.3.10, of proof of ownership, we have a warrantee deed that includes the land under the rights-of-way.

Tim DeCoteau: Per 6.3.11, "all easements, rights-of-way, and encumbrances currently affecting the property shall be submitted." There are no written easements or rights-of-ways in the original plan. Attorney David Ballou has conducted a title search. We have met that those criteria.

- Motion: Al Cotton moved to accept the application for York Beach Surf Club, Map/Lot 0038-0059, as complete for purposes of review. Pete Smith seconded. The motion passed 5-0.

Attorney David Ballou has sent information about the easements to Attorney Costigan, but Dylan Smith said Mary Costigan has not had a chance to look at those documents. The board members agreed that, even prior to the Town Attorney's review, the information is comprehensive and seems complete.

- Motion: Al Cotton moved to open the public hearing for York Beach Surf Club, Map/Lot 0038-0059. Gerry Runte seconded. The motion passed 5-0.

Chair Kathleen Kluger read three pieces of correspondence into the record.

Abutter Julie Thurlow, One Carlton Street, wrote that there is not enough screening between the parked cars and Carlton Street. Over the past year, the paper street has been used as an access and exit for the hotel, and Carlton has not been blocked off.

Holly Roberts, Executive Director of the York Chamber of Commerce, wrote in support of the Sea Latch Hotel and the York Beach Surf Club project.

Abutters Bill Barber and his sister, 5 Parker Street, wrote that they have owned their summer home since 1977. Though they appreciate the Perkins, they have continued concerns about loss of their quiet enjoyment, privacy, and safety.

- Motion: Al Cotton moved to close the public hearing for York Beach Surf Club, Map/Lot 0038-0059. Gerry Runte seconded. The motion passed 5-0.

Chris Di Matteo reiterated that Section 6.3.3, the traffic impact analysis, can't be waived. Dylan Smith said we do not have the right to waive it. The traffic count needs to be done and submitted to the Director of Public Works, regardless. Kathleen Kluger reinforced this fact by reading aloud Traffic Safety Article 15-3A (applicability) of the Zoning Ordinances. "Before Town permits or approvals are issued for any application relating to establishment, expansion, or change of use for any non-residential use (or relating to any division or subdivision of land or buildings for residential use, including, but not limited, to site plan approval, subdivision approval, use permit, or road opening permit), the applicant shall provide to the Director of Public Works an initial assessment of the expected trip generation." We are not waiving anything, Kathleen said. We are determining that it is non-applicable.

That subject was finished. Chris Di Matteo said that his review has not been finalized and that Gorrill Palmer has submitted comments that have not been addressed.

The mobile café, kitchen, and bar were discussed. They are temporary structures. Takeout is not allowed in BUS-2 zone. Dylan Smith said that restaurants are permitted in this area, as long as they are not "take-out stands." Guests and people who want to come off the beach can come and have some food—as long as the location is not treated as a take-out stand. The restaurant is providing food for consumption for anyone, not just guests, within the premises. You have a fenced in area, Dylan said, so I think you are good.

Tim DeCoteau: The original lot exceeded the allowable lot coverage of 25% for that zone. We can keep it lot coverage there, as long as we don't expand it. On the Carlton lot, we have to live by the 25% lot coverage allowed in the zone.

Chris Di Matteo said that outdoor lighting has not been reviewed, and does not know if it is in compliance.

Dylan Smith said we are looking for a bond or some sort of letter of credit to cover stormwater improvements and erosion control in case the neighbors are flooded out. The project engineer needs to work it out with the town's engineer and determine what amount would be acceptable.

The applicant did not disclose the details of getting the boundary survey done and said it is a very busy time to get a surveyor.

In order to know what the outstanding issues are, said Kathleen Kluger, we will have to have the complete peer review from Gorrill Palmer. Pete Smith said that when we go through Phase 2, we are going to go through all of this again in greater detail. Kathleen Kluger: That is not going to be a quick review like this one. Phase 2 will not fall under the COVID fast track. That will be the whole nine-yards of a regular application.

- Motion: Al Cotton moved to continue the application for York Beach Surf Club, Map/Lot 0038-0059, to April 22, 2021. Peter Smith seconded, and the motion passed 5-0.

## **Discussion/Review—Comprehensive Plan Update/Climate Action Plan**

### **Comp Plan Update Steering Committee Member Approval**

Kathleen Kluger had advertised for the Comp Plan subcommittee through Seacoast Online, York Weekly, Portsmouth Herald, Facebook, and the Town's website. She got a flood of responses, and inquiries are still coming in. We have a good group of people who will be advisors to the Steering Committee and CivicMoxie for the Comp Plan process, she said. Our kickoff meeting will take place Monday, April 12, from 3:00 to 4:30 P.M. on Zoom. Planning Board members are responsible for the Comp Plan update and the Climate Action Plan and should be part of every meeting.

