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, January 28, 2016
6:00 P.M. to 10:00 P.M.

CALL TO ORDER–ROLL CALL–PLEDGE OF ALLEGIANCE – APPROVAL OF MINUTES – 1/14/2016

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

ITEM 1 - Town Code Amendments – 16.8.11 - Cluster Residential and Cluster Mixed-Use Development. (Ordained 9/24/2012; effective 10/25/2012)**; 16.8.11.1 Purpose; 16.8.11.3 Dimension Standards Modifications; 16.8.11.5 Application Procedure; 16.8.11.6 Standards; 16.8.20.1 Green S trip**
Action: hold a public hearing; recommend to Town Council for adoption. The proposed amendments provide clarity with regard to open space and other requirement standards in cluster residential and cluster mixed-use development

ITEM 2 – Board Member Items / Discussion
A. Project Status
B. Town Manager Report
C. December Building Permits

ITEM 3 – Town Planner Items:
A. Town Code Amendment Update – Shoreland Application Review
B. Town Code Amendment Update – Storm Water Management
C. Foreside Neighborhood Committee
D. MMA Workshop

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 CONTACT STAFF AT (207) 475-1323.

TOWN OF KITTERY, ME

UNAPPROVED

PLANNING BOARD MEETING — JANUARY 14, 2016

Council Chambers

Meeting called to order: 6:03

Roll Call:

Board members present: Vice Chair Karen Kalmar, Robert Harris, Deborah Lynch, Secretary Debbie Driscoll-Davis, Mark Alesse

Board members absent: Chair Ann Grinnell

Staff present: Chris Di Matteo, Town Planner and Rebecca Spitko, Assistant Town Planner

Pledge of Allegiance

Minutes: November 19, 2015

Ms. Driscoll-Davis and Ms. Kalmar asked for the following changes to the unapproved minutes

1. Line 47 – verbiage: replace boards with committees
2. Line 50 – grammatical adjustment: insert "to" between approach and council
3. Line 123 – factual correction: replace Memorial Bridge with Sarah Mildred Long Bridge
4. Line 201 – grammatical adjustment: remove "said"
5. Line 280 – spelling: "opposed"
6. Line 297 – spelling: "added"
7. Line 322 – remove "C. Other"
8. Line 339 – verbiage – change sentence to "she would like to see some cluster items"

Ms. Driscoll-Davis moved to approve the November 19, 2015 minutes as amended.
Mr. Alesse seconded.
Motion passed 5-0-0

Minutes: December 10, 2015

Ms. Driscoll Davis, Ms. Earldean Wells and Ms. Kalmar asked for the following changes to the unapproved minutes

1. Line 41 – change Dan Moore to Don Moore
2. Line 47 – change Mr. Thomas to Mr. Harmon
3. Line 446 – indicate the conversation is regarding possible traffic pattern changes to the Foreside Neighborhood
4. Line 384 - replace Foreside Design Review Committee with Foreside Neighborhood Committee

Ms. Driscoll-Davis moved to approve the November 19, 2015 minutes as amended.
Mr. Alesse seconded.
Motion passed 5-0-0

Public Comment: Ms. Kalmar opened the floor for public comment. Hearing none, Ms. Kalmar closed public comment.

ITEM 1 – Rockwell Homes, 89 Route 236 – Final Plan Review

Action: Approve or deny final plan Owner/applicant Rockwell Homes, LLC request consideration of plans for a single, 2,520-square-foot building containing business offices and a showroom and a drive-through-only restaurant at 89 Route 236 (Tax Map 28, Lot 14-2) in the Commercial 2 (C-2) Zone. Agent is Ryan McCarthy, Tidewater Engineering & Surveying, LLC.

Mr. Ryan McCarthy, Mr. Bill Eaten, and Ms. Robbi Woodburn approached the Board to present on behalf of the proposal. Mr. McCarthy reviewed the proposal, noting preliminary approval was received in September 2015. Mr. McCarthy highlighted the following points in response to previously noted areas of concern:

1. Traffic congestion along Rte. 236.
    a. Mr. Eaten conducted a traffic analysis report and determined 136 vehicles could be expected to enter the site during the period of peak morning traffic. Due to a volume of over 100 vehicles, the proposal was required to obtain a traffic movement permit from Maine DOT. The applicants met with DOT in November and it was determined a southbound turning lane would be required. No turning land is required for northbound traffic. The applicant has submitted modified plans to include a right-hand turning lane heading southbound on Rte 236 to MDOT and received approval.
2. Landscaping
    a. The proposed cleared area has been reduced by an additional 70 feet from the preliminary plan. Clearing will only occur along the frontage of Route 236. The trees along Fernald Rd will remain.
    b. A row of shrubs has been added along Route 236 to shield headlights from drive-through patrons from traffic.
    c. The landscaping intended to screen the parking area has expanded. This was executed by tightening the front walkways closer to the principle building.
    d. Applicant agreed to pull street trees uphill in order to be positioned away from the wetland and into well-draining soil.
3. Wetlands
    a. In response to concerns issued by Conservation Commission on the tree removal within the wetland, the applicant hired a licensed soil scientist and licensed site evaluator to assess the impact of the proposal. It was determined that the removal of trees will not degrade the value of wetland and will likely improve the functionality of sediment and pollution removal. The applicant also spoke with Chris Coppi, Maine DEP, who determined the impact is permitted by state statute as the wetland does not meet minimum size mandates for state regulatory standards, and contains less than the 4300 square foot impact allowance.

Mr. McCarthy concluded his presentation with an updated architectural depiction of the proposal that includes three reverse gables and updated siding.

Mr. Harris asked whether Maine DEP agreed to the impact to the wetlands. Mr. McCarthy confirmed.

Ms. Driscoll-Davis asked whether the road sign has adequate clearance for visibility. Mr. McCarthy stated the sign is 20-30’ from where stopped vehicles will be located due to setbacks imposed by the right-of-way, therefore visibility under the sign will not be an issue. Ms. Driscoll-Davis asked if there is a minimum distance between the lower edge of the sign and the ground. Mr. McCarthy was unsure but

noted the sign meets maximum height allowances and affirmed the square footage allowance for the sign has been met.

Mr. Alesse noted cars exiting the property with the intention to turn left onto Rte 236 may cause a backup in the drive through area. Mr. McCarthy explained the proposal includes two exit lanes, allowing cars who wish to travel north a separate exit lane from cars traveling south.

Ms. Kalmar asked about the effectiveness of the shrubs along Rte 236 in shielding headlights during the winter months. Ms. Woodburn, landscape architect, responded that, while the shrubs are deciduous, they were chosen for their dense limb system and are expected to be effective in shielding headlights without or without leaves.

Ms. Earldean Wells requested the addition of a landscape sheet (L-1) to show the new location of the trees that were previously planned to be planted in the wetland. Mr. McCarthy agreed.

Ms. Driscoll-Davis asked if the applicant plans to move the dumpster, or if the intent is to leave it where it is depicted on the plan as it currently serves as a headlight shield for traffic along Fernald Road. Mr. McCarthy confirmed the plan is to leave it where it is currently located/depicted on the plan.

Ms. Kalmar requested a modification of the language used on the plan regarding parking so it is an exact match to language used in the Findings of Fact. Mr. McCarthy agreed.

Ms. Driscoll-Davis read the following statement from the staff notes: “available parking must be increased as determined by the Planning Board”. She questioned whether this is appropriate, as the Code Enforcement Officer would be better equipped to see any parking inadequacies. Mr. Di Matteo clarified the Code Enforcement Officer may determine a parking issue and would then direct the applicant to the Board to decide remedial action.

Mr. Di Matteo asked Mr. McCarthy if there were recommendations in the staff notes that the applicant does to agree to or comply with, specifically addressing the recommended replanting plan as described in the staff notes. Mr. McCarthy stated the final draft includes increased vegetation to screen the parking, as compared to the preliminary plan, and therefore feels the concern noted by Mr. Di Matteo has already been addressed. Ms. Woodburn stated the vegetation in parking island would be knock out roses and other perennials so that will satisfy the ideal 3-foot vegetation shield. Ms. Woodburn noted parking islands generally hold a significant amount of snow during the winter months, as they are often used to store snow. The plants that were chosen for this island will screen parking during the summer while enduring the harsher winter climate. Mr. Di Matteo clarified the planting along the parking screen is limited to approximately 3 feet in height, to for visibility. The staff notes were suggesting a planting along the corner of the proposed development, as the vegetative height will not face those restrictions and will offer additional building screening. Ms. Woodburn agreed with this recommendation and will increase vegetation at the location recommended in the staff notes.

Mr. Harris reiterated his concern that the items on page three of the September 24, 2015 memo from Tidewater Engineering & Surveying in response to the Conservation Commission be included in the final plan. Ms. Kalmar confirmed the letter would be in the applicant’s file.

Mr. Di Matteo stated the state’s definition of a wetland impact includes tree removal. Therefore, he would like to modify his staff notes to clearly note the impact, but note the impact is limited and, per

state regulations, allowable. Mr. Di Matteo also recommended including the wetland impact activity to the Findings of Fact so the Board is then able to vote on whether they feel this is an acceptable, nonregulated activity.

Mr. Alessee Move to accept the final plan application and approve with conditions the final site plan for 89 Route 236 (Map 28, Lot 14-2) located in the Commercial-2 Zone. for owner and applicant Rockwell Homes, LLC. upon the review and voting, in the affirmative, on the Findings of Fact Ms. Driscoll-Davis seconded

MOTION PASSED 5-0-0

KITTERY PLANNING BOARD
FINDINGS OF FACT - **APPROVED**
for
Rockwell Homes, LLC, 89 Route 236
Mixed Use Development Site Plan

Note: This approval by the Planning Board constitutes an agreement between the Town and the Developer incorporating the Development plan and supporting documentation, the Findings of Fact, and all waivers and/or conditions approved and required by the Planning Board.

WHEREAS: Owner/applicant Rockwell Homes, LLC request consideration of plans for a single, 2,520-square-foot building containing business offices and a showroom and a drive-through-only restaurant at 89 Route 236 (Tax Map 28, Lot 14-2) in the Commercial 2 (C-2) Zone

Hereinafter the "Development".

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 1/14/2016;

Sketch Plan Review	Held	6/11/2015
Site Visit	Held	9/3/2015
Preliminary Plan Completeness Review	Held, accepted	8/20/2015
Public Hearing	Held	9/10/2015
Preliminary Plan Approval	Granted (conditional)	9/10/2015
Final Plan Approval	Granted (conditional)	1/14/2016

and pursuant to the Project Application and Plan and other documents considered to be a part of the approval by the Planning Board in this finding consist of the following and as noted in the Plan Review Notes dated 1/14/2016 (Hereinafter the "Plan").

