



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, February 26, 2015

6:00 P.M. to 10:00 P.M.

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE – APPROVAL OF MINUTES – 1/8/2015 & Site Walks

PUBLIC COMMENTS - Public comment and opinion are welcome during this open session. However, comments and opinions 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 – Kittery Municipal Center/Memorial Park – Modifications to an Approved Plan

The Town of Kittery proposes to add new memorials to the Memorial Park located at the east-side of Town Hall to accommodate the fire and police departments. The area is located at 200 Rogers Road in the Business Local (B-L) Zone and identified as Map 22 Lot 20A and 20. Project represented by Chris Di Matteo, Town Planner.

OLD BUSINESS

ITEM 2 – Board Member Items / Discussion

- A. Board retreat
- B. Committee Updates
- C. Action List; review, edit and prioritize
- D. Other

ITEM 3 – Town Planner Items:

A Memorial Circle Improvement Plan; B. KACTS Grant for Route One By-Pass; C. Town standing board/committee list; F. Ongoing Code Amendments; and G. Other.

NEW BUSINESS

ITEM 4 – Town Code Amendment - Title 16.4.4.1 Inspection of Required Improvements; 16.10.3.7 Independent Review/Inspection Consultant Review; 16.10.3.8 Independent Review Applicant Funding; 16.10.8.2.2 Performance Guaranty Conditions; and 16.10.9.1 Post Approval Actions Required. . Action: review amendment and schedule a public hearing. Proposed amendment: codifies the need to hold a pre-construction meeting; updates provisions associated with inspections; and provides clarity through minor changes where needed.

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.

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

UNAPPROVED
February 12, 2015

5 Meeting called to order at 6:01 p.m.
6 Board Members Present: Karen Kalmar, Deborah Davis, David Lincoln, Ann Grinnell, Robert Harris,
7 Mark Alesse
8 Members absent: Tom Emerson
9 Staff: Chris DiMatteo, Town Planner

10
11 Pledge of Allegiance
12

13 Minutes: January 22, 2015
14 Ms. Kalmar moved to approve as submitted
15 Mr. Lincoln seconded
16 Motion carried: 6-0-0
17

18 Site Walk Minutes: 42 State Road, 2/4/15
19 (Ms. Davis suggested a sidewalk on Love Lane; Mr. Lincoln requested DPW comment on site
20 distances from the top of Love Lane to the residence entrance.)
21 Ms. Kalmar moved to approve as amended
22 Mr. Lincoln seconded
23 Motion carried: 5-0-0
24

25 Site Walk Minutes: 118 Pepperrell Road, 2/4/15
26 (Include name of Ben Davis apple tree; Ms. Davis: Questioned drainage along Moore's Island
27 Lane)
28 Ms. Kalmar moved to approve as amended
29 Mr. Lincoln seconded
30 Motion carried: 5-0-0
31

32 Site Walk Minutes: 15 Old Armory Way, 2/4/15
33 (Ms. Davis: Because of the time schedule, she suggested abutters take pictures from their porches
34 and forward them to the Planning Department, following a request by an abutter for the Board to
35 view the from their porches.)
36 Ms. Kalmar moved to approve as amended
37 Mr. Lincoln seconded
38 Motion carried: 5-0-0
39

40 Public Comment:
41 Ken Markley: Town Code includes 'review by the York County Soil and Water Conservation
42 Commission'. This is no longer done and review is accomplished in peer review and in larger
43 projects by the DEP. This requirement is old and should be removed from the Code.
44

45 There was no further public comment.
46

47 **OLD BUSINESS**

48
49 **ITEM 1. – State Road Mixed Use Development – Sketch Plan Review** Action: Review, grant or deny
50 concept plan approval. Owner/Applicant, Aaron Henderson, HGC, LLC requests approval for a mixed

51 residential/commercial development at 42 State Road, Map 3, Lots 5, 6 & 7 in the Business Local 1 Zone.
52 Agent is Jeff Clifford, P.E., Altus Engineering, Inc.

53
54 Mr. Clifford: Summarized the project, noting this has been changed since originally before the Board in
55 May, 2014 and brings the structure closer to State Road, per Ordinance recommendation:

- 56 • 125' x 40' (first floor) with permitted business uses
- 57 • 125'x45' (second floor) with 5 residential condominiums
- 58 • Associated parking requirements: upper level for residential and business use; parking deficiency
59 could be pursued through a shared use with the businesses at preliminary review;
- 60 • Access from State Road (entrance and exit), and Love Lane (entrance only);
- 61 • State Road sidewalk; landscaping; screening and fencing;
- 62 • Stormwater to be handled through an existing drain and a subsurface system for cooling of site
63 drainage; though below MS-4 threshold, proposed drainage plan would comply;
- 64 • Traffic: Project is in an Urban Compact area; proposed uses will be well below 100 trips per hour
65 requiring state review;
- 66 • Sidewalk along Love Lane isn't practical due to the grade;
- 67 • Lighting, snow storage, etc. will be addressed.

68 Ms. Davis: Referenced the gravel area off Love Lane, noting it would be a good area to landscape and
69 not be used for parking in the future.

70 Mr. Alesse: Where will snow be stored on site?

71 Mr. Clifford: This is a tight site, and sometimes you have to haul snow away.

72 Mr. Lincoln: Love Lane is described as a collector road in the Comprehensive Plan. Suggests working
73 with DPW regarding location off Love Lane onto property, regarding site distances and speed.

74 Ms. Kalmar: It appears the Board of Appeals will need to deal with a shared parking plan.

75 Ms. Grinnell: Could the sidewalk connect with existing sidewalks to the crosswalk at TD Bank? This
76 could be discussed with DPW.

77
78 Ms. Kalmar moved to approve the 42 State Road sketch plan submitted by Aaron Henderson, HGC, LLC,
79 for property located at 42 State Road, Map 3 Lots 5,6, and 7.

80 Mr. Lincoln seconded

81 Mr. DiMatteo: With the issues noted in the plan review notes and Board discussion, the applicant appears
82 well directed.

83 Motion carried: 6-0-0

84

85

86 PUBLIC HEARING

87

88 **ITEM 2 – Beatrice Way – Preliminary Major Subdivision Plan.** Action: Hold a Public Hearing,
89 accept or deny preliminary plan. Owner Operation Blessing LP, and applicant Richard Sparkowich,
90 propose a five lot subdivision on remaining land from the previously approved 3-lot subdivision located
91 between Highpoint Circle and Kittree Lane. The site is identified as Map 61 Lot 08, in the Residential -
92 Rural (R-RL) Zone. Agent is Ken Markley, Easterly Survey Inc.

93 Ken Markley: Noted this was originally proposed as a 15-lot cluster subdivision and is now before the
94 Board as a 5-lot subdivision.

- 95 • Beatrice Lane is proposed at slightly over 500 feet in length with a hammerhead turnaround for
96 minimal impact;
- 97 • Noted existing parcel off Old Farm Road, but all parcels will be accessed via Beatrice Lane;

98

99 Ms. Grinnell read a public hearing statement

100 The Public Hearing opened and closed at 6:40 p.m. There was no public comment

101 Mr. DiMatteo noted letters submitted from Joe and Linda Gasbarro (12/9/14) and James Rothwell
102 (1/26/15) were included in the Board's packets and are part of the public record.

103

104 Mr. Markley: There was a High Intensity Soil Survey conducted in 2006 and 2007 and the parcel has not
105 been disturbed and doubts there would be a change, so a recertification should not be necessary. The
106 majority of the wetlands adjacent to the lots were re-delineated in 2014, and believes the studies should be
107 accepted.

108 Ms. Kalmar moved to continue review of the Operation Blessing major subdivision proposal, not to
109 exceed 90 days.

110 Mr. Alesse seconded

111 Discussion followed regarding soils and wetland study re-certifications, and the Board agreed this was in
112 order.

113 Mr. Markley: Surprised that the common open space area was located by staff, and is far removed from
114 the building lots. The open space will be located in the southeast area of the large parcel and will be
115 included in legal documents.

116 Mr. Harris: Questioned the need to re-certify soil and wetland studies. Land doesn't change from one
117 year to the next and this seems redundant.

118 Mr. DiMatteo: Only the soil and wetland studies that were done in 2006 need to be re-certified, not the
119 2014 wetland study.

120 Motion carried: 6-0-0

121

122 Ms. Kalmar moved to have applicant re-certify HISS and wetland delineations from 2006

123 Mr. Lincoln seconded

124 Ms. Davis: There has been a fair amount of logging done since 2006 affecting the soils

125 Motion carried: 5 - 1 (Harris) - 0

126

127 Ms. Davis: Is the applicant aware of issues that came up in the site walk, such as:

128 - When will the Woods Road be closed?

129 Mr. Markley: When the project is approved lots will be accessed via Beatrice Way, and Woods Road will
130 be closed.

131 - Is it the intention to intensify the buffer along Woods Road?

132 Mr. Markley: It should be allowed to grow and refill in a natural state.

133

134

135 Ms. Grinnell: The Town Manager, Attorney and Planner have discussed Tom Emerson's position as a
136 member of the Planning Board while presenting an application before the Board. It has been decided, and
137 mutually agreed, that Mr. Emerson cannot continue as a Board member.

138 Mr. Lincoln: Read Mr. Emerson's letter of resignation (attached).

139 Ms. Grinnell. Tom will be missed.

140

141

142 **ITEM 3 – Old Armory Way Mixed Use - Preliminary Site Plan. Action: Hold a Public Hearing,**
143 **accept or deny preliminary plan.** Owner/applicant Ken McDavitt requests approval to construct two
144 condominiums (total of three dwelling units) with 8 commercial boat slips at 15 Old Armory Way, Map
145 4, Lot 51 in the Mixed Use Kittery Foreside Zone, Shoreland and Commercial Fisheries/Maritime
146 Activities Overlay Zones. Agent is Ken Wood, P.E., Attar Engineering, Inc., Eliot, Maine.

147 Ms. Grinnell: Noted she was dismayed to receive a letter from Matthew Howell on February 9 stating she
148 had bias towards this project and should recuse herself. She stated she does not have bias and will not
149 recuse herself. Any project before her and the Board must follow the code. It appears Mr. Howell read a
150 newspaper article that misquoted what happened at the site walk of February 4. At the site walk, residents
151 voiced their concerns about how the project would impact their view of the water, and requested the

152 Board members step to their porches to see for themselves. This was not appropriate, and Ms. Davis
153 suggested those abutters could take photos of their view and send to the Planner. This suggestion was
154 announced. This is similar to the abutter who stated they had a boundary survey and was told she could
155 take the survey to the staff to share with the Board.