Kathleen asked for a motion to approve the roster for the Comprehensive Plan Steering Committee which members include:

- |                    |                                     |
|--------------------|-------------------------------------|
| 1. Kathleen Kluger | Chair                               |
| 2. Ian Shaw        | Vice Chair                          |
| 3. Mike Sinclair   | Harbor Board                        |
| 4. Troy Williams   | Chamber of Commerce                 |
| 5. Chuck Lawton    | Committee to Combat Racism and Bias |
| 6. Nan Graves      | Budget Committee                    |
| 7. Stephanie Byrne | Conservation Commission             |
| 8. Dave Herbein    | School Committee                    |
| 9. Jud Knox        | York Housing Authority              |
| 10. David Webber   | Shellfish Commissioner              |
| 11. Dave McCarthy  | Bicycle & Pedestrian Committee      |
| 12. Rowan Spencer  | York High School Student            |

- |                      |                                 |
|----------------------|---------------------------------|
| 13. Todd Frederick   | Selectboard Representative      |
| 14. Kinley Gregg     | Selectboard Representative      |
| 15. Dylan Smith      | Comp Plan Project Director      |
| 16. Patience Horton  | Recording Secretary             |
| 17. Susan Silberberg | Principle, CivicMoxie           |
| 18. Sue Kim          | Project Coordinator, CivicMoxie |

- Motion: Al Cotton moved to accept the roster for the Comp Plan Steering Committee. Peter Smith seconded. The motion passed 5-0.

Kathleen said that anyone who comes forward with interest about participating in the Comp Plan Steering Committee will be included.

**Climate Action Plan Update  
Steering Committee Member Approval**

Wayne Boardman said the Steering Committee for the Climate Action Plan has been assembled. Around 40 people will be working in one capacity or another on it. The Steering Committee includes:

- |                       |                                    |
|-----------------------|------------------------------------|
| 1. Wayne Boardman     | Co-Chair                           |
| 2. Rozanna Patane     | Co-Chair                           |
| 3. Marilyn McLaughlin | Selectboard Representative         |
| 4. Robert Palmer      | Selectboard Representative         |
| 5. Brenda Alexander   | York School Committee              |
| 6. Karen Arsenault    | York Water District                |
| 7. Lydia Blume        | State Representative               |
| 8. Zephy Cortesi      | Citizen-at-Large                   |
| 9. Lillian Hubbard    | Citizen-at-Large                   |
| 10. Jennifer Hubbard  | Citizen-at-Large                   |
| 11. Mac McAbee        | York Ready for 100                 |
| 12. Ron McAllister    | York Parks & Rec                   |
| 13. Michelle Surdoval | York Community Service Association |

Our second steering Committee will be at the end of April, said Wayne, and we will be bringing in the people from the working groups. The overall process will be reviewed. CivicMoxie will be putting together a package with background information for all the members of the groups.

- Motion: Al Cotton moved to approve the roster of the Climate Action Plan Steering Committee. Seconded by Peter Smith, the motion passed 5-0.

Kathleen Kluger asked how we are going to make sure we are talking about permanent residents--full time, year-round residents--and not temporary residents who don't vote here because their

primary residence is not York. We have to have a way of evaluating the information we are getting that is going to be relevant to those of us who live here.

Dylan Smith said we should reach out to non-residents who are property owners. Al Cotton commented that the Town has had a policy of involving people who benefit the town, including taxpayers. Kenny Churchill wondered how we could get enough people to respond. Kathleen Kluger: I'm sure Civic Moxie is going to be able to carry us to the finish line with gathering the information.

### **Discussion/Review—New Ordinances for November 2021 York Beach Corridor District (Green Enterprise Overlay)**

Al Cotton and Pete Smith have met three times working on the mixed-use York Beach Corridor District. They have a tentative goal of the November election, but it might go over to the following spring. Kathleen Kluger: For amendments going to the ballot in November, there is time for a workshop in May, and then public hearings in June.

Dylan said that rezoning the corridor was initially thought to be an easy extension of the York Beach Center District toward Route 1. We are running into roadblocks as we try to meet the goal, intent, and vision in the Comp Plan, he said.

Al Cotton said that the workgroup is trying to create standards that developers will look at and figure out how to meet. The development consultant who is working with the Town is looking for and has spoken to major developers—multi-million-dollar developers—who will come and help create the year-round corridor district. We are offering a 400-acre district, Al continued, 300 acres of which have nothing permanent on them. This is one of the largest pieces of land adjacent to the Atlantic Ocean on the entire eastern seaboard, and developers are seeing it that way. We are establishing and giving them standards. They will develop the properties according to the standards we are establishing.

Gerry Runte said he would like to see a village atmosphere where residents can walk to the services they need.

### **Open Space Conservation Subdivision Development Ordinance**

Dylan Smith: I have tried to enhance what is in the ordinance now, but that method doesn't necessarily make sense. I think we will be clarifying what we currently have. Looking at repealing certain sections, we will be basically replacing them with new ordinance language. Wayne Boardman and Gerry Runte will form a workgroup with Dylan to do this work.

### **Minutes**

- Al Cotton moved to approve the Minutes of March 11, 2021, with the suggested corrections. Peter Smith seconded, and the motion passed 5-0.

- Al Cotton moved to approve the Minutes of March 25, 2021, with suggested corrections. Gerry Runte seconded, and the motion passed 5-0.

### **Other Business**

Kathleen said it will be great to see the Planning Board members at the Comp Plan Steering Committee kick-off meeting on Monday, 3:00 P.M. via Zoom.

### **Adjourn**

The meeting adjourned at 10:30.

Respectfully submitted,  
Patience G. Horton  
Recording Secretary