TOWN OF KITTERY, Maine **UNAPPROVED**
PLANNING BOARD MEETING **November 17, 2016**
Council Chambers

CALL TO ORDER

Vice Chair Kalmar called the meeting to order at 6:00 p.m.

ROLL CALL

Present: Mark Alesse, Debbie Driscoll-Davis, Karen Kalmar, Dutch Dunkelberger, Robert Harris

Absent: Ann Grinnell, Brett Costa

Staff: Chris Di Matteo, Town Planner

MINUTES: October 27, 2016

Line 24 change "Quite" to "Quiet".

Mr. Dunkelberger moved to accept the Minutes as amended.
Ms. Driscoll-Davis seconded the motion.

The motion carried 4-0-0. (Mr. Alesse stepped away)

PUBLIC HEARING / OLD BUSINESS

ITEM 1 - 450 U.S. Route 1 – Site Plan Review

Action: Hold a public hearing. Approve or Deny Preliminary Plan. Owner/Applicant Kitterydom, LLC requests consideration to develop a two-unit commercial building on an approximately 19 acre vacant lot located at 450 U.S. Route 1 (Tax Map 61 Lot 28) in the Mixed Use (MU) Zone. Agent is Paul Avery, Oak Consulting Group, LLC.

Paul Avery, Oak Consulting Group, LLC stated they have received the staff comments and they reviewed the comments from the site walk.

Vice Chair Kalmar opened the public hearing. There being none, the Vice Chair closed the public hearing.

Parking spaces – The plan will have 10 spaces instead of 12. The applicant did not add five additional parking spaces warranted for a drive through because they have a pick-up window. Mr. Dunkelberger stated his concern with the possibility of the pick-up window becoming a drive through in the future. If this did occur, the applicant understands the plan would need to go before the Planning Board to add additional parking spaces. The applicant agreed to have a condition of no drive through added.

Ms. Driscoll-Davis stated her concern of what the second restaurant will be. The applicant responded that it may not be a restaurant and they have the capacity for a mixed-use business.

The wall will be clapboard and there is a revision of the space being 47 feet and 9 inches.

The Board commented open space needs to be marked on the map. The applicant agreed to clarify which trees will be saved, the development plan for the frontage and the number of trees. The applicant also agreed to screen in the parking including the Lewis Street side.

Ms. Driscoll-Davis expressed her concern of the lack of a sidewalk. The applicant agreed to consider this. The applicant also agreed to Mr. Di Matteo's recommendations for the landscape strip and to include a total count of plants for the frontage.

Ms. Driscoll-Davis stated her concern with the plan to exit on to Route One heading north. The applicant explained the driveway was planned to allow tractor-trailer trucks to make deliveries. After further discussion, the applicant suggested adding signage with a directional arrow to indicate the entrance on Lewis Road.

Vice Chair Kalmar reminded the applicant the CMA lighting plan will need to be in the final package.

Mr. Dunkelberger moved with conditions the preliminary site plan application dated September 22, 2016 from owner, BJP Corp, and applicant Kitterydom, LLC for 450 U.S. Route 1 (Tax Map 61 Lot 28) in the Mixed Use zone.
The motion was seconded by Mr. Harris.

The motion carried 5-0-0.

ITEM 2 – 24 Goodwin Road – Shoreland Development Plan Review
Action: Hold a public hearing. Approve or deny plan. Owner/applicant Greg and Laurie Smith request consideration to demolish and reconstruct a nonconforming structure in an expanded footprint within the 100-foot setback located at 24 Goodwin Road (Tax Map 58 Lot 19) in the Shoreland Overlay (SH-OZ-250') and Residential – Rural Conservation (R-RLC) Zones. Agent is Tom Emerson, Studio B-E.

Mr. Emerson stated the primary change to the plan since the last meeting is the proposed carport which is changed to the left side of the building.

Vice Chair Kalmar opened the public hearing.

Resident Ronald Spinney, 25 Goodwin Road, stated the Smiths have been good neighbors.
Resident John Carlson, 110 Goodwin Road stated he is not a direct neighbor, but he passes the home every day and the new dwelling will be an improvement.

