

CDM



KITTERY TOWN PLANNING BOARD MEETING
Council Chambers – Kittery Town Hall 200 Rogers Road, Kittery, Maine 03904
Phone: 207-475-1323 - Fax: 207-439-6806 - www.kittery.org

AGENDA for Thursday, July 24, 2014
6:00 P.M. to 10:00 P.M.

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE – APPROVAL OF MINUTES – 7/10/2014

PUBLIC COMMENTS - Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate. Those providing comment must state clearly their name and address and record it in writing at the podium.

PUBLIC HEARING/OLD BUSINESS

ITEM 1 – (60 min) – Town Code Amendment – Title 16.8.7 Sewer System and Septic Disposal, 16.9.1.4 Soil Suitability, 16.8.16 Lots and 16.2.1 Definitions. Action: hold a public hearing and schedule a joint workshop with Town Council. Amendments to the Town Code to address soil suitability as it pertains to septic disposal systems and other development standards. Amendments also address regulations for sewer, subsurface wastewater disposal systems and holding tanks, and changes in form, format and language to address clarity.

OLD BUSINESS

ITEM 2 – (15 minutes) – Town Code Amendment – Chapter 2, Definitions, Chapter 3, Article 2, Section 17 Shoreland Overlay Zone, Chapter 7, Article 3 Nonconformance and Chapter 8, Article 28 Single and Duplex Family Dwellings in the Shoreland Overlay Zones in Title 16 Land Use Development Code. Action: review amendment and make recommendation to Town Council for adoption. Amendment includes changes to the town’s Shoreland zoning to comply with the Maine Department of Environmental Protection 2000 and 2010 conditional approvals.

ITEM 3 – (60 min.) – Quality Improvement Plan for Kittery Shore and Harbors
Action: review and make recommendation to Town Council for adoption. Town advisory committee is transmitting draft plan for Town Planning Board review, hearings and recommendation to Town Council for adoption. The QIP Plan is a specific plan that includes goals/policies and implementation strategies for improving/protecting the Town’s shores and harbors. Town Planner, Gerald R. Mylroie, ACIP will make a presentation.

ITEM 4 – (15 minutes) – Town Code Amendment - Title 16.10.8.2.1 Conditions – General
Action: review amendment and make recommendation to Town Council for adoption. Proposed amendment adds off-site improvements to potential Planning Board conditions of approval.

ITEM 5 – (30 minutes) – Town Code Amendment - Title 16.8.10 Signs – Action: discuss outcome of 7/17 workshop regarding updating the town’s sign regulations and determine how to proceed.

ITEM 6 – (15 minutes) – Town Code Amendment - Title 16.8.10.1 Signs – Purpose and Title 16.8.10.2 Signs – General Requirements. Action: review amendment and make recommendation to Town Council for adoption. Proposed amendment makes sign character and appearance standard consistent with the Kittery Design Handbook.

ITEM 7 – (15 minutes) – Town Code Amendment - Title 16.8.10.2.C Signs – General Requirements. Action: review amendment and schedule a public hearing. Proposed amendment re-defines Light-emitting diode (LED) lighting use including the limited use for a gasoline price sign.

ITEM 8 – (15 minutes) - Board Member Items / Discussion
A. Action List; B. Committee Updates; and C. Other.

ITEM 9 – (5 minutes) - Town Planner Items:
A. Town Code amendment related to Quality Improvement Overlay Zone; and B. Other

ADJOURNMENT - (by 10:00 PM unless extended by motion and vote)
NOTE: ACTION LISTED IN ABOVE AGENDA ITEMS IS FOR REFERENCE ONLY AND THE BOARD MAY DETERMINE A DIFFERENT ACTION.
DISCLAIMER: ALL AGENDAS ARE SUBJECT TO REVISION ONE WEEK PRIOR TO THE SCHEDULED TOWN PLANNING BOARD MEETING.
TO REQUEST A REASONABLE ACCOMMODATION FOR THIS MEETING PLEASE CONTACT STAFF AT (207) 475-1323 OR (207) 475-1307.

1 TOWN OF KITTEERY, MAINE
2 PLANNING BOARD MEETING
3 Council Chambers
4

5 Meeting called to order at 6:02 p.m.
6 Board Members Present: Tom Emerson, Karen Kalmar, Susan Tuveson, Mark Alesse
7 Members absent: Deborah Driscoll Davis, Bob Melanson (6:40 p.m.)
8 Staff: Chris DiMatteo, Assistant Planner
9

10 Pledge of Allegiance
11

12 Minutes: June 26, 2014

13 Ms. Kalmar moved to accept the minutes of June 26, 2014 as submitted

14 Ms. Grinnell seconded

15 Motion carried by all members present
16

17 Public Comment: No public comment.
18

19 OLD BUSINESS
20

21 ITEM 1 - Board Member Items/Discussion:

22 Mr. Emerson: Regarding signage amendments, the Board needs to determine:

- 23 1. level of community interest;
- 24 2. what is actually wanted, if there is a high interest;
- 25 3. can those interests be codified;
- 26 4. can it be administered by the CEO;
- 27 5. can applicants understand and work with it?

28 Before this is undertaken, it needs to be determined whether the whole code language needs changing or
29 whether a few items need to be addressed. After the workshop it should be added to the Action List to see
30 how it falls out with other items.

31 Ms. Tuveson: Board members are already extremely busy, and is concerned as to the level of interest and
32 need for proposed changes.

33 Ms. Kalmar: Agrees. Asked Ms. Tuveson to review the constitutionality section in the New York sign
34 guidelines.

35 Mr. DiMatteo: Asked if the Board would consider attempting to fix the LED piece in the sign ordinance.

36 Mr. Emerson: LEDs and message boards

37 Ms. Grinnell: Commended the Chairman for following the process for discussion and consideration.
38

39 Mr. Melanson:

- 40 1. The BIG project is almost complete, on time and \$15,000 under budget;
- 41 2. Harbormaster Blake has resigned, effective July 19;

42 Mr. Emerson: Submittal of comments on the Shore & Harbor Plan are due July 14. Comments have been
43 received from Ann Grinnell and the Conservation Commission.

44 Mr. Melanson:

- 45 - The Port Authority noted the Plan's inclusion for a water taxi at is not feasible, and a draft of other
46 concerns will be submitted to staff.

47 Mr. DiMatteo: Summarized the proposed, draft agenda for July 24.
48

49 Ms. Grinnell: Can boat registration be better enforced?

50 Mr. Melanson: The Port Authority has two boats patrolling, mostly for safety, but for registration, as
51 well.

52 Ms. Grinnell:

- 53 - The EDC did not meet;
- 54 - The Foreside Parking Committee will meet on Wednesday, July 16, and she will bring up the library
- 55 parking issue.

56

57 A. Bylaws

58 Following were amended/corrected:

- 59 - Line 160: change to Section 20.
- 60 - Line 53: add no [... no other(s) shall be considered...].
- 61 - Line 81: add extent [to an extent determined by the Chair,...].
- 62 - Line 39: end sentence at '...Thursdays of each calendar month.' and remove remainder of sentence.
- 63 - Line 118: remove Section 14 entirely (and re-number sections, accordingly).
- 64 - Line 44: correct uppercase 'T' to lowercase 't' (...taken at any regular meeting of the Board,...)
- 65 - Line 45: Include missing citation.
- 66 - Line 101: add who [...shall be the responsibility of the Planner, or Planner's designee, who is...].

67

68 B. Other

69

70 ITEM 2 - Town Planner Items:

71 A. Sign standards clarifications and update; Public Workshop, Thursday, July 17, 2014

72 B. Other

73

74 NEW BUSINESS

75

76 ITEM 3: Brave Boat Conservation at Sawyer Lane - Cluster Subdivision - Preliminary Plan
77 Completeness Review. Action: Accept or deny plan application and schedule site walk and/or public
78 hearing. Owner and applicant Jonathan and Kathleen Watts is requesting consideration of their plans for
79 a 4-lot cluster subdivision at 143 Brave Boat Harbor Road, Map 63, Lot 19 in the Residential Rural Zone
80 and Shoreland Overlay Zone. Agent is Ken Markley, Easterly Surveying, Inc.

81

82 Ken Markley: Summarized recent submittal information, including:

- 83 1. Addressing approval criteria standards;
- 84 2. Letter from Kittery Water District stating there is sufficient water available for the project;
- 85 3. Letter from Joe Noel addressing soil issues;
- 86 4. Road opening permit from DPW, addressing site lines;
- 87 5. List of notified abutters;
- 88 6. Cluster Subdivision plan
- 89 7. High Intensity Soil Survey;
- 90 8. Road construction and drainage plan by Pinkham & Greer Civil Engineers.

91

92 Regarding a request from an abutter, the applicant agreed to place a few trees as buffer between the
93 properties; noted location of wetlands behind abutters property and stated the proposed development
94 would not by itself flood the property due to its small size in relation to the very large wetland area behind
95 the property; erosion control measures have been installed;

96 Mr. DiMatteo: Right, title and interest documents have been; Board should consider the waiver requests
97 submitted; some abutters are not represented in the assessor's information, but will be notified
98 accordingly.

99 Ms. Kalmar: Requested a stormwater plan and aerial photo, and disturbed areas calculations.

100 Mr. Markley: All the disturbed areas, including the ROW, total approximately 39,000 sf, less than one
101 acre. It is difficult to show location of houses and garages, as the final location cannot be determined at
102 this stage. The buildable envelope is illustrated, however.

103 Ms. Grinnell: Asked about requested waivers.

104 Mr. Markley: Regarding waivers, the front yard setback reduction for lots 2, 3 and 4 is to allow for
105 location of septic systems in the rear, with the lot size reduced to 20,000 sf, meeting the objective of the
106 cluster ordinance; the reduction for Lot 1 is for the existing home which is located 9 feet from the
107 proposed ROW; an increase in non-vegetated surface area per lot from 20% to 30% due to the smaller,
108 less than 1 acre, lots proposed. Discussion followed regarding average house sizes.

109 Mr. Emerson: In cluster design, reducing the lots to allow for open space creates a tighter area to work
110 with.

111 Ms. Wells: Was told there was diseased hemlock on the site, and asked how much wooded area on the
112 site would remain if these diseased trees were removed.

113 Mr. Watts: Without physically counting or marking the trees, cannot fairly answer how many diseased
114 trees would be removed. The intent is to retain trees outside of the areas identified for clearing.

115 Mr. DiMatteo: A plan should be submitted outlining the methodology for removal of trees.

116 Mr. Markley: The maximum amount of clearing would be 39,000 sf, or approximately 30% of the total
117 acreage.

118

119 Ms. Kalmar moved to accept the application as complete pending illustration of the disturbed areas and
120 building envelopes, receipt of a stormwater plan by a certified engineer, receipt of an aerial photo, and to
121 schedule a public hearing

122 Ms. Grinnell seconded

123 Motion carried unanimously by members present

124

125 Mr. DiMatteo: The information requested needs to be submitted by July 24 in order to make the public
126 hearing of August 14.

127

128 ITEM 4 – Eventide Drive Right-Of-Way — Street Naming Application Review

129 Action: Review application and grant or deny approval. Owner and Applicant Nathan and Michelle
130 Zamarripa are requesting consideration of their Street Naming Application for an approved Right-Of-Way
131 located between 116 and 118 Brave Boat Harbor Road, Tax Map 63, Lot 64-A, Residential Rural Zone,
132 with a portion in the Shoreland Overlay Zone.

133 Mr. DiMatteo: This is a standard review by the Board, as all municipal departments, and the CEO, have
134 signed off on the name.

135

136 Ms. Kalmar moved to accept the name of Eventide Drive, located between 116 and 118 Brave Boat
137 Harbor Road

138 Ms. Tuveson seconded

139 Motion carried unanimously by members present

140

141

142 Mr. Emerson moved to adjourn

143 Ms. Tuveson seconded

144 Motion carried unanimously by members present

145

146 The Kittery Planning Board meeting of July 10, 2014 adjourned at 7:18 p.m.

147 Submitted by Jan Fisk, Recorder, July 14, 2014

148

**Town of Kittery Maine
Town Planning Board Meeting
July 24, 2014**

Town Code Amendment – Title 16.8.7 Sewer System and Septic Disposal, 16.9.1.4 Soil Suitability, 16.8.16 Lots and 16.2.1 Definitions. Action: hold a public hearing and schedule a joint workshop with Town Council. Amendments to the Town Code to address soil suitability as it pertains to septic disposal systems and other development standards. Amendments also address regulations for sewer, subsurface wastewater disposal systems and holding tanks, and changes in form, format and language to address clarity.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Discussion/	1/9/14 deferred to 1/23/14, issued to Subcommittee.	-
	Workshop	December 3, 2013	HELD
YES	Schedule Public Hearing	July 24, 2014	COMPLETE
	Town Council/Planning Board Joint Workshop		PENDING
YES	Review/Recommendation to Town Council	Initiated 6/26/14;	PENDING

BACKGROUND

The issues related to the *Soil Suitability Guide for Land Use Planning in the State of Maine* generated an enquiry into other soil related references in the Town's Land Use and Development Code, especially the those sections that pertain to septic disposal. The Planning Board requested the Code Subcommittee to review the related sections of the Town Code and prepare an amendment for their review. The Board is scheduled to hold a public hearing at tonight's meeting.

RECOMMENDATION

Please refer to the attached Ordinance Revision Memorandums (ORD's) for details.

The amendment is organized with separate ORD's with one code amendment that includes all the sewage related information with associated definition changes and two other code amendments for Soil Suitability and Lots.

If the Board is comfortable with the proposed amendments, Staff recommends scheduling a joint workshop with Town Council ahead of the scheduled joint workshop in October. Discussing with Town Council this group of amendments along with those associated with net residential acreage calculation would allow for the necessary time to review the larger policy changes related to the amendments prior to approval and adoption.

Town of Kittery Ordinance Revision Memorandum

Originator(s): T. Emerson, Planning Board Chair; S. Tuveson, VC	Council Sponsor(s): J. Thomson, Chair
Council meeting date: TBD	Title: Sewage Disposal (Sewer only)
Town code section: Title 16, §16.8.7 (Sewer only, proposed as 16.8.7.1)	History: Amendment

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE (FORTHCOMING), AND PLANNING BOARD REVIEW NOTES

1 **PURPOSE OF PROPOSAL:**

2
3 The proposal would amend 16.8.7.1, currently titled Sanitary Sewer and Septic Disposal to comply
4 with Kittery Town Charter Section 2.14. The charter requires that there be only one topic per
5 ordinance. Items related to sewer would be consolidated in 16.8.7.1. Subsurface wastewater
6 disposal regulations would become 16.8.7.2. (See separate memorandum)

7
8 Revisions align Town Code Title 16 with Title 13 and clarify the waiver process.

9
10
11 **SUMMARY OF PROPOSAL/AMENDMENT:**

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13 Section 16.8.7.1.A (lines 156-159). This provision would define sewer hook-up requirements for
14 individual structures, as well as for subdivisions, in order to clarify and codify what is current practice.

15
16 Section 16.8.7.1.E (lines 176-182). This provision would permit a developer to request a waiver from
17 the mandatory sewer hook-up requirement should conditions make it infeasible to do. Guidelines for
18 the request and for the Board's deliberations are described.

19
20 **JUSTIFICATION:**

- 21
- 22 • These amendments would make sewer hook-up guidelines clearer and easier to find for
23 both developers and owners of single structures with sanitary facilities.
 - 24 • Rules governing sewer hook-ups for individual structures would be added to Title 16. The
25 additions would align with and refer readers to Title 13 requirements.
 - 26 • Clarifying the process by which a developer may request a waiver from the requirement
27 to hook-up to the Town sewer system would ensure that all requests are treated equitably.
- 28
29
30

31 **FISCAL IMPACT:** None

Town of Kittery Ordinance Revision Memorandum

Originator(s): T. Emerson, Planning Board Chair; S. Tuveson, VC	Council Sponsor(s): J. Thomson, Chair
Council meeting date: TBD	Title: Sewage Disposal (Subsurface wastewater disposal only)
Town code section: Title 16, §16.8.7 (Subsurface Wastewater Disposal System, proposed as 16.8.7.2)	History: Amendment

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE {FORTHCOMING}, AND PLANNING BOARD REVIEW NOTES

33 **PURPOSE OF PROPOSAL:**
34

35 MRS 30-A §4352 requires that "a zoning ordinance must be pursuant to and consistent with a
36 comprehensive plan". This proposal contains amendments that would implement Kittery's
37 Comprehensive Plan in many significant ways.

38
39 It would also eliminate a reference to an outdated soil manual that restricts the siting of subsurface
40 wastewater disposal (SWD) systems in a manner that does not reflect modern soil science or best
41 practices.

42
43 The proposal would bring this section into compliance with Town Charter section 2.14, which requires
44 a single topic per ordinance.

45
46 **SUMMARY OF PROPOSAL/AMENDMENT:**
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48 Section 16.8.7.2.A (lines 207-208) would prohibit SWD systems in subdivisions with four or more lots
49 or dwelling units.

50
51 Section 16.8.7.1.C (lines 193-194) would be deleted. This subsection limits septic use based on the
52 outdated *Soil Suitability Guide*.

53
54 Section 16.8.7.2.E.3 (lines 261-267) would increase the depth of soil required for passing test pits by
55 six (6) inches, instead of mandating prohibitively-expensive advanced pretreatment for all new SWD
56 systems.

57
58 Section 16.8.7.2.D.1 (lines 229-231) would permit current soil-depth requirements to be followed
59 where a replacement SWD system, with the same capacity as the original, cannot meet the newer
60 standards.

61
62 Section 16.8.7.2.F (lines 269-271) would require advanced pretreatment in new construction that is
63 within 100 ft. of porous sand-and-gravel aquifers. There are only two small sand-and-gravel aquifers in
64 Kittery, both are in the vicinity of Cutts Ridge.

65
66 Section 16.8.7.1.G.2 (line 226) would be removed. Ordinances governing sewer connections and
67 holding tanks would become separate subsections.
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69 JUSTIFICATION:

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- Proposed amendments are pursuant to and consistent with the Kittery Comprehensive Plan. They would:
- Steer development to areas with Town services. (Comp. Plan p.25, p.125, p.126, p.127)
- Discourage intensive development in areas not served by public water and sewerage. (Comp. Plan p.127)
- Help prevent overbuilding in any single year, thereby managing growth in a manner consistent with the Town's ability to absorb it. (Comp. Plan p.25, p.125)
- Prevent overbuilding in areas designated for low growth while helping to preserve rural character and open space. (Comp. Plan p.125, p.209)
- Protect sensitive environmental resources such as groundwater, wetlands, watersheds and sand-and-gravel aquifers (Comp. Plan pp.43-44, pp.62-64, p.125)

In addition:

- These amendments would help manage density without decreasing the value of currently divisible parcels.
- Requiring deeper soil for passing test pits ensures greater separation between a SWD system and the water table or bedrock. This improves the filtering of effluents. Although no current SWD system can filter excreted pharmaceuticals or all household chemicals, better soil filtration would provide greater protection from nitrogen and phosphorous contamination, called "nutrient pollution", of our groundwater, watersheds and wetlands. Soil scientists confirmed the value of this strategy.
- The proposal would not create a disincentive for the routine replacement of old or failing SWD systems. Such routine replacements would be held to less-stringent standards than those for new systems and systems being enlarged due to expanded use.
- Removing the outdated soil manual reference allows current best practices to be employed when siting SWD systems. This protects the Town's interests and the applicant's.
- Removing other topics from this subsection would make SWD regulations less confusing.

FISCAL IMPACT: None

Town of Kittery Ordinance Revision Memorandum

Originator(s): T. Emerson, Planning Board Chair; S. Tuveson, VC	Council Sponsor(s): J. Thomson, Chair
Council meeting date: TBD	Title: Sewage Disposal (Holding tanks only)
Town code section: Title 16, §16.8.7 (Holding tanks only, proposed as 16.8.7.3)	History: Amendment

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE {FORTHCOMING}, AND PLANNING BOARD REVIEW NOTES

112 PURPOSE OF PROPOSAL:

113

114 This proposal would create a new statute for holding tanks in compliance with Kittery Town Charter
115 section 2.14.

116

117 It would also allow holding tanks to be installed at municipal facilities in the Commercial
118 Fisheries/Maritime Uses Overlay Zone.

119

120 SUMMARY OF PROPOSAL/AMENDMENT:

121

122 Section 16.8.7.3.B.3 (lines 292-293) This provision would permit the installation and use of holding
123 tanks at municipal facilities only.

124

125 Section 16.8.7.3.B.3.b) (lines 298-301) This provision would mandate an inspection, maintenance and
126 pumping-out program for the holding tanks, and would specify responsibility for implementing same.

127

128 Section 16.8.7.3 (lines 273-276) This provision would include (by reference) the Model Holding Tank
129 Ordinance of the State of Maine Subsurface Wastewater Rules, which would be modified to include
130 local information and restrictions.

131

132 JUSTIFICATION:

133

134 • This proposal would amend ordinances to conform with the Kittery Town Charter 2.14.
135 The holding tank ordinance will become a separate subsection, 16.8.7.3.

136

137 • The proposal is necessary to permit the installation of a holding tank as part of the
138 Boating Infrastructure Grant (BIG) project at Pepperrell Cove. A holding tank at the
139 marina would encourage boaters not to dump effluents at sea, thus protecting the
140 seacoast from pollution.

141

142 • With proper enforcement, a clear protocol for implementing a monitoring, pump-out,
143 maintenance and inspection program would provide reasonable safeguards for the
144 system.

145

146 FISCAL IMPACT:

147

148 The cost of the holding tank would be paid out of the BIG program proceeds from the State of Maine.

149

150

151 CODE AMENDMENT

152 Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT

153 Article VII. Sewage Disposal

154 16.8.7.1 Sanitary Sewer System and Septic Disposal.

