

**TOWN OF KITTERY, ME
PLANNING BOARD MEETING
Council Chambers**

**UNAPPROVED
APRIL 28, 2016**

1 **Meeting called to order: 6:00 pm**

2
3 **Pledge of Allegiance**

4
5 **Roll Call:**

6 Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Robert Harris, Debbie Driscoll-
7 Davis, Mark Alesse, Dutch Dunkelberger
8 Staff present: Chris Di Matteo, Town Planner
9

10 **Minutes: April 14, 2016**

11 Line 7 – replace “Deborah Lynch” with “Debbie Driscoll-Davis”

12 Line 8 – replace “Debbie Driscoll-Davis” with “Deborah Lynch”

13 Line 14 – revise to read “replace 17 with 72”

14 Line 48 – replace “bits” with “pits”

15 Line 105-106 – revise to read “that the proposed conveyance associated with Map 49 Lot 39 should be
16 executed prior to submitting the plan since it is essentially exempt from the subdivision.”
17

18 **Mr. Dunkelberger moved to approve the April 14, 2016 minutes, as amended.**

19 **Ms. Driscoll-Davis seconded.**

20 **Motion passed 6-0-0.**

21
22 **Public Comment:** Ms. Grinnell opened the floor for public comment.
23

24 Ms. Eardean Wells noted at the most recent Conservation Committee meeting, it was discussed to the
25 Open Space Committee a matter at the condominium building in front of Badger’s Island Marina, East
26 and West owned by Darren LaPierre. A sign in front of the building has been changed to allow no public
27 access which is a violation of terms under the conditions for approval in that plan.
28

29 Jessa Kellogg, Shoreland Resource Officer, presented a short update to the Conservation Committee for
30 the use of culvert grants received. She determined there are 34 culverts in desperate need of repair or
31 replacement out of over 100 culverts assessed. Ms. Wells suggested to Ms. Kellogg to infer with the
32 Planning Board to discuss further. Ms. Kellogg was not able to submit a grant application for 3-10 foot
33 culverts because the comprehensive plan is not finished. Ms. Kellogg was not able to access the culverts
34 on private roads for any assessment.
35

36 Ms. Wells raised the issue of filling manmade wetlands and vernal pools. There is an area in Town where
37 a vernal pool was recently filled and as a result the runoff is seeping into adjacent properties.
38

39 Ms. Grinnell asked Mr. Di Matteo to speak with Code Enforcement regarding the sign at the
40 condominium in front of Badger’s Island Marina, East and West signs and to ask Ms. Kellogg to present
41 her research to the Planning Board.
42

43 Ms. Grinnell closed the floor for public comment.
44

45 **PUBLIC HEARING**

46
47 **ITEM 1 – Town Code Amendments - 16.8.11 - Cluster Residential and Cluster Mixed-Use**
48 **Development. 16.8.11.1 Purpose; 16.8.11.3 Dimension Standards Modifications; 16.8.11.5 Application**
49 **Procedure; 16.8.11.6 Standards; 16.8.20.1 Green Strip; 16.9.1.7 Buffer areas; and 16.2.2 Definitions**

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50 Action: Hold a public hearing; Recommend to Town Council. The proposed amendments provide clarity with
51 regard to open space and other requirement standards in cluster residential and cluster mixed-use
52 development.

53
54 Ms. Grinnell opened the floor for public hearing. Hearing none; Ms. Grinnell closed the public hearing.

55
56 Mr. Di Matteo cited a letter from Jeffrey Clifford dated April 28, 2016 which included proposed revisions.
57 They are in the context for what CMA considers legislative authority. There are ordinances that make it
58 unclear what the ordinance calls for. Mr. Di Matteo suggested that the Planning Board have the Town
59 attorney review his proposals in regard to MMA. Ms. Grinnell agreed with that notion. Ms. Driscoll-Davis
60 recommended that it be reviewed by the Board before sending to Town attorney. Ms. Kalmar agreed that
61 legal advice would be helpful. Ms. Driscoll-Davis wondered if Mr. Clifford's revisions could potentially be
62 incorporated into the Comprehensive Plan. Mr. Di Matteo noted that the proposed amendments have been
63 discussed by Town Council. After more discussion, the Planning Board decided to have Mr. Clifford's
64 document forwarded to the Town attorney for review.