156 Board members (Lincoln, Kalmar, Davis, Alesse) agreed Ms. Grinnell does not need to recuse herself
157 from this project (Mr. Harris stated he was not at the site walk).

158

159 Ed Brake, Attar Engineering: Summarized the proposal to date:

- 160 · Replace existing 3- unit building with 2 residential units with three condominium units;
- 161 · Addition of 8 boat slips and parking to be rented for private use;
- 162 · Proposed structures fit within the allowed building envelope;
- 163 · 10 parking spaces are required and 12 are provided on the site and within the units;
- 164 · Snow storage space is located west of the parking and other area;
- 165 · Impervious area is increased slightly due to parking and stormwater will be handled by a level
166 spreader;
- 167 · Height of the proposed buildings are similar to existing structures

168

169 Public Hearing opened at 7:15 p.m.

170

171 Ms. Grinnell: Board members have received written testimony from Dena Dudarevitch, Betsy Cutler,
172 Andrew Pearson, and a boundary map from Beverly Dufresne.

173 Kathy Wolf, 10 Old Armory Way: Read statement from Michael Landgarten (Attachment 1) and
174 presented her own testimony (Attachment 1A)

175

176 Susan Emery: Noted the Foreside Committee established in the 90s had a commercial and residential
177 component. She was opposed to the zoning change that has contributed to the project now before the
178 Board, and requested the Board look back to the way the area was zoned in the 1990s. Regarding this
179 project, the existing historic building should be incorporated into the project, though it may be out of
180 code. Wants to conserve open space, the character of the village concept with homes close to and facing
181 the street.

182

183 Terry Lochhead, 16 Old Armory Way: (Attachment 2)

184 The history of home should be carefully reviewed before being removed. Questioned parking, traffic,
185 width of road, and requested the building be built in an adaptive way through the Design Review process.

186

187 Tracy Johnson, 4 Gerrish Court: (Attachment 3)

188

189 Jackson Yeten, 4 Commercial Street: Grandfather worker at shipyard; grew up in neighborhood; amateur
190 historian; neighborhoods like this disappear all the time; would like to raise children in the Foreside and
191 does not want them living in a neighborhood of marinas and codos; more value in retaining history for
192 current and future generations;

193

194 Tom Ryan, 16 Old Armory Way: (Attachment 4 and photos)

195 Codes address the spirit and intent of the neighborhood; the proposal will place two structures totaling 80
196 feet long and 35 feet high, 10 feet from the property line with only 10 feet of open space between
197 structures. [Referenced map and photos] Spoke on behalf of Joan Newton, neighbor, who has lived on
198 Old Armory Way for 37 years. Her view will be obstructed by the proposed buildings. This proposal
199 does not maintain the value of the neighborhood. Because the building footprint is so small, fitting the
200 proposed structures on the site requires the removal of the Dennett home. Regarding the marina, there is
201 insufficient parking for users and guests forcing parking on the street or other properties; the road is
202 barely wide enough for existing traffic; what is to prevent house boats or yachts from docking on the slips

203 and used as year-round residences; what about snow removal, where there is little remaining room; what
204 would be the impact of moving utility poles; it is unclear what the buildings look like, facing the Back
205 Channel; per design standards, the retaining wall may not use modern concrete materials; need the Design
206 Review Committee in place to review this project, as requested.

207 Ms. Grinnell: In the interest of time, asked for a show of hands for those in support of Mr. Ryan's
208 testimony. [Count was not taken]

209 Tim Yeaten, 4 Commercial Street: Agree with previous testimony, including letter from Mr. Landgarten.
210 Fears this project will set a precedent and will further limit affordable housing in the Foreside.

211 Janice Wolak, 17 Jones Ave: Supports everything said tonight.

212 Jill Belilah, 4 Gerrish Court: Supports everything said tonight.

213 Marie Carey, 4 Commercial Street: Supports everything said tonight.

214 Ms. Grinnell: The Board has deliberated on the issue of the Foreside Committee, and reviewed
215 documentation regarding its history and continuance. This Committee no longer exists and the Board will
216 review this project in the same manner as the Committee would until the Committee is re-formed.

217 Tom Despres, 9 Old Armory Way: Have owned the property since 1960 and son currently lives there;
218 supports previous comments; primary concern is the change of the residential nature by a marina at the
219 end of a narrow street, and safety concerns; an 8 slip marina is not small and will dominate the
220 neighborhood and river at that location; concerned about the live-aboard possibility; if marina is market
221 driven, slips could rent to 2 smaller boats instead of 1 larger boat, possibly doubling the impact on
222 parking and traffic problems; providing slips for condominium owners is appropriate; recognizes Mr.
223 McDavitt has property rights to develop his property, according to code, though facing a 40-foot wall
224 only 20 feet from his home is not what they would like, however.

225 Galen Beale, 63 Chauncey Creek Road: Two things that of concern about the OAW development before
226 the Board: the proposed marina and the destruction of a historic house. The Foreside is lucky to have
227 attracted thoughtful entrepreneurs who have rehabilitated existing structures. The motivation for real
228 estate developers is different today, and the town should have a clear sense of how they want the Foreside
229 to be developed before it is high jacked in a development frenzy. Kittery has been called the oldest town
230 in Maine, but citizens do not appear to know or acknowledge its own history. The town should undertake
231 a historic survey of buildings in the Foreside with the idea of outlining a historical district, and develop a
232 study leading to a better understanding of what historical sites exist. That study, coupled with
233 information gained from various public Foreside meetings, could help the town create a well thought out
234 future for Kittery Foreside. Residents want to know about their history, as indicated by the recent
235 attendance at a slide show presented by the Historical and Naval Museum at the Star Theater. In
236 reference to the marina, five of the boat slips will be sold to people who have no interest or commitment
237 to the small neighborhood of Old Armory Way. This family oriented street does not seem to be an
238 appropriate location for a public marina. Combining the notion of a historic district in conjunction with
239 input from citizen groups and Boards could result in a master plan for the Kittery Foreside. To that end,
240 suggest the current proposal be tabled until the planning pieces are in place and the Board's decision can
241 be based on a deeper understanding of how the town would like to develop the Foreside.

242 Dave Kaselauskas, Kittery Point: Noted the individuals who saved Strawberry Banke in Portsmouth. It is
243 time for Kittery to look at what they have, or create another Badgers Island. Would like to see a
244 reassessment of historic buildings in town, starting with this one.

245 Public Hearing Closed at 8:08 p.m.

246

247 Mr. DiMatteo: Staff and CMA support the need for a boundary re-certification or conduct a new
248 boundary survey.

249 Mr. Brake: The original survey was lost in a flood. What is shown on the proposed site plan shows the
250 TF Moran survey and DEP H.A.T., and meets code requirements. The survey received from the abutter
251 references the TF Moran survey and shows the width of Old Armory Way as the same at 22 feet.

252 Ms. Kalmar: The Peer Review Engineers have stated a stamped survey should be provided "...with
253 appropriate notes and associated documentation in accordance with current technical standards of practice
254 per Maine Board of Licensure." as there is no record of recordation of the TF Moran survey

255 Mr. Harris: Weren't 3 monuments found to note boundaries? If the same pins will be used to re-survey,
256 why require another survey?

257 Board members Alesse, Davis, Lincoln, Kalmar and Grinnell requested a current boundary survey be
258 conducted; Mr. Harris did not agree this was necessary.

259 Mr. Brake: Due to the amount of snow, requested the survey requirement be allowed to be submitted at
260 final plan submission and not preliminary plan approval. If the Board does not move forward with
261 preliminary plan approval, this is an added expense for his client.

262 Mr. DiMatteo: Survey information is the basis for the preliminary plan approval, and is part of the
263 process. This is required.

264 Ms. Grinnell: The recommendation is that we need the survey before moving to final plan review.
265 Because a marina is proposed, when will that plan be submitted to the Port Authority?

266 Ken McDavitt: Waiting for the Port Authority to fill it's membership as there are only 4 members on the
267 Authority and Steve Lawrence may recuse himself as he as a mooring adjacent to the proposed marina,
268 resulting in no quorum.

269 Ms. Grinnell: The Council just appointed a new member to the Port Authority.

270

271 The following items need to be further reviewed and discussed:

272 1. Input from Maine Historic Preservation Commission

273 Mr. Brake: The MHPC website does not show this site as a historic site, but further research can be
274 made. Ms. Kalmar: The Board can only ask that identified historic and archaeological sites be preserved.

275 Mr. Lincoln: The requirement is the MHPC needs to provide a written opinion.

276 2. Piers/Public Use:

277 Mr. McDavitt: The requirements for marine development will be addressed as preparation is made for
278 submittal to the Port Authority. This will be a commercial pier that could be considered private as renting
279 an apartment building would not be required to be open to the general public.

280 Ms. Kalmar: Suggested the applicant respond in writing to the issues brought up at the public hearing and
281 in the plan review and peer review notes, including scenic views, parking, traffic, historic character, etc.

282 Mr. DiMatteo: Does the Board request that design standards be addressed by a third party architectural or
283 design firm?

284 Mr. Alesse moved to continue the site plan application of Ken McDavitt to construct residential
285 condominiums with commercial boat slips at 15 Old Armory Way, not to exceed 90 days.

286 Ms. Davis seconded

287 Mr. Lincoln: Several codes were referenced during the public hearing and asked the Planner to address
288 their relevancy to the Board's review. Would also like the following issues addressed for the Board as
289 well: traffic and parking, proximity of development to the water and grading of the lot, applicability of
290 the proposal to the comprehensive plan (including pages 138, 220, 227, 257), including water access
291 (pages 125-127). Mr. Brake: The entire lot is within the Shoreland Overlay Zone.

292 Motion carried: 6-0-0

293 Ms. Grinnell: Does the Town allow parking on Old Armory Way?

294

295 Recess

296

297 **ITEM 4 – 118 Pepperrell Road - Shoreland Development Plan Review**

298 Action: Hold a Public Hearing, accept or deny sketch plan. Steven Gerhartz and Susan Pendry,
299 owner/applicant, requests approval to remove and reconstruct secondary dwelling unit and reconfigure
300 existing stairs on primary dwelling unit at 118 Pepperrell Road in the Residential-Kittery Point Village
301 and Shoreland Overlay zones, Tax Map 27, Lot 37. Agent is Ken Markley, R.L.S., North Easterly
302 Surveying, Inc.