155

156 A. An existing or new dwelling unit or structure that requires wastewater disposal must connect to town sewer
157 where sewer is within 100 feet of the property line per Town Code Title 13, Chapter 13.1 Public Sewer System.
158 Individual dwellings and structures in approved and recorded developments where town sewer becomes available
159 as described in this paragraph must connect per the requirements of Title 13, Chapter 13.1. {NEW}

160

161 B. Where town sewer is located within one thousand (1,000) feet of the property line of a commercial or industrial
162 development or a residential subdivision, the developer shall connect to town sewer per the town Wastewater
163 Services Department (WSD) specifications. The developer shall provide written certification to the Planning Board
164 from the WSD that the proposed addition to town sewer is within the capacity of the collection and wastewater
165 treatment system. {MOVED FROM 16.8.7.3}

166

167 C. Sewer mains, service lines and related improvements must be installed at the developer's expense. Service
168 lines must extend to each lot's boundary line. Connections to town sewer must be installed in accordance to this
169 Article and Title 13 Public Services in the Kittery Town Code.
170 {MOVED FROM 16.8.7.1.E}

171

172 D. Proposal and construction drawings must be approved in writing by the town Wastewater Services Department.
173 All required approvals must be secured before the start of final plan review.
174 {MOVED FROM 16.8.7.1.A & F}

175

176 E. When town sewer connection to the parcel and/or proposed lots is not feasible, the Planning Board may allow
177 individual or common subsurface wastewater disposal systems to be used in accordance with Section 16.8.7.2.
178 To determine feasibility, the developer shall submit information that considers the unique physical circumstances
179 of the property and sewer connection alternatives to conventional construction/installation techniques such as, but
180 not limited to, horizontal/directional boring and low pressure sewer. The developer's information must be
181 accompanied by findings and recommendations of the town Peer-Review Engineer. In determining feasibility, the
182 Board may not base its decision solely on additional costs associated with a sewer connection. {MODIFIED &
183 MOVED FROM 16.8.7.1.B}

184

185 ~~A. Public sanitary sewer disposal system connections must be installed, in accordance to Article VII o Chapter~~
186 ~~16.8, with proposal and construction drawings reviewed and approved in writing by the servicing sanitary sewer~~
187 ~~agency. {Moved and Modified, SEE 16.8.7.1.D}~~

188

189 ~~B. If, in the opinion of the Board, service to each lot by a sanitary sewer system is not feasible, the Board may~~
190 ~~allow individual subsurface waste disposal, or a separate central sewage collection system to be used in~~
191 ~~accordance with Section 16.8.7.4. {Moved and Modified, SEE 16.8.7.1.E}~~

192

193 ~~C. In no instance may an initial installation septic disposal system be allowed in soils rated poor or very poor for~~
194 ~~such purpose by the Soil Suitability Guide for Land Use Planning in Maine. {DELETED}~~

195

196 ~~D. If the developer proposes individual subsurface waste disposal or central collection system and waste~~
197 ~~generated is of a "significant" nature, or if waste is to be discharged, treated or untreated, into any body of water,~~
198 ~~approval must be obtained in writing from the Maine Department of Environmental Protection. {DELETED}~~

199

200 ~~E. Sanitary sewer disposal systems must be installed, at the expense of the developer, to the individual lot~~
201 ~~boundary line. {Moved and Modified, SEE 16.8.7.1.C}~~

202

203 ~~F. All required approvals of a sewage disposal system must be secured before official submission of a final plan.~~
204 ~~{Moved and Modified, SEE 16.8.7.1.D}~~

205

206 **16.8.7.2 Subsurface Wastewater Disposal System**

207 A. Subsurface wastewater disposal is not permitted in a residential subdivision with four or more lots or dwelling
208 units.

209

210 B. The developer shall submit plans for subsurface wastewater disposal designed by a Maine Licensed Site
211 Evaluator in full compliance with the requirements of the State of Maine Plumbing Code, Subsurface Wastewater
212 Disposal Rules, and this Code. Subsurface wastewater disposal systems must be constructed according to the

213 approved plan. {MODIFIED & MOVED FROM 16.8.7.2}

214
215 C.G. All first-time subsurface wastewater subsurface sewage disposal systems must be installed in
216 conformance with the State of Maine Subsurface Wastewater Disposal Rules and this Code. The Maine
217 Subsurface Wastewater Disposal rules require new systems, excluding fill extensions, to be constructed no less
218 than one hundred (100) feet, horizontal distance, from the normal high water line of a perennial water body. The
219 minimum setback distance for a new subsurface disposal system may not be reduced by variance. {Moved to item
220 1 below} The following also apply:

221 1. The minimum setback distance for a first-time subsurface disposal system may not be reduced by variance.
222 {MODIFIED & MOVED FROM 16.8.7.1.G above}

223 2. Clearing or removal of woody vegetation necessary to site a first-time system and any associated fill
224 extensions, must may not extend closer than one hundred (100) feet, horizontal distance, from the normal high
225 water line of a water body or the upland edge of a wetland. {MODIFIED & MOVED FROM 16.8.7.1.G.1}

226 2. Holding tanks are not allowed for a first-time residential use in the Shoreland Overlay Zone. {MOVED &
227 MODIFIED, SEE 16.8.7.3.B.2}

228
229 D. Replacement subsurface wastewater disposal systems for existing legal uses:

230 1. Where no expansion of use is proposed, must comply with 16.8.7.2 and Table 16.9 to the extent practicable
231 and otherwise are allowed per the Maine Subsurface Wastewater Disposal Rules; or

232 2. Where expansion of use is proposed, must comply with 16.8.7.2 and Table 16.9.

233 {NEW}

234

235 **16.8.7.2 — Design and Standards.**

236 A developer must submit plans for sewage disposal designed by a Maine licensed site evaluator in full compliance
237 with the requirements of the State of Maine Plumbing Code and/or Subsurface Wastewater Disposal Rules.
238 {MOVED AND MODIFIED, SEE 16.8.7.2.B}

239
240 **16.8.7.3 — Public Sewer Connection Required.**

241 Where a public sanitary sewer line is located within one thousand (1,000) feet of a proposed development at its
242 nearest point, the developer must connect with such sanitary sewer line with a main as required by the sewer
243 department, and provide written certification to the Board from the department that the proposed addition to service
244 is within the capacity of the system's collection and treatment system. {MOVED AND MODIFIED, SEE 16.8.7.1.B}

245
246 **E. 16.8.7.4 Private Subsurface Wastewater Disposal Systems; on Unimproved Lots Created after April 26,**
247 **1990.**

248
249 A. Where public sewer connection is not feasible, the developer must submit evidence of soil suitability for
250 subsurface sewage wastewater disposal systems, i.e. test pit data and other information as required by the State
251 of Maine Subsurface Wastewater Disposal Rules and this Code. In addition:

252 1. Additionally, eOn lots with a limiting factor identified as being within twenty-four (24) inches of the surface, a
253 second site with suitable soils must be shown as a reserve area for future replacement should the primary site fail.
254 Such reserve area is to be shown on the plan; not be built upon; and, must comply with all the setback requirements
255 of the Subsurface Wastewater Disposal Rules and this Code. {MODIFIED FROM 16.8.7.4.A }

256
257 2.B. In no instance may a primary or reserve disposal area be permitted on soils or on a lot which requires
258 requiring a First-Time sSystem vVariance Request from per the State of Maine Subsurface Wastewater Disposal
259 Rules.

260
261 3.C. Test pits must be of sufficient numbers (a minimum of two) and so located at representative points within
262 the each disposal area (primary and reserve sites) to assureensure that the proposed disposal area system can
263 be located on soils and slopes which that meet the criteria of the State of Maine Subsurface Wastewater Disposal
264 Rules and the State Plumbing Code. Passing test pits must have a minimum of fifteen (15) inches of existing
265 natural mineral soil above the limiting factor, except in the Shoreland and Resource Protection Overlay Zones
266 where passing test pits must have a minimum of twenty-one (21) inches of natural mineral soil above the limiting
267 factor.

268
269 F. The developer shall install advanced pre-treatment to subsurface wastewater disposal systems that are located
270 inside or within 100 feet of areas that include a sand and gravel aquifer as indicated on the Maine Department of
271 Agriculture, Conservation and Forestry (DACF) Geological Survey Maps or determined by Maine DACF staff.

272 {NEW}

273 **16.8.7.3 Holding Tanks**

274 This section includes by reference all information and requirements in Appendix A: Model Holding Tank Ordinance
275 of the State of Maine Subsurface Wastewater Rules, January 18, 2011 (SMSWR) with the following exceptions
276 and additions:

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A. Section 2 Definitions.

"Authority" means Town Council of Kittery, York County, Maine.

"Municipality" means Kittery, York County, Maine.

B. Section 4. Rules and regulations to be in conformity with applicable law. All such rules and regulations adopted by the Authority must be in conformity with the provisions herein, including Section 7 First-Time Users, State of Maine Subsurface Wastewater Rules, all other ordinances of the Town of Kittery, all applicable laws, and applicable rules and regulations of the administrative agencies of the State of Maine. In addition: {NEW}

1. Holding tanks may not be used when a seasonal dwelling unit is converted.

2. Holding tanks are not allowed for a first-time residential use. {MODIFIED & MOVED FROM 16.8.7.1.G.2}

3. Holding tanks are allowed for functionally water-dependent uses at a municipal facility located within the Commercial Fisheries/Maritime Uses Overlay Zone. {NEW}

- a) The Harbormaster is the agent per the SMSWR and is responsible for monitoring tanks and scheduling inspections, routine pumping and maintenance. {NEW}
- b) Holding tanks must be inspected for leaks or deterioration by a state-certified professional with a minimum of three (3) years of experience in pumping and inspecting septic and holding tanks. Holding tanks must be inspected each April and October and otherwise as needed. Inspections must include a written report submitted to the Code Enforcement Officer and the Kittery Port Authority {NEW}

Chapter 16.2 DEFINITIONS

16.2.2 Definitions

Subsurface sewage disposal system means a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term does not include any wastewater discharge system licensed under 38 M.R.S. §414, any surface wastewater disposal system licensed under 38 M.R.S. §413, §1A, or any public sewer. The term does not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S. §13-1.

Subsurface wastewater disposal system means any system designed to dispose of waste or wastewater on or beneath the surface of the earth. These include but are not limited to septic tanks, disposal fields, holding tanks, pretreatment filters, piping, or any other fixture, mechanism or apparatus used for such purposes. This definition does not include any discharge system licensed under 38 M.R.S. §414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

Wastewater means any domestic wastewater, or other wastewater from commercial, industrial or residential sources that has attributes similar to those of domestic wastewater. This term specifically excludes hazardous or toxic wastes and materials.

Domestic wastewater means any wastewater produced by ordinary living uses, including liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried waste from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or other source of water-carried wastes of human origin.

ENACTMENT ORDINANCE {FORTHCOMING}

Town of Kittery Ordinance Revision Memorandum

Originator(s): T. Emerson, Planning Board Chair; S. Tuveson, VC	Council Sponsor(s): J. Thomson, Chair
Council meeting date: TBD	Title: Lots
Town code section: Title 16, §16.8.16.1 through 11	History: Amendment

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE {FORTHCOMING}, AND PLANNING BOARD REVIEW NOTES

1 **PURPOSE OF PROPOSAL:**

2
3 **PURPOSE OF PROPOSAL:**

4
5 This proposal would move lot-size restrictions from 16.9.1.4 Soil Suitability, and put them in section
6 16.8.16 Lots.

7
8 Other changes would create an incentive for the use of advanced pretreatment subsurface wastewater
9 disposal (SWD) systems, improve ordinance clarity and prioritize items within this section.

10
11 **SUMMARY OF PROPOSAL/AMENDMENT:**

12
13 Section 16.8.16.3 (lines 58-65). Moves lot size provisions from 16.9.1.4 to new subsection 16.8.16.3.
14 Under this proposal, single land divisions would no longer be subject to lot-size restrictions.

15
16 (lines 62-64) Developers would be allowed to count a substantially higher percentage of wetland to
17 satisfy minimum lot-size requirements if they use advanced pretreatment SWD systems.

18
19 16.8.16.2.A (lines 48-50) Lot shape requirements have been modified slightly to improve clarity as
20 was recommended by the Maine Municipal Association's legal department.

21
22
23 **JUSTIFICATION:**

- 24
25
- 26 • This proposal would permit small land owners to make a single land division without being
27 subject to wetland-percentage restrictions. This is a substantial benefit to such landowners.
 - 28 • The proposal would create an incentive for developers to use advanced pretreatment SWD
29 systems, which will help protect the environment.
 - 30
31 • The technical change of moving the provisions on lot-size restrictions to the section titled
32 Lots will make this information easier to find, and is in compliance with Kittery Town Charter
33 2.14.

34
35 **FISCAL IMPACT:** None

37 **CODE AMENDMENT**

38 **CHAPTER 16.8 DESIGN AND PERFORMANCE STANDARDS**

39 **Article XVI. Lots**

40

41 **16.8.16.1 Dimensions.**

42 The lot size, width, depth and shape and orientation and the minimum building setback lines must be appropriate
43 for the location of the development and for the type of development and use contemplated. The lot configuration
44 should be designed to maximize access to solar energy for building sites with suitable orientation.
45

46 **16.8.16.2 Lot Shape.**

47
48 A. The ratio of lot length to width shall **must** not be more than three to one. Flag-**shaped** lots **are prohibited**, and
49 e**o**ther odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size
50 requirements are **also** prohibited. **{MOVED AND MODIFIED FROM 16.8.16.9.A}**
51

52 B. Spaghetti-Lots Prohibited. If any lots in a proposed subdivision have shore frontage on a river, stream, brook
53 or coastal wetland as these features are defined in Code 38, M.R.S. §480-B, none of the lots created within the
54 subdivision may have a lot depth to shore frontage ratio greater than five to one.
55 **{MOVED AND ONLY AMENDED SECTION NUMBER}**
56

57 **16.8.16.3 Lot Size Restrictions.**

58 Lot size determination for all developments requiring subsurface wastewater disposal is as follows:
59 Areas containing very poorly drained soils may be used to fulfill twenty-five (25) percent of the minimum lot size
60 required by this Code, provided that the remaining area is sufficient in size and configuration to safely and
61 adequately accommodate all buildings and required utilities such as water supply and wastewater disposal,
62 including primary and reserve disposal field locations, within required zoning setbacks. Where advanced pre-
63 treatment is used in conjunction with wastewater disposal, said soils may satisfy seventy-five (75) percent of the
64 minimum lot size. **{MODIFIED AND MOVED FROM 16.91.4.C SOIL SUITABILITY}**
65

66 **16.8.16.2 Off-street Parking. {MOVED AND RENUMBERED; 16.8.16.9 BELOW}**

67 Depth and width of properties reserved or laid out for all purposes must be adequate to provide for off-street
68 parking and service facilities for vehicles required by type of development and use contemplated.
69

70 **16.8.16.3 Land Subdivision. {MOVED AND RENUMBERED; 16.8.16.11 BELOW}**

71 The subdividing of land must conform to the requirements of Chapter 16.3.
72

73 **16.8.16.4 Double/Reverse Frontage Lots.**

74 Double frontage and reverse frontage lots are to be avoided except where essential to provide separation of
75 residential development from traffic arteries or to overcome specific disadvantages of topography and
76 orientation. A planting screen easement of at least ten (10) feet, across which there may be no right of access, is
77 to be provided along the lot lines abutting such a traffic artery or other disadvantageous use.
78

79 **16.8.16.5 Side-lot Lines.**

80 Side-lot lines must be substantially at right angles or radial to street lines.
81

82 **16.8.16.6 Substantially Larger Lots.**

83 Where a tract is subdivided into lots substantially larger than the minimum size required in the zone in which a
84 subdivision is located, and where no covenants exist to preclude lots from resubdivision, the Board may require
85 that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements
86 contained in these standards.
87

88 **16.8.16.7 Multiple Frontages.**

89 When lots have frontage on two or more streets, the plan and deed restrictions must indicate vehicular access to
90 be located only on the least-traveled way.
91

92 **16.8.16.8 Divided Lots.**
93 If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements
94 for lot size, it may not be combined with a lot on the other side of such barrier to meet the minimum lot size
95 unless in conformance with Article II of Chapter 16.7.
96

97 ~~16.8.16.9 Lot Shape.~~ **{MOVED, MODIFIED AND RENUMBERED; 16.8.16.2 ABOVE}**
98

99 ~~A. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd-shaped lots in
100 which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.~~
101

102 ~~B. Spaghetti-Lots Prohibited. If any lots in a proposed subdivision have shore frontage on a river, stream, brook
103 or coastal wetland as these features are defined in Code 38, M.R.S. §480-B, none of the lots created within the
104 subdivision may have a lot depth to shore frontage ratio greater than five to one.~~
105

106 **16.8.16.29 Off-street Parking.**

107 Depth and width of properties reserved or laid out for all purposes must be adequate to provide for off-street
108 parking and service facilities for vehicles required by type of development and use contemplated.

109 **{MOVED AND ONLY AMENDED SECTION NUMBER}**
110

111 **16.8.16.10 Access to Arterial Street.**

112 Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have
113 vehicular access directly onto the arterial street. This requirement must be noted on the plan and in the deed of
114 any lot with frontage on the arterial street.
115

116 **16.8.16.311 Land Subdivision.**

117 The subdividing of land must conform to the requirements of Chapter 16.3.

118 **{MOVED AND ONLY AMENDED SECTION NUMBER}**
119

Town of Kittery Ordinance Revision Memorandum

Originator(s): T. Emerson, Planning Board Chair; S. Tuveson, VC	Council Sponsor(s): J. Thomson, Chair
Council meeting date: TBD	Title: Soil Suitability
Town code section: Title 16, §16.9.1.4	History: Amendment

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE, AND PLANNING BOARD REVIEW NOTES

1 **PURPOSE OF PROPOSAL:**

2
3 The proposal would bring clarity to the law with respect to soil assessment and would codify what is
4 current practice. It would also move lot-size restrictions to section 16.8.16 Lots.
5

6 **SUMMARY OF PROPOSAL/AMENDMENT:**

7
8 Section 16.9.1.4.C (lines 51-64)

9 This section would codify current best practices as endorsed by the Maine Association of Professional
10 Soil Scientists.
11

12 Section 16.9.1.4.C (lines 84-94)

13 This section, which contains lot-size restrictions, would be deleted and moved to 16.8.16 Lots to
14 simplify locating the information and to comply with Kittery Town Charter 2.14.
15

16 Section 16.9.1.4.E (lines 74-75)

17 This section would require soil reports, class A high-intensity soil surveys and soil mapping for cluster
18 developments and other high-intensity land uses.
19

20 Section 16.9.1.4.F (lines 78-82)

21 This section would permit the Planning Board to grant a waiver from the above requirements for a low-
22 intensity, non-clustered development upon the applicant's request. The Board would be required to
23 consider the Town Peer Review Engineer's report prior to granting the waiver.
24

25 **JUSTIFICATION:**

- 26
- 27 • The current code lacks clarity in describing various soil assessment requirements. It is
28 hard to understand and implement. The amendment would correct these problems.
 - 29
 - 30 • Small building projects will not be made to meet the same high standards that are required
31 of high-intensity developments.
32
 - 33 • The amendment would permit the Board to grant regulatory relief on a case-by-case basis
34 which will save the applicant both time and money.
35
 - 36 • The proposal would amend the ordinance to use current terminology and is consistent with
37 the recommendations of the Maine Association of Professional Soil Scientists.
38

39 **FISCAL IMPACT:** None

CODE AMENDMENT

Chapter 16.9 DESIGN AND PERFORMANCE STANDARDS – NATURAL ENVIRONMENT

16.9.1.4 Soil Suitability.

A. The requirements and standards of the State of Maine Department of Environmental Protection, Department of Health and Welfare, the latest edition of the State Plumbing Code and this Code must be met.

B. All land uses must be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental effects, including, but not limited to, severe erosion, mass soil movement, improper drainage, and water pollution to surface water and groundwater, whether during or after construction. {MOVED FROM 16.9.1.4.E}

~~BC.~~ Any proposed subdivision development requires a soil survey report covering the development based on information from the Maine Natural Resources Conservation Service (NRCS). Where subsurface wastewater disposal is required and ~~Where the s~~ Soil s ~~Survey for York County or information from the Maine NRCS shows~~ soils with severe restrictions for development, a Class A ~~h~~ (High i ~~Intensity) s~~ Soils report Survey must be provided by an accredited a soils scientist, registered certified in the state of Maine, ~~using the standards of high intensity soil mapping as established by the Society of Soil Scientists of Northern New England~~ The survey must be based on the Maine Association of Professional Soil Scientists Standards for Soil Survey, Revised 3/2009 or subsequent revision, must be provided. ~~In addition to evaluating soil properties, the soil scientist shall analyze and document characteristics of surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions and any other data deemed appropriate by the soil scientist or required by the Planning Board. The soil scientist shall include recommendations for the proposed use to counteract soil limitations where any exist. A Class A Soil Survey must include a written Soil Narrative Report accompanied by a Soil Map that depicts soil delineations and symbols identified in the report. The Soil Map must be prepared at the same scale as that of the development plan with wetlands and floodplain depicted on both.~~ {MOVED AND MODIFIED FROM 16.9.1.4.E}

D. When constructing a new dwelling unit on soils identified with severe restrictions, requiring subsurface wastewater disposal and on lots not subject to subdivision review, a Class A (High Intensity) Soil Survey is not required. However, the site's soil suitability must be assessed and documented in a soil report by a Maine certified soil scientist, a Maine certified geologist or Maine licensed site evaluator. Prior to the issuance of a Building Permit, the soil report must be submitted to the Code Enforcement Officer (CEO) and soil conditions reviewed for conformance with this Code.