1. Subdivision Review Application and Drainage Analysis, Tidewater Engineering & Surveying, received July 23, 2015 and revised December 14, 2015.
2. Original Site Plan, Civil Consultants, REV date February 20, 2014
3. Amended Site Plan, Existing Conditions Plan, Grading and Drainage Plan, Landscape Plan, Site Lighting Plan (Charron Inc), Erosion and Sedimentation Control Plan, Detail Sheets, Architectural Drawings (J. Winslow Hutchins), and Stormwater Report, Tidewater Engineering & Surveying, received July 23, 2015, with a revision dates through 12/14/2015
4. MDOT Traffic Movement Permit dated 11/23/2015

5. MDEP Stormwater Permit By Rule application dated 9/21/2015

169

NOW THEREFORE, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by Section **16.10.8.3.4. and as recorded below:**
FINDINGS OF FACT Action by the board shall be based upon findings of fact which certify or waive compliance with all the required standards of this title, and which certify that the development satisfies the following requirements:
A. Development Conforms to Local Ordinances.
The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.
The proposed mixed-use building that includes a drive-thru restaurant (Aroma Joe's) with no accommodation for seating has received a MDOT traffic moving permit and the planning board concurred with the reduced parking proposed due to the type of restaurant and likely limited parking demand for the primary office use (owners Rockwell Homes) proposed. A condition of approval requires that parking requirements will be reevaluated if the proposed uses change and/or if it is evident the demand is greater than anticipated. The proposed Development appears to conform to Title 16 and Title 16.9.3 has been met with a positive finding on Title 16.9.3.4.o. The Board finds this standard has been met.
Vote of _4_ in favor_1_ against _0_ abstaining **Mr. Harris opposed**
B. Freshwater Wetlands Identified.
All freshwater wetlands within the project area have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.
A small wetland along Route 236 has been identified. The Board finds this standard has been met..
Vote of _4_ in favor_0_ against 1_ abstaining **Mr. Harris abstaining**
C. River, Stream or Brook Identified.
Any river, stream or brook within or abutting the proposed project area has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. §480-B, Subsection 9.
None have been identified. The Board finds this standard is not applicable. .
Vote of _4_ in favor_0_ against 1_ abstaining **Mr. Harris abstaining**
D. Water Supply Sufficient. *{and}*
The proposed development has sufficient water available for the reasonably foreseeable needs of the development.
E. Municipal Water Supply Available.

The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.
The Kittery Water District provided a letter of evaluation verifying its capacity to supply water to the proposed project. The Board finds these standards has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
F. Sewage Disposal Adequate.
The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.
Location of subsurface wastewater disposal system and a reserve system have been located on the plan and a completed HHE-200 application with test pit information has been submitted. The Board finds this standard has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
G. Municipal Solid Waste Disposal Available.
The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.
The proposed development accommodates a dumpster. The Board finds this standard has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
H. Water Body Quality and Shoreline Protected.
Whenever situated entirely or partially within two hundred fifty (250) feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
The development is not within 250 feet of any regulated (non-forested) wetland as it relates to the shoreland overlay zone. The Board finds this standard is not applicable.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
I. Groundwater Protected.
The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
As referenced in F. Sewage Disposal Adequate, the proposed development will not adversely affect the quality or quantity of groundwater. The Board finds this standard has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
J. Flood Areas Identified and Development Conditioned.

All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.
The property is not located within a flood prone area. The Board finds this standard is not applicable.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
K. Stormwater Managed.
Stormwater Managed. The proposed development will provide for adequate stormwater management
CMA, town peer-review engineer reports that the applicant has prepared a complete stormwater design and associated analysis and the proposed development meets the requirements of the LUDC. The design was prepared by Tidewater Engineering & Surveying and reviewed by CMA Engineers.
The proposed development conforms to Title 16.8.8 Surface Drainage and will provide for adequate stormwater management. The Board finds this standard has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
L. Erosion Controlled.
The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
The Contractor shall follow MDEP best management practices for erosion and sediment control (silt fencing, silt sacks, etc.), and CMA engineers will be notified to observe application during construction (see conditions of approval #2).
The proposed development conforms to Title 16.8.8 Surface Drainage and will provide for adequate erosion and sediment control measures on site. The Board finds this standard has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
M. Traffic Managed.
The proposed development will: *1. Not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; and* *2. Provide adequate traffic circulation, both on-site and off-site.*
An analysis of the traffic generation has been completed and reviewed by CMA, and the Maine DOT who, after a meeting with the Town, CMA, the applicant and their agents, granted a Traffic Movement Permit for the proposed development. This includes a right-turn pocket on Rt. 236. CMA has some additional comments that are identified in their 1/4/2016 review letter that the applicant will be required to follow as part of Condition # 6., and Condition # 4 as related to the parking requirements.

The proposed development conforms to Title 16.8.9 Parking, Loading and Traffic and will provide for adequate traffic circulation. The Board finds this standard has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
N. Water and Air Pollution Minimized.
The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered: *1. Elevation of the land above sea level and its relation to the floodplains;* *2. Nature of soils and sub-soils and their ability to adequately support waste disposal;* *3. Slope of the land and its effect on effluents;* *4. Availability of streams for disposal of effluents;* *5. Applicable state and local health and water resource rules and regulations; and* *6. Safe transportation, disposal and storage of hazardous materials.*
1. The development is located outside of a Flood Hazard Area. 2 An competed HHE has been submitted for subsurface wastewater disposal systems 3 thru 6. Not applicable to the proposed development.
It does not appear the proposed development will result in undue water or air pollution The Board finds this standard has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
O. Aesthetic, Cultural and Natural Values Protected.
The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
There is no significant change proposed in the use of the property that would have an undue adverse impact on aesthetic, cultural or natural values.
The property does not include any significant aesthetic, cultural or natural values that require protection. The Board finds this standard has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**
P. Developer Financially and Technically Capable.
Developer is financially and technically capable to meet the standards of this section.
The developer will provide an inspection escrow in an amount suitable to cover the costs of on-site inspection by the Peer Review Engineer to ensure the proposed development is constructed according to the approved plan. The Board finds this standard has been met.
Vote of _4_ in favor 0_ against 1_ abstaining **Mr. Harris abstaining**

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the

Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers: None

Conditions of Approval (to be included on the final plan):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. that any changes to the intensity of use and/or it becomes evident to the Code Enforcement Officer, that there is insufficient parking on site, available parking must be increased as determined and approved by the planning board
5. All Notices to Applicant contained in the Findings of Fact (dated: January14, 2016).

Conditions of Approval (Not to be included on the final plan):

6. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for Staff review prior to presentation of final Mylar.

Notices to Applicant: (not to be included on the final plan)

1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with review, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department. Date of Planning Board approval shall be included on the final plan in the Signature Block.
4. The owner and/or developer, in an amount and form acceptable to the town manager, must file with the municipal treasurer an instrument to cover the cost of all infrastructure and right-of-way improvements and site erosion and stormwater stabilization, including inspection fees for same.
5. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating the Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

The Planning Board authorizes the Planning Board Chairperson to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of _4_ in favor 0_ against 1_ abstaining
Mr. Harris abstaining
APPROVED BY THE KITTERY PLANNING BOARD ON January 14, 2016

_____
Ann Grinnell, Planning Board Chair

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

ITEM 2 – 3 Knight Ave – Shoreland Development Plan Review

Action: Accept or deny plan application; Approve or deny plan. Owner/applicant Christopher G. Eckel requests consideration of plans to remove and reconstruct an unattached garage and implement several improvements to the lot including a stairway, two pathways, and a retaining wall within 75 feet of a protected water body. The lot is located at 3 Knight Ave (Tax Map 4 Lot 70) in the Mixed Use – Kittery foreside (MU-KF) and Shoreland Overlay (OZ-SL-250') zones. Agent is Ken Markley, North Easterly Surveying.

Mr. Ken Markley, North Easterly Surveying, gave a presentation to the Board, which included the following points:

- Existing garage is unusable for its intended purpose and is not structurally capable of holding a vehicle
- Mr. Eckel began work on his property, including a gravel area, retaining wall and two steps leading to his front door, without obtaining a permit. He was issued a stop work order by the Code Enforcement Officer, and was directed to the Planning Board prior to any further development.
- The property has two large trees which restricts development potential
- The proposed garage is designed specifically so it will have minimal impact on the native vegetation
- The proposed garage meets the dimensional requirements of an expansion within the 75-foot setback from a protected resource and does not increase nonconformance

Mr. Di Matteo asked the Board if they would like to discuss the application at this time, or if they would prefer to schedule a site walk and public hearing. Ms. Driscoll-Davis stated she would be interested in a site walk. Ms. Kalmar agreed and suggested 10am on Thursday, February 4, 2016.

Ms. Driscoll-Davis made a motion to accept the Shoreland Development Plan application dated 12/23/2015 from Christopher Eckel for 3 Knight Avenue (Tax Map 4 Lot 70) in the Mixed Use-Kittery Foreside, Shoreland Overlay and Commercial Fisheries/Maritime Uses Zone
Ms. Lynch Seconded

Ms. Driscoll-Davis made a motion to continue the Shoreland Development plan application dated 12/23/2015 from Christopher Eckel for 3 Knight Avenue (Tax Map 4 Lot 70) in the Mixed Use-Kittery Foreside, Shoreland Overlay and Commercial Fisheries/Maritime Uses Zone, to hold a site walk on February 4th, 2016 and a public hearing on February 11th, 2016.

MOTION PASSED 5-0-0

Mr. Markley asked if the Board would like to discuss staff comments so he is able to revise the plan prior to the site walk or public hearing. Ms. Kalmar stated it would be helpful to discuss during the site walk, and suggested the Board reference Title 16.3.2.17.D.1.d.2.a.i.

ITEM 3 – 32 Seapoint Rd – Shoreland Development Plan Review

Action: Accept or deny plan application; Approve or deny plan. Owner/Applicant Pop held, Inc requests consideration of plans to expand the principle dwelling unit located at 32 Seapoint Rd (Tax Map 64 Lot 27) in the Residential – Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250') zones. Agent is Ken Markley, North Easterly Surveying.

Mr. Ken Markley, North Easterly Surveying gave a presentation to the Board on behalf of the applicant. Mr. Markley described the proposal and outlined setback and dimensional requirements for the base and overlay zones. Ms. Driscoll-Davis asked if there would be any need for the septic system to be changed. Mr. Markley stated the septic was previously updated and no further updates are required at this time.

Ms. Driscoll-Davis asked if the variance issued by the Board of Appeals would be stated on the plan. Mr. Markley noted that it is currently, and it will be in the final plan as well. Ms. Driscoll-Davis asked if the Board of Appeals allowed any variances for setbacks. Ms. Kalmar stated that verifying setback standards is the responsibility of the Planning Board, but noted the proposed development does not create .

Ms. Kalmar asked if a diagram illustrating the square footage and volume calculations could be submitted. Mr. Markley noted a submission was made by the architect earlier today. Mr. Di Matteo confirmed receipt, but noted a more detailed diagram is necessary.