303 Ken Markley: Summarized the request to modify an approved plan.
304 Public hearing opened at 8:44 p.m.
305 Mr. Markley: Read a letter of support from Jacquelyn Ellis, abutter (Attachment 6).
306 Public hearing closed at 8:47 p.m.

307
308 Mr. Markley: Drainage from the existing house structure will flow through a closed drain and be further
309 absorbed through the soil. Through discussions with the CEO, the setback from the proposed new
310 structure and the existing septic system is allowed by state regulations. Additionally, this was previously
311 a seasonal structure but will be converted to a year round structure at the time of the building permit
312 application as the septic requirements have been met for year-round use.

313
314 Ms. Kalmar moved to approve the application of Steven Gerhartz and Susan Pendry to remove and
315 reconstruct secondary dwelling unit and reconfigure existing stairs on primary dwelling unit at 118
316 Pepperrell Road in the Residential-Kittery Point Village and Shoreland Overlay zones, Tax Map 27, Lot
317 37.

318 Mr. Lincoln seconded
319 Motion carried: 6-0-0

320
321 FINDINGS OF FACT
322

323 WHEREAS: Steven Gerhartz and Susan Pendry request to remove and reconstruct a secondary dwelling unit and
324 reconfigure existing stairs on the primary dwelling unit at 118 Pepperrell Road, Tax Map 27, Lot 37, Kittery Point
325 Village, Shoreland Overlay and Resource Protection Zones. This is an amendment to a previously approved plan
326 (April 11, 2013).

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

329 I. Zoning Standards in the Shoreland Overlay Zone

16.3.2.17. Zoning Standards in the Shoreland Overlay Zone appear to have been met
Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

330 II. Standards for Nonconforming Structures

The proposed development appears to meet the above Part II, <i>Standards for Nonconforming Structures</i> and all <i>Factors for Consideration</i> , with no adverse impact.
Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

331 III. Standards for Structures in the Shoreland Overlay Zone

The proposed development appears to meet the standards for expansion and reconstruction of a nonconforming structure in the Shoreland Overlay Zone.
Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

332 IV. Procedures for Administering Permits For Shoreland Development Review

16.10.10.2 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. <i>maintain safe and healthful conditions;</i>

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

Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

2. <i>not result in water pollution, erosion or sedimentation to surface waters;</i>

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

Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

3. <i>adequately provide for the disposal of all wastewater;</i>

This standard appears to have been met.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
4. <i>not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;</i>	
The proposed development does not appear to have an adverse impact.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
5. <i>conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;</i>	
The proposed development does not appear to have an adverse impact.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
6. <i>protect archaeological and historic resources;</i>	
The proposed development does not appear to have an adverse impact.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
7. <i>not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/ maritime activities district;</i>	
The project is not located in a commercial fisheries/maritime activities district. This standard is not applicable.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
8. <i>avoid problems associated with floodplain development and use</i>	
This standard appears to have been met.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
9. <i>is in conformance with the provisions of this Code; and</i>	
The proposed additions appear to be in conformance with the Town Code.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
10. <i>recorded with the York County Registry of Deeds.</i>	
The final plan is required to be recorded at the York County Registry of Deeds.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

333
 334 NOW THEREFORE the Kittery Town Planning Board adopts each of the foregoing Findings of Fact and
 335 based on these Findings determines the proposed development will have no significant detrimental impact,
 336 contingent upon the following condition(s):
 337
 338 Conditions of Approval:
 339 1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final
 340 plan. (Title 16.10.9.1.2)
 341 2. Prior to the commencement of grading and/or construction within a building envelope, as shown on
 342 the Plan, the owner and/or developer must stake all corners of the envelope. These markers must
 343 remain in place until the Code Enforcement Officer determines construction is completed and there is
 344 no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
 345 3. A native tree must be planted to replace the juniper tree to be removed, and must be located in a
 346 similar location (Title 16.7.3.5.4.C)
 347 4. All Notices to Applicant contained herein (February 12, 2015 Findings of Fact).

348
349

350 **ITEM 5 – McCoy Residence - Shoreland Development Plan Review.** Action: Hold a Public Hearing,
351 grant or deny plan approval. Kevin and Terry McCoy, owners/applicant request approval for a
352 nonconforming structure reconstruction, removal of an existing house, garage and shed and construct a
353 new house, garage and barn at 24 Goose Point, Kittery, Map 34 Lot 9 in the Residential-Rural, Shoreland
354 and Resource Protection Overlay zones. Agent is Architect Tom Emerson, Studio B-E.
355 Mr. Emerson: Summarized the proposal to remove existing structures and replace with more conforming
356 structures, further away from the resource. The curb cut and driveway will remain the same. Vegetated
357 areas will increase and changes to volume and square feet will not exceed percent allowed in the
358 Shoreland Overlay zone.

359 The public hearing opened at 9:04 p.m.

360 Steven Hall: The original windmill on the promontory pumped seawater into the indoor pool.

361 The public hearing closed at 9:05 p.m.

362 Mr. Emerson: There is no pool or windmill in the current proposal.

363 Ms. Davis: How will the pool be removed?

364 Mr. Emerson: The pool would have to be removed piece by piece as it cannot be simply filled given its
365 proximity to the shoreline. Once removed, the area could be filled with blast material

366

367 Mr. Alesse moved to approve the application of Kevin and Terry McCoy for the removal of an existing
368 house, garage and shed and construction of a new house, garage and barn at 24 Goose Point, Kittery, Map
369 34 Lot 9 in the Residential-Rural, Shoreland and Resource Protection Overlay zones

370 Ms. Davis seconded

371 Motion carried 6-0-0

372

373 FINDINGS OF FACT

374

375 WHEREAS: Kevin and Terry McCoy, owners and applicant, request approval for a nonconforming structure
376 demolition and new construction, including the removal of an existing house, garage and shed and construction of a
377 new house, garage and barn at 24 Goose Point, Kittery, Tax Map 34 Lot 9 in the Residential-Rural, Shoreland and
378 Resource Protection Overlay zones. Agent is Tom Emerson, Studio B-E, hereinafter the “Development”; and
379 NOW THEREFORE, based on the entire record before the Town Planning Board and pursuant to the applicable
380 standards in the Land Use and Development Code, the Town Planning Board makes the following factual findings
381 and conclusions:

16.3.2.17. D Shoreland Overlay Zone - Standards. The area currently covered by the existing, nonconforming house will be revegetated per Title 16.7.3.5.4.C, as applicable. This standard has been met.
Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

382 II. Standards in the Shoreland Overlay Zone

16.7.3.1 Prohibitions and Allowances. <i>A. Except as otherwise provided in this Article, a non-conforming condition must not be permitted to become more non-conforming.</i>
This requirement has been met.
Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

16.7.3.5.6 Nonconforming Structure Reconstruction
This standard appears to have been met.
Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

383 III. Procedures for Administering Permits For Shoreland Development Review

1. Maintain safe and healthful conditions;

The proposed development does not appear to have an adverse impact.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
2. <i>Not result in water pollution, erosion or sedimentation to surface waters;</i>	
This standard appears to be met.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
3. <i>Adequately provide for the disposal of all wastewater;</i>	
This standard appears to be met.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
4. <i>Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;</i>	
The proposed development does not appear to have an adverse impact.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
5. <i>Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;</i>	
The proposed development does not appear to have an adverse impact.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
6. <i>Protect archaeological and historic resources;</i>	
The proposed development does not appear to have an adverse impact	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
7. <i>Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/ maritime activities district;</i>	
The project is not located in a commercial fisheries/maritime activities district. This standard is not applicable.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
8. <i>Avoid problems associated with floodplain development and use</i>	
The proposed development is not located within an identified flood area.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
9. <i>Is in conformance with the provisions of this Code;</i>	
This standard appears to have been met.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
10. <i>Be recorded with the York County Registry of Deeds.</i>	
Shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.	Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

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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 Kevin and Terry McCoy, to remove an existing nonconforming house, an existing garage and shed, and reconstruct a new house, garage and barn at 24 Goose Point, Kittery, Tax Map 34 Lot 9 in the Residential-Rural, Shoreland and Resource Protection Overlay zones, subject to any conditions and/or waivers, as follows:

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Conditions of Approval (to be included 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. Prior to the commencement of onsite construction, areas to remain undisturbed must be clearly marked with stakes and caution tape. Removal of the stakes, caution tape, silt fences, and such other materials used during construction, is required at the completion of the onsite work, but not before permission to remove such has been given in writing by the Code Enforcement Officer (Title 16.7.3.5.4.2).
3. 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.
4. Erosion and sedimentation control materials will be in place prior to the demolition of the house and boathouse. An inspection will be required prior to removal of materials.
5. The shorefront area currently covered by the existing, nonconforming house will be revegetated per Title 16.7.3.5.4.C, as applicable.
6. All Notices to Applicant contained herein (Findings of Fact dated February 12, 2015).

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

Vote: 6 in favor 0 against 0 abstaining

ITEM 6 – Board Member Items (Not discussed)

ITEM 7 – Town Planner Items: (Not discussed)

Ms. Kalmar moved to adjourn

Mr. Lincoln seconded

Motion carried 6-0-0

The Kittery Planning Board meeting of February 12, 2015 adjourned at 9:16 p.m.

Submitted by Jan Fisk, Recorder, February 16, 2015



Attachment #1

Cathy Wolff <cathywolff@gmail.com>

Fwd: Letter for tomorrow night.

1 message

Jill Bellilah <jbellilah@gmail.com>
To: cathywolff@gmail.com

Wed, Feb 11, 2015 at 3:50 PM

Begin forwarded message:

From: "Michael Landgarten" <mlandgarten19@gmail.com>
Subject: Letter for tomorrow night.
Date: February 11, 2015 3:07:25 PM EST
To: <jbellilah@gmail.com>

Hi Jill,

I don't see any way I'll be getting out of the house tomorrow night. I thought I might send you a letter and maybe someone could read on my behalf?

Here goes:

Dear Kittery Town Council,

I am not able to attend tonight – home sick – but I would certainly be there if I could.

I am a firm supporter of carefully maintaining the character of Kittery Foreside though at the same time developing and enlivening it. Renovating existing building to me is the best and really only way to go in my view. It is also the greenest approach as tear downs and new buildings create the most waste and disruption.