{MOVED AND MODIFIED FROM 16.9.1.4.E}

E. Cluster residential and cluster mixed-use, commercial or industrial development and similar intensive land uses require a Class A (High Intensity) Soil Survey by a Maine certified soil scientist. {NEW AND CURRENT PRACTICE}

F. Where **n**on-clustered development is limited in scale and intensity the developer may request the Class A (High Intensity) Soil Survey required by 16.9.1.4.E. above be waived by the Planning Board. The Board may grant said waiver only after consideration by the town's Peer Review Engineer of the developer's explanation **as to why** a Class A Soil Survey is not warranted. In the event a Class A Soil Survey is not required, the site's soil suitability must be sufficiently assessed to ensure compliance with this Code. {NEW}

C. Lot size determination is as follows:

1. ~~Areas containing hydric soil may be used to fulfill twenty-five (25) percent of the minimum lot size required by this Code, provided that the non-wetland area is sufficient in size and configuration to adequately accommodate all buildings and required utilities such as sewage disposal and water supply (including primary and reserve leach field locations within required zoning setbacks).~~

2. ~~Lots served by municipal water and sewer may use areas of poorly drained soil to fulfill up to fifty (50) percent of the minimum required lot size.~~

3. ~~No areas of surface water, wetlands, right-of-way, or easement, including utility easements or areas designated as very poorly drained soil may be used to satisfy minimum lot sizes, except as noted above.~~

{MODIFIED AND MOVED TO 16.8.16 LOTS}

~~DE.~~ If the soil report classification is challenged by the applicant, an abutter, a landowner, the CEO, or the Conservation Commission, petition must be made in writing to the Planning Board. With such petition, or a

99 challenge by the Planning Board, the Planning Board shall determine whether a certified qualified soil scientist
100 should conduct an on-site investigation and at whose expense. The soil scientist shall present evidence in written
101 form to the Planning Board, which evidence forms the basis for the Board's decision.
102

~~E.— All land uses must be located on soils in or upon which the proposed uses or structures can be established or
103 maintained without causing adverse environmental impacts, including, severe erosion, mass soil movement,
104 improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface
105 waste disposal, and commercial or industrial development and other similar intensive land uses, require a soils
106 report based on an on-site investigation and must be prepared by state-certified professionals. Certified persons
107 may include Maine certified soil scientists, Maine registered professional engineers, Maine certified geologists and
108 other persons who have training and experience in the recognition and evaluation of soil properties. The report
109 must be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum
110 ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator
111 deems appropriate. The soils report must include recommendations for a proposed use to counteract soil
112 limitations where any exist. (MODIFIED AND MOVED TO 16.9.1.4.B, C & D ABOVE)
113
114~~

115 *ENACTMENT ORDINANCE*
116 {FORTHCOMING}
117

**Town of Kittery Maine
 Town Planning Board Meeting
 July 24, 2014**

Town Code Amendment – Chapter 2, Definitions, Chapter 3, Article 2, Section 17 Shoreland Overlay Zone, Chapter 7, Article 3 Nonconformance and Chapter 8, Article 28 Single and Duplex Family Dwellings in the Shoreland Overlay Zones in Title 16 Land Use Development Code.

An Amendment includes changes to the town’s Shoreland zoning to comply with the Maine Department of Environmental Protection 2000 and 2010 conditional approvals.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Discussion	Scheduled 3/27, 4/24 & 5/22/14	HELD
YES	Schedule Public Hearing	Scheduled 4/24; ran in legal section in the Portsmouth Herald for Friday 4/11 and again for Wednesday 4/16	COMPLETE
YES	Public Hearing	Scheduled for 4/24/14	HELD
	Town Council/Planning Board Joint Workshop	Scheduled for 6/2/14	HELD
YES	Review/Recommendation to Town Council	5/22/14 to TC for Joint Workshop	PENDING

Staff Comments

Background

It became evident while working with Michael Morse with the Maine Department of Environmental Protection (MDEP) on various Shoreland Zoning provisions that the Town is not fully in compliance with the State’s *Mandatory Shoreland Zoning Act*, pertaining specifically to MDEP conditional approvals, orders #5-99 (dated 12/29/1999) and #23-10 (dated 9/2/2010), see ATT. A and B. A modification to order #5-99 (5-99-A) was issued 8/4/2000 allowing the less restrictive provisions for Badger Island, see ATT. C. The conditions of approval noted in the 1999 and 2010 orders were never fully implemented. (Attachments noted were submitted with the 5/22 packet)

Review

Staff has incorporated the following changes to address the comments from the June 26 Planning Board meeting and from conversations with Michael Morse with the Maine DEP:

- 1) Line 109: Corrected a spelling typo, ‘Overelay’ to ‘Overlay’.
- 2) Line 370: Corrected a spelling typo, ‘it’ to ‘if’.
- 3) Line 39: Added back the MDEP’s definition for *Dwelling Unit* for use in the Shoreland Overlay Zone. Kittery’s existing definition for *Dwelling Unit* is not acceptable to the MDEP due in part to the minimum size (650 SF) and the addition of two more facilities; living and eating. At this point in time it appears that having to separate definitions would be the easiest solution.
- 4) Line 107-109/113-116: Provided greater clarity to notes 2 and 3 with replacing the term ‘integrated into’ with ‘encompassed within’, and re-working the sentences to state that there is no reduction in land area per dwelling unit in the RP and SL zones.

Recommendation

With the latest changes in place, conditioned upon agreement by the Maine DEP, the Board can proceed with recommending adoption by the Town Council.

Town of Kittery Ordinance Revision Memorandum

Originator(s): T. Emerson, Planning Board Chair; S. Tuveson, VC	Council Sponsor(s): J. Thomson, Chair
Council meeting date: TBD	Title: various provisions related to Shoreland Zoning
Town code section: Title 16, §16.3.2.17, 16.7.3.5.6 through 16.7.3.6.1, 16.8.28, and 16.2	History: amended proposal

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE, AND PLANNING BOARD REVIEW NOTES

1 **PURPOSE OF PROPOSAL:**

2
3 The proposal allows for compliance with the State's Mandatory Shoreland Zoning Act.
4
5

6 **SUMMARY OF PROPOSAL/AMENDMENT:**

7
8 It became evident while working with Michael Morse with the Maine Department of Environmental
9 Protection (MDEP) on various Shoreland Zoning provisions that the Town is not fully in compliance
10 with the State's Mandatory Shoreland Zoning Act, specifically to MDEP conditional approvals, orders
11 #5-99 (dated 12/29/1999) and #23-10 (dated 9/2/2010), see ATT. A and B. A modification to order #5-
12 99 (5-99-A) was issued 8/4/2000 allowing the less restrictive provisions for Badger Island, see ATT. C.
13 The conditions of approval noted in the 1999 and 2010 orders were never fully implemented.
14
15

16
17 **JUSTIFICATION:**

18
19 The Town, per 38 M.R.S.A. SECTION 438-A(4), is obligated to adopt "zoning and land use ordinances
20 that are consistent with or are no less stringent than the minimum guidelines adopted by the
21 {Environmental Protection} Board".
22

23
24 **FISCAL IMPACT:**

25
26 None

27 **CODE AMENDMENT**

28 **Chapter 16.2 DEFINITIONS**

29 **16.2.2 Definitions.**

30 **Dwelling** means a building designed or used as the living quarters for one or more families. The term does not
31 include motel, rooming house, hotel, inn, club, trailer, or structures solely used for transient or overnight
32 occupancy.

33
34 **Dwelling unit** means a room or group of rooms forming a habitable unit for one family with facilities used or
35 intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It comprises at least six hundred
36 fifty (650) square feet of habitable floor space, except for elderly housing, an accessory dwelling unit, or a
37 temporary, intra-family dwelling unit. The term does not include a trailer.

38
39 Dwelling unit (in the Shoreland and Resource Protection Overlay Zones) means a room or group of rooms
40 designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one
41 family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and
42 rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational
43 vehicles are not dwelling units.

44
45 **Easement** means the authorization of a property owner for the use by another, and for a specified purpose, of
46 any designated part of the owner's property.

48
49 **Chapter 16.3 LAND USE ZONE REGULATIONS**

50 **Article II. Zone Definitions, Uses, Standards**

51 **16.3.2.13 Mixed Use MU.**

52
53 **D. Standards.**

54 1. All development and the use of land in the MU zone must meet the following standards. Kittery's Design
55 Handbook illustrates how these standards can be met. In addition, the design and performance standards of
56 Chapters 16.8 and 16.9 must be met.

57
58 2. Minimum Dimensional Standards.

59 The following apply:

60
61 Minimum lot size:

- 62 lots with frontage on Route 1 200,000 square feet
- 63 lots without frontage on Route 1 80,000 square feet

64
65 Minimum street frontage on road with access along
66 U.S. Route 1, Haley Road, Lewis Road, or Cutts Road 250 feet
67 other streets or approved ways 150 feet

68
69 Minimum front yard 60 feet
70 Minimum rear and side yards 30 feet
71 Maximum building height 40 feet
72 Maximum height above grade of building-mounted signs 40 feet

73
74 Minimum setback from water body and wetland water dependent uses 0 feet

75
76 Minimum setback from streams, water bodies and wetlands in accordance with
77 Table 16.9, Section 16.3.2.17
78 and Appendix A, Fee

79
80 Minimum land area per unit for eldercare facilities that are connected to the public sewerage system:
81 dwelling unit with two or more bedrooms 5,000 square feet
82 dwelling unit with less than two bedrooms 4,000 square feet
83 residential care unit 2,500 square feet

85	Minimum land area per bed for nursing care and convalescent	
86	care facilities that are connected to the public sewerage system	2,000 square feet
87		
88	Buffer to I-95 ROW	40 feet
89	Buffer to neighboring lot with an existing residence	
90	within 100 feet of the lot line	40 feet
91	Vegetated buffer to be maintained between the MU and R-RL zones	40 feet
92		

93 **NOTE 1:** For single-family dwellings, one dwelling unit is allowed for each two hundred thousand (200,000)
 94 square feet of land area. A lot of record having a land area of more than two hundred thousand (200,000) square
 95 feet that was improved with a single-family dwelling as of April 1, 2004 may be divided into two lots with a single-
 96 family dwelling on each lot provided that each of the lots contains at least forty thousand (40,000) square feet of
 97 land area and meets the other dimensional standards of the zone. Sections 16.3.2.1 D.1 and D.2 as set forth in
 98 the Residential - Rural zone apply and no further subdivision is allowed.
 99

100 **NOTE 2:** For dwelling units that are part of a mixed-use building and are connected to the public sewerage-
 101 system, one dwelling unit is allowed for each twenty thousand (20,000) square feet of buildable land area. If the
 102 parking for the residential units is integrated into the building, the minimum required buildable land area per
 103 dwelling unit is reduced to fifteen thousand (15,000) square feet. For dwelling units that are part of a mixed-use
 104 building and are connected to the public sewerage system, one dwelling unit is allowed for each twenty
 105 thousand (20,000) square feet of buildable land area. Within the Resource Protection and Shoreland Overlay
 106 zones, one dwelling unit is allowed for each forty thousand (40,000) square feet of land area within these zones.
 107 If the parking for the residential units is encompassed within the building, the minimum required buildable land
 108 area per dwelling unit is reduced to fifteen thousand (15,000) square feet, except in the Resource Protection and
 109 Shoreland Overlay zones where the area per dwelling unit remains forty thousand (40,000) square feet.

110 **NOTE 3:** For elderly housing dwelling units that are connected to the public sewerage system, one dwelling unit
 111 is allowed for each fifteen thousand (15,000) square feet of buildable land area. Within the Resource Protection
 112 and Shoreland Overlay zones, one dwelling unit is allowed for each forty thousand (40,000) square feet of land
 113 within these zones. If the parking for the elderly units is integrated into encompassed within the building, the
 114 minimum required buildable land area per dwelling unit is reduced to ten thousand (10,000) square feet, except
 115 in the Resource Protection and Shoreland Overlay zones where the area per dwelling unit remains forty
 116 thousand (40,000) square feet.

117
 118 3. Retail Use Limitation.
 119 Retail use, including parking areas and other supporting unvegetated areas for retail use, is limited to not more
 120 than fifteen percent (15%) of the developable area of any lot or portion of a lot within the mixed use zone.
 121

122 **16.3.2.17 Shoreland Overlay Zone OZ-SL.**

123
 124 **D. Standards.**

125
 126 1. Minimum lot standards

127		
128	a. Minimum lot size by base zone, within the	
129	Residential–Village (R-V) zone	8,000 square feet
130	Residential–Urban (R-U) zone	20,000 square feet
131	Residential–Rural (R-RL), Residential–Suburban (R-S) <u>and</u>	
132	Residential–Kittery Point Village (R-KPV) zones	40,000 square feet
133	Commercial (C1), (C2), (C3), Industrial (IND), Business-Local (B-L)	
134	and Business-Local 1 (B-L1) zones	60,000 square feet
135	Residential-Rural Conservation (R-RLC) zone	80,000 square feet
136	Business-Park (B-PK) zone	120,000 square feet
137	<u>Mixed-Use Badgers Island (MU-BI) zone</u>	<u>6,000 square feet</u>
138	<u>Mixed-Use Kittery Foreside (MU-KF) zone</u>	<u>10,000 square feet</u>
139		

140	b. Minimum land area per dwelling unit by base zone, within the	
141	Residential–Village (R-V) zone	8,000 square feet

142	Business-Park (B-PK) zone	10,000 square feet
143	Residential-Urban (R-U), Business-Local (B-L) and	
144	Business-Local 1 (B-L1) zones	20,000 square feet
145	Mixed Use (M-U), Residential-Rural (R-RL),	
146	Residential-Suburban (R-S) <u>and</u>	
147	Residential-Kittery Point Village (R-KPV) zones	40,000 square feet.
148	Residential-Rural Conservation (R-RLC) zone	80,000 square feet.
149	<u>Mixed-Use Badgers Island (MU-BI) zone</u>	<u>6,000 square feet*</u>
150	<u>* 3,000 square feet for the first two dwelling units</u>	
151	<u>Mixed-Use Kittery Foreside (MU-KF) zone</u>	<u>10,000 square feet</u>

152
153
154 c. Minimum Shore frontage by base zone per lot and dwelling unit

155	<u>Mixed Use-Badgers Island (MU-BI)</u>	<u>25 feet</u>
156	Residential-Village (R-V) and Residential Urban (R-U) zones	
157	<u>Mixed-Use Kittery Foreside (MU-KF) zones</u>	<u>50 feet</u>
158	Mixed Use (M-U), Commercial (C1), (C2), (C3), Industrial (IND),	
159	Business-Park (B-PK), Business-Local (B-L) and	
160	Business-Local 1 (B-L1) zones (shore frontage per lot)	150 feet
161	(shore frontage per dwelling unit)	50 feet
162	Residential-Rural (R-RL), Residential-Suburban (R-S),	
163	and Residential-Kittery Point Village (R-KPV)	
164	zones (shore frontage per lot)	150 feet
165	(shore frontage per dwelling unit)	100 feet
166	Residential-Rural Conservation (R-RLC) zone (per lot and dwelling unit)	250 feet

167 The minimum shore frontage requirement for public and private recreational facilities is the same as that for
168 residential development in the respective zone.

169
170 d. The total footprint of areas devegetated for structures, parking lots and other impervious surfaces, must not
171 exceed twenty (20) percent of the lot area, including existing development, except in the following zones:

- 172
173 i. Mixed Use -Badgers Island (MU-BI) and Mixed Use Kittery Foreside (MU-KF) Zones, where the
174 maximum lot coverage is sixty (60) percent. The Board of Appeals may approve a miscellaneous appeal
175 application to increase allowable lot coverage in the Mixed Use -Badgers Island (MU-BI) zone to seventy
176 (70) percent where it is clearly demonstrated that no practicable alternative exists to accommodate a water-
177 dependent use.
- 178
179 ii. Commercial (C1, C-2, C-3), Business – Local (B-L and B-L1), and Industrial (IND) Zones where the
180 maximum lot coverage is seventy (70) percent.
- 181
182 iii. Notwithstanding the above limits, vegetated surfaces must exceed fifty (50) percent of the lot area when
183 the lot, being no greater in size than ten thousand (10,000) square feet, is situated in both the Residential -
184 Urban Zone (R-U) and the Shoreland Overlay Zone.

185
186 iv. In the shoreland zone within the Mixed Use (M-U) zone, the maximum lot coverage is 20%.

187
188
189 2. Principal and Accessory Structures – Setbacks and Development.

190
191 a. All new principal and accessory structures (except certain patios and decks per Section 16.3.2.17.D.2.b,
192 must be set back as follows:

- 193
194 i. At least one hundred (100) feet, horizontal distance, from the normal high water line of any water bodies,
195 tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland, and
196 seventy-five (75) feet, horizontal distance, from the normal high-water line of any water bodies, or the upland
197 edge of a wetland on the Mixed Use - Badgers Island and the Kittery Foreside Zones, unless modified
198 according to the terms of Sections 16.3.2.14.D & E and 16.3.2.15.D & E,, except that in the Commercial
199 Fisheries/Maritime Uses Overlay Zone there is no minimum setback requirement. In the Resource Protection
200 Overlay Zone the setback requirement is 250 feet, horizontal distance, except for structures, roads, parking

spaces or other regulated objects specifically allowed in the zone, in which case the setback requirements specified above apply.

ii. The water body, tributary stream, or wetland setback provision does not apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers and retaining walls, nor does it apply to other functionally water-dependent uses.

b. Accessory patios or decks no larger than five hundred (500) square feet in area must be set back at least seventy-five (75) feet from the normal high water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland. Other patios and decks must satisfy the normal setback required for principal structures in the Shoreland Overlay Zone.

c. If there is a bluff, setback measurements for principal structures, water and wetland must be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and Code Enforcement Officer are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant is responsible for the employment a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, or a Maine State Geologist qualified to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

d. Public access to the waterfront must be discouraged through the use of visually compatible fencing and/or landscape barriers where parking lots, driveways or pedestrian routes abut the protective buffer. The planting or retention of thorny shrubs, such as wild rose or raspberry plants, or dense shrubbery along the perimeter of the protective buffer is encouraged as a landscape barrier. If hedges are used as an element of a landscape barrier, they must form a solid continuous visual screen of at least three feet in height immediately upon planting.

e. On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure must not exceed eighty (80) square feet in area nor eight (8) feet in height, and must be located as far from the shoreline or tributary stream as practical and meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case will the structure be allowed to be situated closer to the shoreline or tributary stream than the existing principal structure.

f. The lowest floor elevation or openings of all buildings and structures, including basements, must be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils.

g. The total footprint of areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones:

i. Badgers Island and Kittery Foreside Zones, where the maximum lot coverage is sixty (60) percent. The Board of Appeals may approve a miscellaneous appeal application to increase allowable lot coverage in the Badgers Island district to seventy (70) percent where it is clearly demonstrated that no practicable alternative exists to accommodate a water-dependent use.

ii. Commercial (C-1, C-2, C3), Mixed Use (MU), Business – Local (B-L and B-L1), and Industrial (IND) Zones where the maximum lot coverage is seventy (70) percent.

Notwithstanding the above limits, non-vegetated surfaces must not exceed fifty (50) percent of the lot area when the lot, being no greater in size than ten thousand (10,000) square feet, is situated in both the Residential - Urban Zone (R-U) and the Shoreland Overlay Zone

h. Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided the:

i. structure is limited to a maximum of four feet in width;

- 260 ii. structure does not extend below or over the normal high-water line of a water body or upland edge of a
261 wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources
262 Protection Act, 38 M.R.S. §480-C); and
263
264 iii. applicant demonstrates that no reasonable access alternative exists on the property.
265

266 i. If more than one dwelling unit, principal governmental, institutional, commercial or industrial structure or use,
267 or combination thereof, is constructed or established on a single parcel in the shoreland zone, all dimensional
268 requirements shall be met for each additional dwelling unit, principal structure, or use.
269

270
271 **Article III. Nonconformance** (Ordained 9-26-11; Effective 10-27-11)
272

273 **16.7.3.5.4 Nonconforming Structure Relocation.**
274

275 C. When it is necessary to remove vegetation within the water or wetland setback area to relocate a structure,
276 ~~the Board of Appeals or Planning Board (in cases where the structure is located in a Shoreland Overlay or~~
277 ~~Resources Protection Overlay Zone.), may require~~ replanting of native vegetation to compensate for the
278 ~~destroyed vegetation is required,~~ and ~~The Board of Appeals or Planning Board (in cases where the~~
279 ~~structure is located in a Shoreland Overlay or Resources Protection Overlay Zone.) may restrict mowing~~
280 ~~around and pruning of the replanted native vegetation to encourage a more natural state of growth.~~
281 **Replanting will be is** required as follows:
282

283 **16.7.3.5.6 Nonconforming Structure Reconstruction.**
284

285 A. Any nonconforming structure which is located less than the required setback from a water body, tributary
286 stream, or wetland and which is removed, damaged or destroyed, ~~by any~~ **regardless of the** cause, by more than
287 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or
288 replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction,
289 or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary
290 stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board (in
291 cases where the structure is located in a Shoreland Overlay of Resources Protection Overlay Zone) or Code
292 Enforcement Officer, in accordance with this Code.
293

294 B. In no case will a structure be reconstructed or replaced so as to increase its non-conformity. If the
295 reconstructed or replacement structure is less than the required setback it may not be any larger than the
296 original structure, except as allowed pursuant to Section 16.7.3.5.5, Nonconforming Structures Repair and/or
297 Expansion **and 16.7.3.6.1 Nonconforming Structure Expansion**, as determined by the nonconforming floor area
298 and volume of the reconstructed or replaced structure at its new location.
299

300 C. If the total amount of floor area and volume of the original structure can be **relocated or** reconstructed beyond
301 the required setback area, no portion of the **relocated or** reconstructed structure may be **replaced or constructed**
302 ~~reconstructed~~ at less than the setback requirement for a new structure. When it is necessary to remove
303 vegetation to **replace or** reconstruct a structure, vegetation will **shall must** be replanted in accordance with
304 Section 16.7.3.5.4.C, Nonconforming Structure Relocation. Application for a demolition permit for any structure
305 that has been partially damaged must be made to the Code Enforcement Officer.
306

307 D. Any nonconforming structure which is located less than the required setback from a water body, tributary
308 stream, or wetland and removed, damaged or destroyed by any cause ~~through no fault of action by the owner by~~
309 50% or less of the market value of the structure before such damage, destruction or removal, may be
310 reconstructed in-place if a permit is obtained from the Code Enforcement Officer or the Planning Board (in cases
311 where the structure was located in the Shoreland Overlay or Resources Protection Overlay Zone) within twelve
312 (12) months of the established date of damage, ~~or~~ destruction, **or removal**.
313

314 E. In determining whether the structure reconstruction or replacement meets the setback to the greatest practical
315 extent the Planning Board or Code Enforcement Officer must consider, in addition to the criteria in Section
316 16.7.3.5.4, Nonconforming Structure Relocation, the physical condition and type of foundation present, if any.

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16.7.3.5.7 Nonconforming Use Expansion.

Expansion of a nonconforming use of any structure or land area other than that occupied as such when created is not permitted with the following exceptions:

A. uses in conformity with Chapter 16.7; and

B. nonconforming residential uses located within the Resource Protection Overlay, or Shoreland Overlay Zone with Planning Board approval, may expand by thirty (30) percent or less of the structure, in floor area or volume, during the lifetime of the structure if the applicant can prove the proposal is consistent with the review standards in Section 16.3.2.17.D.2.

16.7.3.5.8 Nonconforming Use Change – Review Authority and Evaluations.

The reviewing authority per subsections A B. and C below, may require evaluations be prepared by a person certified and/or qualified to perform the required evaluation. It is the burden and responsibility of the applicant to bear the costs for such evaluations. In the event there are existing official maps, data and/or reports for general use, the applicant is encouraged to submit copies of these documents to the reviewing authority. In determining that no greater adverse impact will occur, the applicant may be required to submit an evaluation in writing regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

A. Administratively. The Town Planner and the Code Enforcement Officer may approve the change of use of a nonconforming structure where it can be deemed the proposed use is a conforming use and the proposed use does not impact a water body, tributary stream, or wetland. See Section 16.4.3.5.