Ms. Kalmar asked if the plan changed to show the appropriate building coverage level. Mr. Markley confirmed.

Ms. Earldean Wells noted the plan does not clearly differentiate between building areas to be removed and new development. Ms. Wells asked if future applications submissions could expressly illustrate what is being torn down vs being built.

Mr. Harris made a motion to accept the Shoreland Development Plan application dated 10/21/2015 from Pop Held, Inc for 32 Seapoint Road (Tax Map 64 Lot 27) in the Residential-Rural Conservation and Shoreland Overlay Zones
Ms. Lynch seconded

Motion approved 5-0-0

Kittery Planning Board **APPROVED**

Findings of Fact
For 32 Seapoint Road
Shoreland Development Plan Review

WHEREAS: Pop Held, Inc requests approval of their Shoreland Development Plan to expand an existing non-conforming single-family dwelling on the property located at 32 Seapoint Road (Tax Map 64 Lot 27) located in the residential-rural conservation and shoreland overlay zones, hereinafter the "Development" and

Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted {in the plan review notes prepared for 1/14/2016}

Hardship Variance Granted	12/8/2015
Shoreland Development Plan Review	1/14/2016
Site Walk	
Public Hearing	
Approval	1/14/2016

And pursuant to the application and plan and other documents considered to be a part of a plan review decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the "Plan"): {as noted in the plan review notes prepared for 1/14/2016}

1. Shoreland Development Plan Application, received 10/21/2015.
2. Site Plan, Anderson Livingston Engineers, Inc. October 21, 2015

NOW THEREFORE, based on the entire record before the Planning Board and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings and conclusions:

FINDINGS OF FACT

Chapter 16.3 LAND USE ZONE REGULATIONS

16.3.2.17.D Shoreland Overlay Zone
1.d The total footprints of the 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… <u>Findings</u>: The proposed development increases the property's devegetated area from 14.1% to 15.2%. <u>Conclusion:</u> The requirement appears to be met.
Vote: _5__ in favor _0__ against __0_ abstaining

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS
Article III Nonconformance

16.7.3.1 Prohibitions and Allowances
A. Except as otherwise provided in this Article, a nonconforming conditions must not be permitted to become more nonconforming

Finding: The existing structure does not meet the 40-foot front yard setback required in the R-RLC zone. The proposed development does not result in setbacks less than those existing and therefore does not increase nonconformance.

Conclusion: The requirement appears to be met.

Vote: _5__ in favor _0__ against __0_ abstaining

16.7.3.5 Types of Nonconformance

16.7.3.5.5 Nonconforming Structure Repair and/or Expansion

A. A nonconforming structure may be repaired or maintained and may be expanded in conformity with the dimensional requirements, such as setback, height, etc., as contained in this Code. If the proposed expansion of a nonconforming structure cannot meet the dimensional requirements of this Code, the Board of Appeals or the Planning Board (in cases where the structure is located in a Shoreland Overlay or Resources Protection Overlay Zone) will review such expansion application and may approve proposed changes provided the changes are no more nonconforming than the existing condition and the Board of Appeals or the Planning Board (in cases where the structure is located in a Shoreland overlay or Resources Protection Overlay Zone) makes its decision per section 16.6.6.2.

See 16.6.6.1 and its reference to 16.6.6.2 below.

16.6.6 Basis for Decision

16.6.6.1.B In hearing appeals/requests under this Section, the Board of Appeals [note: Planning Board is also subject to this section per 16.7.3.5.5 above] **must use the following criteria as the basis of a decision:**

1. Proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;
2. Use will not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located, or of permitted or legally established uses in adjacent use zones;
3. Safety, the health, and the welfare of the Town will not be adversely affected by the proposed use or its location; and
4. Use will be in harmony with and promote the general purposes and intent of this Code.

The Board must also give consideration to the factors listed in 16.6.6.2.

Finding: The proposed development does not have an adverse impact on the use of adjacent properties, permitted or legally established uses in this, or adjacent, zones or the health, safety and welfare of the Town.

Conclusion: The requirement appears to be met.

Vote: _5__ in favor _0__ against __0_ abstaining

16.7.3.6 Nonconforming Structures in Shoreland and Resource Protection Zones

16.7.3.6.1 Nonconforming Structure Expansion

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

A. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the

structure will not be permitted to expand, as measured in floor area or volume, by thirty percent (30%) or more during the lifetime of the structure.
B. If a replacement structure conforms to the requirements of Section 16.7.3.6.1.A and is less than the required setback from a water body, tributary stream or wetland, the replacement structure will not be permitted to expand if the original structure existing on January 1, 1989, has been expanded by 30% in floor area and volume since that date.
C. Whenever a new, enlarged or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 16.7.3.5.2 – Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 16.7.3.5.3, above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it will not be considered to be an expansion of the structure.

Finding: The majority of the existing structure is located within the 100-foot setback from the upland edge of the tidal wetland where volume and area calculations are required. Development on structures located within the required setback from a protected resource is subject to a lifetime limit of no more than thirty percent (30%) increase in volume and floor area. The proposed development is within this maximum with an increase of 25.77% and 14.58% for volume and floor area, respectively.

Conclusion: This requirement appears to be met.

Vote: _5__ in favor _0__ against __0_ abstaining

Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW
Article 10 Shoreland Development Review

16.10.10.2 Procedure for Administering Permits
D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:

1. Maintain safe and healthful conditions;

Finding: The proposed development does not appear to have an adverse impact.

Conclusion: This requirement appears to be met

Vote: _5__ in favor _0__ against __0_ abstaining

2. Not result in water pollution, erosion or sedimentation to surface waters;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters.

Conclusion: This requirement appears to be met

Vote: _5__ in favor _0__ against __0_ abstaining

3. Adequately provide for the disposal of all wastewater;

Finding: The proposed development is connecting to an existing septic system.

Conclusion: This requirement appears to be met.

Vote: _5__ in favor _0__ against __0_ abstaining

4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters. These conditions should be added to the plan.

Conclusion: The proposed development does not appear to have an adverse impact. With conditions #2 and #3, this standard appears to be met.

Vote: _5__ in favor _0__ against __0_ abstaining

5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;

Finding: Shore cover is not adversely impacted

Conclusion: This requirement appears to be met.

Vote: _5__ in favor _0__ against __0_ abstaining

6. Protect archaeological and historic resources;

Finding: There does not appears to be any resources impacted.

Conclusion: This requirement appears to be met.

Vote: _5__ in favor _0__ against __0_ abstaining

7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;

Finding: The proposed development is not in the commercial fisheries/maritime use zone.

Conclusion: This requirement is not applicable.

Vote: _5__ in favor _0__ against __0_ abstaining

8. Avoid problems associated with floodplain development and use;

Finding: The proposed development is not located within a flood zone

Conclusion: This requirement appears to be met.

Vote: _5__ in favor _0__ against __0_ abstaining

9. Is in conformance with the provisions of this code;

Finding: The proposed development conforms to Title 16 with the exception of building coverage. The Residential – Rural Conservation zone has a 6% maximum building coverage standard. The existing and proposed building coverage levels are 5.2% and 6.3%, respectively. The applicant was granted a hardship variance through the Kittery Board of Appeals to increase the maximum building coverage

standard from 6% to 6.3% at the December 8, 2015 meeting. The proposed development may not exceed 6.3%. Conclusion: This requirement appears to be met.
Vote: _5__ in favor _0__ against __0_ abstaining
10. Be recorded with the York county Registry of Deeds. Finding: A plan suitable for recording has been prepared. Conclusion: As stated in the Notices to Applicant contained herein, shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.
Vote: _5__ in favor _0__ against __0_ abstaining

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan Application of Pop Held, Inc, owner and applicant, to expand an existing non-conforming single-family dwelling located at 32 Seapoint Road (Tax Map 64, Lot 27) in the Residential-Rural Conservation(R-RL) and Shoreland Overlay (OZ-SL-250') zones and subject to any conditions or waivers, as follows:

Waivers: None

Conditions of Approval (to be depicted on final plan to be recorded):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. No trees are to be removed without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer.
5. All Notices to Applicant contained herein (Findings of Fact dated 1/14/2016).

Conditions of Approval (not to be depicted on final plan):

6. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and submit for Staff review prior to presentation on final Mylar.

The Planning Board authorizes the Planning Board Chair to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of _5__ in favor_0__ against _0__ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON _____January 14, 2016

Notices to Applicant:

1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and submit for Staff review prior to presentation of final mylar.
2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
3. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department for signing. Date of Planning Board approval shall be included on the final plan in the Signature Block. After the signed plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be submitted to the Town Planning Department.
4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

Mr. Harris offered an explanation as to his abstaining vote on the Findings of Fact for Item 1. Mr. Harris referenced the nine reasons the proposed wetland activity was exempt from NRPA permitting as outlined on page 3 of the September 24, 2015 Response to Conservation Commission letter from Tidewater Engineering & Surveying. At the time of voting, Mr. Harris believed the development was going to be permitted to be outside the scope of what was outlined in the September 24, 2016 memo. Mr. Di Matteo clarified that he was not suggesting the board permit looser guidelines, but was amending the staff notes and Findings of Fact to clearly state why this development is permitted. Mr. Di Matteo also noted that while word plan is often used to depict the visual of the proposed development, the total plan includes the background documentation and correspondence that occurs prior to the Board's final vote. Therefore, the September 24, 2015 memo is and will be included in the file for Item 1 (89 Route 236) and is included as part of the record for their final vote. Ms. Kalmar added the purpose of Mr. Di Matteo's addition to the staff notes and Findings of Fact was to explain the justification of the Board not requiring a permit or wetland alteration application for the impact on the wetland.

ITEM 4 - Town Code Amendments – 16.8.11 - Cluster Residential and Cluster Mixed-Use Development. (Ordained 9/24/2012; effective 10/25/2012)**; 16.8.11.1 Purpose; 16.8.11.3 Dimension Standards Modifications; 16.8.11.5 Application Procedure; 16.8.11.6 Standards; 16.8.20.1 Green S trip**

Action: review amendment and schedule a public hearing. The proposed amendments provide clarity with regard to open space and other requirement standards in cluster residential and cluster mixed-use development

Mr. Di Matteo reviewed the history of the Town Code Amendment process beginning with a workshop in May with the goal of creating a clearer regulation that serves the intended purpose of the code. There is a public hearing scheduled for the January 28, 2016 Planning Board meeting.