We have a gem of a neighborhood in Kittery Foreside. The narrow streets, quaint houses, proximity to coast and Navy Yard are all very special. I am referring mostly to the area between Wallingford Square and Route 1. There are many little towns like this on the Maine coast but most unspoiled ones are much further north. We have an opportunity to preserve the dear, charming and historic nature and feel of the place. Condo buildings and marinas like those on Badger's Island are fine but to me not a good in this Foreside zone. I think a much better direction would be to encourage more reuse and updating of the charming structures that currently exist and give the area so much character and appeal. Otherwise I think the area could become more generic and lose its uniqueness.

This approach has been successfully achieved in many buildings in the Foreside already – Anneke Jans, Black Birch, Tulsi, Doo, the 7 Wallingford Square building my partners and I recently renovated, Kittery Launderette and others. There's no lack of interest in this approach by sensitive and talented developers but if we allow bigger less indigenous structures to go up that interest may wane quickly. There is an energy and style emerging and I don't think we want

to lose that. There is evidence in the projects I just sited that there is ample opportunity to upgrade and even modernize while maintaining the local character and history as well as the proper scale.

Thank-you for considering.

Michael Landgarten

www.bobsclamhut.com

www.robertsmainegrill.com

www.lilscafe.com

www.kitteryblockparty.org

603-502-8119

Feb. 12, 2015

Testimony for public hearing on development of condos/marina/parking lot on Old Armory Way

My name is Cathy Wolff and I live at 10 Old Armory Way.

Before I begin, I want to show you this – it's an inkwell, found buried in my yard and probably from the high school that once occupied the pre-Civil War armory. That building was torn down – as so much was – in the early 1960s.

But I think others may address the history of Old Armory Way. I want to talk about neighborhood and harbingers.

20 years ago my husband, son, and I were living in a small house in the Creek neighborhood of Portsmouth. We needed more room. But Portsmouth was gripped by speculation fever. House prices soared unreasonably. There was a lot of flipping. A lot of greed. A lot of stories of second or third generation residents being forced to move out of town because they couldn't afford to live there.

We certainly couldn't. So we sold our little house on Morning Street – it may well have been the last in Portsmouth to sell for under \$100,000 – and moved across the river, buying the Crowley's family home on Old Armory Way. One Crowley daughter cried at closing. She grew up in that house. Her father and mother lived there till they died.

People who live on Old Armory Way tend to stay there. My neighbors to the left, right, and down the street have been in their homes for decades. The two houses across the street also have been owned by the same family for many years.

I hesitate to speak for my neighbors, but I know for myself – and I suspect for many of them -- a house is a home, not a way to make money.

And a street is a neighborhood. Yes, there are rental apartment, but most of those tenants, although more transient than we home-owners, are friendly and respect the community of our little lane. In fact, a series of my friends have lived in the Dennett House second floor apartment, including the man I married.

Margaret Crowley remembers, even after the house was converted into apartments, how the children on the street would swim off the Dennett House dock at high tide, with her mother, Rose Crowley, supervising.

I used to swim off that dock now and then until the current owner appointed a tenant to chase people away. More recently, that developer seemed taken aback to learn he was supposed to provide public access to the water. I don't think it's currently in the plans before you.

The proposed high-end condos provide no acknowledgement of neighborhood. They are oriented toward the water – or the “ocean view” as the developer called it on a recent site tour. The sides of the proposed high-end condos that face our little dead-end street are much like all the condos that sprung up on Badger Island -- walls of garage doors. Not very community enhancing.

I know your job is to make sure projects meet code. So consider 16.3.2.15 that states:

“Buildings ... must be oriented facing the street on which the building is located.” I suspect “oriented” might mean that the part facing the street should feel like the front of the house, open and welcoming to the street.

However, what worries me most – and as planners of our town's future I hope worries you -- is that this development may well set a precedent for The Foreside. It may well open the way to the destruction of what makes it special. That includes, centrally, old homes, work-force housing and a spectrum of incomes.

If you allow – on tiny Old Armory Way – this inappropriate, profit-pushed, view-blocking, water-access limiting, woods-and-wildlife-destroying development, what's to stop the tearing down of other Foreside historic, and still fundamentally solid homes and the eventual transformation of our funky, exciting neighborhood into a shiny playground for the rich, who, by the way, will, I'm sure, in a matter of years start complaining about the noise, lights and belching smokstacks of the Yard.

I ask that the board either reject the development as now proposed or, at the very least, postpone any action until the much discussed Foreside Review Committee be revived, populated by Foreside residents, and given a chance to review and make a recommendation on the appropriateness of this project. And if that committee is not going to be revived, then maybe at least wait until the town hires its consultant to provide that alleged “big” picture game-plan for my neighborhood.

Hello, I'm Terry Lochhead. I live with Tom Ryan at 16 Old Armory Way, across the street from the proposed development.

The Purpose Section of the code for the Mixed Use-Kittery Foreside Zone (16.3.2.15) says:

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.

My comments will reference this statement and the requirement for Design Review..

I am here tonight to urge that the Planning Board use the Design Review process required in the code and specified in section 16.3.2.15 (F). This section clearly envisions a body separate from but advisory to the Planning Board. The Town Council needs to repopulate this committee for these proceedings to be legal.

More specifically, I want to urge that the committee not only review the nuts and bolts aspects of the development, as detailed in the code, but to also to perform another task required by the code, and that is to ensure that the developer adheres to the spirit and intent of the purpose statement, ie that he "respect the historic and residential character" of the Foreside. For this purpose, I would hope that the committee could make use of a historical consultant so that outside expertise was brought to bear on this development..

First, I'd like to focus on the house and the street. The house at 15 Old Armory Way, which the developer wants to tear down, is a pre-Civil War home. It was probably built between 1850 and 1862, according to Richard Candee, professor emeritus in Preservation Studies at Boston University. He viewed the house last summer and relayed this information to me.

The 1850 Walling map, as well the census, and deeds from the York County Registry of Deeds, show a fairly undeveloped area in the Foreside. The map shows that Joseph Cox, a carpenter born in 1800, built the family's first house

at the corner of Government Street and Cox's Lane, now known as Old Armory Way. He then deeded land down the lane to his son, Joseph E Cox, born in 1830, who built a house of his own at an undetermined date. Its not clear whether this house appears on the map, but there is one in the right location. To the east of these two homes, the map shows the home of Samuel Badger, the well-known shipyard owner. His federalist style home still stands and has now been successfully converted into condo's. The map shows a few other homes dotted here and there, but it was still fairly rural.

Just 22 years later, after the Civil War, an 1872 Sanford and Everts Insurance map, identifies an explosion of development, and Joseph E. Cox's house is clearly identified.

On this 1872 map, all but two of the currently existing houses on the lane also appear. So does the old Armory, which no longer exists. It was built in 1858 just before the Civil War, and later used as the town's first high school, where students sat on gun powder boxes to recite their lessons.

On the 1872 map, the lane is referred to as Armory Hall Street. Later the name was changed to Echo Street.

In 1931, the town honored its Civil War past, by changing the name of the lane again - this time to Old Armory Way. About that time, two more houses were built on the lane.

So, even though the name of the lane has changed, and the dirt road has been paved, Old Armory Way is still about as narrow as it was in horse and buggy days. It also looks quite similar to the way it looked in 1872, a hundred and forty three years ago. The two Cox homes clearly pre-date most of the development that has occurred.

Now I'd like to spend a moment on the owner of the house. The original owner of the house at 15 Old Armory Way was Joseph E. Cox. He was a master carpenter at the Shipyard and a Naval officer in the Civil War. Mr. Armory Dennett thinks he remembers someone saying that Admiral David Farragut, the head of the nation's Civil War fleet, specifically called for Joseph E. Cox to come South to help him repair his fleet after the Battle of Mobile Bay. You

know Farragut: He's the one who said, "Damn the torpedos! Full Speed ahead!" However, we have no hard proof of this interesting story so it has to be considered hearsay. We do however, have evidence of Cox and other officers reporting to Abraham Lincoln's Secretary of the Navy that it would take three weeks to repair the SS Monongahela, a steam-powered sloop of war which was hit during a 48- day Siege by Confederate troops.

Cox's daughter, Josephine, married Alexander Dennett, Armory Dennett's grandfather, in the living room of this house. Armory and his brother lived there at one time. This is why I refer to it as the Dennett/Cox house.

Surely, the history of the house and its builder should be reviewed in the Design Review process called for in that introductory statement.

The developer's plan is to knock down this house and its unique working man's history, replace it with buildings that have no historical reference, pave the yard for a parking lot, and install a commercial marina on a lane that struggles with normal traffic.

The developer supplies parking for six cars, one of which is a disabled parking spot. Optimistically speaking, that leaves five parking spots for five long boat slips. But who goes out on a boat of this size alone? You go out with friends. You park in one spot, they arrive in their own car, and they need another spot. Where exactly do they park on a street like this? Often, you cannot pass another car on this street without pulling off.

He says that three of the boat slips will be used by people in his three condo's. So he doesn't need parking places for them. But what if they don't want to use a large boat slip? He'll lease the slip to someone else. Someone who needs a parking place.

Old Armory Way is still the same little, narrow dirt road it has been for 165 years, but now it's paved. That's the difference. It is not capable of bearing the traffic from a commercial marina

Wedging a commercial marina and a commercial parking lot into the street does not acknowledge the residential character of the neighborhood.

His plan also blocks the water views of many of these houses. I have pictures here to show the impact.

The developer could best live up to the spirit and intent of the Foreside code by altering his plan to tear down the house, and turning it into a plan that fits the Foreside: a plan that re-uses the existing house to create condo's, much like the Samuel Badger house which lies within sight of the Dennett/Cox house. This has become the Foreside way to develop and energize the area.

Adaptive re-use has worked for the business district of the Foreside. Why not continue down a proven path with residential development? The developer's plan should be reviewed either by the Kittery Foreside Design Review Committee, or by a person with historical expertise who can carry out a Design Review process that respects the history of the place.

We need to live up to the spirit and intent of the purpose statement of the Mixed Use-Kittery Foreside zone code by respecting the zone's historic and residential character. So far, the developer's plan does not do this.

Comments on the proposal for 15 Old Armory Way

2/12/2015

Tracy Johnson

4 Gerrish Court

I would like to request the Planning Board seriously consider preservation as a key concept for the future of our Foreside neighborhoods and specifically regarding the Dennett/Cox House proposal at 15 Old Armory Way. There are several points within the Mixed Use – Kittery Foreside document 16.3.2.15 that I would like to call attention to that support preservation over the destruction of a sound and historic home.