B. By Board of Appeals. Outside the areas regulated by Shoreland Overlay Zone or Resource Protection Overlay Zone, an existing nonconforming use may be changed to another nonconforming use with approval of the Board of Appeals provided the proposed use is not more nonconforming.

C. By Planning Board. Within areas regulated by Shoreland Overlay Zone or Resource Protection Overlay Zone, an existing nonconforming use may be changed to another nonconforming use with the approval of the Planning Board per Section ~~16.7.3.5.2~~ **16.7.3.6.2**.

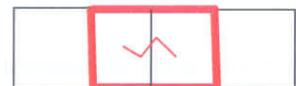
16.7.3.5.9 Nonconforming Lots of Record. (Ordained 1-23-12; Effective 2-23-12)

A. Nonconforming Lots: In any district, notwithstanding limitations imposed by other sections of this Code, single noncontiguous lots legally created when recorded may be built upon consistent with the uses in the particular zone. These provisions apply even though such lots fail to meet the minimum requirements for area or width, or both, which are applicable in the zone, provided that yard dimensions and other requirements, not involving area or width, or both, of the lot conform to the regulation for the zone in which such lot is located. Relaxation of yard and other requirements not involving area or width may be obtained only through miscellaneous variation request to the Board of Appeals.

16.7.3.5.10 Contiguous Non-Conforming Lots. (Ordained 1-23-12; Effective 2-23-12)

A. Contiguous Nonconforming Lots. If two or more contiguous nonconforming lots or portions thereof are in single or joint ownership of record, and if all or part of the lots do not meet the dimensional requirements of this Code, and if one or more of the lots are vacant or contain no principal structure, the lots shall **must** be combined to the extent necessary to meet the dimensional requirements. ~~COMMON~~

A.



369 ownership and if a combination of such lots or a portion thereof
370 constitutes a lot of nearer conforming size, such combination is
371 deemed to constitute a single lot.

372
373 B. Contiguous Built Upon Nonconforming Lots. If two or more
374 contiguous lots or parcels are in a single or joint ownership of record
375 at the time of adoption of this Code, if all or part of the lots do not
376 meet the dimensional requirements of this Code, and if a principal use
377 or structure exists on each lot, the non-conforming lots may be
378 conveyed separately or together, provided that the State Minimum Lot
379 Size Law (12 MRSA §4807-A through 4807-D) and the State of Maine
380 Subsurface Wastewater Disposal Rules are complied with.

381 If there exists a legally created principal structure on each of the
382 contiguous nonconforming lots or portions thereof that would
383 otherwise require the lots to be combined as provided herein, the
384 contiguous lots need not be combined to create a single lot as
385 required by Section A above.

386
387 C. Contiguous Partially Built Upon Lot. If two or more contiguous
388 lots or parcels are in a single or joint ownership of record at the time of
389 or since adoption or amendment of this Code, if any of these lots do
390 not individually meet the dimensional requirements of this Code or
391 subsequent amendments, and if one or more of the lots are vacant or
392 contain no principal structure, the lots shall be combined to the extent
393 necessary to meet the dimensional requirements. If one or more of
394 the contiguous nonconforming lots is vacant or contains no principal
395 structure, the lots must be combined to the extent necessary to meet
396 the purposes of this Code as required by Section A above.

397 This subsection does not apply:

- 398
399 1. to any Planning Board approved subdivision which was recorded in the York County Registry of Deeds on,
400 or before July 13, 1977;
- 401 2. if one or more of the contiguous lots is served by a public sewer, or can accommodate a subsurface
402 sewage disposal system in conformance with this Code Section 16.8.7.1 – Septic Waste Disposal, and the State
403 of Maine Subsurface Wastewater Disposal Rules; and
- 404 i. if each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
405 ii. if any lot(s) that do not meet the frontage and lot size requirements of Section 16.3.2.17.D.1 are
406 reconfigured or combined so each new lot contains at least 100 feet of shore frontage and 20,000 square feet of
407 lot area.

408
409 **D.C.** Single Lot Division.

410 If two principal structures existing on a single lot legally created when recorded, each may be sold on a separate lot
411 provided the Board of Appeals determines that each resulting lot is as conforming as practicable to the dimensional
412 requirements of this Code. If three or more principal structures existing on a single lot legally created when
413 recorded, each may be sold on a separate lot provided the Planning Board determines that each resulting lot is as
414 conforming as practicable to the dimensional requirements of this Code.

415 (Ordained 1-23-12; Effective 2-23-12)

416
417 **16.7.3.5.11 Nonconforming Parking or Loading Space.** (Ordained 9-26-11; Effective 10-27-11)

418 A structure and/or use which is nonconforming as to the requirements for off-street loading and/or parking
419 spaces may not be enlarged or added to unless off-street space is provided sufficient to satisfy the requirements
420 of this Code for both the original and addition or enlargement of the structure or use.

421
422 **16.7.3.5.12 Nonconforming Steps.** (Ordained 9-26-11; Effective 10-27-11)

423 The addition of steps and landings, exterior to the structure does not constitute expansion. Such steps are not to
424 be considered part of the structure for such determination. Step landings may not exceed three feet by three feet



425 (3'x3') in size.

426
427
428 **16.7.3.6 Nonconforming Structures in Shoreland and Resource Protection Overlay Zones.**
429 (Ordained 9-26-11; Effective 10-27-11)

430
431 **16.7.3.6.1 Nonconforming Structure Expansion.**

432 A nonconforming structure may be added to, or expanded, after obtaining Planning Board approval and a permit
433 from the Code Enforcement Officer. Such addition or expansion must not increase the non-conformity of the
434 structure and must be in accordance with the subparagraphs below.

435
436 A. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-
437 water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure will
438 not be permitted to expand, as measured in floor area or volume, by thirty percent (30%) or more during the
439 lifetime of the structure.

440
441 B. If a replacement structure conforms to the requirements of Section 16.7.3.6.1.A **16.7.3.5.4 and Section**
442 **16.7.3.5.6** and is less than the required setback from a water body, tributary stream or wetland, the replacement
443 structure will not be permitted to expand if the original structure existing on January 1, 1989, has been expanded
444 by 30% in floor area and volume since that date.

445
446 C. Whenever a new, expanded or replacement foundation is constructed under a nonconforming structure, the
447 structure and new foundation must be placed such that the setback requirement is met to the greatest practical
448 extent as determined by the Planning Board, basing its decision on the criteria specified in Section 16.7.3.5.4 B,
449 Nonconforming Structure Relocation. If the completed foundation does not extend beyond the exterior
450 dimensions of the structure, except for expansion in conformity with Section 16.7.3.6.1.A, and the foundation
451 does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill
452 side of the structure (from original ground level to the bottom of the first floor sill), it will not be considered to be
453 an expansion of the structure.

454
455 **16.7.3.6.2 Nonconforming Use Change.**

456 An existing nonconforming use may be changed to another nonconforming use with the approval of the Planning
457 Board provided the proposed use has no greater adverse impact on any water body or wetland, or on the
458 subject and adjacent properties and resources, including water dependent uses in the Commercial
459 Fisheries/Maritime Uses Overlay Zone than the former use, as determined by the Planning Board. Within the
460 area regulated by Shoreland Overlay Zone or Resource Protection Overlay Zone, for the determination of no
461 greater adverse impact, the Planning Board may require written documentation from the applicant, regarding the
462 probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat,
463 vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management,
464 archaeological and historic resources, and commercial fishing and maritime activities, and other functionally
465 water-dependent uses.

467
468
469 **Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT**
470 **Article XXVIII. Single and Duplex Family Dwellings**

471
472 **16.8.28.1 Single and Duplex Family Dwellings in Resource Protection and Shoreland Overlay Zones.**

473
474 In addition to the criteria specified in Section 16.6.6 and 176.10.8.3.4, applicable to the granting of a special
475 exception use request, the Planning Board may approve an application for a single or duplex family dwelling
476 special exception use request, where applicable, provided the applicant demonstrates all of the following
477 conditions are met:
478

- 479 A. There is no location on the property, other than a location within the Shoreland Overlay or Resource
480 Protection Overlay Zones, where a single family dwelling ~~the structure can be built,~~ or similarly for a duplex in
481 the Shoreland Overlay zone.
482
483 B. The lot on which the structure is proposed is undeveloped and was established and recorded in the York
484 County Registry of Deeds before inclusion in the Shoreland or Resource Protection Overlay Zones.

ENACTMENT ORDINANCE

485 Title 16.3.2.17 Shoreland Overlay Zone and ancillary ordinance provisions in
486 Chapters 16.2.2, 16.3.2, 16.7.3, and 16.8.28

487
488 **AN ORDINANCE** relating to amending portions of the Town’s Shoreland Zoning provisions in
489 Title 16, Land Use and Development Code pursuant to Maine Mandatory Shoreland Zoning
490 Act.

491
492 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in
493 Section 2.07 (3) of the Town Charter and 30-A M.R.S. §3001, pursuant to its powers that
494 authorize the town, under certain circumstances, to provide for the public health, safety and
495 welfare. The Council does not intend for this Ordinance to conflict with any existing state or
496 federal laws.

497
498 **WHEREAS**, the amendment allows for compliance with the State’s Mandatory Shoreland
499 Zoning Act, pursuant to Maine Department of Environmental Protection conditional approvals,
500 orders #5-99 (12/29/1999), #23-10 (9/2/2010), and #5-99-A (8/4/2000); and

501
502 **WHEREAS**, the Town Council finds these ordinance provisions pursuant to and consistent
503 with the Kittery Comprehensive Plan, striking a reasonable balance among the Town’s various
504 zoning goals;

505
506 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A, M.R.S. §3001, AND TOWN
507 CHARTER SECTION 2.14, THE TOWN OF KITTERY HEREBY ORDAINS REVISION TO
508 TOWN CODE TITLE 16.3.2.17 SHORELAND OVERLAY ZONE AND ANCILLARY
509 ORDINANCE PROVISIONS IN CHAPTERS 16.2.2, 16.3.2, 16.7.3, and 16.8.28 CODIFIED IN
510 THE TOWN CODE, AS PRESENTED.

511
512 **INTRODUCED** and read in a public session of the Town Council on the __ day of _____,
513 2014, by: _____ {NAME} Motion to approve by
514 Councilor _____ {NAME}, as seconded by Councilor _____
515 {NAME} and passed by a vote of _____-.

516
517 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,
518 Maine on the __ day of _____, 2014, _____ {NAME}, Chairperson

519
520 **Attest:** Maryann Place, Town Clerk

**Town of Kittery
Town Planning Board Meeting
July 24, 2014**

Quality Improvement Plan for Kittery Shore and Harbors

Town advisory committee is transmitting draft plan for Town Planning Board review, hearings and recommendation to Town Council for adoption. The QIP Plan is a specific plan that includes goals/policies and implementation strategies for improving/protecting the Town's shores and harbors. Town Planner, Gerald R. Mylroie, ACIP will make a presentation.

PROJECT TRACKING

REQ'D	DESCRIPTION	COMMENTS	STATUS
Yes	Public Forums		June 5, 2013 November 7, 2013
	Draft Document	Provided at the April 24, 2014 meeting	4/14/14
	Public Hearing	Scheduled for May 22, 2014	HELD
	Recommendation to Town Council	Continued to 7/24/14 MTG	PENDING

Following numerous meetings of the Shore & Harbor Committee, the 2013 Shore and Harbor Plan is presented in draft format (4/14/14) for your review and consideration.

Attached are comments from board members Grinnell and Kalmar and Conservation Commission Chair Wells.

Discuss draft report and make recommendation to the Town Council for adoption.

**PLEASE BRING DRAFT REPORT PROVIDED AT THE
4/24 MEETING**

A Attachment
Steering Committee to Regroup - need representation

March 13 started

Town of Kittery, Maine

Departments of Town Planning and Development and Public Works
200 Rogers Road, Kittery, ME 03904
(207) 439-0333 Fax: (207) 439-6118

PB
Dec 12th

Shore and Harbor Planning Program Summary
(A Comprehensive Plan Update and Implementation Program)

Statewide Program Goals:

Ensure sustainable and vibrant coastal communities: help coastal communities support marine and coast-related economic growth, coastal resource conservation and maintenance of community character.

Promote sound waterfront planning, harbor management and balanced development of shore and harbor areas:

- Sound waterfront planning and harbor management.
- Balanced development of shore and harbor areas.
- Advanced planning for waterfront infrastructure improvements and access to the shore.

Kittery Program Purpose:

Town wishes to support sustainable marine and coast-related economic growth, coastal resource conservation and maintenance of community character.

Town is faced with significant operational and maintenance burdens and wishes to update the Comprehensive Plan and prepare a specific Shore and Harbor Plan to guide managing operational expenditures and capital maintenance needs.

- Kittery Program Partners:
- Kittery Town Planning Board ~~X~~
 - Kittery Comprehensive Plan Update Committee ~~X~~
 - Kittery Parks Commission
 - Kittery Port Authority
 - Kittery Conservation Commission ~~X~~
 - Kittery Economic Development Committee ~~X~~

No representation

- BOB - PA
- Garry - Planning
- Rick - Parks
- David K. - lobstermen

who is on steering committee?

Kittery Program Schedule:

March 2013	Execute consultant contract
April 2013	Refine work plan and schedule
	Assimilate mapping plans, reports, and other data
May 2013	1st Public meeting
June/July 2013	Supplemental stakeholders outreach
September 2013	Issue Draft plan
October 2013	2nd Public meeting
November 2013	Issue Final plan

6-6-2013

based on...
time available

Chris DiMatteo

From: Karen Kalmar <those7@comcast.net>
Sent: Monday, July 14, 2014 6:20 PM
To: Ann Grinnell
Cc: Nancy Colbert Puff; Tom Emerson; Gmylroie; Chris DiMatteo; Susan Tuvesen; Deb Driscoll; Bob Melanson; Alesse, Mark
Subject: Re: Comments on Shore and Harbor document

Hi folks --

I've just finished re-reading the Shore and Harbor plan and Ann's comments. First, very impressive use of technology Ann :) and second, many good points made.

Overall, I think the plan provides a good overview of our abundant marine and coastal resources. And our challenges. It also aligns with the current Comp. Plan. My main concern is that, due to the format, the plan appears to emphasize goals that don't match the priorities that were determined at the Nov. 7 meeting. The Nov. priorities are listed in the implementation section at the end of the plan. However, given that the rest of the document is focused on the policy-related goals (#1, enhance access) and area-specific goals (most include enhancing access), the townspeople's priorities are undercut to some extent. I hope those priorities will be emphasized as we work toward implementation.

I thank all those who worked on this project. Volunteers are hard to come by and I appreciate the time and effort this must have taken. But I wonder if in future, we might use some novel strategies to get townspeople's input to a smaller committee nearer the beginning of a process? Town website questionnaires, social media? Not my forté, but having many voices heard before plans are well along could allay concerns that too few are involved in decision-making. And maybe even shape the product a bit. Just a thought.

Again, many many thanks to those who did the heavy lifting. Good job. -- Karen

On Jul 9, 2014, at 10:49 AM, Grinnell Ann <anngrinnell2@comcast.net> wrote:

> <Shore and Harbor comments.pdf>



Town of Kittery, Maine

Conservation Commission

P.O. Box 808, Kittery, Maine 03904

DATE: July 11, 2014

TO: Tom Emerson, Chairman
Kittery Planning Board

FROM: Earldean Wells, Chairman

RE: Quality Improvement Plan for Kittery's Shore and Harbor

The Kittery Conservation Commission wishes to express our concerns regarding the proposed changes to the Kittery Land Use Ordinance to allow holding tanks in the Shoreland Zone for municipal facilities located within the Commercial Fisheries/Maritime Uses Overlay Zone at the Frisbee Town Dock in Kittery Point to provide pump out capabilities for commercial and pleasure boats.

Presently the Land Use Ordinance 16.8.7.1.G.2 states: "Holding tanks are not allowed for a first-time residential use in the Shoreland Overlay Zone." The Ordinance is silent on the new installation of holding tanks in commercial, maritime or any other zones within the Shoreland Overlay - according to Kittery Ordinance, if the Ordinance is silent on an issue that issue is prohibited. Therefore, presently no new holding tanks are allowed in the Shoreland Overlay Zone. Changing 16.8.7.1.G.2 to allow a new holding tank(s) in the Shoreland Zone for municipal use and operation not only dismisses the consideration of previous Kittery boards and residents, who felt strongly that while there were holding tanks grandfathered in the Shoreland Zone, it was not a practice that Kittery should be continuing; but could also open the door for law suits to allow holding tanks for commercial and residential use.

Some time before 1997, the Conservation Commission received a grant to do water quality testing in the waters around Kittery. Since that date the testing done by volunteers, Spruce Creek Association members and the Shellfish Commission, along with the six year effort of the 319 Grant, has located toilets straight piped into our waters, septic systems failures, a dam that prevented full flushing in an area of the head waters of Spruce Creek and other situations that were causing problems and polluting our waters. These situations have been rectified, shellfish beds have been opened and the eel grass has returned to our shoreline.

A large holding tank failure in the Shoreland Zone could undo years of volunteer and 319 Grant efforts to ensure clean water and shorelines, as well as, burden Kittery residents with a potentially very costly cleanup. While working on the requested rewrite of 16.8.7.1.G.2 that would allow another holding tank at the Frisbee Town Dock (where two tanks already exist and are grandfathered), it became clear that there was no way to positively ensure that a holding tank would be safe. No matter how it is worded someone has to take the responsibility to ensure that the tank is emptied in a timely manner - a responsible person has to be on site to heed the alarm that indicates that the tank has reached its 80% fill level and contact a company to immediately empty the tank; a responsible person has to ensure that the inspections of the holding tank and systems in April and October (the beginning and end of boating season) are done promptly and by a certified person with at least 3 years of experience; a responsible person has to be on hand to monitor the tank and systems for failures in between the



Town of Kittery, Maine

Conservation Commission

P.O. Box 808, Kittery, Maine 03904

regularly scheduled inspections throughout the year and, if need be, arrange for the immediate help of qualified persons to repair the system and attend to any cleanup that may be needed; a responsible person must make sure that the inspections are done not only on schedule but whenever necessary throughout the year and that the paper work accompanying the inspections is received by the town and distributed to the proper entities in the town. There are many 'ifs' and room for many problems written into this proposed ordinance – everything hinges on a person being not only responsible but also physically being on site should a problem with the tank and system arise. The argument that there are already two existing, grandfathered holding tanks in the Frisbee dock area so that a third larger tank would not be anymore dangerous to the environment than already exists is as irresponsible and reckless as it is just plain illogical. Add to this, the information received at the June 26, 2014 Planning Board meeting, that it is the intention to write another grant to add a holding tank to the dock area in the Foreside – the request for this ordinance rewrite is not to allow just one new huge holding tank in Kittery's Shoreland Zone but two new huge holding tanks without investigating if there are viable alternatives.

I am not only the KCC Chairman, I have (along with my husband) also been a boater for over 40 years. We have sailed throughout New England and the Chesapeake and from Maine to Florida. We have chartered boats throughout the Caribbean, the Windward and Leeward Islands. Many places have barges/boats that come out to the boats sitting on anchors or moorings, which leave docks open for other boating needs. An accidental spill from a barge/boat would be much less volume of waste, it would be discovered sooner, could be contained more easily and cleaned up more quickly. Presently Portsmouth has a private business person running a boat called 'Royal Flush', he is contacted on Channel 9 and motors out to each boat and pumps out the tanks for \$10.00 a service call. I have left phone messages to learn more about this business, but have not had my called returned, as yet.

The Superintendent of Kittery Waste Water Treatment, George Kathios, is certain that it is feasible to have a sewer connection on the Foreside Town Dock available for the barge to empty into. Presently a sewer line crosses in front of the Foreside Dock, a force main with a special pump could be connected to the gravity line. This one sewer connection would service both town dock areas, via a boat/barge, eliminating the need, expense and possible environmental damage by two huge tanks in Kittery's Shoreland Zone. Grant funds could be used for the engineering designs, the construction of the sewer connection and any necessary equipment, as well as, the boat/barge. Kittery has an excellent Waste Water Treatment System that is properly maintained. It is just good common sense to have human waste pumped directly into Kittery's sewer system for immediate treatment rather than held in a tank until there is sufficient volume to make a pump out cost effective.

Ann Grinnell Today, 8:36 AM Replaced: xxxx
Ann Grinnell Today, 12:04 PM Added Text
Ann Grinnell Monday, 12:04 PM Added Text
Ann Grinnell Monday, 12:06 PM Formatted: Restart List, First Topic 4, Text Indents
Ann Grinnell Monday, 12:17 PM Added Text
Ann Grinnell Today, 12:06 PM Formatted: First Topic 4, Text Indents
Ann Grinnell Today, 12:12 PM Formatted: Restart List, First Topic 6, Text Indents
Ann Grinnell Today, 12:13 PM Formatted: Continue from Previous, First Topic 6
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DRAFT 04-14-14
 xxxCOMMENTS by Ann Grinnell

- General comments:
1. Pages should be numbered
 2. "Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:" this sentence is repeatedly used in this document and is NOT backed up by any factual information in the Appendix.
 4. No mention of Rogers Park in the document.
 5. Is this a stand along document or an attachment to the new comp plan?

6. I attended the Workshop on the fall-see Attachment A. I asked Jonathan Edgerton who was representing the Kittery Program Partners: The following people said they represented the Partners:
 Kittery Planning Board-Gerry
 Kittery CPUC: non one
 Kittery Parks Committee: Rich
 Kittery Port Authority- bob Melanson
 Kittery Conservation Committee-no one
 Kittery EDC-no one
 Lobstermen-David K.
 Therefore, I do not see a representative group to build this document.