65
66 Ms. Kalmar requested to add at the end of Line 191 "not included within the proposed development" in the
67 intent to mitigate confusion for developments on existing streets. Mr. Dunkelberger agreed with Ms.
68 Kalmar's suggestion.

69
70 **Ms. Kalmar made a motion to continue deliberations for Town Code Amendments - 16.8.11 - Cluster**
71 **Residential and Cluster Mixed-Use Development. 16.8.11.1 Purpose; 16.8.11.3 Dimension Standards**
72 **Modifications; 16.8.11.5 Application Procedure; 16.8.11.6 Standards; 16.8.20.1 Green Strip; 16.9.1.7**
73 **Buffer areas; and 16.2.2 Definitions.**

74 **Mr. Dunkelberger seconded.**

75 **Motion passed 5-1-0.**

76
77 **ITEM 2 – Town Code Amendment – 16.3.2.17.D – Shoreland Overlay Zone Standards; and 16.2.2 -**
78 **Definitions**

79 Action: Hold a public hearing; Recommend to Town Council. The proposed amendment removes
80 redundancies and improves consistency with regard to language and intention throughout the code.

81
82 Ms. Grinnell opened the floor for public hearing. Hearing none; Ms. Grinnell closed the public hearing.

83
84 Ms. Kalmar requested to remove "that have been" on Line 160.

85
86 **Mr. Alesse made a motion to recommend to Town Council the adoption of Town Code Amendment –**
87 **16.3.2.17.D – Shoreland Overlay Zone Standards; and 16.2.2 - Definitions.**

88 **Ms. Driscoll-Davis seconded.**

89 **Motion passed 5-1-0.**

90
91 **ITEM 3 – Town Code Amendments - Table 1- chapter 16.8, Article IV - Design and Construction**
92 **Standards for Streets and Pedestrian Ways**

93 Action: Hold a public hearing; Recommend to Town Council. The proposed amendment eliminates the
94 requirement for secondary access for secondary collectors street to be for emergency use only.

95
96 Ms. Grinnell opened the floor for public hearing. Hearing none; Ms. Grinnell closed the public hearing.

97
98 **Mr. Alesse made a motion to recommend to Town Council the adoption of amendments to 16.8.**

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99 **Ms. Kalmar seconded.**
100 **Motion passed 6-0-0.**

101
102 **NEW BUSINESS**

103
104 **ITEM 4 – Town Code Amendment - 16.3.2.15.A - Mixed Use - Kittery Foreside Purpose; 16.3.2.15.D -**
105 **Standards; 16.3.2.15.F -Design Review**
106 Action: Review Amendment, Schedule a Public Hearing. The proposed amendment removes Design Review
107 regulations from the Mixed Use -Kittery Foreside zone.

108
109 Ms. Grinnell stated that the proposed amendment intends to remove any reference to Kittery Foreside
110 Committee which the Planning Board voted on that intent on March 24, 2016.

111
112 **Mr. Alesse made a motion to schedule a public hearing for proposed Town Code Amendment**
113 **16.3.2.15.A - Mixed Use - Kittery Foreside Purpose; 16.3.2.15.D -Standards; 16.3.2.15.F -Design**
114 **Review to the May 26, 2016 Planning Board meeting.**

115 **Ms. Driscoll-Davis seconded.**

116
117 Ms. Kalmar requested to keep strike Lines 8-10 and then replace “review is” with “standards are” because it
118 is still valuable language for the purpose statement.

119
120 Ms. Kalmar requested to remove “, the maximum size of the footprint of the pre-existing building was larger
121 than one thousand five hundred (1,500) square feet,” at Lines 68-69.

122
123 Ms. Kalmar and Ms. Grinnell requested to replace “must meet the maximums set forth above” with “must not
124 exceed the maximums within this subsection” at Lines 100-101.