Vice Chair Kalmar closed the public hearing.

Mr. Emmons stated the proposed home will be two bedrooms not three and the present septic size is appropriate for a two bedroom. Board members informed Mr. Emmons the large pine tree near the proposed well site is not on the plan and is required to be.

The volume is 12,408. The proposed floor plan is 883 and was used in the calculation of the volume. Mr. Emerson stated the proposed home will be within the bulk of the existing area. Vice Chair Kalmar stated it must be in the exact area. Mr. Emerson discussed revegetating and stated they are willing to put in a 25 x 50 ft. tree plot. Mr. Emerson referenced Ordinance 16.7.3.5.4c. Mr. Di Matteo stated this is a reconstruction not a relocation and they are looking at the buffer requirement. Mr. Di Matteo further explained most restrictive is applied if there is a conflict in provisions in the code.

Calculations for the deck and porches have been redone and meet the 30 percent area in volume per Mr. Emerson. The driveway has been enlarged.

Mr. Emerson addressed Item 3 and read the ordinance defining a setback. He believes it does not include building facades or building footprints. He further stated the proposed building is further back than the existing one and there is no existence in the code or DEP regarding nonconformance. Mr. Di Matteo stated the Town holds to the existing façade and suggested having the State review the plan if the Board would agree. Vice Chair Kalmar stated the most restrictive prevails and would like the DEP to respond. Ms. Driscoll-Davis requested the distance from the right front corner of house to the shore land. After further discussion, Mr. Emerson stated he would prefer to move the building to the southwest 1.5 feet.

Discussion ensued of the definition in the code of the carport being a floor space or driveway. Board members were polled with the following result: Vice Chair Kalmar, Ms. Driscoll-Davis, Mr. Dunkelberger voted floor space; Mr. Harris and Mr. Alesse voted driveway. The applicant agreed to remove the carport and keep the shed where it is.

Vice Chair Kalmar stated the plan has many adjustments and it would be difficult to be approve at tonight's meeting. She requested another poll of the Board regarding approval. The following is the result: Mr. Dunkelberger, Mr. Alesse, Vice Chair Kalmar, Ms. Driscoll-Davis voted to wait until the plan is complete. Mr. Harris voted to move forward this evening.

Mr. Dunkelberger moved to continue the Shoreland Development Plan application dated September 22, 2016 from owner/applicant Gregory and Laurie Smith for 24 Goodwin Road (Tax Map 58 Lot 19) in the Residential – Rural Conservation and Shoreland Overlay Zones, not to exceed 90 days.
The motion was seconded by Ms. Driscoll-Davis.

Motion carried 4-1-0.

NEW BUSINESS

ITEM 3 – 412 Haley Road – Cluster Subdivision Preliminary Plan – Completeness Review
Action: Accept or deny application. Schedule a public hearing. Owner Marilyn Mann & James Smith, and applicant, Green & Company, requests consideration of a 12-lot cluster subdivision located at 412 Haley Road (Tax Map 34 Lot 3) in the Residential-Rural (R-RL) and Shoreland Overlay (SH-OZ-250') Zones. Agent is Joseph Coronati, Jones and Beach Engineers, Inc.

Mr. Coronati stated the plan is complete and reviewed the following changes from the last meeting:

- The road in from Haley Road is proposed as a public street with a 60ft. right of way.
- The cul-de-sec street is now a class 2 private road with a 40-ft. right of way
- The gravel driveway is a class 1 road. The road length waiver has been submitted for the class 1.
- They have submitted a wildlife habitat study for the Board's review.

The Board agreed to hear Resident Vern Gardner, 2 Tucker Cove, who was asked by friends and abutters to speak on their behalf. Mr. Gardner stated one of the issues not completed is the vernal pools that adjoins the property are not depicted on the plan. He further stated the developer is aware of their presence. Mr. Gardner also explained the abutters are requesting adequate time to prepare because they need to hire an engineer. Greg Orso, representing the applicant, stated the owners has other legal obligations that have time restrictions and they want to go forward. Mr. Di Matteo suggested the owners can consider scheduling a hearing at a later date beyond the 30 days. Mr. Orso will check with the owners.