2014 Quality Improvement Plan for Kittery's Shore and Harbors

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Kittery Foreside (including Government Street Pier and [Adjacent Areas](#)) must be more specific
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Rice Avenue Neighborhood
Eagle Point
Fort McClary
Fort Foster
Seapoint Beach
Crescent Beach
Rachel Carson Refuge
Braveboat Harbor
Isle of Shoals
Wood Island
Spinney Creek
Spruce Creek
P. Chauncey Creek

Ann Grinnell
Monday, 8:38 AM
Replaced: Adjacent Areas)

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Introduction
Desired Policy Updates
[Public Access notes later in document](#)
Navigational Considerations
Clean Beaches
Clam Flats and Aquaculture
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Coordination between the Municipal Government, Navy Yard and Kittery Port Authority
Mitigation of Shoreline Erosion
Mitigation of Water Pollution
Planning for Long Term Sea Level Rise/Climate Change

Ann Grinnell
Today, 8:39 AM
Replaced: Public Access

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General

Implementation Program
Community Priorities
Project Funding

Part 5 - Appendices

A – Kittery Shore & Harbor Maps B – First Public Forum

C – Second Public Forum

D – ~~Coordination with Kittery's Comprehensive Plan/Growth Management Program~~
~~Acknowledgements~~ Kittery has a Comp. Plan and does not have a Growth Management
Plan. CPUC did not participate in this Draft.

Ann Grinnell
Today, 8:39 AM
Replaced: /Growth
Managem...

The 2014 Update of the Kittery Shore and Harbor Plan was developed for the Town of Kittery by Wright-Pierce. Consultant team members from Wright-Pierce were Jonathan Edgerton, P.E., Senior Vice President, Jennifer Claster, Landscape Architect, as well as Travis Pryor, Jeff Normandin, Chris Hinkley and Kim McIntire.

Significant guidance and plan development assistance came from the Kittery Shore and Harbor Committee, Kittery Port Authority, Town Staff, and others having a vested interest in the future of Kittery's shore and harbor areas, including:

Nancy Colbert Puff – Town Manager
Gerald R. Mylroie, AICP – Town Planner
Norman Albert - Kittery Public Works, Acting Director
Peter Walsh – Kittery Public Works
Bob Melanson – Kittery Port Authority, ~~Town Planning Board~~ Bob was not appointed by
the Planning Board as a representative of the PB. See my attachment A.

Ann Grinnell
Monday, 8:41 AM
Replaced: Town Planning
Board

Ann Grinnell
Today, 10:06 AM
Added Text

Mike Blake – Town Harbormaster
Tom Allen – Owner, Kittery Point Yacht Yard
Dave Kaselauskas – Owner, Jersey Girl
Richard Demarco, Jr. – Kittery Parks Commission
~~Debbie Driscoll – Town Planning Board~~

Ann Grinnell
Monday, 8:40 AM
Replaced: Debbie Driscoll -
Town Planning Board.

Ann Grinnell
Today, 10:06 AM
Added Text

~~Debbie did not participate in the drafting of this document. Remove name
Thanks go to this Committee for their commitment and hard work, and to the citizens
and representatives of local organizations who participated in the public outreach efforts
and meetings, and who provided input. I do not see a representative group in this
document. No factual back-up.~~

Ann Grinnell
Today, 10:07 AM
Replaced: Thanks go to this
Committee for th...

All oblique aerial photographs © Pictometry International Corporation

This report was prepared by The Town of Kittery under award NA12NOS4190084 from the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, as distributed by the Maine Coastal Program. The statements, findings, conclusions, and recommendations are those of the authors and do not necessarily reflect the views

Ann Grinnell Today, 8:44 AM Replaced: Kittery Comprehensive Plan
Ann Grinnell Today, 8:46 AM Replaced: community needs
Ann Grinnell Today, 8:50 AM Replaced: Plan should include prioritization
Ann Grinnell Today, 8:54 AM Added Text
Ann Grinnell Today, 8:55 AM Added Text
Ann Grinnell Today, 8:58 AM Added Text
Ann Grinnell Today, 8:59 AM Replaced: The Plan builds off earlier planning efforts, m...
Ann Grinnell Today, 9:21 AM Added Text
Ann Grinnell Today, 9:00 AM Replaced: tourists
Ann Grinnell Today, 9:01 AM Replaced: Kittery Planning Board,
Ann Grinnell Today, 9:01 AM Replaced: Town Council
Ann Grinnell Today, 9:01 AM Replaced: others.
Ann Grinnell Monday, 9:02 AM Replaced: Meetings were held monthly between the Plann...
Ann Grinnell Today, 10:09 AM Added Text
Ann Grinnell Monday, 9:02 AM Replaced: Town Public Forums were conducted on June 5, ...
Ann Grinnell Today, 10:09 AM Added Text
Ann Grinnell Today, 9:04 AM Replaced: community participation process

of the National Oceanic and Atmospheric Administration, the Department of Commerce or the Maine Coastal Program.

Part 1 – Plan Purpose and Process

Plan Purpose

The Quality Improvement Plan for Kittery's Shore and Harbors is a specific plan to implement the adopted Town of ~~Kittery Comprehensive Plan~~ ~~no representative for CPUC had input for this document.~~ and recommend updates and projects to the year 2020. The Plan is intended to identify ~~community needs-see priority lists created a two public meetings (Forum results page 1 of Appendix B:)with respect to both physical and policy-related enhancements to shore and harbor-related facilities within the community.~~ In addition, the ~~Plan should include prioritization~~In At the public meetings on June 5th the priority was "Maintain facilities for commercial fishing is important to the community's economy." At the public meeting on Nov. 7th a exercise was done to Set Priorities. Top priority was "Maintain What What We Have / CIP Funds". This got 26 votes. Next topic got 8 votes-"Increased funding for Waterfront Maintenance'.for implementation of the identified enhancements, and provide guidance with respect to the implementation. ~~The Plan builds off earlier planning efforts, much of which was tied to the last update of the community's Comprehensive Plan. Information relative to coordination with the Comprehensive Plan is included in the Appendices. Delete-not accurate.~~

missing 1.2 The Planning Process

The planning process was developed to incorporate input from a variety of interests, including business and natural resource oriented organizations, boating interests, tenants, commercial fishermen, ~~tourists delete-no input.~~, the Kittery Port Authority, the ~~Kittery Planning Board,delete-no input the Town Councildelete-no input,~~ and ~~others-~~delete-not specific.

~~Meetings were held monthly between the Planning Consultant and the Plan's Steering Committee Who was appointed to this steering committee and who appointed them?.~~

~~Town Public Forums were conducted on June 5, and November 7, 2013, and each drew in excess of 40 attendees. In addition, representatives from Wright Pierce and committee members engaged in a number of discussions with other members of the community, business people and regulators to ensure that the all stakeholder groups had provided input into the process.—~~

~~This is not completely accurate. Please show list of attendees to two public forums. And again, who is the steering committee?~~

~~We are confident that this community participation process delete. No valid proof in appendix that this document had community involvement. has resulted in a Shore and Harbor Plan that identifies key physical and policy-related improvements and includes~~

- Ann Grinnell
Monday, 9:05 AM
Replaced: tourist opportunities
- Ann Grinnell
Monday, 9:07 AM
Added Text
- Ann Grinnell
Today, 9:07 AM
Replaced: nd that the goals identified enjoy support f...
- Ann Grinnell
Today, 9:22 AM
Added Text
- Ann Grinnell
Today, 9:09 AM
Replaced: identified by the Community
- Ann Grinnell
Monday, 9:10 AM
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- Ann Grinnell
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- Ann Grinnell
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- Ann Grinnell
Today, 9:23 AM
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- Ann Grinnell
Today, 9:23 AM
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- Ann Grinnell
Today, 9:23 AM
Added Text

appropriate strategies to encourage sustainable, ecologically-oriented, ~~tourist opportunities~~ delete-no direction from Council for "tourist opportunities". Tourism in Kittery is a topic that needs full community input and Council authorization. and active harbor facilities capable of accommodating commercial and recreational uses, ~~and that the goals identified enjoy support from the residents of the community.~~ not supported in data in appendix.

Implementation
1.3 Implementation

The sections of this Shore and Harbor Plan discuss the specific goals that were ~~identified by the Community~~ delete. NO support for this statement in the appendix as well as the range of implementation strategies that have been developed in response to those Goals. Section 5 of the Plan discusses the implementation strategies in the context of responsibility for implementation as well as financial considerations.

To achieve the goals that have been identified through the performance of this ~~public-planning process, citizens, Town officials and local business owners~~ delete. No data to support this statement have a number of implementation strategies to consider. Each could act independently to try to accomplish their goal, however, working together offers greater opportunities for success. In summary, implementation strategies involve working together to adopt town ordinances and implement programs and projects. The various implementation strategies include:

1. Implementing the projects identified in the Plan for the various shore and harbor locations within the community.
2. Including projects within the appropriate sections of the Town's Capital Improvement Program.
3. Continuing to fund capital maintenance and improvements.
4. Seeking additional federal, state, and private funding and investment.
5. Updating land use development ordinances where appropriate for resource protection and / land use improvement.
6. Coordinating with Federal and State agencies relative to planned improvements.
7. Where appropriate, encouraging private development and conservation organizations to implement the plan.

Part 2 – Kittery's Shore and Harbor Assets, Goals and Implementation Strategies

Introduction and History

To proceed with a Planning effort associated with Kittery's Shore and Harbors, it was necessary to inventory and assess the community to understand the nature and extent of what currently exists. The assessment included a review of:

Municipally Owned Shoreline Areas;
Town Piers, Wharves and Floats;
Mooring Areas;
Commercial Fishing, Shellfish and Aquaculture Resources; and
Ecologically Sensitive Areas.

The inventory and assessment was completed through a review of past plans, reports and maps, discussions with Committee members, and visits to the various sites.

In undertaking a Planning effort associated with Kittery's Shore and Harbors, one cannot fail to develop an appreciation for the extensive history of maritime activities that exists in this area, as well as a grasp of how the early development of the community was integrally tied to Shore and Harbor issues.

Settlement around the natural harbor of the Piscataqua River estuary began as early as 1623. The Town of Kittery was incorporated in 1647, hence it is generally considered the earliest incorporated Town in Maine. Fishing, shipbuilding and shipping of cargoes were the mainstays of the early economy. Land and water-based routes connecting into the interior provided access to lumber, furs and other products that were the foundation of much of the export trade of colonial times.

From the very beginning, the mouth of the Piscataqua was a key location for shipbuilding. Badger's Island was home to several early shipyards and saw the launching of the USS Ranger which was commanded by John Paul Jones during the Revolution. The nation's first naval shipyard, Portsmouth Naval Shipyard, was established in 1800 and continues to be one of the area's major employers to this day.

Development patterns and transportation networks that we see today are the result of the influences of Kittery's past role as a maritime community.

Shore and Harbor Assets

The map preceding this section (as well as more detailed mapping included in Appendix A) provides an overview of the community as a whole, and identifies the locations of a number of the following locations, which have been determined to be key shore and harbor resources and which are the subject of this Plan.

Ann Grinnell Monday, 9:24 AM Added Text
Ann Grinnell Today, 9:28 AM Added Text
Ann Grinnell Today, 9:12 AM Replaced: visitors
Ann Grinnell Today, 9:13 AM Added Text
Ann Grinnell Today, 9:29 AM Added Text
Ann Grinnell Today, 9:30 AM Added Text
Ann Grinnell Today, 9:30 AM Added Text
Ann Grinnell Today, 9:30 AM Added Text
Ann Grinnell Monday, 10:02 AM Replaced: Kittery Foreside (Including the Governm...
Ann Grinnell Today, 10:11 AM Added Text

A. Kittery Point Village/Town Dock/Frisbee Pier

This area comprises one of the community's key anchorages and provides access for recreational and commercial boaters via two separate municipally- owned piers and systems of floats. One of the two piers was recently reconstructed and the other is slated for reconstruction in 2014, utilizing funding from the state and federal governments under a Boating Infrastructure Grant (BIG). The Town's harbormaster maintains an office at this location, and there is a public boat launch located at the site. Note that the conditions of the grant funding dictate that the facility must be available to transient recreational vessels. It is hoped that the project will include addressing limitations in the utility service to the pier facilities.

Identified limitations of the existing facilities include: wave protection for the anchorage, utility service, parking and storage space for dinghies. Based upon the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:

1. Town Goal(s)

Enhance facilities and services to meet the needs of residents and ~~visitors~~. ~~No data to back this up. Need town wide (residents) support for 'enhancing facilities and services to meet needs...of visitors)~~ without negatively impacting the adjacent neighborhood.

2. Implementation Strategies/Projects

- a. Implement pier improvements contemplated under the Boating Infrastructure Grant ("BIG") Project
- b. Explore means to expand parking.
- c. Investigate the potential for wave attenuation for Pepperrell Cove.
- d. Expand space available for dinghies.
- e. Consider launch services for access to moored vessels.
- f. Increase potable water & pumpout facilities for vessels.
- g. Assess the need for future federal dredging in support of long- term viability of the mooring basin.

B. Kittery Foreside (Including the Government Street Pier and Adjacent Areas) ~~underline and identify Adjacent Areas.~~ Kittery Foreside appears to offer a number of opportunities, and significant interest was expressed during the public input process with respect to the potential development of additional facilities due to its location adjacent to the most developed part of the community. At the same time, the nature and extent of the existing development, together with the proximity of the Naval Shipyard, seem to offer some of the greatest constraints.

Ann Grinnell
Monday, 9:40 AM
Deleted: After review of the nature and intensity of u...

~~After review of the nature and intensity of uses within the area, it was determined that the public access point in the vicinity of Warren's offers a better opportunity for increased access by recreational boaters than the Government Street pier. Delete. This statement has no factual backup and is only an opinion. The access at Warren's would be expanding our public access which is not needed. Also, the foreshore area has limited parking and this statement does not consider where users would park.~~

Ann Grinnell
Today, 10:03 AM
Added Text

The Government Street Pier is used primarily by commercial fishermen for loading and unloading their vessels. A review of anecdotal information did not provide a date for the original construction of the pier, although photographic evidence suggests that there has been a municipal pier at this location since at least 1936. The condition of the piles and pile caps seems consistent with reports that the facility was substantially reconstructed following the two major coastal storms in the winter of 1978. The decking, railings and curbing were replaced in 2009 with pressure treated materials.

Ann Grinnell
Today, 10:03 AM
Replaced: and visitors

The current configuration of the pier is generally rectangular, extending to a length of about 36 feet from shore, approximately 32 feet wide. The geometry is slightly skewed. No floating docks ("floats") are present, hence access to vessels is via the face of the pier, with use of a fixed ladder depending on the tide.

Ann Grinnell
Today, 10:03 AM
Added Text

The pier is of timber construction, supported primarily on driven timber piles with 12x12 pile caps, 3 x10 cross bracing, 6 x12 stringers (joists), 3 x 12 decking. The pier is connected to a stone masonry abutment/retaining wall.

Ann Grinnell
Today, 10:03 AM
Added Text

Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:

Ann Grinnell
Today, 10:03 AM
Added Text

1 Town Goal(s)

Ann Grinnell
Today, 10:04 AM
Added Text

Enhance facilities and services to meet the needs of both residents ~~and visitors~~ to the community, in a way that is sensitive to the needs of commercial fishermen.

Ann Grinnell
Today, 10:04 AM
Added Text

2. Implementation Strategies / Projects

Ann Grinnell
Today, 10:04 AM
Added Text

a. Implement capital maintenance improvements to the Government Street pier in support of commercial fishing uses (hoist, safety railings, potable water, etc.)

Ann Grinnell
Today, 10:04 AM
Added Text

b. Explore means to create public outdoor seating/viewing. ~~define areas for this.~~

Ann Grinnell
Today, 10:12 AM
Added Text

c. Explore the feasibility of water taxi service with Portsmouth. ~~from where? Parking?~~

Ann Grinnell
Today, 10:06 AM
Added Text

d. Look for opportunities to expand public parking. ~~Not appropriate for this document.~~

Ann Grinnell
Today, 10:06 AM
Replaced: Explore means to expand recreational b...

~~e. Explore means to expand recreational boat access without adverse impact to commercial fishing interests. Kittery has many access points for public access to water, with parking. Traip launch is available and has parking. Delete this section.~~

Ann Grinnell
Today, 10:07 AM
Replaced: Explore the feasibility of constructin...

~~Explore the feasibility of constructing a new deck in conjunction with Warren's. No data to support this.~~

Ann Grinnell
Monday, 10:08 AM
Replaced: Explore the feasibility of water taxi serv...

Ann Grinnell
Today, 10:08 AM
Added Text

Ann Grinnell
Today, 10:08 AM
Replaced: Traip Boat Launch

~~Explore the feasibility of water taxi service with Portsmouth—
Explore means to create public outdoor seating/viewing—delete duplicate~~

c. Traip Boat Launch underline

The Town maintains a public boat launch adjacent to Traip Academy. The launch is heavily used during the summer, and on weekends during the late spring and early autumn. The school and boat launch utilize the same parking areas, which is possible due to the relative timing. Approximately 15 moorings exist within the area.

The two potential areas of enhancements were those of the floats along the boat launch itself and parking. The KPA is currently working to expand the floats and hopes to be able to implement this in 2014 or 2015. There was some debate with respect to the issue of expanded parking. The facility is co-located with the Traip school and parking for the boat launch is available during periods when school is not in session (not surprisingly, the boat launch sees most of its use during the summer and on spring/fall weekends when school is not in session). There does not appear to be justification for construction of additional parking at this time, but the situation should be monitored.

The Kittery Port Authority is currently engaged in a project to extend the floats available for loading and unloading of boats at this site, using funding from the Small Harbor Improvement Program (SHIP) administered by the Maine Department of Transportation.

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:delete. Over used in document and there is no data to back this up.~~

1. Town Goal(s)

Enhance facilities and services to meet the needs of residents and ~~visitors—delete~~

2. Implementation Strategies / Projects

Proceed with implementation of the planned expansion of the floats.

Continue to monitor potential parking issues at this location.

D. Rice Avenue Neighborhood underline

~~The Town owns an undeveloped shorefront parcel of about 1.25 acres with access onto Rice Avenue which was identified as offering opportunities for enhanced public access. The site possesses frontage on the Piscataqua River across from the upper end of Badger's Island, as well as a tidal channel that extends into an open saltmarsh just north of the site. There is visible erosion of the shoreline along the riverfront.—~~

~~The Rice Avenue site appears to offer significant opportunity as a public point of access to the community's waterfront, although significant concern was expressed relative to the substantial currents that exist nearby that constitute a risk for boaters (especially those in kayaks) that may be unfamiliar with~~

Ann Grinnell
Monday, 10:10 AM
Replaced: Based the work of the Committee and thro...

Ann Grinnell
Today, 10:10 AM
Added Text

Ann Grinnell
Today, 10:11 AM
Replaced: visitors.

Ann Grinnell
Today, 10:11 AM
Added Text

Ann Grinnell
Today, 10:11 AM
Added Text

Ann Grinnell
Today, 10:11 AM
Replaced: Rice Avenue Neighborhood

Ann Grinnell
Monday, 11:02 AM
Replaced: The Town owns an undeveloped shorefront par...

~~boating hazards in the area. The site also abuts residential properties. Given those concerns, it appears that a waterfront park with limited hours of use and passive recreation opportunities may be the best fit.~~

These two paragraphs are in conflict with each other. Strong currents, visible erosion vs. significant opportunities. We have much safer places in town for residents to access the water. I would suggest we re-write this section to show that this is not a safe place for public access.

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified: Write something different-not factually true and used too many times in the document.~~

1. Town Goal(s)

Creation of facilities to serve residents and ~~visitors~~ delete without negatively impacting the existing residents.

2. Implementation Strategies

Consider potential use of the site for ~~passive recreational uses~~ to vague that are sensitive to the adjacent residences.

E. Eagle Point

Eagle Point is a sizeable municipally- owned parcel (approximately twenty acres) with substantial shoreline frontage on the Spruce Creek estuary. The site is the former home of the community's wastewater treatment facilities, which were relocated a number of years ago to take advantage of more appropriate receiving waters.

The site appears to offer significant opportunity for enhanced public access due to its size, accessibility and scenic nature. Anecdotal evidence suggests that the community had explored use of the site, from a public recreational standpoint, some years ago. Planning for the site will need to consider the potential for impacts to the abutting residential neighborhoods.

Parking?

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified: rewrite~~

Town Goal(s)

Creation of facilities to serve residents and visitors, without negatively impacting the existing residents.

Implementation Strategies

Ann Grinnell
Today, 10:13 AM
Added Text

Ann Grinnell
Today, 11:05 AM
Replaced: Based the work of the Committee and thro...

Ann Grinnell
Today, 11:06 AM
Added Text

Ann Grinnell
Today, 11:06 AM
Replaced: visitors

Ann Grinnell
Today, 11:09 AM
Added: Space

Ann Grinnell
Today, 11:06 AM
Added Text

Ann Grinnell
Today, 11:06 AM
Replaced: passive recreational uses

Ann Grinnell
Today, 11:07 AM
Added Text

Ann Grinnell
Today, 11:07 AM
Added Text

Ann Grinnell
Today, 11:07 AM
Replaced: Based the work of the Committee and thro...

Undertake a public process to develop a plan for tapping into this sites potential in a way that balances impacts to adjacent neighborhoods and addresses the ecological sensitivity of the area.

Ann Grinnell
Monday, 11:09 AM
Added Text

Ann Grinnell
Monday, 11:11 AM
Added Text

F. Fort McClary ~~Not accessible by water-should be in Pepperrell cove section.~~
Fort McClary is a 27 acre state park on the site of several former fortifications, dating back into the 1680's. A permanent fort was constructed in 1715 including redoubts with several cannon. The fort was upgraded again and given its current name shortly before the War of 1812, and was manned to defend the harbor and Naval Shipyard during subsequent conflicts, including the American Civil War. The current blockhouse and several other features were renovated in 1987.

Ann Grinnell
Today, 11:10 AM
Replaced: Based the work of the Committee and thro...

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified: rewrite~~

Ann Grinnell
Today, 11:10 AM
Added Text

1 Town Goal(s)

Ann Grinnell
Today, 11:10 AM
Replaced: Enhanced capacity for accommodating transi...

~~Enhanced capacity for accommodating transient boaters to the community, through proving an anchorage area for large transient vessels (i.e. over 75'). This mooring space is part of Pepperrell cove. Boats can not land on this property.~~

Ann Grinnell
Today, 11:12 AM
Added Text

2. Implementation Strategies

Ann Grinnell
Today, 11:13 AM
Formatted: Restart List, First Topic 7, Label Indents, La...

Review bathymetry and navigational charts and assess impacts to current commercial fishing interests in the event the community was to designate an anchorage area for large transient vessels.