The Foreside is a special area that is thriving now with lots of great small businesses and there is much attention on the local real estate. A developer like Mr. McDavitt and his proposal, in my opinion, fly in the face of the purpose of the code where it is stated that respect of the zone's historic and residential character must be honored. It is clear that his buildings look nothing like the existing structure, nor any other building on Old Armory Way. The Dennett/Cox house should be preserved. An option for the developer would be found under Section 4, subsection C, "small decorative wings may be attached to larger structures if well integrated into the overall arrangements of shapes." I feel this can be accomplished.

I co-own two buildings in the Foreside, the first is a circa 1700 cape that abuts Old Armory Way and the other is the Kittery Launderette built in 1960. Both buildings were in need of new plumbing, electrical, heat, and the house needed a new bathroom and kitchen. I can attest that restoring, respecting and rehabbing each building was far less expensive than tearing them down and building new. Each building has its own character for the period in which it was built, as does the Dennett/Cox house. The developer would like everyone to think that tearing down a civil war era home and building new structures will be more cost effective. I don't agree and I

don't think we should be quick to disrespect the existing building, and make such a vast change in the character of the neighborhood.

Also in Section 4, subsection a, i, it states "Existing views and vistas must be preserved." Once the Dennett/Cox house is destroyed and the new modern looking condos are built, our view of Wattlebury Island and the Back Channel will be lost. These buildings will not be "framing the existing view" as required in the code, they will be blocking it, which is against the Foreside Code. Again, we should be preserving the character of our neighborhoods.

Along these lines, in subsection d, "Trees, if large and healthy must be preserved." There are many large beautiful trees on the property that will be directly affected, if not cut down, in order to build the giant concrete retaining wall that is on the plan to support parking for the proposed marina. A parking lot and marina are not at all within the character of this very quiet residential neighborhood. The open space and the trees on the property need to be preserved.

Safety is a large concern of mine as it relates to this proposal. Old Armory Way is a very narrow, quiet, family oriented neighborhood. Large trucks, like trash pickup need to back down the street as there is no room for them to turn around. I raise this point because if the proposed marina is approved, only 1 parking space will be allotted for each slip. Where will the inevitable guests of the boaters park? Illegally, at the Launderette at the top of Old Armory Way? On the street? If they park on the street, safety vehicles, such as fire trucks and ambulances will not be able to pass, the street is just too narrow. This is a safety concern the planning board should take very seriously.

If this proposal is approved, we will be setting a precedent. A precedent that says to any developer that not only is it okay to destroy the history and character of any neighborhood, but it is completely approved of by this planning board. No open space needs to be preserved, any home, no matter the age, is a target for destruction, and there is no need to protect homes and buildings that remind us that Kittery is the oldest town in Maine. This planning board will be setting a precedent with the approval or denial of this proposal. Please consider preserving the character, open vistas and safety of our Old Armory Way neighborhood.

Attachment #4

Old Armory Way:

- OAW has been a road since the 1850's. It has remained largely unchanged since the late 1800's with the most recent building dating somewhere in the 1930's. It is one of the few remaining streets that has retained much of the original rural appearance ^{of} the Foreside. It should be preserved as it is.
- It remains a narrow street today and with the snow it is barely 1 lane wide as many of the streets in the foreside are today but in the middle of the summer it is still not much wider - there is barely room for 2 cars to pass and often 1 has to stop. The corner of OAW and Government is barely wide enough for a car to enter and exit at the same time without trespassing on the Laundromats property. Increasing the traffic on this road is more than an inconvenience it is a safety issue.

CURRENTLY LEAVING 64' OF UNOBSTRUCTIVE VIEW OF THE BACK CHANNEL IN THE 100' FROM THE NE CORNER OF 15 OAW.

- The ~~KF~~ ^{MU-KF} requires preserving views and vistas. The historic Dennet house is approximately 36 ft long. If the plan as presented is approved the view of the back channel along the first 100 ft of the McDavitt lot will be reduced from 64' to a mere 20 ft which is composed of 2 ten foot alleyways. In effect it will be an 80 ft wall 35 feet tall..

16.3.2.1 Dai

- Cramming two buildings into every square inch of buildable space is a complete change to the ^{structure} neighborhood; nowhere on the street is the density so exaggerated.
- Constructing an eight slip marina with 40 ft berths on the back channel and an ⁸ parking lot on a road that is barely wide enough for current traffic makes no sense. I find it hard to imagine that anyone who is fortunate enough to have a yacht will only invite guests that do not have a car to enjoy their yacht. Where are the friends going to park - on OAW no one will be able to pass. so what about the lack of parking - on the street???
- And what of the slips what is to prevent ^{SLIP OWNERS} permanent residents from living on house boats parked in their slips on OAW? More cars, traffic? ^{YEAR ROUND.}
- What about snow removal - dump it into the river?
- How about utilities? Are poles going to be moved? ^{wires etc.}
- LOCATION OF PARKING LOT FROM SITE ^{WALK WITH UTILITY POLE ISSUE.}
- ~~we~~ I think that ELEVATION VIEWS OF ALL SIDES NEED TO BE PRESENTED & DISCUSSED IN A PUBLIC HEARING. LANDSCAPING, LIGHTING ETC.
- IS REDI ROCK A MODERN CONCRETE WALL?

Tom Ryan

116

GONE



KATHY WOLFE 10 OLD ARMY WAY





Jacqueline Ellis
6 Moore's Island Lane
Kittery Point, ME 03905

Jan. 6, 2015

To the Kittery Planning Board Members,

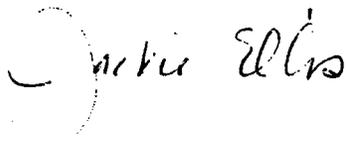
I wanted to attend this meeting in person to speak in support of the application of Susan Pendery and Stephen Gerhartz who are seeking to renovate the small building, aka "boathouse", that currently stands on the northern edge of my boundary with their property. Unfortunately, I have a prior commitment for this evening.

Susan and Stephen have been most concerned that the changes they make to this structure do not impact me negatively. In fact, the changes they are proposing are most welcome, and will improve my property, it appears. Currently the drainage is such that water flows from under the "boathouse" onto my unpaved driveway and front walk, leading to large and deep puddles or skating rinks, depending on the season. Correcting this problem is one of their goals in moving the building back from our mutual property line, onto their property by a few feet. In addition to the drainage improvement, this will allow the propane tank that current stands mostly on my property to be moved wholly onto theirs. Moving the building will also make it far easier for me to maintain the privet hedge that now marks the boundary, and often impinges on the light and ventilation of the boathouse.

Susan and Stephen have been mindful of the aesthetics and privacy issues as well. Their design involves raising the windows that will face my property, and installing them in a pleasing arrangement. Their primary residence has been so attractively renovated, I am confident that they will be bringing the boathouse appearance to a higher standard.

In conclusion, I hope the board will grant the Pendery/Gerhartz family the variances that may be needed to move forward with this construction project. I know it will improve my property's drainage and the overall appearance of Moore's Island Lane.

Sincerely yours,



Jacqueline Ellis

**Town of Kittery Maine
 Town Planning Board Meeting
 February 26, 2015**

Kittery Municipal Center/Memorial Park –Modifications to an Approved Plan

The Town of Kittery proposes to add new memorials to the Memorial Park located at the east-side of Town Hall to accommodate the Fire and Police Departments. The area is located at 200 Rogers Road in the Business Local (B-L) Zone and identified as Map 22 Lot 20A and 20. Project represented by Chris Di Matteo, Town Planner.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
NO	Sketch Plan Review		
NO	Site Visit	Board's discretion	
YES	Completeness/Acceptance	Scheduled for 2/26/15	
YES	Public Hearing	Scheduled for 2/26/15	
YES	Preliminary/Final Plan Review and Approval	Scheduled for 2/26/15	

Applicant: Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable. until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Staff Comments

Background

On March 13, 2013 the Planning Board approved a modification to an approved Site Plan (ATT. B) that included the construction of, Memorial Park (aka Circle of Honor). See attached plan prepared by ATTAR Engineering. In December 2014 Police Chief, Fire Chief, Public Works Commissioner and Ken Lemont representing the former Thresher Memorial Project Group (TMPG) met to discuss the addition of a memorial commemorating Kittery Firefighters. Former TMPG members Gary Beers, D Alan Kerr, and John Carson; Dave Sutton, Kittery Rotary After Hours Club; Assistant Fire Chief, Michael Melhorn; and the Parks Commission co-chairs, Richard Demarco and Page Mead were all invited but were unable to attend. Representatives from the TMPG have communicated their support for the proposed changes and indicated that including additional memorials was the original intent for Memorial Park.

Review

Attached is a sketch that includes the minor modifications to the 2013 approved site plan. (ATT. C)
 The changes include: 1) ten rather than six trees; 2) six rather than 4 benches (represented on the sketch as dashes within the circular walk); and 3) three future memorial sites for the Fire Department (#2 on the sketch) and Police Department (#3) and William Whipple (#4).

The proposed changes do not meet the threshold for a major modification to an approved plan per 16.10.9.3.2 that requires Planning Board approval. The 2013 approved Findings of Fact (ATT. A), however, contains a condition of approval that *All changes and modifications to the final plan must be approved by the Planning Board.*

It does not appear that there are any applicable standards in the C-3 base zone relating to the design and construction of the proposed monuments. Staff suggests that a condition of approval is an as-built survey be made and used to update the 2013 Site Plan.

Recommendation

Accept the application as complete and hold a public hearing.

With consideration of Title 16.10.9.3 Modifications of an Approved Plan, Staff recommends the Board approve the proposed changes as a minor modification to the approved site plan entitled *Site Plan Modification for Kittery Town Hall*, revision date 6/25/13 per Title 16.10.9.3.1 conditioned that a revised plan is prepared and a copy provided to the Board when complete.