Mr. Gardner passed out and reviewed a list of concerns and he asked the Board to consider to delay until the end of the year.

Earldean Wells, Conservation Commission, reminded the Board the Commission requested in August a wetland assessment, one vernal pool to be shown on the plan and a wildlife assessment. She asked that part of the wetland that extends into another development be shown in its entirety along with a stream and three ponds, in order for the Planning Board to make their assessment on what has been proposed.

Mr. Dunkelberger moved to accept the preliminary subdivision plan application dated October 27, 2016 from owner, Marilyn Mann and James Smith, and applicant, Green and Company, for 412 Haley Road (Tax Map 34 Lot 3) in the Residential-Rural and Shoreland Overlay Zones.
Mr. Harris seconded the motion.

Vice Chair Kalmar stated there is no option in the code to offer the abutters, and as previously mentioned, they can bring their concerns to the public hearing. Mr. Dunkelberger encouraged the applicants to address the items of the vernal pool, the increased wildlife habitat study and wetland assessment. Mr. Di Matteo stated the items mentioned should be on the plan.

The motion carried 5-0-0.

Mr. Dunkelberger moved to schedule a public hearing for the preliminary subdivision plan application dated October 27, 2016 from owner, Marilyn Mann and James Smith, and applicant, Green and Company, for 412 Haley Road (Tax Map 34 Lot 3) in the Residential-Rural and Shoreland Overlay Zones for December 8, 2016.
Ms. Driscoll-Davis seconded the motion.

The motion carried 5-0-0.

Ms. Driscoll-Davis requested to schedule another site walk and a copy of the homeowner's documents at that time. Mr. Orso replied there are no homeowner's association documents at this time and will provide drafts when available. Mr. Orso also stated there were no restrictions found.

Mr. Dunkelberger moved to schedule a site walk for the preliminary subdivision plan application dated October 27, 2016 from owner, Marilyn Mann and James Smith, and applicant, Green and Company, for 412 Haley Road (Tax Map 34 Lot 3) in the Residential-Rural and Shoreland Overlay Zones on December 6, 2016 at 8:00 a.m.
Ms. Driscoll-Davis seconded the motion.

The motion carried 5-0-0.

ITEM 4 - 8 Lawrence Lane – Shoreland Development Plan – Special Exception Request
Action: Accept or deny application. Approve or deny plan. Owner, James P. Austin, Trustee, and applicant, Heather & Sto Austin, request consideration of a minor home occupation located at 8 Lawrence Lane (Tax Map 18 Lot 34) in the Residential-Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SL-250') Zones. Agent is Tom Harmon, Civil Consultants.

Mr. Harmon explained the building is an existing home and there will be no construction on site. He further explained there is a 12-foot driveway and the house has 6 bedrooms that can utilize up to 12 people. He did not add the dimensions of the parking area. He believes turning this into a bed and breakfast will have less impact on the neighborhood than a completely occupied home.

Mr. Harmon is requesting the bed and breakfast be approved for the entire year. The owner would also like to rent out the entire home in the peak season.

Vice Chair Kalmar and Ms. Driscoll-Davis questioned Item 7 of the staff notes that references large-scale gatherings. Mr. Harmon mentioned the home is advertised on *Home Away* for a single-family home and including options to hold weddings. There is also an offer of a boat ride. Mr. Di Matteo explained under the Special Exception Use, the Board can determine what is allowed and it is important to know what the intended use will be.

Ms. Driscoll-Davis mentioned abutters have complained about large events at this location in the past and she is concerned with the neighborhood. Mr. Di Matteo explained if a house is rented out within the residential area and has above-average, large-scale gatherings, it passes over to a commercial property use. Heather Austin explained the bed and breakfast will operate October 1st to May 1st.