The Board reviewed the proposed amendments and had the following comments:

- 16.8.11.1.D – The use of the word buffer may not be appropriate. Possibly replace with another word to express intended purpose of protecting or preserving the existing conditions, and avoid creating a situation where a vegetation would block a scenic vista
- 16.8.11.6.I.5 – A conversation about including setbacks with abutting properties ensued. Mr. Di Matteo noted a conflict with the reference to Table 16.9, which specifically references setbacks from wetlands and water bodies. Ms. Kalmar suggested splitting the section and having 16.8.11.6.I.5.a focus on wetlands and water bodies, and 16.8.11.6.I.5.b focus on abutting properties
- 16.8.20.1 – Green Strip
    - A review of the language of 'Green Strip' occurred and questions of whether there should be a definition specifying what the intent of the green strip is; i.e. grassy lawn vs vegetation with a minimum height requirement.
    - The Board questioned a merger of 16.8.20.1 Green Strip with 16.9.1.7 Buffer Areas
- 16.8.20.1.A – Change "abutting properties" to "abutting property lines"
- 16.8.20.1.A – A conversation whether a 20 foot vs 50 foot green strip between property lines is necessary. The Board reached the consensus that 20 feet is appropriate.
- 16.8.20.1.B – Change language to "No less than fifty (50) feet deep along the frontage of existing roadways."; eliminate "as described in the Comprehensive Plan"

Ms. Kalmar suggested continuing forward with the public hearing scheduled for January 28, 2016 to seek public input but waiting until the May meeting with Town Council to present to ensure the amendments are complete.

Mr. Harris questioned land rights and ownership of dedicated open space in a cluster subdivision, specifically, whether a developer is able to sell dedicated open space for future development and, if not, who is charged with maintaining that open space. Mr. Harris stated he felt an undue burden is placed on developers who have to pay taxes on land they are not free to use. Ms. Driscoll-Davis clarified the open space mandate is a tradeoff for the financial and efficiency benefits of a being able to develop more units in a smaller area. Mr. Di Matteo added the developer is no longer responsible for the land once they sell it to either a new landowner, or a homeowner's association.

Mr. Alesse made a motion to schedule a public hearing for Item 4 on January 28, 2016 related to Town Code Amendment 16.8.11, 16.8.11.1, 16.8.11.3, 16.8.11.5, 16.8.11.6, 16.8.20.1
Ms. Driscoll-Davis Seconded

MOTION PASSED 4-0-1 with Mr. Harris abstaining

ITEM 5 – Town Code Amendments – 16.10.3 – Development Plan Review and Approval Process; 16.10.3.2 Other Development Review; 16.10.3.4 Shoreland Development Review; 16.10.10 Shoreland Development Review; 16.10.10.1.1 Permits Required; 16.10.10.1.2 Permit Application; 16.10.10.2 Procedure for Administering Permits

Action: review amendment and schedule a public hearing. The proposed amendments address plan review procedures for development applications located in the Shoreland Overlay Zone.

Mr. Di Matteo stated the goal of this amendment is to limit the number of the Shoreland Development Zone applications that come before the Board by allowing those that have limited or no impact on the regulatory standards of the Shoreland Zone to be approved by the Code Enforcement Officer.

Ms. Driscoll-Davis asked Mr. Di Matteo to provide an example of a proposal that would currently need Planning Board approval, which would not with the proposed amendments. Mr. Di Matteo described an application to extend a porch roof over a set of stairs of a dwelling located within the 100' setback of the HAT. Mr. Di Matteo noted the proposed development does not increase devegetated levels, is not an expansion of the dwelling, and does not create a greater encroachment of setbacks. Ms. Driscoll-Davis clarified development entirely outside of the 100-foot setback no longer requires Planning Board Approval. Mr. Di Matteo confirmed.

The Board reviewed the amendments and had the following recommendations:

- Mr. Alesse noted the language used in 16.10.3.2 is confusing and proposed simplifying it to state:

  16.10.3.2 Other Development Review.
  An applicant or applicant's authorized agent need not obtain Planning Board approval for the following (A-D) unless proposed development is subject to a Shoreland Development Plan Review.
- Line 108 – duplicate language. Remove the words "and" and "in"
- Line 51 – remove language "other"
- Lines 114-117 – Ms. Driscoll-Davis expressed concern over the ability of an application submission without the signature of the property owner. Mr. Di Matteo clarified there must be written documentation by the property owner, however it can be in the form of a faxed letter or email in the event the property owner is unavailable but would like to proceed with the development.
- Line 68 – Change wording to: "Timber harvesting and clearing of vegetation for activities other than timber harvesting. These are subject to review and approval by the shoreland Resource Officer or Code Enforcement Officer."
- Line 120 – Ms. Driscoll-Davis asked for clarification on the line "All applications must be dated, and the Code Enforcement Officer, or his/her representative..". Mr. Di Matteo stated anyone in the Planning Officer may receive an application.

Mr. Alesse moved to schedule a public hearing on Town Code Amendment 16.10.3, 16.10.3.2, 16.10.3.4, 16.10.10, 16.10.10.1.1, 16.10.10.1.2, 16.10.10.2 for February 25, 2016.
Ms. Driscoll-Davis seconded

MOTION PASSED 5-0-0

ITEM 6 – Town Code Amendments – 16.2 Definitions; 16.8.8.2.3 Applicability; 16.10.7.2 Final Plan Application Submittal Content

Action: review amendment and schedule a public hearing. The proposed amendments provide clarity with regard to a Municipal Separate Storm Sewer System (MS4) regulation for a Post-Construction Stormwater Management Plan.

Ms. Kalmar noted line 15 has the term "redevelopment" directly followed by a definition and asked whether this definition should be included in Title 16.2.

Mr. Alesse recommended the comma after “i.e.” be removed.

Line 16-18; Ms. Lynch asked for clarification on why “one acre or more” and “less than one acre” are independently defined. Mr. Di Matteo stated he would review this with the Shoreland Resource Officer. Ms. Kalmar stated her interpretation is that the two pieces are referring to two separate scenarios, if the property is larger than one acre; or if the property is smaller than one acre, but plans to be a piece of a larger development, such as a subdivision. Ms. Driscoll-Davis asked where a scenario such as that would occur. Ms. Kalmar suggested a phased development might be the reason for that clarification.

Mr. Alesse suggested the word “activity” on line 16 might not be necessary. Mr. Di Matteo stated development and activity are two independent regulatory terms. Ms. Driscoll-Davis suggested a definition for “activity” might be helpful.

Ms. Kalmar made a motion to schedule a public hearing for Town Code Amendment Title 16.2 Definitions; 16.8.8.2.3 Applicability; 16.10.7.2 Final Plan Application Submittal Content for February 25, 2016.
Mr. Alesse seconded

MOTION PASSED 5-0-0

ITEM 7 – Board Member Items / Discussion
Ms. Driscoll-Davis stated the upcoming Comprehensive Plan Committee will be held on January 20, 2016 in Conference Room A. Mr. Di Matteo stated there is still one opening for a resident on the Comprehensive Plan Committee.

Ms. Kalmar informed the Board of the MMA Workshop held in Saco on February 23, 2016 and reminded the board the next local Workshop will not be until December, 2016. Ms. Lynch stated she has signed up and conformation has been received. Ms. Lynch included this is her second time attempting to attend this training as it reached maximum capacity at the October meeting. Ms. Spitko agreed to register Mr. Harris and Ms. Kalmar. Mr. Alesse stated he has registered.

Ms. Kalmar asked if a letter of recommendation has been prepared for the Foreside Neighborhood Committee. Mr. Di Matteo stated he will have one prepared for the Board’s review at the January 28, 2016 Planning Board meeting.

ITEM 8 – Town Planner Items
Mr. Di Matteo requested a 6-month extension on behalf of Aaron Henderson for 42 State Road, Tax Map 3 Lot 5, 6, 7. Mr. Henderson reported a delay in recording the mylar due to awaiting approval from MDOT.

Mr. Alesse made a motion to grant a 6 month extension to the 7/9/2015 site plan approved for 42 State Road (Tax Map 3 Lot 5,6,7).
Ms. Driscoll-Davis seconded

MOTION PASSED 5-0-0

Mr. Alesse moved to adjourn
Ms. Driscoll-Davis seconded
Motion carried 5-0-0.

The Kittery Planning Board meeting of January 14, 2016 adjourned at 8:30 p.m.

Submitted by Rebecca Spitko, Assistant town Planning, on January 21, 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.

ITEM 1

Town of Kittery
Planning Board Meeting
January 28, 2016

Town Code Amendments – 16.8.11 - Cluster Residential and Cluster Mixed-Use Development. (Ordained 9/24/2012; effective 10/25/2012)**; 16.8.11.1 Purpose; 16.8.11.3 Dimension Standards Modifications; 16.8.11.5 Application Procedure; 16.8.11.6 Standards; 16.8.20.1 Green Strip**
Action: hold a public hearing; recommend to Town Council for adoption. The proposed amendments provide clarity with regard to open space and other requirement standards in cluster residential and cluster mixed-use development

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
NO	Workshop	joint with Council and Board scheduled for 2/1/2016	5/28/2015
YES	Initial Planning Board Meeting		12/10/2015
NO	Secondary Planning Board Meeting	Scheduled for 1/14/2016	
YES	Public Hearing (special notice requirements)	Scheduled for 1/28/2016	
YES	Review/Approval/ Recommendation to Town Council		

Background

This group of amendments was developed over the course of several months, was reviewed at the workshop on May 28, 2015 and revised December 10, 2015. The amendments were revised again for review at the January 14 and 28 2016 Planning Board meetings.

Review

Attached for the Board's consideration are amendments to Article XI of Title 16.8. Staff revised the draft amendment to reflect some of the comments at the last meeting on 1/14. Also included new amendments to the definition of Cluster Residential Development and Title 16.9.1.7 Buffer areas. The former allows for more consistency with the state statute, Title30-A 4301(1-A) and 40-A 4353 (4-C). The latter is combining the intent of 16.8.20.1 Green Strip with what staff recommends as the more appropriate provision in the ordinance. Note, the definition of Cluster Mixed-Use Development may need a similar review, however, it may be more appropriate to do that review in the context of the Business Park base zone, where such development is permitted.

Recommendation

After considering any public comments and additional thoughts from board members and in light of the joint workshop with the Council on 2/1, the Board may

…**move to continue to the February 25, 2016 Planning Board meeting**

Article XI. Cluster Residential and Cluster Mixed-Use Development. (Ordained 9/24/12; effective 10/25/12)

16.8.11.1 Purpose.

To implement adopted Comprehensive Plan policies regarding the Town's natural, scenic, marine, cultural and historic resources, land use patterns and recreation and open space, this Article is intended to encourage and allow new concepts and innovative approaches to housing/commercial development and environmental design so development will be a permanent and long-term asset to the Town, while in harmony with the natural features of the land, water and surrounding development. Objectives include:

A. efficient use of the land and water, with small networks of utilities and streets;
B. preservation of contiguous, unfragmented open space and creation of recreation areas;
C. maintenance of rural character, by means of preserving farmland, forests and rural viewshed~~scapes~~, and limiting development in close proximity to existing public streets, especially along scenic roads as designated in the Comprehensive Plan;
D. preservation of areas with the highest ecological value;
E. location of buildings and structures on those portions of the site most appropriate for development;
F. creation of a network of contiguous open spaces or 'greenways' by linking the common open spaces within the site and to open space on adjoining lands wherever possible;
G. reduction of impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and stormwater runoff;
H. preservation of historic, archaeological, and cultural features; and
I. minimization of residential development impact on the municipality, neighboring properties, and the natural environment.