TOWN OF KITTERY
TOWN PLANNING AND DEVELOPMENT
 200 Rogers Road, Kittery, ME 03904
 Telephone: 207-475-1323 Fax: 207-439-6806

APPLICATION:
MINOR MODIFICATION TO AN APPROVED SITE OR SUBDIVISION PLAN

THIS REVIEW PROCESS REQUIRES APPROVAL FROM BOTH THE TOWN PLANNER AND THE CODE ENFORCEMENT OFFICER	FEE FOR REVIEW: <input type="checkbox"/> \$100.00	Amount Paid: \$ <u>WAIVED</u> <i>MP</i> Date: <u>2/19/15</u>
----------------------------------------------------------------------------------------------------------	----------------------------------------------------------	--------------------------------------------------------------------

PROPERTY DESCRIPTION	Parcel ID	Map	22	Lot	20-A	Zone(s):	C-3	Total Land Area	8.25 <u>42</u>
	Base:		Overlay:	YES NO	MS4				
Physical Address		200 Rogers Rd (Memorial Park)							

PROPERTY OWNER'S INFORMATION	Name	TOWN OF KITTERY	Mailing Address	200 ROGERS RD. KITTERY, ME 03904		
	Phone	439-0452				
	Fax	439-6806				
	Email					

APPLICANT'S AGENT INFORMATION	Name	TOWN OF KITTERY	Mailing Address	Planning & Development same as above		
	Phone	475-1323				
	Fax	439-6806				
	Email	cdimattco@maine.net.com				

PROJECT DESCRIPTION	Project Name:	MEMORIAL PARK -
	Existing Use:	PARK WITH THRESHEN MEMORIAL
	Proposed Amendment Please describe how the approved plan is to be amended. State any known areas of non-compliance to the Code and how this amendment will decrease or remove non-compliance, if applicable.	
	Minor changes to 2013 approved site plan	
	see plan review notes for 2/26/15	

CERTIFICATION: To the best of my knowledge, all the information submitted on this plan amendment and with my application is true and correct.

 Signature of Owner	<u>2/19/15</u> Date
 Signature of Applicant	<u>2/19/15</u> Date

Minimal Plan Submittal Requirements

3 COPIES OF THE APPROVED SITE OR SUBDIVISION PLAN 3 COPIES OF THE AMENDED SITE OR SUBDIVISION PLAN

PRIOR TO COMMENCEMENT OF THE REVIEW PROCESS, THE TOWN PLANNER WILL DECIDE WHETHER SUFFICIENT INFORMATION HAS BEEN PROVIDED AND WILL DETERMINE COMPLETENESS/ACCEPTANCE.

THE APPLICANT IS RESPONSIBLE TO PRESENT A CLEAR UNDERSTANDING OF THE PLAN AMENDMENT.

- A) Paper size:
 - No less than 11" X 17" (reduced) or greater than 24" X 36" (full)
- B) Scale size:
 - Under 10 acres: no greater than 1" = 30'
 - 10 + acres: 1" = 50'
- C) Title block:
 - Applicant's name and address
 - Name of preparer of plans with professional information and professional seal
 - Parcel's tax map identification (map - lot)
 - Date of plan preparation
- D) Clearly show and reference the area on the plan that is revised. Use lines and symbols to identify areas of change and the associated revision.
- E) Describe the revision in a revision block (i.e. "moved elec. trans. box on sheet 3/12.) on the cover sheet and on the revised sheet.
- F) Provide all associated reference material and or documentation that clarify and or supports the purpose of the proposed revision.
- G) Revisions to the boundary, internal lots and or parcels must be made by a surveyor licensed in the State of Maine.
- H) Significant revisions to the proposed site must be made by a professional engineer licensed in the State of Maine.

**16.10.9.3.1 Modifications to an Approved Plan.
06.10.9.3.1 Minor Modifications.**

Modifications to a Planning Board approved plan, that do not require Planning Board review per Section 16.10.3.2, may approved by the Code Enforcement Officer and Town Planner. Such approvals must be issued in writing to the developer with a copy to the Planning Board. The developer must provide a revised plan to the Town Planner and be recorded in the York County Register of Deeds when required.

* 2013 APP'D
PLAN / FINDINGS OF FACT
INCLUDE
CONDITION FOR
ALL CHANGES TO
BE APP'D BY THE
PLANNING BOARD

SUBMITTALS THAT STAFF DEEMS SUFFICIENTLY LACKING IN CONTENT WILL BE RETURNED TO THE APPLICANT WITHOUT REVIEW.

REVIEW ACTION

- Approved
- Approved with conditions as follows:

- Denied

Town Planner _____ Date _____

Code Enforcement Officer _____ Date _____

**KITTERY PLANNING BOARD FINDINGS OF FACT - for
Memorial Park at the Kittery Municipal Site & Memorial Circle on US Route 1**

Modifications to an Approved Plan Review

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, the Town of Kittery, applicant and owner of the Kittery Municipal Site, proposes site modifications to an approved Site Plan that includes a public memorial out-door space, also known as *Memorial Park* to be located in an existing lawn area fronting Rogers Road Extension. The property is located in the Business Local Zone (BL), Map 22, Lot 20A. In addition, the applicant proposes site and landscape design improvements associated with the interior of Memorial Circle; Hereinafter the “Development”.

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted; 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 (Hereinafter the “Plan”), prepared by Attar Engineering, Inc. (or as noted):

- | | |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| 1. <i>Application</i> | 10/16/12 (and supplemental information,
11/29/12, 12/13/12, 5/23/2013-incl. lighting for
Memorial Flag) |
| 2. <i>Memorial Circle Improvements</i> | 5/17/2013 (annotated with landscaping/ improvements) |
| 3. <i>Memorial Circle detail sheet</i> | 5/17/13 |
| 4. <i>Town Hall Site Plan Modification</i> | 11/1/12, REV. 5/20/2012 (ATTAR) |
| 5. <i>Town Hall Memorial Park/Circle of Honor Plan</i> | 4/10/13, REV 5/21/13 |
| 6. <i>Various sketches and planting plan</i> | GRM and 4/16/13 |
| 7. <i>Original Site Plan entitled Kittery Town Hall</i> | 2/21/97 (H.L. Turner Group) |
| 8. <i>Memorial Circle / Town Hall Area</i> | 10/16/12 |
| 9. <i>Plan for LID Area (Rain Garden)</i> | 11/2012 (Wright-Pierce - approved by MDEP) |

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. <i>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.</i>
A single 220w LED fixture is planned for Memorial Circle flagpole illumination.
Concerning the Site Plan Amendment (Att. #1) there are minor plan note changes staff recommends:: 1) Drawing title should include: ‘Site Plan Modification for Kittery Town Hall’; 2) General Note #1 should state the purpose of the plan is to modify the 1997 approved Site Plan and reference the actual drawing and date.
Some of these changes have been noted on the revised (12-3-12) plan. The final plan needs to be revised by the Engineer (Attar Engineering Inc.) who prepared the first draft Site Plan Amendment and is ultimately the ‘engineer of record’. This information has been updated.

Information has been submitted for the LID area (aka Rain Garden). The plan shows the grading and tree locations the Maine DEP approved. The attachment from the previously submitted material 11/29/12 mtg) is clearer regarding the overall walkway connections in this area. No additional information is available from MDOT on details regarding the area around the traffic circle.

CMA Engineers: The project is an allowed use in the Commercial 3 (C-3) zoning district.

Lighting of the US flag on the flagpole in the Kittery Traffic Circle is proposed in accordance with the external lighting ordinance.

Vote of 6 in favor 0 against 1 abstaining (Grinnell)

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.

Wetlands are delineated on the plan with associated setbacks. The proposed development is well outside the setbacks. The exception is the proposed parking denoted on the plan; however, it is not evident with review of the Town Code that it is required of the proposed development.

CMA Engineers: A single wetland is located at the discharge of the drainage system from the Traffic Circle, east of the proposed development. All development as proposed is located beyond the setbacks required for that wetland.

Vote of 6 in favor 0 against 1 abstaining (Grinnell)

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.

CMA Engineers: Minor water uses associated with the park may occur. The site is serviced by the Kittery Water District service to Town Hall.

Vote of 6 in favor 0 against 1 abstaining (Grinnell)

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.

CMA Engineers: A single wetland is located at the discharge of the drainage system from the Traffic Circle, east of the proposed development. All development as proposed is located beyond the setbacks required for that wetland.

Vote of 6 in favor 0 against 1 abstaining (Grinnell)

K. Stormwater Managed.

Stormwater Managed. The proposed development will provide for adequate stormwater management

Due to the limited amount of proposed impervious area it is not anticipated the stormwater will have an adverse impact on the site.

CMA Engineers: Insignificant changes to existing drainage patterns of impervious area are proposed.

Vote of 6 in favor 0 against 1 abstaining (Grinnell)

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.

Erosion is not anticipated to be an issue with the scale of the proposed development. Basic MDEP BMPs, i.e. silt fence and other erosion control measures is noted on the plan.

CMA Engineers: Insignificant changes to grading or drainage patterns are proposed, and no adverse changes will result.

Vote of 6 in favor 0 against 1 abstaining (Grinnell)

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. <i>Provide adequate traffic circulation, both on-site and off-site.</i>	
The anticipated number of trip-ends for Memorial Park visitors will have negligible impact and no change to traffic circulation patterns is necessary. At the Board's request, eight additional (one handicapped) spaces are added adjacent to the Park on the rear side of Town Hall as shown on the Town Hall site plan. CMA Engineers: No significant traffic generation is associated with the development. Access is via Town Hall facilities and sidewalk on Rogers Rd Extension. Minimal parking demand will result from the development, and the timing of such small parking demands will likely occur during off-hours from Town Hall activity, and therefore available parking will greatly exceed demand.	
Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Grinnell)	
P. Developer Financially and Technically Capable. <i>Developer is financially and technically capable to meet the standards of this section.</i>	
The Applicant appears to meet this standard.	
Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Grinnell)	
C. River, Stream or Brook Identified; D. Water Supply Sufficient; F. Sewage Disposal Adequate; G. Municipal Solid Waste Disposal Available;	I. Groundwater Protected; J. Flood Areas Identified and Development Conditioned; N. Water and Air Pollution Minimized; O. Aesthetic, Cultural and Natural Values Protected
Does the Board concur that standards C, D, F, G, I, J, N and O are <u>not applicable to the proposed amendment?</u>	
Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Grinnell)	

NOW THEREFORE, the Kittery Town Planning Board adopts each of the foregoing Findings of Fact and based on these Findings and determines the proposed Development will have no significant detrimental impact. The Kittery Planning Board hereby grants preliminary and final approval for the Development at the above referenced property, with waivers granted as noted and any conditions per Title 16.10.8.2 as noted.