Ann Grinnell
Today, 11:13 AM
Added Text

G. Fort Foster Park ~~This is the main location for people to enjoy the ocean.~~
H.

Ann Grinnell
Today, 11:13 AM
Formatted: First Topic 7, Label Indents, Label Types, Text Indents

Fort Foster is one of the community's most significant waterfront properties. As its name suggests, the facility once served as a military installation offering protection to the mouth of the Piscataqua River, Portsmouth Harbor and the Portsmouth Naval Shipyard. While initial planning for a fort to provide coastal defense at the mouth of the estuary was planned in the 1870's, the fort was constructed starting in 1899, following the Spanish American War. Additional modifications and addition of batteries continued into the Second World War, and remnants of many of the structures remain to this day.

The Park consists of approximately 89 acres of mixed terrain with extensive shoreline, varying from gravelly beaches to ledges and rocky promontories. A number of valuable habitats are present, including coastal wetlands.

Ann Grinnell
Today, 11:13 AM
Replaced: The facility offers parking and public restrooms,

~~The facility offers parking and public restrooms,~~ **very positive** as well as a pier, and has a pavilion that can be reserved for functions and events for up to 100 people. The Fort Foster pier has been determined to be a popular destination for visitors to the park, but is has deteriorated over the years and has been damaged by storms in recent years.

The Town has considered restoration of the pier, but the cost would be significant. Further studies may be warranted to establish future uses for the pier in order to confirm the necessary level of reconstruction and justify the investment.

Ann Grinnell
Today, 11:14 AM
Replaced: The facility is open primarily during the sum...

~~The facility is open primarily during the summer months and is jointly managed by the Parks Commission, Recreation Department and Public Works Department. The facility is a key recreational amenity for the community. Excellent-~~

Ann Grinnell
Today, 11:14 AM
Deleted: Invisible Character

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:leave out-~~

Ann Grinnell
Today, 11:13 AM
Replaced: Based the work of the Committee and thro...

T1. own Goal(s)

Ann Grinnell
Today, 11:14 AM
Added Text

Maintain, modify and enhance the current facilities and services to meet the needs of residents and visitors alike.
Implementation Strategies

Evaluate demand and uses of the pier to confirm the nature and extent of rehabilitation to allow for continued use and accessibility.

Ann Grinnell
Today, 11:15 AM
Replaced: Enable public assess for recreational use; especia...

~~Enable public assess for recreational use; especially kayaks-- designate area for kayaks~~

Further assess interest in the potential for extending public access during periods in the spring and fall.

Monitor the wetlands with respect to the occurrence of invasive plant species.

Initiatives should be coordinated closely with the Town's Parks commission.

Ann Grinnell
Today, 11:16 AM
Replaced: Seapoint

~~SeapointH. Beach~~

Seapoint Beach is located on the community's Atlantic shoreline. Parking and amenities at Seapoint Beach are currently very limited, which results in a low intensity of usage. The area provides valuable habitat in the form of extensive salt marshes.

Ann Grinnell
Today, 11:16 AM
Replaced: Based the work of the Committee and thro...

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:leave out~~

Ann Grinnell
Today, 11:16 AM
Added Text

1. Town Goal(s)

Enhance the cleanliness of the beach, but recognize that the relative isolation and limited use are key to the quality of place.

Ann Grinnell
Today, 11:17 AM
Added Text

2. Implementation Strategies

Implement measures to enhance the cleanliness of the beach, such as signage, and enforcement of the existing "carry-in / carry-out" policy for waste. Seaweed removal will be limited to infrequent occasions when storm conditions result in unusually large depositions that become a nuisance.

Limit the number of parking spaces to restrict the number of visitors. Avoid construction of significant amenities (such as public restrooms).

Ann Grinnell
Today, 11:17 AM
Added: Paragraph Break

Ann Grinnell
Today, 11:17 AM
Added Text

1. Crescent Beach

Crescent Beach, like Seapoint Beach, is located on the community's Atlantic shoreline, and parking and amenities are currently very limited, resulting in a low intensity of usage. In years past, the Beaches possessed more parking and a public restroom facility, but these were destroyed in the winter storms of 1978 and not replaced.

Ann Grinnell
Today, 11:18 AM
Replaced: Based the work of the Committee and thro...

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:leave out~~

Ann Grinnell
Today, 11:18 AM
Added Text

1. Town Goal(s)

Enhance the cleanliness of the beach, but recognize that the relative isolation and limited use are key to the quality of place.

Ann Grinnell
Today, 11:18 AM
Added Text

2. Implementation Strategies

Implement measures to enhance the cleanliness of the beach, such as signage, and enforcement of the existing "carry-in / carry-out" policy for waste. Seaweed removal will be limited to infrequent occasions when storm conditions result in unusually large depositions that become a nuisance.

Ann Grinnell
Today, 10:16 AM
Replaced: Limit the number of parking spaces to restrict ...

~~Limit the number of parking spaces to restrict the number of visitors. Where would this parking be? Avoid construction of significant amenities (such as public restrooms).~~

Ann Grinnell
Today, 11:19 AM
Added Text

1. Rachel Carson Refuge

The Rachel Carson Refuge is a larger federal preservation area, owned and maintained by the US Fish and Wildlife Service. The refuge consists of a number of parcels located in several communities (Kittery, York and Wells) and is intended to provide both protection of habitat for a number of species of flora and fauna, as well as public access for hiking, birdwatching and related "low impact" recreational activities.

Ann Grinnell
Today, 11:19 AM
Replaced: Based the work of the Committee and thro...

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:Town Goal(s)leave out~~

Ann Grinnell
Today, 11:20 AM
Added Text

1. Explore means to enhance access/parking, but recognize that the relative isolation and limited use are key to the quality of place.

Ann Grinnell
Monday, 11:20 AM
Added Text

2. Implementation Strategies

Initiate discussions with the Refuge Management (US Fish and Wildlife Service) with respect to the above-stated goals. Jointly assess potential improvements.

Ann Grinnell
Today, 11:20 AM
Added Text

K. Braveboat Harbor

Braveboat Harbor is located along the Atlantic shore on the boundary between Kittery and the adjacent community of York. While the Harbor provided a useful navigational refuge in times past, it presents a number of navigational hazards (including breaking surf) which can render it unsafe for unfamiliar boaters. It is primarily used by residents of the area who possess private piers and access points. The area is known for its scenic beauty, ~~but offers little in the way of convenient public access from the~~ ~~landside.~~ This is a good sentence and could be used for Warren's location and Crescent Beach location.

Ann Grinnell
Today, 10:17 AM
Replaced: but offers little in the way of convenient pub...

Ann Grinnell
Today, 10:18 AM
Added Text

Ann Grinnell
Today, 11:21 AM
Replaced: Based the work of the Committee and thro...

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:~~ leave out

1. Town Goal(s)

Ann Grinnell
Today, 11:21 AM
Added Text

Explore means to enhance access/parking, but recognize that the relative isolation and limited use are key to the quality of place and that expanded use would need to be considered in the context of potential impacts to the adjacent residents. ~~Where is the support for this?~~ No factual data in Appendix.

Ann Grinnell
Today, 11:22 AM
Added Text

2. Implementation Strategies / Projects

Ann Grinnell
Today, 11:22 AM
Added Text

~~Review Town-owned property within and adjacent to the area, including rights of access associated with the old trolley right of way that extended through the area. Consider potential impacts to adjacent residential properties.~~ No factual data supports this.

Ann Grinnell
Today, 11:22 AM
Replaced: Review Town-owned property within ...

L. Isles of Shoals

Ann Grinnell
Today, 11:23 AM
Added Text

The Isles of Shoals are a cluster of small islands located approximately 6 miles southeast of the mouth of the Piscataqua River. The state boundary between Maine and New Hampshire bisects the archipelago, leaving Appledore, Duck, Smuttynose, Malaga and Cedar within the state of Maine and the Town of Kittery. The islands constitute a recreational destination and several moorings are maintained within Gosport Harbor, which is formed by the stone breakwaters which connect Cedar, Smuttynose, Malaga and Star Islands.

According to the US Army Corps of Engineers "Work in the Isles of Shoals began as early as 1821, when private interests constructed a stone breakwater between Malaga and Smuttynose islands. In 1904, the Corps repaired and strengthened the breakwater to a length of 240 feet and constructed a second stone breakwater, 700 feet long, between Smuttynose and Cedar Islands. In 1913, the Corps repaired and strengthened the existing breakwaters and constructed a third stone breakwater, 530 feet long,

between Cedar and Star islands. The breakwaters provide vessels with a safe refuge in Gosport Harbor."

It was noted that the existing breakwater that provides shelter for the anchorage is in need of repairs.

It was also noted that demand for moorings at this location often exceeds the supply. It does not appear, however, that the harbor can accommodate additional sheltered moorings.

Ann Grinnell
Today, 11:23 AM
Replaced: Based the work of the Committee and thro...

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:~~
rewrite
Town Goal(s)

Ann Grinnell
Today, 11:23 AM
Replaced: Enhanced potential for use by commun...

~~Enhanced potential for use by community residents and maintenance of existing facilities. This is where visiting boats can easily go. Should be mentioned here.~~

Implementation Strategies / Projects

Conduct an engineering assessment of the breakwater to determine an appropriate scope of work and budget for the rehabilitation effort, and, as appropriate, initiate discussions with the Corps of Engineers.

Ann Grinnell
Today, 11:24 AM
Added Text

M. Wood Island
Wood Island is a small (1.25 acre) island located a short distance from the mainland adjacent to Fort Foster. The Island is the site of the former Wood Island Lifesaving Station.

Ann Grinnell
Today, 11:26 AM
Added Text

Should mention the current status of WICA and WILSSA.

Ann Grinnell
Today, 11:25 AM
Replaced: Based the work of the Committee and thro...

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:~~
leave out

It was acknowledged that ongoing initiatives to restore the former Coast Guard lifesaving station have been politically divisive within the community, based primarily on the potential fiscal impacts. In general, stakeholders approval of the restoration in concept, but there was less than uniform support for use of municipal revenues for the project.

Ann Grinnell
Today, 11:25 AM
Replaced: without burdening the Town's finances,

It was determined that the community should support restoration of the exterior of the Wood Island lifesaving station to the extent this can be accomplished ~~without burdening the Town's finances, without any town revenue~~ and in a way that is appropriate given consideration of long-term sea level rise and other environmental factors.

Ann Grinnell
Monday, 11:27 AM
Added Text

N. Spinney Creek

Spinney Creek is an estuary/embayment located along the municipal boundary with the community of Eliot, located at the extreme northern side of the Town's frontage along the Piscataqua River. The Creek is the site of aquaculture leases.

Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:

Town Goal(s)

Ensure that water quality is maintained in a way to support both commercial aquaculture and recreational uses.

Implementation Strategies / Projects

Continue to support enforcement of land use ordinances and municipal initiatives aimed at addressing non-point source water pollution.

Ann Grinnell
Today, 11:27 AM
Added Text

O. Chauncey Creek

Chauncey Creek is a narrow embayment that provides a sheltered harbor for a number of small recreational and fishing vessels toward the southern end of the Creek. The Creek has provided a valuable locale for safe mooring of vessels during severe storms. The presence of a bridge and overhead power lines limit navigation by certain craft.

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:—~~
leave out

Town Goal(s)

Ensure that any future development is implemented in a way that promotes continued use by both commercial and recreational boaters.

Implementation Strategies / Projects

Continue to support enforcement of land use ordinances that balance landside desires with marine interests.

Spruce Creek

Spruce Creek is the community's largest estuary/embayment, providing frontage for a number of residential properties, but with extended areas of undeveloped shoreline. The Town has been working for some time on a variety of initiatives aimed at addressing non-point source water pollution within the estuary and its tributaries. The creek was once home to many acres of productive shellfishing areas.

Ann Grinnell
Today, 11:27 AM
Replaced: Based the work of the Committee and thro...

Ann Grinnell
Monday, 11:28 AM
Replaced: Based the work of
the Committee and thro...

~~Based the work of the Committee and through outreach efforts that included public meetings, the following goals and implementation strategies/projects were identified:leave out~~

Ann Grinnell
Monday, 11:28 AM
Added Text

1. Town Goal(s)

Ensure that water quality is maintained in a way to support both commercial aquaculture and recreational uses.

Implementation Strategies / Projects

Continue to support enforcement of land use ordinances and municipal initiatives aimed at addressing non-point source water pollution.

Part 3 – Policy-Related Enhancements

Ann Grinnell
Today, 11:31 AM
Added Text

3.1 Introduction

As noted earlier in this Plan, the identified goals and strategies included action items that could be categorized as either policy-related enhancements, or physical improvements that are connected to a specific location. This section discusses those quality improvement goals that may relate more to policy topic than a specific location within the community.

Ann Grinnell
Today, 11:31 AM
Added Text

Desired Policy Updates

Ann Grinnell
Today, 10:19 AM
Added Text

3.2 Enhanced Public Access This topic is not supported by any of the data collected at the two public forums. Refer to Appendix B, page 1 and Appendix C., public meeting Nov. 7th. In the Nov. 7th data 'Increase public Access to Water got two votes with Maintain What we have got 26 votes.

Ann Grinnell
Today, 11:37 AM
Added Text

~~A. Through both public forums and discussion within the committee, there was much discussion relative to the issue of increased public access-not factual back-up~~ It was determined that initiatives to enhance access should be focused on specific locations where the impacts of such increased access could be effectively managed. Locations where it was determined that enhancements to public access could best be accommodated are discussed in Section 4 of this Plan.

Ann Grinnell
Today, 11:36 AM
Replaced: Through both
public forums and discuss...

Ann Grinnell
Today, 11:37 AM
Added Text

T! own Goal(s)

Ann Grinnell
Today, 11:37 AM
Replaced: Increased public
access to the water,

~~Increased public access to the water,no factual backup for this statement but specific projects to be considered in the context of potential impacts to other existing uses and adjacent landowners, particularly residential uses.~~

Ann Grinnell
Today, 11:37 AM
Added Text

2. Implementation Strategies

Ann Grinnell
Monday, 11:38 AM
Replaced: Support implementation of rela...
Ann Grinnell
Monday, 11:38 AM
Added Text

~~Support implementation of related initiatives identified elsewhere within this Plan-Initiatives listed are not supported by data.~~

B. Navigational Considerations

A key component of the Shore and Harbor Planning process includes consideration of marine traffic, hence it is important that the Planning effort be informed with regard to navigational considerations.

The Piscataqua estuary, as a whole, is home to a number of navigational challenges, in many cases to the combination of rocky shoals with strong currents as tidal flow to and from the Great Bay passes through the area. The main navigational channel is a federally designated dredge project with depths on the order of 30 to 35 feet, at mean low water. The channel extends to an upstream turning basin approximately 3.5 miles above the Memorial Bridge. Mean tidal range in Kittery Harbor is on the order of 8.7 feet.

Ann Grinnell
Today, 11:39 AM
Replaced: There are numerous of ledges present, to which ...
Ann Grinnell
Today, 11:39 AM
Replaced: potential for new or enhanced public access ...

~~There are numerous of ledges present, to which the reader is referred to navigational charts. Some are marked with buoys, while others are not-poor grammar~~

In the development of this Plan, a number of locations were identified with respect to the ~~potential for new or enhanced public access for kayaks-no data to support this~~ The Committee and consultant team endeavored to balance the desire for enhanced access with the potential safety issues associated with currents and other hazards at the locations under consideration.

Ann Grinnell
Today, 11:39 AM
Added Text

1. Town Goal(s)

Improved navigational safety.

Implementation Strategies / Projects

Work with federal agencies to replace/upgrade the current navigational markers at the north and south ends of Badgers Island.

Ann Grinnell
Today, 11:40 AM
Added Text

C. Clean Beaches

Given the overwhelming desire to maintain the Community's beaches as more natural areas, it was determined that seaweed will generally be left in situ, but that manmade debris will be periodically removed by municipal forces. The Town's Public Works Department may remove seaweed periodically if it accumulates to the point where it is found to be a nuisance.

The strategies commonly available for addressing dog waste include the placement of signs and the installation of dispensers for "dog waste bags" and trash receptacles for their disposal. After considerable discussion, which included review of past experience with placement of waste receptacles at these locations it was determined that the best

Ann Grinnell
Monday, 11:42 AM
Added Text

course to pursue is increased education and enforcement of the current "carry-in / carry-out" policy for waste.

Any discussion about dog permits for beach access? Could be a revenue source to support enforcement. Needs future discussion.

T1. own Goal(s)

Ann Grinnell
Monday, 11:43 AM
Replaced: T

Enhance the cleanliness of municipal beach areas. Public comment relative to cleanliness issues focused primarily on dog waste and man-made debris, with some requests for improved management of seaweed.

Implementation Strategies

Ann Grinnell
Today, 11:42 AM
Added: Space

Increase education and enforcement of the current "carry-in / carry-out" policy for waste.

Continue coordinating with the state Clean Beaches initiative administered by the Maine Department of Environmental Protection.

Remove seaweed only when it is determined to constitute a nuisance.

Ann Grinnell
Today, 11:44 AM
Added Text

D. Clam flats and Aquaculture

The two primary factors limiting the productivity of the community's clam flats are the presence of invasive green crabs and issues associated with water quality (primarily non-point source pollution).

State and local officials throughout the state's southern coastal areas are working collaboratively to pilot and test the effectiveness of a range of alternative mechanisms to combat the green crab menace. The crabs have few natural predators and cost-effective solutions thus far have not been identified. Increased seeding of the flats by the community is likely to be a part of the answer.

The community, through its public works department, has been engaged in several initiatives aimed at addressing non-point source water pollution, particularly within the Spruce Creek area.

Town Goal(s)

Enhance the productivity of clam flats and areas suitable for aquaculture, primarily in the context of their role as a component of the local economy.

Implementation Strategies

Continue to monitor, and where possible, support efforts to manage depredation of juvenile clams by green crabs.

Continue to implement initiatives aimed at protecting and enhancing water quality along the community's shorelines and within its estuaries.

E. Funding for Waterfront Improvements and Maintenance

Ann Grinnell
Monday, 11:44 AM
Added Text

Town Goal(s)

Provide adequate funding to allow for timely maintenance and capital improvements to waterfront facilities in Kittery Foreside and other locations of municipal Shore and Harbor facilities. ~~Why mention Kittery Foreside and not be specific about other locations. No data supports this statement.~~

Ann Grinnell
Today, 10:21 AM
Added Text

Implementation Strategies

Ann Grinnell
Today, 11:48 AM
Added Text

One of the issues here is the funding of the projects. Since the PA is a stand along entity in the town, creating its own fee structure, rules and regulations, any investment of town dollars though the CIP process has no oversight by the Council or the manager. I would suggest we look at this situation.

Assess the revenue potential associated with: marketing opportunities to transient boaters, commercial sponsorships, events (such as "Blessing of the Fleet", etc.), business improvement district, tax increment financing district, user fees, grants, etc.

Keep abreast of available grant funding programs administered by state and federal agencies and relevant to shore and harbor facilities.

Coordination between the Municipal Government, Portsmouth Naval Shipyard and Kittery Port Authority.

Town Goal(s)

Ann Grinnell
Today, 11:49 AM
Replaced: Kittery's municipal government,

Continue to seek opportunities for enhanced communication between ~~Kittery's municipal government,~~ Council should weigh in on this. the Portsmouth Naval Shipyard and Kittery Port Authority

Implementation Strategies

Ann Grinnell
Today, 11:50 AM
Replaced: Consider creating a standing community task fo...

~~Consider creating a standing community task force or liaison committee to discuss Shore and Harbor issues with Shipyard management.~~
Council's task

Ann Grinnell
Today, 11:50 AM
Added Text

Mitigation of Shoreline Erosion

The primary mechanism for achieving this goal relates to reduction in the erosive action of boat wakes in areas with erodible shorelines. This is best done through better education and enforcement of boat speeds.

Town Goal(s)

Take steps to address erosion of shoreline areas within the community.

Implementation Strategies

Increase efforts aimed at education and enforcement of speed limits in areas with erodible shorelines.

Mitigation of Water Pollution

The primary sources of coastal water pollution typically include both point (wastewater and storm drain outfalls) and non-point (runoff from lawns and agricultural areas) sources. The community is regulated by the Maine DEP as a municipal small separate storm sewer (MS4) community, and through that mechanism has been required to implement a number of measures to address water pollution.

Town Goal(s)

The mitigation of water pollution within coastal waters.

Implementation Strategies

Continue support of the MS4 program, and consider support for future related opportunities as they are identified.

Planning for Long Term Sea Level Rise/Climate Change

Many people within the community have some level of awareness regarding the potential for impacts associated with Long-Term Sea Level Rise and Climate Change.

The community is seeking advice with respect to confirming the accuracy of the latest version of Flood Insurance Rate Maps for coastal areas as issued by the Federal Emergency Management Agency (FEMA).

Town Goal(s)

Anticipate long-term sea level rise and take steps in the planning for existing and new shoreline facilities (both publicly and privately-owned) to mitigate anticipated impacts.

Implementation Strategies

Integrate consideration of Long Term Sea Level Rise and Climate Change into town planning and development processes, especially within shoreland areas and as related to marine facilities.

Support efforts to evaluate and, as appropriate, implement wave protection measures for the port and harbor facilities at Pepperrell Cove.

Part 4 – Implementation Program

Introduction

This section discusses actions to be taken in order to implement the identified projects established in Parts 3 and 4 of this Planning document, and likely entity(ies) having responsibility for leading the implementation effort.

Implementation Program

Town Policy – Related Implementation Strategies:

Continue coordinating with the state Clean Beaches initiative administered by the Maine Department of Environmental Protection.

Primary Responsibility: Kittery Public Works, Kittery Planning Office

Stay abreast of State and Regional initiatives to pilot and test the effectiveness of mechanisms to combat the green crab menace.

Primary Responsibility: Kittery Planning Office, Conservation Commission

Continue to support, through the Public Works Department, initiatives aimed at addressing non-point source water pollution.

Primary Responsibility: Kittery Public Works

Assess the revenue potential associated with: marketing opportunities to transient boaters, commercial sponsorships, events (such as "Blessing of the Fleet", etc.), business improvement district, tax increment financing district, user fees, grants, etc. as mechanisms to support capital maintenance and enhancements to municipal shore and harbor facilities. Primary Responsibility: Kittery Port Authority

Keep abreast of available grant funding programs administered by state and federal agencies to support capital maintenance and enhancements to municipal shore and harbor facilities.

Primary Responsibility: Kittery Port Authority

Consider creating a standing community task force or liaison committee to discuss community Shore and Harbor issues with Portsmouth Naval Shipyard management.

Primary Responsibility: Kittery Port Authority, Kittery Planning Office

Implement education and better enforcement of boat speeds as a mechanism to address the erosion issues stemming from boat wakes in "high risk" areas of the community.