16.8.11.3 Dimension Standards Modifications.

Notwithstanding other provisions of this Code relating to dimensional standards, the Planning Board, in reviewing and approving proposed residential or mixed-use development under this Article, may modify said dimensional standards to permit flexibility in approaches to site design in accordance with the Code standards. The Board may allow subdivision or site development with modified dimensional standards where the Board determines the benefit of a cluster development is consistent with the Code. For the purposes of this Article, dimensional standards includes only, lot size, lot coverage, street frontage and yard setback requirements. Such modifications may not be construed as granting variances to relieve hardship.

16.8.11.5 Application Procedure.

All development reviewed under this Article is subject to the application procedures in Chapter 16.10, Development Plan Application and Review, and the following:

A. In addition to the requirements of Chapter 16.10, the following are required at submittal of the Sketch Plan:

1. Calculations and maps to illustrate:
   a. proposed dimensional modifications and the dimensional standards required in the zone in which the development will be located;
   b. All land area identified in Title 16.7.8 Net Residential Acreage; and (Ordained 9-28-15)
   c. Net Residential Density; and
   d. open space as defined in Section 16.8.11.6.D.2 of this Article.

2. A map showing constraints to development, such as, but not limited to, wetlands, resource protection zones, shoreland zones, deer wintering areas, side slopes in excess of thirty-three percent (33%), easements, rights-of-way, existing roads, driveway entrances and intersections, existing structures, and existing utilities.

3. A written statement describing the ways the proposed development furthers the purpose and objectives of this Article, including natural features which will be preserved or enhanced. Natural features include, but are not limited to, moderate-to-high value wildlife and waterfowl habitats, important agricultural soils, moderate-to-high yield aquifers and important natural or historic sites worthy of preservation.

4. The location of each of the proposed building envelopes. Only developments having a total subdivision or site plan with building envelopes will be considered.

5. A sketch plan showing a conventional nonclustered subdivision layout that complies with all applicable standards, excluding those included in this Article. The Planning Board may use this plan in addition to the proposed cluster site design to determine if the overall design is consistent with the purpose of this Article, applicable provisions of this Title and the growth designations of the Comprehensive Plan. This determination may result in a change to the total number of lots/dwelling units allowed

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16.8.11.6 Standards.

E. Open Space Requirements:

1. Open space must ~~contain~~ equal at least 50% of the total area of the property, ~~and no less than 30% of the total net residential acreage, as defined~~ and must include no less than 50% of the property's total net residential acreage.

2. Total calculated open space must be designated as follows (See Open Space definitions Section 16.2): a. Open Space, Reserved; b. Open Space, Common; and/or c. Open Space, Public

3. The use of any open space may be further limited or controlled by the Planning Board at the time of final approval, where necessary, to protect adjacent properties or uses.

4. Open space must be deeded in perpetuity for the recreational amenity and environmental enhancement of the development and be recorded as such. Such deed provisions may include deed/plan restrictions, private covenants, or arrangements to preserve the integrity of open spaces

and their use as approved by the Planning Board.

5. Open space must also be for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life, and wildlife cover as identified in applicant's written statement. In the Business Park (BP) zone, open space may be both man-made and natural. Man-made open space must be for the development of recreational areas, pedestrian ways and aesthetics that serve to interconnect and unify the built and natural environments.

6. Open space should be in a contiguous form of unfragmented land to protect natural resources, including plant and wildlife habitats. For the purposes of this article contiguous and unfragmented means land that is optimal in area and shape for its intended use as identified by qualified conservation agencies or applicable organizations and determined by the Planning Board.

7. A portion of the open space should be in close proximity to other open spaces used for recreation (e.g. a common green, multi-purpose athletic field, gardens, and playgrounds).

8. Open space must include preservation of areas with the highest ecological value as identified on specialized mapping such as Beginning with Habitat or identified by a qualified conservation agency or organization, such as Maine Inland Fish and Wildlife, Maine DEP, U.S. Fish and Wildlife, the Kittery Open Space Committee, Kittery Land Trust or qualified party as determined by the Planning Board. The final allocation, location and shape of the open space is determined by the Board.

I. The developer must take into consideration the following points, and illustrate the treatment of buildings, structures, spaces, paths, roads, service and parking areas, recreational facilities, and any other features determined by the Planning Board to be a part of the proposed development.

1. Orientation. Buildings, view corridors and other improvements are to be designed so scenic vistas and natural features are integrated into the development. Buildings should be sited to consider natural light and ventilation.

2. Utility Installation. All utilities are to be installed underground, wherever possible. The Planning Board must require the developer to adopt a prudent avoidance approach when permitting above ground electrical service installations. Transformer boxes, pumping stations and meters must be located so as not to be unsightly or hazardous to the public.

3. Recreation. Facilities must be provided consistent with the development proposal. Active recreation requiring permanent equipment and/or modification of the site may not be located within the wetland setback areas or contiguous reserved open space areas.

4. Buffer~~sing~~. Planting, landscaping, form and siting of building and other improvements, or fencing and screening must be used to integrate the proposed development with the landscape and the character of any surrounding development. A buffer not less than 100 feet in depth must

be provided along the street frontage adjacent to Scenic Roadways, as identified in the Comprehensive Plan and 50 feet in depth for all other streets. Where the portion of the development does not abuts a street the side and rear yard setbacks must include a buffer no less than 20 feet in depth. All or a portion of the existing vegetation may be used in lieu of new plantings for the buffer area as determined by the Planning Board.

5. Development Setbacks.

Setbacks from wetlands and water bodies, must demonstrate compliance to Table 16.9 of Chapter 16.9.4.3. These setbacks must be permanently maintained as no cut, no disturb buffer areas. If the setback areas ~~are not of substantial vegetation to~~do not provide a sufficient buffer, the Planning Board may require additional plantings. The most restrictive setback applies in determining the buffer area.

~~**16.8.20.1 Green Strip.**~~

~~Subdivision design must minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least twenty (20) feet wide between the abutting properties that are so endangered.~~
{MODIFIED AND MOVED TO 16.9.1.7.B}

16.9.1.7 Buffer and Buffer areas.

A. Any nonresidential yard setback space abutting an existing or potential residential area shall be maintained as a buffer area, as defined in 16.2.2,~~strip~~ by the developer and subsequent owners. Such buffer area shall be for the purpose of eliminating any adverse effects upon the environmental or aesthetic qualities of abutting properties or any type of nuisance affecting the health, safety, welfare and property values of the residents of Kittery. The Planning Board or Board of Appeals may require an increase to the width of the buffer area and/or establish a buffer, as defined in 16.2.2, if yard area is insufficient to mitigate the potential adverse effects as determined by the board.

B. Subdivision development must minimize the possibility of noise pollution either from within or from outside the development (from highway or industrial sources) by providing and maintaining a buffer or buffer areas as described subsection A. above.

C. Subdivision development must provide and maintain a buffer or buffer area of no less than fifty (50) feet deep along the frontage of existing streets.

16.2.2 Definitions

Cluster residential development means a form of development ~~land use improvements and/or change~~ in which the dimensional requirements are reduced below what is ~~that normally~~ required ~~in the~~ by the land use zone~~ing~~ regulations~~district in which the land use improvements and/or change is located~~, in exchange for the creation of permanent open space for recreation areas, the preservation of environmentally sensitive areas, agriculture and silviculture, and other environmental enhancements and for the reduction in the size of road and utility systems.return for the provision to

set aside a portion of the tract as of permanent open space and other environmental enhancements Such open space is owned and maintained jointly in common by individual lot/unit owners, the Town, or a land conservation organization. For the purpose of this definition "dimensional standards" means and is limited to ordinance provisions relating to lot area, building coverage, street frontage and yard setback requirements.

Application Status - January 2016

Pending Preliminary Approval

Map	Lot	Address	Owner	Application Type	Project Description	Last PB review date	Notes
66	2A, 8	Betty Welch Rd	Landmark Properties. LTD	Sketch Plan Review	24-lot single-family cluster subdivision	11/12/2015	Sketch Plan accepted
4	51	15 Old Armory Way	Ken McDavitt	Mixed Use Development Site Plan	Old Armory Way, 2 condominiums (3 units), 8 boat slips	5/14/2015	Continuance request of site plan application denied; Reapplication anticipated
1	31	31 Badgers Island West	Gagner Family Limited & Stephen Kelm	Subdivision/Shoreline Development	7-dwelling subdivision	9/10/2015	90-day continance on sketch plan granted
3	77A	9 Cook Street, Old Post Rd	Spruce Creek Ventures II	Subdivision Plan	3 lot subdivision	9/10/2015	90-day continance on sketch plan granted

Preliminary Plan - Approved

Map	Lot	Address	Owner	Application Type	Project Description	Last PB review date	Notes
66	24	US Route 1	Stephen Hynes; Real Prop Trust	Subdivision Plan	78-lot expansion	12/10/2015	On 2/11/2016 Agenda
61	9	Highpointe Circle/Kittree Ln	Operation Belssing	Major Subdivision	Beatrice Way Conventional Subdivision	4/23/2015	PB appvd 6-month ext at 9/10/15 mtg. Applicant working on resbumission for final review. Deadline is the March meeting.