125
126 **Mr. Alesse amended his motion to include the discussed revisions.**

127 **Ms. Driscoll-Davis seconded.**

128 **Motion passed 5-1-0.**

129
130 **ITEM 5 – Board Member Items / Discussion**

131
132 A. Committee Updates

133 a. Ms. Driscoll-Davis noted that the Comprehensive Plan 2015-2025 is progressing forward.
134 The committee members have received copies of the inventory packages and all comments
135 were due on April 27, 2016. The next meeting is Wednesday, May 18, 2016 at 6:00 PM.
136 Mr. Di Matteo noted that the staff is leaning toward having a joint presentation to the Town
137 Council after the June public forum.

138 B. Action List

139 a. Ms. Kalmar asked if Items 6, 8, 10, 13, 14, 15, 20, and 26 could be removed now that they
140 are completed. Mr. Di Matteo suggested to have the complete list provided quarterly.

141 C. Other – None.

142
143 **ITEM 6– Town Planner Items:**

144
145 A. M66 L2A & 8 – Betty Welch Road; 90-day extension request

146

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147 **Ms. Kalmar made a motion to grant a 90-day time extension of the Sketch Plan Review approval to**
148 **allow for filing of a Preliminary Subdivision Application.**

149 **Mr. Dunkelberger seconded.**

150 **Motion passed 6-0-0.**

151

152 B. Animal control measures in Title 16

153

154 Ms. Grinnell cited the background and current situation statements included in the attached draft report to
155 Town Council.

156

157 Mr. Di Matteo suggested a few options for the Board to consider. One fundamental question is whether this
158 type of ordinance would need to be in Land Use. To date, this issue is captured in standalone ordinances for
159 other Towns. If it is equivalent to domestic animals or canines then it would be captured outside the Land
160 Use code.

161

162 Ms. Kalmar noted that commercial chickens are special exception uses in rural-residential zones of other
163 Towns. She would prefer to see chickens listed under Title 6.

164

165 Mr. Dunkelberger suggested to consider how the Town of Eliot handled the issue since their results were
166 simple and effective.

167

168 Ms. Driscoll-Davis hoped that chickens not be banned entirely. Mr. Dunkelberger noted that there are ways
169 to guide specific setbacks for chicken enclosures. Ms. Grinnell supported how other ordinances limited the
170 number of chickens and roosters allowed. Mr. Di Matteo confirmed that if written into Title 16, it is not in
171 the Planning Board's purview. After further discussion, the Board agreed that the Town Council should help
172 to develop this ordinance.

173

174 Ms. Wells suggested that horse waste be considered, specifically in Roger's Park. The elementary schools
175 and Kittery Community Center conduct outdoor classrooms in the park and have observed some horse waste
176 along the trails.

177

178 Mr. Alesse learned after speaking with Animal Control that there is no ordinance in place governing dog
179 waste removal on Seapoint and Crescent beach. He asked that staff consider a revision to Title 6.1 that
180 would allow Code Enforcement the authority to fine for not bagging and disposing of canine waste. Mr. Di
181 Matteo cited Title 6.1.14 Penalties and Title 6.1.5 Record to be Kept by Animal Control Officer –Contents.
182 Mr. Dunkelberger noted Title 6.1.13 addresses the concern Mr. Alesse raised and Title 6.1.14 refers the
183 penalties for any violation. Mr. Di Matteo will research further as to why Title 6.1.0 exists, which excepts
184 Seapoint and Crescent Beaches from the article.

185

186 **Mr. Alesse moved to adjourn.**

187 **Ms. Driscoll-Davis seconded.**

188 **Motion carried 6-0-0.**

189

190 The Kittery Planning Board meeting of April 28, 2016 adjourned at 6:51 p.m.

191

192 Submitted by Marissa Day, Minutes Recorder, on May 5, 2016.

193

194 *Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort*
195 *has been made to ensure the accuracy of the information the minutes are not intended as a verbatim*

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196 *transcript of comments at the meeting, but a summary of the discussion and actions that took place. For*
197 *complete details, please refer to the video of the meeting on the Town of Kittery website at*
198 *<http://www.townhallstreams.com/locations/kittery-maine>.*