Primary Responsibility: ~~Kittery Port Authority~~

~~Councils job~~

~~Integrate consideration of long term sea level rise into town planning and development processes especially in shoreland areas and as related to marine facilities.~~

~~Primary Responsibility: Kittery Port Authority, Kittery Public Works, Kittery Planning Office~~How?

Ann Grinnell
Today, 11:52 AM
Replaced: Kittery Port Authority.

Ann Grinnell
Today, 11:52 AM
Replaced: Integrate consideration of long term ...

Support efforts to evaluate and, if appropriate, implement wave protection measures for the port and harbor facilities at Pepperell Cove. Primary Responsibility: Kittery Port Authority

Implementation Strategies for Specific Locations:

Kittery Point Village/Town Dock/Frisbee Pier

Implement pier improvements contemplated under the Boating Infrastructure Grant ("BIG") Project Primary Responsibility: Kittery Port Authority, Kittery Public Works

~~Explore means to expand parking. Where? Be realistic.~~

Primary Responsibility: Kittery Port Authority, Kittery Public Works
Investigate the potential for wave attenuation for Pepperell Cove. Primary Responsibility: Kittery Port Authority (see above)

Expand space available for dinghies.

Primary Responsibility: Kittery Port Authority

Consider launch services for access to moored vessels. Primary Responsibility: Kittery Port Authority

Increase potable water & pumpout facilities for vessels.

Primary Responsibility: Kittery Port Authority, Kittery Public Works

Assess the need for future federal dredging in support of long-term viability of the mooring basin.

Primary Responsibility: Kittery Port Authority

~~Kittery Foreside – Including Government Street Pier and Adjacent Areas – must be specific about areas to be considered~~

Implement capital maintenance improvements to the Government Street pier in support of commercial fishing uses (hoist, safety railings, potable water, etc.)

Primary Responsibility: Kittery Port Authority

~~Explore means to create increased water access and public outdoor seating/viewing.~~

~~Primary Responsibility: Kittery Planning Office Where is the location of this? –~~

~~Explore the feasibility of water taxi service with Portsmouth.~~

~~Primary Responsibility: Kittery Planning Office, Kittery Port Authority~~

~~Look for opportunities to expand public parking. Primary Responsibility: Kittery Planning Office~~

~~Explore means to expand recreational boat access without adverse impact to commercial fishing interests.~~

~~Primary Responsibility: Kittery Planning Office, Kittery Port Authority~~

~~Must go over this section.~~

Traip Boat Launch

Expand the floats along the boat launch ramp. Primary Responsibility: Kittery Port Authority

Monitor the need for construction of additional parking or implementation of parking management protocols.

Ann Grinnell
Today, 11:53 AM
Replaced: Explore means to expand parking.

Ann Grinnell
Today, 11:53 AM
Replaced: Government Street Pier and Adjacent Areas.

Ann Grinnell
Monday, 11:54 AM
Deleted: Explore means to create increased water acc...

Ann Grinnell
Today, 10:23 AM
Added Text

Ann Grinnell
Monday, 11:54 AM
Deleted: Invisible Character

Ann Grinnell
Monday, 11:54 AM
Replaced: Explore the feasibility of water taxi serv...

Ann Grinnell
Today, 10:23 AM
Added Text

Ann Grinnell
Monday, 11:55 AM
Replaced: Primary
Responsibility: Kittery P...

~~Primary Responsibility: Kittery Port Authority~~ Parking access is a Planning job.

Rice Avenue Neighborhood

Explore opportunities for a waterfront park with limited hours of use and passive recreation opportunities. Include consideration of potential impacts to adjacent residential uses. too dangerous.

Primary Responsibility: Kittery Planning Department

Ann Grinnell
Today, 11:56 AM
Added Text

Eagle Point

Undertake a public process to develop a plan for tapping into this sites potential in a way that balances impacts to adjacent neighborhoods and addresses the ecological sensitivity of the area.

Primary Responsibility: Kittery Planning Department, Kittery Port Authority, Conservation Commission

Fort McClary Area

Review bathymetry and navigational charts and assess impacts to current commercial fishing interests in the event the community were to designate a anchorage area for large transient vessels.

Primary Responsibility: Kittery Port Authority Funding requirement: None for initial assessment

Fort Foster Park and Pier

Rehabilitate/modify the pier to allow for continued use and accessibility. Primary Responsibility: Kittery Parks Commission, Kittery Port Authority, Kittery Public Works

Enable public access for recreational use; especially kayaks. Primary Responsibility: Kittery Parks Commission

Assess the economics and other factors to determine the potential for extending public access to Park facilities during periods in the spring and fall.

Primary Responsibility: Kittery Parks Commission, Kittery Public Works Town Council

Ann Grinnell
Today, 11:56 AM
Added Text

Seapoint Beach

Implement measures to enhance the cleanliness of the beach, such as signage, "dog waste bags" and trash receptacles.

Primary Responsibility: Kittery Parks Commission, Kittery Public Works

Limit the number of parking spaces to restrict the number of visitors. Primary Responsibility: Kittery Parks Commission

Crescent Beach

Ann Grinnell
Today, 11:57 AM
Replaced: parking spaces

Implement measures to enhance the cleanliness of the beach, such as signage, "dog waste bags" and trash receptacles.
Primary Responsibility: Kittery Parks Commission, Kittery Public Works
Limit the number of ~~parking spaces~~ [Where is parking for this beach?](#) to restrict the number of visitors. Primary Responsibility: Kittery Parks Commission

Rachel Carson Refuge

Initiate discussions with the Refuge Management (US Fish and Wildlife Service) with respect to increased access. Jointly assess potential improvements.
Primary Responsibility: Kittery Parks Commission, Kittery Planning Office

Braveboat Harbor

Review Town-owned property within and adjacent to the area, including rights-of-access associated with the old trolley right of way that extended through the area. Consider potential impacts to adjacent residential properties.
Primary Responsibility: Kittery Parks Commission, Kittery Planning Office
Isles of Shoals

Conduct a more in-depth assessment of current mooring areas and consideration of the potential for their expansion.
Primary Responsibility: Kittery Port Authority
Conduct an engineering assessment of the existing breakwater to establish capital maintenance needs.
Primary Responsibility: Kittery Port Authority

Wood Island

Ann Grinnell
Today, 11:57 AM
Replaced: burdening the

Support restoration of the exterior of the Wood Island lifesaving station without ~~burdening the delete~~ Town's finances.
Primary Responsibility: Kittery Parks Commission, Kittery Planning Office, [WIAC](#), [Council](#)

Ann Grinnell
Today, 11:58 AM
Added Text

Channel at Badgers Island

Work with federal agencies to replace/upgrade the current navigational markers at the north and south ends of Badgers Island.
Primary Responsibility: Kittery Port Authority
Request that the federal government/Corps of Engineers conduct a survey of the Back Channel with respect to the potential for future dredging..
Primary Responsibility: Kittery Port Authority

Community Priorities

As with most Plans of this nature, the number and magnitude of the desired initiatives are greater than the community can undertake within the immediate future. In order to provide some guidance to those entities tasked with implementation of the Plan, the November 7, Public Forum included elements aimed at soliciting input from community members as to their idea of priorities. The priority-setting exercises included components based both on specific locations/facilities within the community and areas of policy. The results of the exercises are as follows, with the numbers preceding the location or policy initiative representing the "votes" received for that item.

Locations:

15 Fort Foster
9 Kittery Point Village / Frisbee Pier 9 Seapoint Beach
8 Traip Boat Launch
7 Commercial Center / Rogers Park
~~7 Kittery Foreside~~ only 7 votes-the bottom of the list. / Government Street Pier 1 John Paul Jones

Ann Grinnell
Today, 10:25 AM
Replaced: 7 Kittery Foreside

Policy Topics:

~~26 Maintain What We Have~~ IMPORTANT. / Maintain or Increase CIP Funds 8 Increased Funding for Waterfront Maintenance
8 Storm Planning / Climate Change 5 Address Cleanliness of Beaches
5 Address Non-point Source Water Pollution 3 Enhanced Coordination with the Navy Yard 3 Maintain/Improve the Working Waterfront
3 Maintain/Enhance Productivity and Health of Clam Flats 2 Increase Public Access to Shoreline/Water Project Funding

Ann Grinnell
Today, 10:26 AM
Replaced: 26 Maintain What We Have

While a number of the identified initiatives consist of policy decisions which can be implemented with little or no fiscal impact, it is clear that many of the desired elements will require funding in order to proceed. As with most communities, The Town of Kittery and its Port Authority are subject to a number of fiscal constraints, and it is reasonable to expect that timely implementation of many of these initiatives will be depending on the availability of funding sources other than local property tax revenue. The following is an overview of potential funding sources which may be considered to support the implementation of Kittery's shore and harbor improvement efforts. Included in this overview are:

Shore and Harbor Grants
Community Development Block Grants
User Fees
Tax Increment Financing
MaineDEP Pump Out Grant Program
MaineDMR Working Waterfront Access Protection Program

Public/Private Collaboration
Other Miscellaneous State Funding Programs
Shore and Harbor Grants

Shore and Harbor Grants are administered by the Maine Department of Agriculture, Conservation and Forestry, through the Maine Coastal Program. The Town is familiar with this funding program, having applied for and received planning grant funds through this program in support of this study effort. These funds are available by grant application on an annual basis. The Town should continue to seek funding through this program for in those cases where the grant selection criteria are consistent with the initiative. It is important to note that these funds are not eligible for any local, state or federal regulatory permitting efforts. Further information is available at: <https://www.maine.gov/dacf/mcp/grants/shore-and-harbor-planning-grants.html> or by calling the Coastal Program at (207) 287-1419

Community Development Block Grants (CDBG)

This program is a federally-funded initiative administered by the Maine Department of Economic and Community Development (MaineDECD). The purpose of the program is to provide grants to local communities to support economic and community development that primarily benefits low and moderate income persons. Federal funding to underwrite the program is provided through the U.S. Department of Housing and Urban Development (HUD).

The CDBG program consists of several grant programs that support initiative aimed at economic and community development. For the improvements identified above, the community may wish to consider applying for a Public Facilities Grant. These funds are available on an annual basis. Each year the program statement is evaluated and adjusted. Current information regarding Maine's CDBG program is available at: <http://www.maine.gov/decd/meocd/cdbg/categories.shtml>

User Fees

User fees for public facilities are not unusual and are currently in place at a number of municipal facilities within the community. They often provide a "pay as you go" source of funding to continue to fund the operations and maintenance of these facilities. It may be worth evaluating the current fee structures to ensure that they are appropriate given the benefits received by users.

Tax Increment Financing Districts (TIF's)

Tax Increment Financing is a commonly used funding mechanism in Maine in which certain designated improvements can be funded through the dedication of increased local property tax revenues resulting from private investment within a designated district. TIFs are further supported by sheltering new property valuation within the

"TIF district" from a community's state valuation so that the community avoids losses in state aid to education and state municipal revenues sharing as well as increases in its county tax. Revenues captured within a designated TIF district can be used to fund both local costs for infrastructure and economic development efforts as well as private costs for building construction and improvements as well as site related costs. Kittery currently has three TIF districts.

More information regarding the use of TIF's can be found at the following link: http://www.maine.gov/decd/start-grow/tax-incentives/tax_increment_financing.shtml

Pumpout Grants

Pumpout Grants are administered by MaineDEP and are managed under the Maine Pumpout Grant Program funded by the United States Fish and Wildlife Service with additional funding from the Clean Vessel Act Grant Program (CVA). These CVA funds are provided annually through Maine's Pumpout Grant Program, providing 75% of project funding for installation, operation and maintenance of boat holding tank pump out and dumping equipment to marinas, boatyards and municipalities. The Town has been in recent conversation with MaineDEP regarding these funds and should continue to do so as they are currently the most direct source of funds for such boat waste handling facilities. Applications and grant administration information is available at:

<http://www.maine.gov/dep/water/grants/pumpout/index.html>

Working Waterfront Access Protection Program

The Maine Department of Marine Resources administers the Working Waterfront Access Protection Program in cooperation with the Maine Coastal Program, Coastal Enterprises, Inc. and the Land for Maine's Future Program.

The process involves a competitive application process and provides matching funds "to assist commercial fisheries businesses, co-ops, municipalities and other interested parties in securing strategically significant working waterfront properties. Funds can be used to purchase property, or for the purchase of access easements, rights of way, or development rights to preserve walk-in or small boat access, properties entirely dedicated to commercial fisheries uses, or mixed use properties." Information relative to applications and grant administration is available at: <http://www.maine.gov/dmr/council/WWAP/WorkingWaterfrontAccessProgram.s.html>

Public / Private Partnerships

The Town and Port Authority should continue discussions with key stakeholders to assess opportunities to assist in cost sharing to benefit both owner interests.

Other Miscellaneous State Funding Programs

The State of Maine periodically enacts "special" grant funding programs using revenue from state bond issues. Examples of such initiative include Riverfront Community Development Bond program and the Municipal Investment Trust Fund, both of which were administered by the Maine Department of Economic and Community Development (DECD). While this is an inconsistent funding source and may not be available to meet Kittery's near-term project goals, the community should continue to monitor the potential for future funding sources of this nature and be prepared to be opportunistic in terms of filing applications based on eligibility of Plan initiatives.

Part 5 – Appendices

Appendix A – Relevant Maps and Plans Appendix B – Materials from First Public Forum
Appendix C – Materials from Second Public Forum

Appendix D – Coordination with Kittery's Comprehensive Plan/
~~Growth Management Program~~ Kittery does not have a GMP.

Ann Grinnell
Today, 10:31 AM
Replaced: Growth
Management Program

**Town of Kittery Maine
 Town Planning Board Meeting
 July 24, 2014**

Town Code Amendment - Title 16.10.8.2.1 Conditions – General

Action: review amendment and make recommendation to Town Council for adoption. Proposed amendment adds off-site improvements to potential Planning Board conditions of approval.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Discussion	4/24/14; moved to schedule a PH	PENDING
YES	Schedule Public Hearing	Scheduled 6/26; ran in legal section in the Portsmouth Herald for Friday 6/13 and again for Wednesday 6/18	COMPLETE
YES	Public Hearing	Scheduled for 6/26/14	HELD
	Town Council/Planning Board Joint Workshop		PENDING
YES	Review/Recommendation to Town Council		PENDING

Background

The proposed amendment provides clarity with regard to requiring “off-site” improvements adjacent to the property (e.g., within a street right-of-way between the property line and a street curb) when development projects incur such improvements. Currently the term “off-site improvements” is not included and so it can be construed that required improvements are limited to the development site and not the adjacent Right-Of-Way or an area not contiguous, such as a nearby intersection in need of a traffic signal due to the proposed development. The Board held a public hearing at their June 26 meeting and continued action to the July 24 meeting.

Review

The Planning board reviewed this proposed amendment at the April 24 meeting. At the June 26 meeting there was comment regarding applicability to staff review/approval of development plans. The latest amendment addresses the comment with the addition of development plans reviewed by the CEO and Planner.

See attached Ordinance Revision Memorandum for details and the code amendment and enactment ordinance.

Recommendation

Staff recommends the Board, identifying no further issues, move to recommend adoption by the Town Council.

Town of Kittery Maine Ordinance Revision Memorandum

Originator(s): T. Emerson, Planning Board Chair; S. Tuveson, VC	Council Sponsor(s): J. Thomson, Chair
Council meeting date: TBD	Title: Planning Board Review and Decision – Final Plan Conditions of Approval
Town code section: Title 16, §16.8.10.2.1 & 2	History: Amendment

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE, AND PLANNING BOARD REVIEW NOTES

1 PURPOSE OF PROPOSAL:
2

3 For clarification and to ensure the Town obtains “off-site” improvements required by Town Code as
4 well as those improvements to mitigate impacts caused by the proposed development such as traffic
5 signals, signs, utility connections, street lights, and/or stormwater runoff infrastructure.
6
7

8 SUMMARY OF PROPOSAL/AMENDMENT:
9

10 Lines 39 to 48: In section 16.10.8.2.1 the addition of the term ‘off-site improvements’ and examples of
11 such improvements are provided.
12

13 Lines 56 and 59: the deletion of “master” and the addition of “Planning” are minor changes to provide
14 clarity unrelated to the primary purpose of proposed amendment.
15
16

17 JUSTIFICATION:
18

19 The proposed amendment provides clarity with regard to requiring “off-site” improvements adjacent to
20 the property (e.g., within a street right-of-way between the property line and a street curb) when
21 development projects incur such improvements. Currently the term “off-site improvements” is not
22 included and so it can be construed that required improvements are limited to the development site and
23 not the adjacent Right-Of-Way or an area not contiguous, such as a nearby intersection in need of a
24 traffic signal due to the proposed development.
25

26 FISCAL IMPACT:
27

None.

CODE AMENDMENT

28 Title 16 LAND USE and DEVELOPMENT CODE

29
30 Chapter 16.10 DEVELOPMENT PLAN APPLICATION AND REVIEW

31
32
33 Article VIII. Planning Board Final Plan Action

34
35
36 16.10.8.2 Planning Board Review and Decision – Final Plan Conditions of Approval.

37
38 16.10.8.2.1 Conditions – General.

39 Conditions of the Planning Board's approval or other approvals by the Town Planner and Code Enforcement
40 Officer for development review per Section 16.10.3, may include, but are not limited to, type of vegetation,
41 increased setbacks and yard space, specifications for sewage and water supply facilities, buffers and screens,
42 period of maintenance sureties, deed restrictions, locations of piers, docks, parking or signs, type or style of
43 construction, Conditions for off-site improvements required to meet Town Code requirements may include, but
44 are not limited to, street curbs, sidewalks, and/or street trees. Conditions to mitigate off-site development
45 impacts from on-site development may include, but are not limited to traffic signals, traffic directional signs, street
46 shoulders, water and/or sewer connections, and/or street lighting, and, Also conditions may include the amount
47 of all performance guarantees which may be required. All off-site right-of-way improvements must be approved
48 by the right-of-way property owner.

49
50 16.10.8.2.2 Performance Guaranty Conditions.

51 Where improvements for the common use of lessees or the general public have been approved, the Planning
52 Board must require a performance guaranty of amount sufficient to pay for said improvements as a part of the
53 agreement. The applicant must file with the Town, as a condition for approval of the final plan, a performance
54 guaranty in a form acceptable to the Town manager.

55 1. The amount must be at least equal to the total cost of furnishing, installing, connecting and completing all
56 street grading, paving, storm drainage and utilities and other improvements specified in the development master
57 plan and shown on the final plan, and must guarantee the satisfactory coordination with other related phases of
58 development and satisfactory completion of all specified improvements.

59 2. Where the Planning Board reviews and approves project phasing, the Planning Board may also require the
60 developer to provide performance assurances directly related to a particular phase or phases of the project
61 where it can be demonstrated that the uncompleted portions thereof do not detrimentally affect the completed
62 development or the current and ongoing development.

63 3. No phase of construction may commence until the required performance assurances have been met.

64 4. Performance guarantees must be based on professionally prepared cost estimates for all approved
65 infrastructure improvements, and include an inspection escrow agreement for site inspection equal to two
66 percent of construction costs.

67 (Ordained 9/26/11; effective 10/27/11)

68 16.10.8.2.3 Process.

69 A. Before the Planning Board grants approval of a final plan, the applicant must, in an amount and form
70 acceptable to the Town manager, file with the municipal treasurer an instrument to cover the full cost of the
71 required improvements.

72 B. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed
73 three years) is the guaranty time within which required improvements must be completed.

74

ENACTMENT ORDINANCE

Title 16.7.3.5.12 Adjustment of Common Boundary Line of Non-Conforming Lots

AN ORDINANCE amending Article VIII. Planning Board Final Plan Action in Chapter 10, Title 16 Land Use Development Code, including Planning Board Review and Decision – Final Plan Conditions of Approval.

WHEREAS, The Kittery Town Council is authorized to enact this Ordinance, as specified in Section 2.07 (3) of the Town Charter and 30-A M.R.S. §3001, pursuant to its powers that authorize the town, under certain circumstances, to provide for the public health, safety and welfare. The Council does not intend for this Ordinance to conflict with any existing state or federal laws.

WHEREAS, clarification is necessary to ensure the Town obtains off-site improvements constructed in the Right-Of-Way when required by Town Code as well as those off-site improvements necessary to mitigate impacts of the approved development plan.

WHEREAS, the Town Council finds these ordinance provisions pursuant to and consistent with the Kittery Comprehensive Plan, striking a reasonable balance among the Town’s various zoning goals;

NOW THEREFORE, IN ACCORDANCE WITH TITLE 30-A, M.R.S. §3001, AND TOWN CHARTER SECTION 2.14, THE TOWN OF KITTERY HEREBY ORDAINS REVISION TO TOWN CODE TITLE 16.10.8.2 PLANNING BOARD REVIEW AND DECISION – FINAL PLAN CONDITIONS OF APPROVAL CODIFIED IN THE TOWN CODE.

INTRODUCED and read in a public session of the Town Council on the ___ day of _____, 2014, by: _____ {NAME} Motion to approve by Councilor _____ {NAME}, as seconded by Councilor _____ {NAME} and passed by a vote of _____-.

THIS ORDINANCE IS DULY AND PROPERLY ORDAINED by the Town Council of Kittery, Maine on the ___ day of _____, 2014, _____ {NAME}, Chairperson

Attest: Maryann Place, Town Clerk



KITTERY TOWN PLANNING BOARD MEETING
Council Chambers – Kittery Town Hall 200 Rogers Road, Kittery, Maine 03904
Phone: 207-475-1323 - Fax: 207-439-6806 - www.kittery.org

AGENDA FOR TOWN SIGN STANDARDS WORKSHOP
Thursday, July 17, 2014 6:00 P.M. to 10:00 P.M.