Public Hearing

Map	Lot	Address	Owner	Application Type	Project Description	Last PB review date	Notes
4	70	3 Knight Ave	Christopher Eckel	Shoreland Development Plan	Garage expansion	1/14/2016	Site walk: 2/4/16; Public Hearing 2/11/2016
3	144	78 Government St	Jeff Apsey	Subdivision Plan	Addition of forth floor and 4 1-bedroom apts	11/12/2015	Item moved to 2/11/16 agenda, per applicant request

Final Plan - Approved

Map	Lot	Address	Owner	Application Type	Project Description	Last PB review date	Notes	Mylar Signed	Mylar scanned & filed
28	14-2	89 Route 236	Rockwell Homes, LLC	Site Plan	business offices and drive-through restaurant	1/14/2016			
64	27	32 Seapoint Rd	Jerry Held	Shoreland Development Plan	Principle dwelling expansion to add second bedroom	1/14/2016			
33	3	20 Whippoorwill Ln	Christopher Moran	Shoreland Development Plan	Expansion to single-family dwelling		NOV issued 12/8/2015; must be resolved prior to building permit		
34	2B	34 Goose Point Rd	Kevin Fickensher & Suzanne Olbricht	Shoreland Development Plan	Screened porch & patio	12/10/2015			
18	31	13 Lawrence Ln	Rose Marie Howells	Shoreland Development Plan	Driveway expansion	12/10/2015			
10	19	92 Whipple Rd	Jeffrey & Deborah Kolad	Shoreland Development Plan	replace seawall and expand shed; shed removed from plan	11/12/2015	mylar picked up; waiting for return	yes	
9	16	24 Williams Ave	Karen & David Beane	Shoreland Development Plan	Construct garage & house addition; reconstruct deck w/ pergola	11/12/2015			
58	42	73 Tower Rd	Robert & Megan Ramos	Shoreland Development Plan	single-family dwelling	10/22/2015		yes	yes; 11/24/2015
17	10	48 Bowen Rd	MBX, LLC - Kittery Pt. Yacht Yard	Shoreland Development Plan	boat ramp renovation	9/24/2015		yes	yes; 4/2015
30	41	275 US Route 1	Kittery Trading Post Shops/275 US Rte 1, LLC	Site Development Plan	Hampton Inn Development - 83 room hotel	9/10/2015		yes	yes; 11/23/2015
28	14	Fernald Rd and Rte 236	Peter Paul, AMP Realty Holdings	Cluster Subdivision	"Morgan Court" 4 lots with 9 multifamily units	8/20/2015	Pending development: Lawsuit re: sloped roof.		
67	9	484 US Route 1	Cape House Mgt, LLC	Shoreland Development Plan	Good-2-Go	11/12/2015		yes	yes; 12/22/2015
18	27	42 Pepperrell Rd	Brian & Jan Rodonets	Shoreland Development Plan	replace porch and walkway with mudroom	8/20/2015		yes	yes; 11/9/2015
3	5, 6, 7	42 State Rd	Aaron Henderson, HGC, LLC	Mixed Use Development Site Plan	3 office units, 5 dwelling units	7/9/2015		yes	yes; 1/11/2016
58	34	43 Tower Rd	Theodore H. Curtis Trust	Shoreland Development Plan	garage addition	7/9/2015		yes	yes;1/14/2016
1	9	28 Island Ave	Diane Knight	Shoreland Development Plan	second story expansion	7/9/2015		yes	yes; 10/22/2015
23	6A	9 Mill Pond Road	Eric Stites & Katherine Peternell	Shoreland Development Plan	addition and second story expansion	6/11/2015			
27	45	100 Pepperrell Rd	Jonathan King & James Stott	Shoreland Development Plan	addition to existing structure	6/11/2015		yes	yes; 6/2015
58	46	81 Tower Rd	Frederick Nominee Trust	Shoreland Development Plan	addition and second story expansion	5/14/2015		yes	yes; 10/13/2015
61	25, 29	Haley Rd & Lewis Rd	Lewis Farm, LLC	Major Modification to Approved Plan	revise lot lines and wooded buffers	5/14/2015		yes	yes; 5/2015
36	63	2 Chauncey Creek Rd	Daniel O. & Linda P. Seaward	Shoreland Development Plan	addition to existing structure	5/14/2015		yes	yes; 6/2015
58	42, 42A	71, 73 Tower Rd	Mary Thron & Raymond Arris	Common Boundary Line Adjustment	Request for Adjustment - Nonconforming Lots	4/9/2015			
50	8	435 US Route 1	Kenneth Lemont/Harrison E. Lemont	Mod to Approved Site Plan	Pine Tree Plaza Mixed Use	3/26/2015		yes	yes; 5/20/2015
						3/12/2015		yes	yes; 6/16/2015

Denied/Withdrawn

Map	Lot	Address	Owner	Application Type	Project Description	Last PB review date	Notes
4	168	35 Walker St	York Hospital	Site Development Plan	Additional sinage to existing plan	10/8/2015	Application not subject to PB review

TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

ncolbertpuff@kitteryme.org

Nancy Colbert Puff
Town Manager

Town Manager's Report to the Town Council
January 11, 2016

1. **Police Chief Search Update** – The Eliot Town Manager Dana Lee and I are finalizing our report on the sharing arrangement for consideration by both Towns. I expect we will be complete prior to the next Board of Selectmen meeting on January 14th. I will distribute it to Council as soon as it is final.

2. **Police Lieutenant Retirement** – Lieutenant Russ French has announced his retirement from the Kittery Police Department, effective at the end of this month. While this is truly sad news for Kittery, Russ is leaving us to pursue a life-long goal of his as Chief of Police in Rangeley! We wish him all the best in his future endeavor.

3. **Rice Public Library (RPL) Board of Directors Update –** The Council-appointed Library Committee received information from the RPL Board of Directors that they are no longer pursuing any interest in the Fitzpatrick property as a site for a new library. In addition, the Board voted to endorse an effort to work in partnership with the Town, the Kittery Community Center (KCC) Board, the neighborhood, and the community to identify whether a location on the KCC site nearer to the intersection of Goodsoe and Rogers Road might be a more appropriate location for a new library. The RPL intends to meet with the KCC Board of Directors to begin a dialogue in the near future.

   The Library Committee continues to work to answer on the Council's assignment, and plans to report back to Council when it has produced a final summary of its activities. However, Council may want to begin thinking about the composition of a new Committee with additional and/or different representation as this project moves forward.

4. **Town Council Minutes Review –** In speaking with the Town Clerk and Council Chair, we propose Council forward individual edits to the draft minutes prior to inclusion of a final draft in the Council packet. Moving forward, we plan to distribute draft minutes no later than Tuesday afternoon the week prior to a meeting, and will request Councilors provide edits to the Town Clerk by mid-afternoon on Wednesday. We hope this will improve the efficiency of approval of the minutes during Council meetings by decreasing the likelihood of minor typographical errors present prior to a Council vote.

5. **Sewer Betterment Estimates** – Letters have been mailed to all property owners who will be assessed sewer betterments this week. A sample is attached.

As always, if you have any questions or concerns prior to the meeting, please do not hesitate to contact me. Thank you.

Respectfully Submitted,

Nancy Colbert Puff

SMPDC
SOUTHERN MAINE PLANNING & DEVELOPMENT COMMISSION

Serving the Municipalities of
Southwestern Maine
For 50 years

December 10, 2015

Nancy Colbert Puff
Town Manager
200 Rogers Road
Kittery, ME 03904

Dear Nancy:

As you are probably aware, in the past few years the Southern Maine Planning and Development Commission began an effort to move away from our strong reliance on funding through the county budget process. In the past years, we have reduced our request at the county level from $50,000 to $30,000. We are very grateful for the support we receive from the county but even now, it is not always clear at this time how SMPDC funding will fare through the entire county budget process. With increased costs to the organization combined with decreasing support from state and federal partners, we have found it necessary to slightly increase our dues request this year to the municipalities by 3%. **The local dues for the Town of Kittery will be $4,429.00. These dues are for the upcoming fiscal year beginning on July 1, 2016.** This increase helps us deal with the growing costs of health care, rent, utilities and the need for upgraded technology in our office (for instance we have just upgraded our entire accounting system).

The County funds plus your local contribution allowed us to do the following:

- Run the cooperative purchasing program for the region. York County towns saved an estimated $523,348 through participation in the Copy Paper and Road Salt bids alone in 2014. The town of Kittery saved $51,824.00 through participation in the Copy Paper and Road Salt bids alone in 2014-2015.
- Provides the needed match requirements for the former State Planning Office, federal Economic Development Administration (EDA) and DOT programs. In effect, for every dollar of dues we can leverage an additional two dollars.
- Using these dues we have housed and provided staff support to the Maine Small Business Development Center and it's counselor who provides no-cost business counseling to entrepreneurs throughout York County.
- Provide free workshops, newsletters, technical memorandum, census updates, legislative updates and other educational resources to York County communities, as well as immediate technical assistance on municipal land use, transportation and economic development issues. We also have the ability to provide traffic counts upon request.
- Community Development Block Grant, EDA and other grant writing services to your community.
- The dues allow us to keep our overhead rate low, and thus our hourly billing rate at a reasonable level for any larger projects we work on for your municipality.

110 Main Street . Suite 1400 . Saco, Maine 04072
Voice: 207.571.7065 ≈ Fax: 207.571.7068
http://www.smpdc.org

- The ability to work on county wide initiatives that may not be funded, such as assisting the York County EMA, working on the York County Advocacy Project (to assist with our legislative efforts in Augusta), and developing grant proposals of a county wide nature.

The value of these services are greatly increased when one considers the state and federal dollars we have brought into the region through the writing of grants and assisting other non-profits and towns. For instance in the last year alone, SMRPC received and recapitalized a regional Brownfields Program ($1,500,000 grant), received a $25,000 grant to study a food hub in the region, a $20,000 grant to develop a trail system in York County, and directly assisted in the establishment of the Shoreline Explorer transit system serving the southern Maine Seacoast (a $2.5 million dollar investment). It is important to note that while some of these projects may take place in a certain community or communities, they benefit our entire region, and far surpass the amount of money we request in dues. Furthermore, with our approval for federal Economic Development District status, we hope and believe we will provide additional funds and project money to support economic development activities in the region.

These above successes do not even include the technical assistance we have provided towns on zoning, land use, transportation and economic development issues – all at either no cost or a minimum cost to the municipality.

We hope to continue these activities in the same manner. I would like to point out our local dues are one-third to one-half less than almost all other similar regional planning organizations in the state. Dues were established using a formula based on population and valuation per community. Many towns have discussed placing this request in the Planning Board budget or an administrative account. That is a decision for the municipality.

I have included an attachment on what the town will receive for their dues payment. I would also be more than happy to come and speak with you about the need for these funds, how they are utilized and what we have done or can do for your community. If you would like to chat about our services please feel free to call. After fifty years of service, we hope to continue working for you and all the other communities in the region.

We look forward to your support.