Vote of 6 in favor 0 against 1 abstaining (Grinnell)

Waivers: None

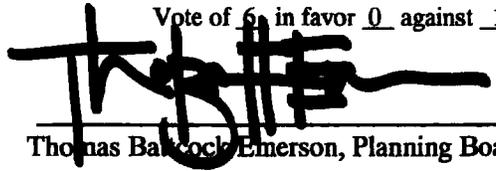
Conditions: (All conditions must be included on the final plan prior to signature by the Town Planning Board Chair)

1. Revise final amended site plan to include staff and planning board comments and any waivers and conditions and submit to Town Planning Department for review prior to Town Planning Board Chair's signature.
2. Two (2) paper copies of the approved and signed site plan modification and any and all related state/federal permits or legal documents that may be required must be submitted prior to the issuance of any building permit.
3. All changes and modifications to the final plan must be approved by the Planning Board.
4. Remove proposed 8 parking spaces from all project drawings, adjacent to
5. Parking signage to be modified to note parking is available at all hours for town employees and Thresher Memorial visitors.

The Planning Board hereby authorizes the Town Planning Board Chair to sign the Final Plan and Findings of Fact.

Approved by the Kittery Town Planning Board on June 13, 2013

Vote of 6 in favor 0 against 1 abstaining (Grinnell)

 6.13.2013

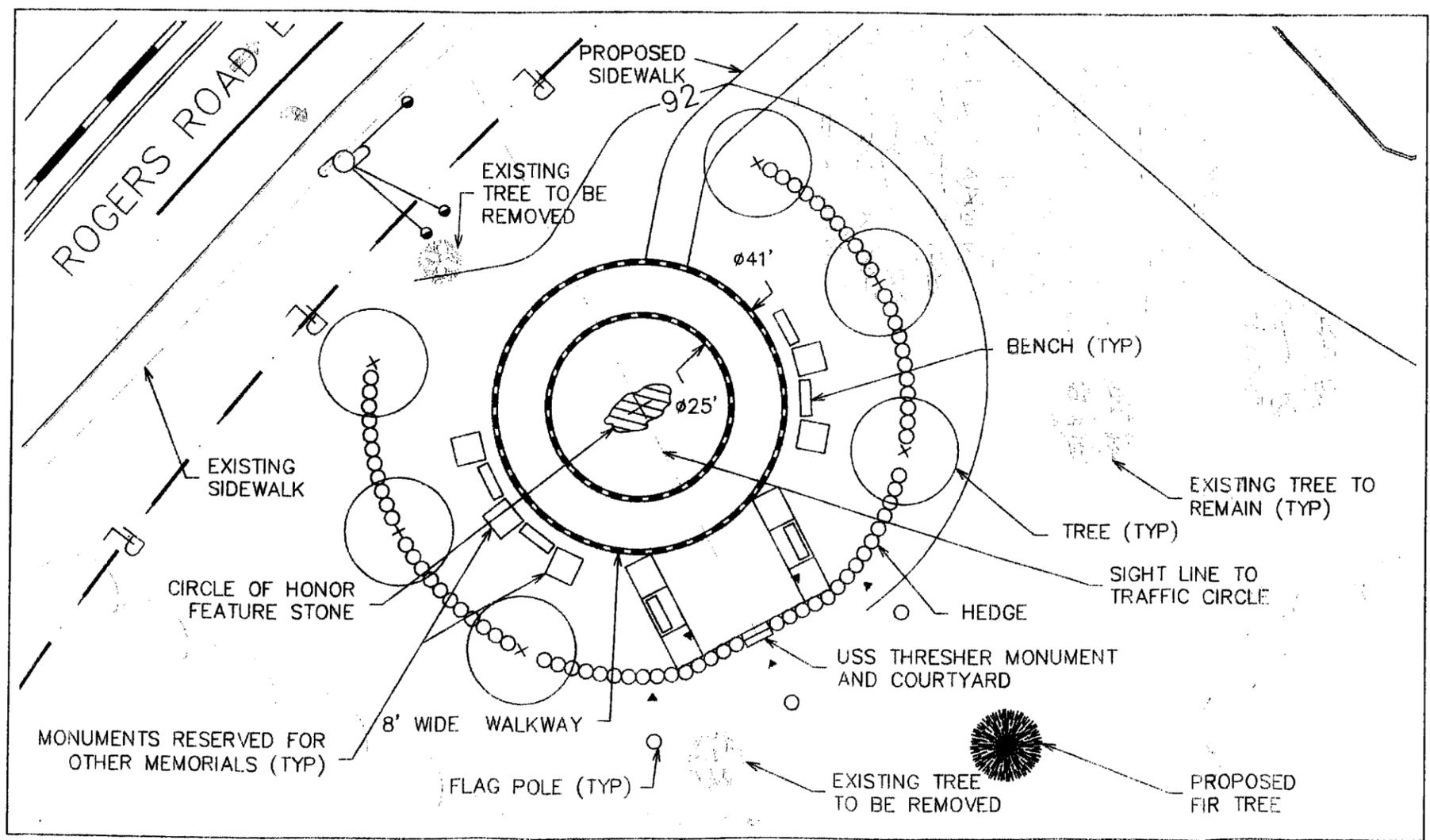
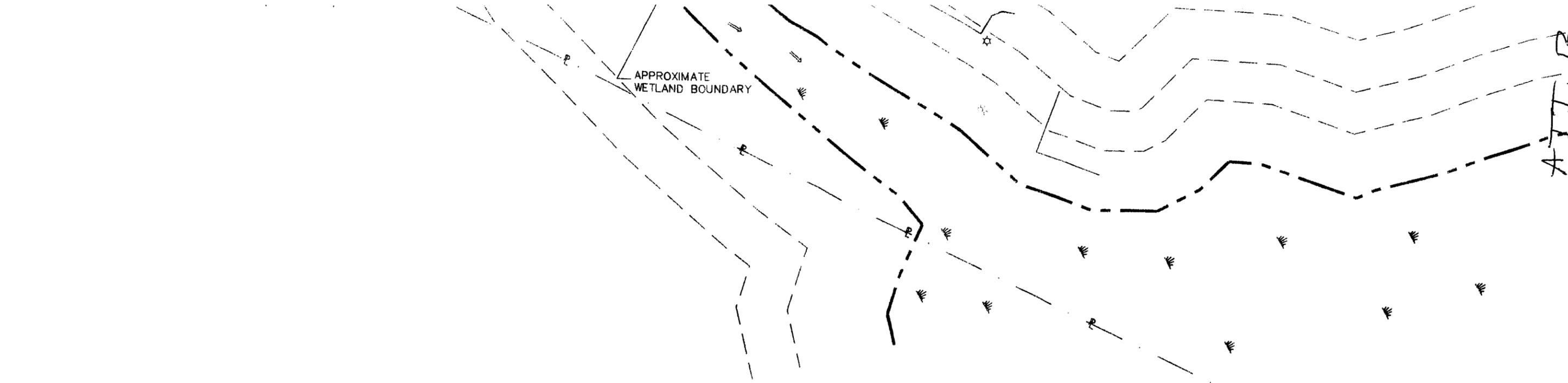
Thomas Barcock Emerson, Planning Board Chairman

Notice to Applicant:

Per Town Code Section 16.6.2 - Appeal of Planning Board, Board of Appeals, or Port Authority Decision.

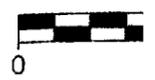
A. An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

This approval by the Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Planning Board Findings of Fact, and any Conditions of Approval.

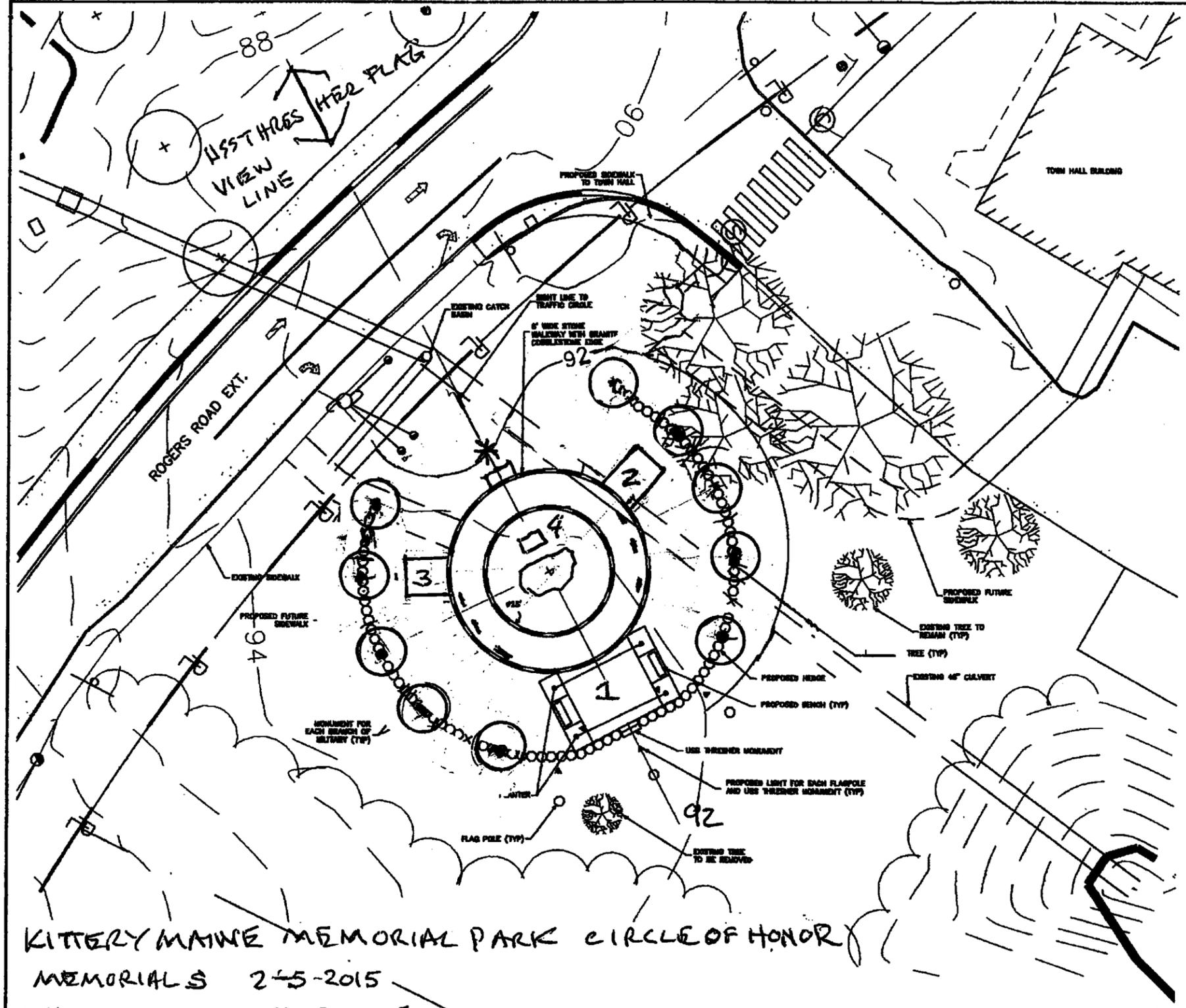


TOWN OF KITTERY PLANNING BOARD	DATE
<i>Th. J. [Signature]</i> CHAIR	3.13.201

USS THRESHER MONUMENT IN
"CIRCLE OF HONOR" AT TOWN HALL
(SCALE: 1"=20')