CALL TO ORDER – ROLL CALL

WELCOME

ITEM 1 – Town Code Title 16 Sign Standards and Design Handbook – Clarification, Update and Compliance

Introduction

Initial Sign Standards Topics

1. Business Signs Character and Appearance
2. Electronic Message Board Signs – Gasoline Price Sign Option
3. Signs internally or externally lite.
4. Transition from non-compliance to compliance / amortization
5. Other

Public Comment

Board Discussion

Next Steps

ADJOURNMENT - (by 10:00 PM unless extended by motion and vote)

*NOTE: ACTION LISTED IN ABOVE AGENDA ITEMS IS FOR REFERENCE ONLY AND THE BOARD MAY DETERMINE A DIFFERENT ACTION.
DISCLAIMER: ALL AGENDAS ARE SUBJECT TO REVISION ONE WEEK PRIOR TO THE SCHEDULED TOWN PLANNING BOARD MEETING.
TO REQUEST A REASONABLE ACCOMMODATION FOR THIS MEETING PLEASE CONTACT STAFF AT (207) 475-1323 OR (207) 475-1307.*

Welcome to Kittery: Maine's First Port

**Town of Kittery Maine
Town Planning Board Meeting
July 24, 2014**

Town Code Amendment - Title 16.8.10.1 Signs – Propose and Title 16.8.10.2 Signs – General Requirements. Action: review amendment and make recommendation to Town Council for adoption.
Proposed amendment requires adherence to Kittery Design Handbook.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Discussion	4/24/2014, Planner's Time	
YES	Schedule Public Hearing	Scheduled 5/22; ran in legal section in the Portsmouth Herald for Sat.5/10 and again for Wednesday 5/14	COMPLETE
YES	Public Hearing	Scheduled 5/22/14	HELD
	Review/Town Council/Planning Board Joint	5/22/2014 review, continued...	PENDING
YES	Recommendation to Town Council		PENDING

Background

- Town's can plan, design and achieve a unique character and appearance to increase overall property value. Kittery does this in part via its sign standards which also increases public safety.
- Kittery's Town Code Title 16 Land Use and Development Code: is designed for all the purposes of zoning embraced in Maine Revised Statutes, and created as an integral part of a growth management program, comprehensive planning and implementation process for the Town to promote the health, safety and general welfare of its residents."
- This includes implementation of the adopted Comprehensive Plan vision: "to preserve and enhance Kittery's New England small, seacoast and historic town character and appearance."
- Per Town Code Sections 16.3.2.11.3, 4, and 5 all development and the use of land within the commercial zones must meet standards such as b. Building Design Standards, including exterior building materials and details, roofs, and landscaping/site improvements.

Review

Amendment has been revised since 6/24/14.

See attached Ordinance Revision Memorandum

Town of Kittery Ordinance Revision Memorandum

Originator(s): T. Emerson, Planning Board Chair; S. Tuveson, VC	Council Sponsor(s): J. Thomson, Chair
Council meeting date: TBD	Title: Signs – Appearance
Town code section: Title 16, §16.8.10.1 & 2	History: Amendment

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE, AND PLANNING BOARD REVIEW

1 **PURPOSE OF PROPOSAL:**

2
3 Clarify Town business sign standards to comply with adopted Town Comprehensive Vision related to
4 Town character and appearance.
5
6
7
8

9 **SUMMARY OF PROPOSAL/AMENDMENT:**

10
11 Amend General Requirements Section
12
13

14 **JUSTIFICATION:**

15
16 Need to clarify business sign standard in the context of the Town Vision, Town Code building
17 standards and the adopted Town Design Handbook.
18

19 **FISCAL IMPACT:**

20
21 Increase Town asset value.

22 **CODE AMENDMENT**

23 **Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT**

24 **Article X. Signs**

25 **16.8.10.1 Purpose.**

26 The purpose of this section is to **implement the adopted Town Comprehensive Plan including its vision**
27 **to preserve and enhance Kittery's New England small, seacoast town character and appearance. The**
28 **purpose also is to** balance the need for adequate identification and advertising for land uses to
29 promote the economic well-being of the Town with the need to protect the public safety and maintain
30 and enhance the physical appearance of the community. This objective is to be achieved by:

31
32 A. **Establishing and enforcing sign and graphic design standards described in the Kittery Design**
33 **Handbook that includes examples of acceptable materials and designs.**

34 A.B. Allowing adequate signage for the effective use of signs as a means of identifying, advertising
35 and communication of land uses;

36
37 **C.B.** Establishing the appropriate bounds for location, size, number, type and use of signs to protect
38 traffic safety, preserve property values and to promote visual order and clarity; and

39
40 **D.C.** Establishing procedures and regulations for the fair and consistent administration and
41 enforcement of these sign restrictions.

42 **16.8.10.2 General Requirements.**

43
44 A. **Any sign not expressly permitted herein is prohibited. (MOVED FROM BELOW Subsection I to A.)**

45
46 **A.B. All signs must be compatible with Kittery's characteristic architectural styles in form, scale,**
47 **material and color. (See Design Handbook for examples of acceptable materials and designs.) and**
48 **requirements.) Form, scale, material and color characteristics must include:**

49 **1. For all signs:**

50 **a. A simple geometric or logo shape.**

51 **b. A frame or painted or trimmed boarder around the message area that reflects the**
52 **exterior shape of the sign.**

53 **d. Sign colors not to exceed three colors. A free standing sign that advertises one or**
54 **more business located on the property may use additional colors only in conjunction**
55 **with the property name. Business name plates must be the same color.**

56 **e. Channel letters**

57
58 **2. For free standing/identification signs:**

59 **a. Two sign posts a minimum of four by four inches (4" x 4") or four inches in diameter**
60 **and not to exceed twelve by twelve inches (12" x 12") or twelve inches in diameter,**
61 **unless the sign is supported by a stone or brick base.**

62 **b. Sign post top caps with either crown mounding, fennels or masonry.**

63
64 C. No sign may be erected, posted, enlarged, or substantially changed without a permit issued by the
65 Code Enforcement Officer (CEO) and also approved by the Town Planner, except where Section
66 16.8.10.9 provides otherwise. (Ordained 9/26/11; effective 10/27/11) **Where the Town Planner feels**
67 **additional design review is required, the Town Planner may refer the sign permit application to the**
68 **Town Planning Board for approval.**

69
70 DB. No exterior sign may be **internally illuminated** or artificially illuminated except where hooded, or
71 shielded **or shrouded** to prevent direct light spilling onto traveled ways or neighboring property.

72
73 (Note Other subsections to be re-lettered consecutively.)

74 End

ENACTMENT ORDINANCE

Title 16.8 Article X Signs

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AN ORDINANCE amending Town Code Title 16.8 Article X. Signs Sections 16.8.10.1 Purpose and 16.8.10.2 General Requirements.

WHEREAS, The Kittery Town Council is authorized to enact this Ordinance, as specified in Section 2.07 (3) of the Town Charter and 30-A M.R.S. §3001, pursuant to its powers that authorize the town, under certain circumstances, to provide for the public health, safety and welfare. The Council does not intend for this Ordinance to conflict with any existing state or federal laws.

WHEREAS, clarification is necessary to ensure the Town implements adopted Town Comprehensive Plan vision related to Town character and appearance impacted by signs.

WHEREAS, the Town Council finds these ordinance provisions pursuant to and consistent with the Kittery Comprehensive Plan, striking a reasonable balance among the Town’s various zoning goals;

NOW THEREFORE, IN ACCORDANCE WITH TITLE 30-A, M.R.S. §3001, AND TOWN CHARTER SECTION 2.14, THE TOWN OF KITTERY HEREBY ORDAINS REVISION TO TOWN CODE TITLE 16.8, ARTICLE X. SIGNS AND SECTIONS 16.8.10.1 PURPOSE AND 16.8.10.2 GENERAL REQUIREMENTS.

INTRODUCED and read in a public session of the Town Council on the ___ day of _____, 2014, by: _____ {NAME} Motion to approve by Councilor _____ {NAME}, as seconded by Councilor _____ {NAME} and passed by a vote of _____-.

THIS ORDINANCE IS DULY AND PROPERLY ORDAINED by the Town Council of Kittery, Maine on the ___ day of _____, 2014, _____ {NAME}, Chairperson

Attest: Maryann Place, Town Clerk

**Town of Kittery Maine
Town Planning Board Meeting
July 24, 2014**

Town Code Amendment - Title 16.8.10.2.C Signs – General Requirements. Action: review amendment and schedule a public hearing. Proposed amendment re-defines Light-emitting diode (LED) lighting use including the limited use for a gasoline price sign.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Discussion	6/26/2014, continued to 7/24	
YES	Schedule Public Hearing		PENDING
YES	Public Hearing		PENDING
	Town Council/Planning Board Joint Workshop		PENDING
YES	Review/Recommendation to Town Council		PENDING

Background

See Ordinance Revision Memorandum

Recommendation

Schedule a public hearing

**Town of Kittery, Maine
Ordinance Revision Memorandum**

Originator(s): T. Emerson, Planning Board Chair; S. Tuveson, VC	Council Sponsor(s): J. Thomson, Chair
Council meeting date: TBD	Title: Signs – LED and Gas Price Sign option
Town code section: Title 16, §16.2 and 16.8.10.2	History: Amendment June 26, 2014, TPB scheduled a workshop July 17, 2014 Workshop pending.

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE, AND PLANNING BOARD REVIEW

1 **PURPOSE OF PROPOSAL:**

2
3 Clarify the use of LED light fixtures and provide an option for a gasoline price sign if desired.
4
5
6
7

8 **SUMMARY OF PROPOSAL/AMENDMENT:**

9
10 Amend Sign Definitions and General Requirements Section
11
12

13 **JUSTIFICATION:**

14
15 Needed to clarify LED light fixtures use and limitations.
16

17 **FISCAL IMPACT:**

18 None.

TOWN CODE AMENDMENT

19 Town of Kittery Maine Town Code

20 Chapter 16.2 DEFINITIONS

21 **16.2.2 Definitions**

22
23 **ELECTRONIC MESSAGE BOARD (aka "ELECTRONIC MESSAGE CENTER")**

24 An electrically activated sign whose message content, either in whole or in part,
25 may be changed by means of electronic programming. The message content may
26 be displayed as pixels on a display surface, which pixels may consist of
27 incandescent lamps, reflective disks, light-emitting diodes (LEDs), liquid crystal
28 components (LCDs), neon or plasma light segments, or various combinations of the
29 above.

30

31 **Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT**

32 **Article X. Signs**

33

34 **16.8.10.2 General Requirements.**

35

36 C. No sign may contain a moving message, board, LED lighting electronic message board except as
37 provided in D below, electronic photographic display or intermittent illumination, except where
38 necessary in a time/temperature/date signs.

39

40 D. A gasoline station freestanding sign may include a gasoline price sign that may use an electronic
41 message board where gas price information is updated no more than once daily. The maximum
42 numeral height must not exceed twelve (12") inches, and color must be black for the background and
43 amber for the displayed content.

44

45 **ED.** Any sign that interferes with or closely imitates any official traffic sign, signal or device is
46 prohibited.

47

48 **FE.** No sign designed to be transported by means of wheels is allowed, unless said vehicle is used in
49 the normal day-to-day transportation operations of the business. All trailer signs are prohibited.

50

51 **GF.** Any changeable message signs must be integrated into a permanently-mounted sign. Such a
52 changeable message Board is to be mounted a minimum of three and one-half feet above ground
53 level.

54

55 **HG.** All signs must be maintained in a safe and sound structural condition.

56

57 **IH.** Advertising. No advertising or signage is permitted on wireless communication services facilities.

58

59 **JL.** Any sign not expressly permitted herein is prohibited.

60

ENACTMENT ORDINANCE

61 Title 16.2 Definitions and 16.8 Article X Signs

62
63 **AN ORDINANCE** amending Town Code Section 16.2.2 Definitions and 16.8 Article X. Signs
64 Section 16.8.10.2 General Requirements.

65
66 **WHEREAS**, The Kittery Town Council is authorized to enact this Ordinance, as specified in
67 Section 2.07 (3) of the Town Charter and 30-A M.R.S. §3001, pursuant to its powers that
68 authorize the town, under certain circumstances, to provide for the public health, safety and
69 welfare. The Council does not intend for this Ordinance to conflict with any existing state or
70 federal laws.

71
72 **WHEREAS**, clarification is necessary to ensure the Town implements adopted Town
73 Comprehensive Plan vision related to Town character and appearance impacted by signs.

74
75 **WHEREAS**, the Town Council finds these ordinance provisions pursuant to and consistent
76 with the Kittery Comprehensive Plan, striking a reasonable balance among the Town's various
77 zoning goals;

78
79 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A, M.R.S. §3001, AND TOWN
80 CHARTER SECTION 2.14, THE TOWN OF KITTELY HEREBY ORDAINS REVISION TO
81 TOWN CODE TITLE 16 SECTIONS 16.2.2 DEFINITIONS AND ARTICLE X. SIGNS
82 SECTION 16.8.10.2 GENERAL REQUIREMENTS.

83
84 **INTRODUCED** and read in a public session of the Town Council on the __ day of _____,
85 2014, by: _____ {NAME} Motion to approve by
86 Councilor _____ {NAME}, as seconded by Councilor _____
87 {NAME} and passed by a vote of _____-.

88
89 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,
90 Maine on the __ day of _____, 2014, _____ {NAME}, Chairperson

91
92 **Attest:** Maryann Place, Town Clerk

BUILDING PERMIT 2014 REPORT

Number of Building Permits Issued
 Value of Building Permits
 Permit Fees Collected
 Impact Fees Paid

Date Issued	Permit #	Property Owner	Address	Map	Lot	C	R	Work	Description	Value	Fee	Impact Fee	Zone	Overlay	Use	Occupied	Owner / Rental
6/2/2014	14-131	HALEY, BONNIE	7 BAYVIEW LN	2	77	R		MAINT & REPAIR	BATHROOMS RENO	\$10,000.00	\$25.00	-	R-S	-	SF	OWNER	
6/2/2014	14-132	MAHAR, PETER	78 CHAUNCEY CK RD	45	65	R		MAINT & REPAIR	RESHINGLE	\$16,000.00	\$97.00	-	R-KPV	OZ-SL	SF	OWNER	
6/2/2014	14-133	PHILPOTT, DAVID	28 TOWER RD	58	51L	R		MAINT & REPAIR	WINDOWS	\$10,000.00	\$25.00	-	R-RLC	-	SF	OWNER	
6/2/2014	14-134	PENNA, STEVEN	22 CROCKETT NECK RD	26	44	R		FLOAT	FLOAT	\$800.00	\$34.00	-	R-KPV	OZ-SL	SF	OWNER	
6/2/2014	14-135	COSTANTINI	3 ZAKAYLA LN	61	28C	R		GENERATOR	GENERATOR	\$4,605.00	\$79.00	-	R-RL	-	SF	OWNER	
6/2/2014	14-136	LADD, MARTHA	5 MILL POND RD	23	5	R		MAINT & REPAIR	WINDOWS, PORCH	\$29,234.00	\$253.00	-	R-U	OZ-SL	SF	OWNER	
6/2/2014	14-137	WHITE, JOHN	16 JEFFERSON LN	61	24	R		SCREEN HOUSE	SCREENHOUSE	\$37,000.00	\$469.00	-	R-RL	-	SF	OWNER	
6/2/2014	14-138	ZADORSKY, HOLL Y	1 PAUL ST	3	121	R		MAINT & REPAIR	RESHINGLE	\$5,200.00	\$25.00	-	R-U	-	SF	OWNER	
6/2/2014	14-139	POULIN, DAN	14 JEWETT LN	29	20B	R		SINGLE FAMLY	SINGLE FAMLY	\$127,800.00	\$1,558.00	\$138.75	R-S	-	SF	OWNER	
6/2/2014	14-140	PATCO CONST	10 JEWETT LN	29	20D	R		SINGLE FAMLY	SINGLE FAMLY	\$115,000.00	\$1,405.00	\$75.00	R-S	-	SF	OWNER	
6/3/2014	14-141	YANKEE MHP	6 CUTTS RD #4	60	21-4	R		MOBILE HOME	MOBILE HOME	\$50,327.00	\$625.00	-	R-MU	-	MOI	N/A	
6/4/2014	14-142	FOXWELL	21 MANSON AVE	15	9	B		RENOVATION	COMMUNITY RM	\$16,500.00	\$347.50	-	R-U	-	SF	OWNER	
6/4/2014	14-143	LEWIS, FRANK	93 GOODWIN RD	53	1/3/2C	R		MAINT & REPAIR	DECK	\$20,000.00	\$145.00	-	R-C	-	SF	OWNER	
6/4/2014	14-144	MABLEY, MICHELLE	39 BARTLETT RD	56	13-3	R		MAINT & REPAIR	RESHINGLE	\$9,723.00	\$25.00	-	R-RL	-	SF	OWNER	
6/4/2014	14-145	HABERT, MIRIAM	81 PEPPERELL RD	26	23	R		DEMO & RECONST	REBUILD HOUSE	\$120,000.00	\$1,345.00	-	R-KPV	-	SF	OWNER	
6/4/2014	14-146	GLOBAL SIG ACQ	579 US ROUTE 1	66	27	C		CELL TOWER	REPLACE ANT&CAB	\$15,000.00	\$325.00	-	MU	-	CON	N/A	
6/9/2014	14-147	TUKEY, ANDREW	20 RIDGEWOOD DR	20	40	R		SHED	SHED	\$5,000.00	\$85.00	-	R-RL	-	SF	OWNER	
6/10/2014	14-148	BELL, AH, JILL	55 GOVERNMENT ST	4	43	C		MAINT & REPAIR	LAUNDRETTE	\$30,000.00	\$550.00	-	MU-KF	-	CON	N/A	
6/10/2014	14-149	BOYLE, BRIAN	71 CUTTS RD	65	3A	R		ADDITION DECK	ADDITION DECK	\$43,420.00	\$427.00	-	R-RL	-	SF	OWNER	
6/11/2014	14-150	SCHAFER	194 BBHARBOR RD	69	12	R		PROPANE TANK	GAS LINE	\$1,195.00	\$37.00	-	-	-	SF	OWNER	
6/11/2014	14-151	QUIGLEY, BRENDEN	7 OTIS AVE	4	150	R		PROPANE TANK	GAS LINE	\$545.00	\$37.00	-	MU-KF	-	SF	OWNER	
6/11/2014	14-152	ECONOMEAU	18 LOVE LN	9	74	R		RENOV	LIVING SP	\$5,000.00	\$85.00	-	R-U	-	SF	OWNER	
6/12/2014	14-153	KLINGAMAN, PAT	17 DEBRA LN	15	11/1/2	R		DECK	ADDITIONAL 6X6	\$1,200.00	\$40.00	-	R-U	-	SF	OWNER	
6/12/2014	14-154	ETSCOVITZ, LAWRENCE	143 MANSON AVE	24	2	R		ADDITION	5X8	\$10,000.00	\$85.00	-	R-V	-	SF	OWNER	
6/12/2014	14-155	PIG PEN PARTNERS	460 US ROUTE 1	61	27A	C		GAZEBO	GAZEBO-SEASONAL	\$800.00	\$107.50	-	MU	-	CON	N/A	
6/12/2014	14-156	TEIFERT, GREG	118 WHIPPLE RD	10	7	R		MAINT & REPAIR	WATER DMG	\$40,000.00	\$385.00	-	R-U	-	SF	OWNER	
6/12/2014	14-157	CANE, CLAIRE	11 WILSON RD	37	1	R		MAINT & REPAIR	ELECTRICAL	\$2,585.00	\$25.00	-	R-RL	-	SF	OWNER	
6/17/2014	14-158	COX, BRIAN, MJ BLAN	5 KEENE AVE	36	6	R		HEATING SYS	HEAT PUMP	\$7,955.00	\$121.00	-	R-KPV	-	SF	OWNER	
6/18/2014	14-159	WAKE, CAMERON	19 MENDUM AVE	3	54	R		HEATING SYS	HEAT PUMP	\$6,413.00	\$103.00	-	R-U	-	2F	OWNER	
6/24/2014	14-160	DAISEY, NANCY	33 NORTON ROAD	55	5A	R		MAINT & REPAIR	REP PORCH, DECK	\$5,639.00	\$25.00	-	R-RL	-	SF	OWNER	
6/24/2014	14-161	PLANTE, RUSSELL	1 LYNDON WAY	9	86	R		SOLAR	SOLAR PANELS	\$15,099.00	\$205.00	-	R-U	-	SF	OWNER	
6/24/2014	14-162	PERESLUHA, ELAINE	17 GERRISH ISLAND LN	45	51	R		MAINT & REPAIR	RESHINGLE	\$2,824.00	\$25.00	-	R-KPV	-	SF	OWNER	
6/24/2014	14-163	MURPHY, EDWARD	32 HALSTEAD ST	16	65	R		MAINT & REPAIR	SIDING, WIND, KIT	\$11,000.00	\$37.00	-	R-V	-	SF	OWNER	

6/24/2014	14-164	PLANTE, RUSSELL	11 YNDON WAY	6	86 R	GENERATOR	GENERATOR	\$7,580.00	\$115.00	-	R-U	-	SF	OWNER
6/25/2014	14-165	WING, SANDRA	52A STATE RD	3	1	MAINT & REPAIR	RESHINGLE	\$5,535.00	\$182.50	-	B-L	-	CON	OWNER
6/25/2014	14-166	DREYFUS, MARGARET	15 GOOSE PT	34	27 R	MAINT & REPAIR	DECK, WATER DMG	\$1,800.00	\$25.00	-	R-RL	-	SF	OWNER
6/26/2014	14-167	KITTERY PLACE LLC	336 US ROUTE 1	38	11 C	COM REFIT	UNDER ARM EXP	\$9,500.00	\$242.50	-	C-1	-	CON	N/A
6/26/2014	14-168	HUDDLESTON, JOHN	3 ISLAND AVE	1	1 C	COM	PATIO AREA	\$0.00	\$100.00	-	MU-BI	-	CON	N/A
6/26/2014	14-169	SMITH, JASON	2 EVERGREEN DR	28	31 R	GARAGE	GARAGE	\$19,000.00	\$253.00	-	R-RL	-	SF	OWNER
6/26/2014	14-170	MORAN, CHUCK	22 WHIPPOORWILL LN	33	3B R	GENERATOR	GENERATOR	\$1,300.00	\$37.00	-	R-RL	-	SF	OWNER
6/26/2014	14-171	ELLS, THOMAS	144 WHIPPLE RD	10	3 R	PIER	PIER, RAMP, FLOAT	\$40,000.00	\$505.00	-	R-U	-	SF	OWNER
6/26/2014	14-172	GREGG, BRIAN	4 CAPTAINS WAY	71	1/3,2/R	PIER	RAMP & FLOAT	\$16,000.00	\$217.00	-	R-RLC	-	SF	OWNER
6/26/2014	14-173	HOLLINSWORTH, MARK	11 MOORES ISL LN	27	34 R	PIER	FLOATS	\$20,000.00	\$265.00	-	R-KPV	OZ-SL	SF	OWNER
6/26/2014	14-174	LINGARD, KIM	106 HAILEY RD	48	4 R	SHED	SHED	\$798.00	\$37.00	-	R-RL	-	SF	OWNER