Sincerely,

Paul Schumacher
Executive Director

Cc: Planning Board Chairperson

DEC 2015	BUILDING PERMIT REPORT	
	# of Building Permits Issued	38
	Value of Building Permits	$ 2,494,786.23
	Permit Fees Collected	$ 32,432.60
	Impact Fees Paid	$ 9,080.00
	Residential Fees Collected	$ 21,825.10
	Commercial Fees Collected	$ 10,607.50

Date Issued	Permit #	Property Owner	Address	Map	Lot	C/R	Work	Description	Value	Fee	Impact Fee
12/2/2015	15-376	Cape House Management	484 U.S. Route # 1	67	9	C	New	New foundation	$ 39,000.00	$ 685.00	-
12/2/2015	15-377	Scott Blake	33 Cutts Road	60	4	R	Repl	Replace existing mobile home, "in kind", same size & same location	$ 30,000.00	$ 385.00	-
12/3/2015	15-378	AMG Investments / Spruce Creek Provisions	290 U.S. Route # 1	31	2	C	Refit	Commercial refit for Spruce Creek Provisions	$ -	$ 100.00	-
12/3/2015	15-379	Joe White / Paradign Plumbing & Heating	2 Manson Avenue	9	149	R	Repl	Replace steam boiler & oil tank	$ 900.00	$ 25.00	-
12/3/2015	15-380	Thomas London / Rousseau Electric	14 Goose Point Road	34	14	R	New	Install generator	$ 8,000.00	$ 121.00	-
12/3/2015	15-381	Jeff Kolod / Po-Folk Electric	92 Whipple Road	10	19	R	New	Install electrical wiring in existing garage	$ 600.00	$ 25.00	-
12/3/2015	15-382	Matt Beebe / J. Golter Plumbing & Heating	230 U.S. Route # 1	22	14	C	New	Install new gas service to existing boiler for conversion burner installation	$ 3,500.00	$ 152.50	-
12/3/2015	15-383	M.H. Parsons & Sons Lumber / Allan Pechner	182 State Road	22	2	C	New	Paint interior - Tasty Thai	$ 2,000.00	$ 115.00	-
12/3/2015	15-384	Howard Moulton	2 Cedar Drive	39	17C	R	Maint	Replace roof shingles	$ 12,000.00	$ 49.00	-
12/3/2015	15-385	Constance Lamprell	98 Pepperrell Road	27	46	R	Maint	Replace roof shingles	$ 13,694.00	$ 67.00	-

Date Issued	Permit #	Property Owner	Address	Map	Lot	C/R	Work	Description	Value	Fee	Impact Fee
12/8/2015	15-386	H.E. Lemont Management Co., Inc.	435 U.S. Route # 1	50	8	C	New	Replace existing building & ell with a new 2450 sf building. Replace & relocate existing garage, increase size, per Planning Board approval 3-12-15 & Administrative approval 11-10-15	$ 350,000.00	$ 5,350.00	$ 1,250.00
12/8/2015	15-387	Benjamin Bouchard	7 Park Avenue	3	125	R	Repl	Replace siding	$ 6,000.00	$ 25.00	-
12/8/2015	15-388	Jim Stott & Jonathan King	100 Pepperrell Road	27	45	R		Construct additions - main dwelling with attached garage, guest wing, summer house, deck & pool per Planning Board approval 5-14-15	###########	$17,725.00	$ 6,875.00
12/8/2015	15-389	Robert Barry	16 Remicks Lane	65	38	R	New	Install 2 propane tanks & associated lines to unit_ and connecting generator	$ 1,500.00	$ 25.00	-
12/8/2015	15-390	Deborah Lynch	358 Haley Road	41	14	R	Repl	Replace roof shingles	$ 8,340.00	$ 25.00	-
12/9/2015	15-391	Arilda Densch	9 Adams Lane # 2	2	22	R	Renov	Renovate and enclose laundry room area	$ 4,500.00	$ 79.00	-
12/10/2015	15-392	Matthew Brock	50 Goodwin Road	58	51M	R	Maint	Repair & maintain existing deck, stairs & porch	$ 8,010.00	$ 25.00	-
12/10/2015	15-393	Janice Stanley	60 Remicks Lane	65	18B	R	New	Relocate existing 16' x 16' shed & construct 12' x 16' addition to it	$ 2,000.00	$ 49.00	-
12/10/2015	15-394	Peggy Marchand	7 Wainwright Avenue	16	136	R	Repl	Replace existing porch entry	$ 6,500.00	$ 25.00	-
12/10/2015	15-395	Joan/Laurel Castiglione	Wilson Road	P/O 37	7	R	New	Construct single family dwelling 700 square feet	$ 130,000.00	$ 1,560.00	$ 150.00
12/14/2015	15-396	Flower Company Properties (Jacquelyn Nooney)	22 Stevenson Rd	29	31A	C	Repair/ Maint	Remove shingles from barn and reshingle	$ 6,200.00	$ 190.00	-
12/14/2015	15-397	Paul Bonacci	172 Pepperrell Road	36	68	R	SZ Veg Rem	Remove 1 bradford pear tree & 3 hemlock trees	$ -	$ 25.00	-

Date Issued	Permit #	Property Owner	Address	Map	Lot	C/R	Work	Description	Value	Fee	Impact Fee
12/22/2015	15-398	Larry Enos	4 Woodside Meadow Road	67	22-4	R	New	Construct 8' x 12' shed	$ 2,800.00	$ 58.50	-
12/22/2015	15-399	John Graves	18 Thaxter Lane	64	21B	R	New	Install security system	$ 814.00	$ 25.00	-
12/22/2015	15-400	Ronald Allen/Lawrence Allen/Rhonda Graves	51 Wilson Road	54	10	R	New	Construct 8' x 8'3" & 9'4" x 25'3" porches with awnings on front & rear of existing structure	$ 675.23	$ 25.00	-
12/22/2015	15-401	Diana Therberge	143 Martin Road	29	11	R	New	Install generator	$ 5,000.00	$ 85.00	-
12/22/2015	15-402	Louis Kochanek	106 Goodwin Road	53	5-1	R	New	Install generator	$ 1,200.00	$ 39.00	-
12/22/2015	15-403	Robert Barry	16 Remicks Lane	65	38	R	New	Install generator	$ 7,400.00	$ 113.80	-
12/22/2015	15-404	Jay & Susan Smith	3B Commercial Street	4	15	R	Renov	Interior renovations	$ 40,000.00	$ 505.00	-
12/22/2015	15-405	Michelle Kenney & Steve Mailhot	46 Dion Avenue	23	5C	R	Renov	Renovate kitchen	$ 25,000.00	$ 325.00	-
12/23/2015	15-406	Dawn Paradis & J. Greg Hall	19 Whipple Road	9	137	R	Renov	Interior renovations	$ 3,000.00	$ 61.00	-
12/23/2015	15-407	Gerry Burnes	114 State Road	8	39	R	Renov	Upgrade electical service on garage	$ 1,200.00	$ 39.40	-
12/23/2015	15-408	Gerry Burnes	114 State Road	8	39	R	Renov	Install water & sewer lines from house to garage, new interior walls, install sink, upgrade wiring	$ 5,000.00	$ 85.00	-
12/23/2015	15-409	Ron Lambert	24 Dana Avenue	30	2	R	Repl	Replace 4 windows	$ 3,138.00	$ 25.00	-
12/30/2015	15-410	Joseph Copeland	142 Dennett Rd	11	05A	R	New	Construct new 10'x25' deck onto existing deck and building structure	$ 2,000.00	$ 49.00	-
12/30/2015	15-411	Cape House Management	484 US Route 1	67	09	C	New	New structure per Planning Board approval 8/20/15	$ 261,000.00	$ 4,015.00	$ 805.00
12/30/2015	15-412	Yankee Mobile Home Park	4 Idlewood Ln	66	17	R	Repair/ Maint	Remove and replace roof shingles	$ 14,285.00	$ 75.40	-
12/30/2015	15-413	Yankee Mobile Home Park	3 Idlewood Ln	66	16	R	Repair/ Maint	Remove and replace roof shingles	$ 14,530.00	$ 79.00	-

Town of Kittery
Planning Board Meeting
February 25, 2016

ITEM 5 – Town Code Amendments – 16.10.3 – Development Plan Review and Approval Process; 16.10.3.2 Other Development Review; 16.10.3.4 Shoreland Development Review; 16.10.10 Shoreland Development Review; 16.10.10.1.1 Permits Required; 16.10.10.1.2 Permit Application; 16.10.10.2 Procedure for Administering Permits

Action: hold a public hearing; recommend to Town Council for adoption. The proposed amendments address plan review procedures for development applications located in the Shoreland Overlay Zone.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
NO	Joint workshop with Planning Board and Town Council	Scheduled for 2/1/2016	
YES	Initial Planning Board Meeting	Scheduled for 1/14/2016	HELD
NO	Secondary Planning Board Meeting		
YES	Public Hearing (special notice requirements)	Scheduled for 2/25/2016	
YES	Review/Approval/ Recommendation to Town Council		

Background

This group of amendments is developed to respond to the many review applications the Board receives that do not include development within the 100 or 75 foot setback in the Shoreland zone but still needs planning board approval, per 16.10.3.2 for the determination of devegetated area. Other minor changes are included for clarity and form.

Review

Attached for the Board's consideration are amendments to Article XI of Title 16.10.3.2 and the definition of development in 16.2.2. Staff revised the amendment to reflect some of the comments regarding sentence structure the Board raised at the January 14, 2016 meeting.

Recommendation

If the Planning Board is amenable to the proposed amendments and/or along with any revisions they find is warranted, the Board can…

…**move to recommend to Town Council adoption for Town Code Amendments,** ***Title 16.2 Definitions, Title 16.10.3.2 Other Development Review, 16.10.3.4 Shoreland Development Review and 16.10.10 Shoreland Development Review.***

16.2.2 Definitions.

Development means:

1) a change in land use involving alteration of the land, water or vegetation, or

2) the addition or alteration of structures or other construction not naturally occurring.

Article III. Development Plan Review and Approval Process

16.10.3.1 General Development, Site, and Subdivision Plans Review.

All proposed development including site, subdivision, business use and other development must be reviewed for conformance with the procedures, standards and requirements of this Code by the Planning Board except as provided herein, but in all cases by the Town Planner and Code Enforcement Officer and where required the Board of Appeals as provided herein.

16.10.3.2 Other Development Review.

An applicant or applicant's authorized agent ~~must~~ need not obtain Planning Board approval ~~in accordance with this Code for all development except the following~~, for the following (A-D) unless proposed development is subject to a Shoreland Development Plan Review ~~requiring Board approval located within the Shoreland Overlay or Resource Protection Overlay Zones~~:

A. Single and duplex family dwellings, except if within either a Shoreland or Resource Protection Overlay Zone, in addition to other criteria specified in Article X of Chapter 16.10, applicable to the granting of a special exception use request, the Planning Board must review and may approve a development plan for a one to two family residential structure, including driveways provided the applicant meets all of the applicable provisions of the Town Code including Design and Performance Standards.

B. Expansion of existing use where the expanded use will require fewer than six additional parking spaces.

C. Division of land into lots (i.e., two lots) which division is not otherwise subject to Planning Board review as a subdivision.

D. Business use as provided in Section16.4.3.5.

16.10.3.4 Shoreland Development Review.

A. All development in the Shoreland, Resource Protection, and Commercial Fisheries/Maritime Uses Overlay Zones involving the use, expansion, change or replacement of an existing use or structure, or renewal of a discontinued non-conforming use must be reviewed and approved as provided in 16.10.10 and elsewhere in this Code, and tracked as a shoreland development for reporting purposes.