After further discussion, the Board was in consensus to hold a public hearing and requested Mr. Harmon add parking to the plan.

Mr. Dunkelberger moved to accept the Special Exception Use Request dated October 20, 2016 from Heather & Sto Austin for a minor home occupation located at 8 Lawrence Lane (Tax Map 18 Lot 34) in the Residential Kittery Point village and Shoreland Overlay Zones.
Mr. Alesse seconded the motion.

The motion carried 5-0-0.

Mr. Dunkelberger moved to schedule a public hearing on December 8, 2016, for the Special Exception Use Request dated October 20, 2016 from Heather & Sto Austin for a minor home occupation located at 8 Lawrence Lane (Tax Map 18 Lot 34) in the Residential Kittery Point village and Shoreland Overlay Zones.
Mr. Harris seconded the motion

The motion carried 5-0-0.

ITEM 5 - 74 State Road – Sketch Plan Review
Action: Accept or deny application. Approve or deny sketch plan. Owner PB 'R' Us, and applicant, Christopher Baudo request consideration of a mixed-use complex located at 74 State Road (Tax Map 8 Lot 41A) in the Business Local (B-L) Zone.

Mr. Baudo explained his changes from the previous sketch plan that was previously presented to the Board. He will change the use to a hotel-use status as recommended by the planning staff. He explained the redesign of the parking lot and the changes to the front of the entranceway, which will be a lobby. He also explained there will be an interior corridor to the lobby. Primary access would be off Village Green Drive. There will be no elevator and the lower floor will have handicap units. Ms. Driscoll-Davis questioned how will the density

bonus will be reached. Mr. Di Matteo stated it would need to be nonresidential and not necessarily retail for density. Mr. Baudo explained a definition for a hotel is not a residential use.

Mr. Baudo drew a diagram for the members to give a better understanding of the phase process. He explained the intention for parking spaces in Phases 2-3. Residents of townhouses would have access from the parking lot. Mr. Dunkelberger asked how handicapped residents would access the hotel. Mr. Baudo replied he will need to address that.

Mr. Di Matteo asked what the plan is for preparing the site. Mr. Baudo replied it would need to be prepared by blasting once. He also stated the timeframe of the project is 1.5 to 2 years.

Mr. Baudo disagrees with the dwelling comments from the staff notes. He stated the townhouses are being calculated as a dwelling and explained how he calculated the net residential acreage. Rebecca Spitko, from the planning office, replied Note 7 addresses the net residential acreage and the numbers do not support this regardless of being rooming units or a rooming house. Ms. Driscoll-Davis questioned the measurement of the bedrock. Mr. Baudo explained it was surveyed by someone else.

The Board determined they had enough for a sketch plan.

Mr. Alesse requested a visual rendering of the elevation be presented.

Mr. Dunkelberger moved to accept the sketch plan application dated September 23, 2016 for owner PB 'R' US and applicant Chris Baudo, for 74 State Road and continue the sketch plan, not to exceed 90 days.
The motion was seconded by Mr. Harris.

The motion carried 5-0-0.

Mr. Dunkelberger moved to schedule a site walk for the sketch plan dated September 23, 2016 for owner PB 'R' US and applicant Chris Baudo, for 74 State Road on December 6, 2016 at 10:00 a.m.
The motion was seconded by Mr. Harris.

The motion carried 5-0-0.

Earldean Wells questioned the ordinance requiring landscaping in the parking lot. Mr. Di Matteo explained it is a concept and preliminary plan application will contain a more refined plan.

Board Member Items
None.

Town Planner Items
None.

Mr. Alesse moved to adjourn the meeting.
Mr. Dunkelberger seconded the motion.

The motion carried 5-0-0.

The Kittery Planning Board meeting of November 17, 2016 adjourned at 8:53 p.m.

Submitted by Mary Mancini, Minute Recorder, on November 29, 2016.

Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort has been made to ensure the accuracy of the information, the minutes are not intended as a verbatim transcript of comments at the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at http://www.townhallstreams.com/locations/kittery-maine