B. All development in the Shoreland, Resource Protection, and Commercial Fisheries/Maritime Uses Overlay Zones must be approved by the Planning Board except for the following:"

1. Proposed development that is located outside the required setback for principal and accessory structures as identified in 16.3.2.17.D.2. and is not subject to Planning Board review as explicitly

required elsewhere in this Title. Such proposed development must be reviewed and approved by the Code Enforcement Officer (CEO) prior to issuing a building permit. The total devegetated area of the lot (that portion within the Shoreland Overlay Zone) must be calculated by the applicant and verified by the CEO and recorded in the Town's property records. This subsection does not include any development proposed in the Resource Protection and Stream Protection Overlay Zones.

2. Piers, docks, wharfs, bridges and other structures and uses extending over or below the Highest Annual Tide (HAT) elevation, subject to review and approval by the Port Authority as outlined in Title 16.11 Marine related development.

3. Division of a conforming parcel that would result in the creation of fewer than three (3) conforming lots or dwelling units in a five (5) year period,

4. Timber harvesting and clearing of vegetation for activities other than timber harvesting. ~~which~~ These are subject to review and approval by the Shoreland Resource Officer or Code Enforcement Officer.

Article X. Shoreland Development Review

16.10.10.1 General.

16.10.10.1.1 Permits Required.

A. After the effective date of this code, no person may, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the shoreland or resource protection overlay zones in which such activity or use would occur, or expand, change or replace an existing use or structure, or renew a discontinued nonconforming use.

B. When replacing an existing culvert, the watercourse must be protected so that the crossing does not block fish passage, and adequate erosion control measures must be taken to prevent sedimentation of the water in the watercourse.

C. A permit is not required for the replacement of an existing road culvert provided the replacement culvert is not:

1. More than one standard culvert size larger in diameter than the culvert being replaced,

2. More than twenty-five (25) percent longer than the culvert being replaced, and

3. Longer than seventy-five (75) feet.

D. A permit is not required for an archaeological excavation provided the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

E. Any permit required by this Section is in addition to any other permit required by other law or

ordinance.

16.10.10.1.2 Permit Application.

A. Every applicant for a Shoreland Development Review permit must ~~complete and~~ submit a completed ~~Kittery~~ application form and a site plan drawn to scale as indicated in Section 16.10.5.2B, to the Code Enforcement Officer ~~appropriate official as indicated in Section 16.10.5.2B~~.

B. All applications must be signed by the owner~~, owners or lessee of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person must submit a letter of authorization from the owner or lessee.~~ or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with written authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

C. All applications must be dated, and the Code Enforcement Officer, ~~Town Planner, Town Clerk or Kittery Port Authority, as appropriate~~ or his/her representative, must note upon each application the date and time of its receipt ~~by each~~.

D. Whenever the nature of the proposed structure requires the installation of a subsurface sewage disposal system, a completed application for a subsurface wastewater disposal permit must be submitted. The application must include a site evaluation approved by the Plumbing Inspector.

16.10.10.2 Procedure for Administering Permits.

Within thirty five (35) days of the receipt of a written application, the Town Planner for Planning Board review or Code Enforcement Officer for all other review, and as indicated in Section 16.10.~~5.2B~~3.4, must notify the applicant in writing that the application is or is not complete. If the application is incomplete, the written notification must specify the additional material required to complete the application.

A. The Code Enforcement Officer is required to approve, approve with conditions or deny all permit applications in writing within thirty-five (35) days of receiving a completed application.

B If the Planning Board has a waiting list of applications, a decision on the application will occur within thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing, if one is held.

C. Permits will be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this section.
The applicant is required to demonstrate, to the satisfaction of the reviewing authority, that the proposed land use activity is in conformance with the purposes and provisions of this Code.

D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated that the proposed use will:

1. maintain safe and healthful conditions;
2. not result in water pollution, erosion or sedimentation to surface waters;
3. adequately provide for the disposal of all wastewater;

4. not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. protect archaeological and historic resources;
7. not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/ maritime activities district;
8. avoid problems associated with floodplain development and use
9. is in conformance with the provisions of this Code; and
10. recorded with the York County Registry of Deeds.

Town of Kittery
Planning Board Meeting
February 25, 2016

Town Code Amendment – 16.2 Definitions.
Town Code Amendment – 16.8.8.2.3 Applicability.
Town Code Amendment – 16.10.7.2 Final Plan Application Submittal Content.
Action: hold a public hearing; recommend to Town Council for adoption. The proposed amendments provide clarity with regard to a Municipal Separate Storm Sewer System (MS4) regulation for a Post-Construction Stormwater Management Plan.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
NO	Joint workshop with Planning Board and Town Council	Scheduled for 2/1/2016	
YES	Initial Planning Board Meeting	Scheduled for 1/14/2016	HELD
YES	Public Hearing (special notice requirements)	Scheduled for 2/25/2016	
YES	Review/Approval/ Recommendation to Town Council		

Background

When the Town of Kittery initially became a regulated community under the MS4 General Permit, an ordinance was adopted to add a Post Construction Management Plan per requirements of the Permit. There has been recent proposed development in the Urbanized Area triggering this ordinance which brought to light the inadequacies of the current ordinance language, so the proposed amendments provide the needed clarity and full scope of applicability and requirements.

Review

Attached for the Board's consideration are amendments the definition of a Post-Construction Management Plan, when Post-Construction Stormwater Management regulations apply, and what the Post-Construction Stormwater Management Plan must entail. Staff revised the amendment to reflect some of the comments regarding sentence structure the Board raised at the January 14, 2016 meeting.

Recommendation

If the Planning Board is amenable to the proposed amendments and/or along with any revisions they find is warranted, the Board can…

…move to recommend to Town Council adoption of Town Code Amendments, *Title 16.2 Definitions, Title 16.8.8.2.3 Applicability, and 16.10.7.2 Final Plan Application Submittal Content.*

Code Amendments

16.2 Definitions.

Post-Construction Stormwater Management Plan means an Inspection and Maintenance Plan as required by rule for projects that require approval by the Maine Department of Environmental Protection (MDEP) under Chapter 500, Stormwater Management in Maine; or a plan to inspect and maintain BMPs and Stormwater Management Facilities employed by a new development or redevelopment, not subject to MDEP Chapter 500 rules, to meet the stormwater standards of the municipality's subdivision, site plan, or other zoning, planning or other land use ordinances.

16.8.8.2.3 Applicability.

A. In General.
This Section applies to all new development or ~~construction~~ redevelopment (any construction activity on premises already improved that does alter stormwater drainage patterns) ~~activity~~ including: one acre or more of disturbed area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb an area equal to or greater than one acre. ~~and; redevelopment or construction activity on premises already improved with buildings and structures or activities or uses, but does not include activities such as exterior remodeling.~~

16.10.7.2 Final Plan Application Submittal Content.

R. Stormwater management plan for stormwater and other surface water drainage prepared by a registered professional engineer including the location of stormwater and other surface water drainage area~~,~~; a Post Construction ~~Maintenance~~ Management Plan ~~and Agreement~~ that defines maintenance responsibilities, responsible parties, shared costs, and schedule for maintenance; a draft Maintenance Agreement for Stormwater Management Facilities, and where applicable, draft documents creating a homeowners association referencing the Maintenance responsibilities. Where applicable, ~~a~~ the Maintenance Agreement must be included in the Document of Covenants, Homeowners Documents and/or as riders to the individual deed and recorded with the York County Registry of Deeds. (Ordained 9/26/11; effective 10/27/11)

TOWN OF KITTERY

Planning and Development

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1307 Fax: 207-439-6806

INTEROFFICE MEMORANDUM

TO:	TOWN COUNCIL
FROM:	PLANNING BOARD
SUBJECT:	**KITTERY FORESIDE COMMITTEE** (AKA FORESIDE NEIGHBORHOOD COMMITTEE)
DATE:	JANUARY 21, 2016
CC:	CHRIS DI MATTEO, TOWN PLANNER; NANCY COLBERT PUFF, TOWN MANGER

Ms. Terry Lockhead of 16 Old Armory Way and Ms. Cathy Wolf of 10 Armory Way approached the Planning Board on November 19th and December 10th, 2015 seeking support for plans to request the revival of the Foreside Design Review Committee, as defined in Title 16.2.15 of the Land Use Code.

Ms. Lockhead and Ms. Wolf described the purpose of the effort to further the goal of revitalizing downtown Kittery Foreside as a neighborhood center and promote economic development, while respecting the zone's historic and residential character. They requested the Planning Board's support to repopulate the Kittery Foreside Committee. The Kittery Foreside Committee will be an asset to the Comprehensive Plan Committee over the course of the 2016 calendar year as they work to develop the vision for the future of the neighborhood.

A consensus of the Board at the December, 10 meeting was in favor in communicating the Town Council the Planning Board's support in this effort. The proposal presented to the Board is attached for the Council's consideration.

Terry Lochhead (603) 545-9989
12 Old Armory Way

Proposal To Revive The Foreside Design Review Committee 11/19/15

Just as New England's mix of forest, fields and farms creates a unique countryside which draws visitors from far and wide, Kittery Foreside has a unique appeal, based on its mix of creative new businesses, old homes, mixed incomes, and working waterfront.

The Planning Board has made impressive progress on the revitalization of downtown Kittery and the promotion of business in the Foreside, but progress on the remaining goal of respecting the historic and residential character of the Foreside has only just begun (see 16.3.2.15 below). The City Council needs to revive the old Kittery Foreside Design Review Committee to bring the energy of Kittery residents to bear on helping to move this work forward.

As new businesses breathe life into Kittery's historic downtown, the **Foreside Neighborhood Committee** will focus on the corollary aspects of the Foreside's development: the historic and neighborhood assets of the zone.

The Committee will bring forward residents' goals identified at the Foreside Forums and the Foreside Community Meeting (Lil's Café, August, 2014), work with the planning board to identify paths forward on these goals, and generate volunteer involvement and public support.

The Committee will have five members, including two Foreside residents, a person with architectural/ historical expertise, a person with communications experience, and an advocate for affordable workforce housing.

16.3.2.15 Mixed Use-Kittery Foreside MU-KF

Purpose: "To provide business, service, and community functions within the Mixed Use-Kittery Foreside zone and to provide a mix of housing opportunities in the historic urbanized center of the community and to allow for use patterns which recognize the densely built-up character of the zone and the limitations for providing off-street parking. Design Review is used to facilitate the revitalization of downtown Kittery Foreside as a neighborhood center, while promoting economic development of service businesses and walk-in shopping as well as respecting the zone's historic and residential character." *[over]*

Terry Lochhead (603) 545-9989
16 Old Armory Way

Directions to Planning Board:

Purpose:

1) To provide business, service and community functions

2) to provide a mix of housing opportunities in the historic urbanized center of the community

3) to allow for use patterns which recognize the densely built-up character of the zone

4) to recognize the limitations for providing off-street parking.

Directions for use of Kittery Foreside Design Review Committee:

Design Review is used to:

1) facilitate the revitalization of downtown Kittery as a neighborhood center

2) promote economic service businesses and walk-in shopping

3) respect the zone's historic and residential character