ATTJ.C



GENERAL NOTES

1. THIS PLAN PROVIDES THE DETAILS FOR THE USS THRESHER CIRCLE OF HONOR MEMORIAL ON THE TOWN OF KITTERY MUNICIPAL BUILDING SITE.
2. THE CONTRACTOR MUST CONTACT D&S AND ALL LOCAL UTILITIES PRIOR TO EXCAVATION TO VERIFY THE LOCATION OF EXISTING SUB SURFACE UTILITIES AND CONDITIONS. LOCATING AND PROTECTING ANY UNDERGROUND OR ABOVE GROUND UTILITY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR.
3. INSTALLATION OF SILT FENCE, STORM DRAIN BARRIERS SHALL BE IN ACCORDANCE WITH THE BEST MANAGEMENT PRACTICE B-1 (BMP B-1) FROM THE MAINE DEP'S MAINE EROSION AND SEDIMENT CONTROL BMAP, DATED MARCH 2005.
4. PROPERTY LINE INFORMATION TAKEN FROM REFERENCE 1 AND 2.

REFERENCES

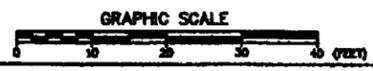
1. "STANDARD BOUNDARY SURVEY FOR THE PROPERTY OFF U.S. ROUTE 1 & ROGERS ROAD, KITTERY, YORK COUNTY, MAINE, OWNED BY STATE OF MAINE DEPARTMENT OF TRANSPORTATION FOR ATTAR ENGINEERING, INC." PREPARED BY SAFFELY SURVEYING, INC. 101 STATE ROAD, SUITE #1, KITTERY, MAINE 03904, AND DATED 6/22/11.
2. "STANDARD BOUNDARY SURVEY FOR TOWN OF KITTERY - ROGERS ROAD EXTENSION - KITTERY, MAINE" BY ANDERSON LAMONTAGN ENGINEERS, INC. DATED OCTOBER 2008.
3. "SITE PLAN - KITTERY CIRCLE DRAINAGE - KITTERY, MAINE" FOR TOWN OF KITTERY, 200 ROGERS ROAD EXTENSION, KITTERY, MAINE 03904 BY ATTAR ENGINEERING, INC. DATED 6/1/11, REVISION B DATED 7/20/11.

TOWN OF KITTERY PLANNING BOARD	DATE

KITTERY MAINE MEMORIAL PARK CIRCLE OF HONOR

MEMORIALS 2-5-2015

1. USS THRESHER * PLAQUE
2. FIRE - FIRST RESPONDERS
3. POLICE
4. WILLIAM WHIPPLE



GRM

NO.	REVISION	DATE

**TOWN HALL "CIRCLE OF HONOR" PLAN
ROGERS ROAD EXTENSION
KITTERY, MAINE**

FOR: TOWN OF KITTERY
200 ROGERS ROAD EXTENSION
KITTERY, MAINE 03904

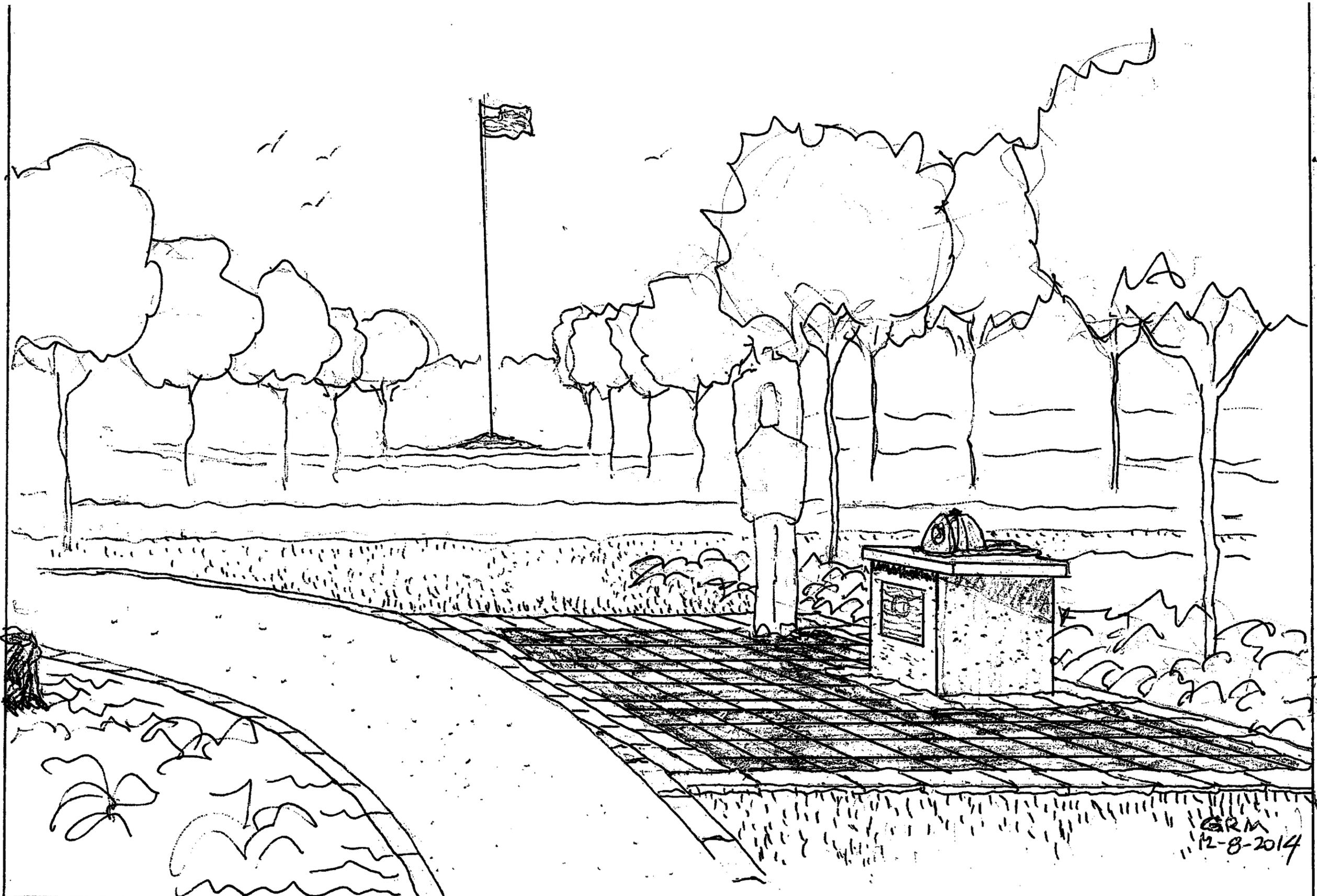
ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MAINE
1284 BUCK ROAD - BLDG. MAINE 03903
PHONE: (207) 438-0023 FAX: (207) 438-3128

SCALE: 1" = 10'
DATE: 4/16/13
JOB NO: 0630-13

APPROVED BY: [Signature]
DESIGNED BY: [Signature]
REVISION: DATE
A: 4/25/13

SHEET 1

ATT.C



GRM
12-8-2014

FIRST RESPONDERS' MEMORIAL • MEMORIAL PARK • KITTERY, MAINE

● EXISTING TREE AND STOLVBS
24" x 24" x 36" HT GRANITE BLOCK

± 12'

± 9'

TURF

TURF

GRANITE

COBBLE

STONES

GREY ARCHITECTURAL
PAVERS
ENGRAVED

STONE DUST

"CIRCLE OF HONOR"

NORTH

1" = 2'

2-5-2015

GEORGE R. MELROSE

FIRST RESPONDERS' MEMORIAL, MEMORIAL PARK, KITTERY MAINE

2012-2015
PLANNING BOARD ACTION ITEMS

ITEM #	DATE	BY	ITEM	PRIORITY	ACTION TAKEN	COMPLETE
1	8/9/2012		16.10.9.2 REDEFINE FIELD CHANGES; Major/Minor (for May 2015 TC workshop)	1	Staff to draft language for review	
2	10/13/2012	TE	DPW PROJECTS COME BEFORE PB; NEED UPDATED LIST	2	CDM to discuss with DPW, report to PB CDM to propose / December 2014; re-draft for 1/22/15 discussion; Re-send 12/18 pkt to PB for HOMEWORK; Review 3/26 with Board input	
3	2/14/2013	DD	DEFINE COMMERCIAL RECREATION (for May 2015 TC workshop)	1		
5	4/25/2013		WORKSHOP: Cluster Ordinance needs work USABLE OPEN SPACE RETAIN ROAD FRONTAGE (Buffers) TRAFFIC STUDIES	1	KOSC wants input; set up workshop in March, 2015	
6	4/26/2013		ROADS / SIDEWALKS TO NOWHERE (ROW plans)/Shared Driveways/ROW Standards/Emergency access roads	1		
7	8/22/2013	Staff	Site dev pre-meeting; CMA construction inspection; Ref: 16.4.4.1.A (for May 2015 TC workshop)	1	Discussed December, 2014; staff to draft language for PB review	
8	10/24/2013	Staff	HAT - Highest Annual Tide: no Elevation 6 (for May 2015 TC workshop)	1	January, 2015	
9	10/24/2013		Soil Suitability Guide; discontinue; (NRA)	Done	16.7.8 Land Not Suitable for Development: 10/23/14 PB Review/Recommend to Council for 11/10/14 approval; 1/5/15 TC workshop	Pending
10	11/14/2013		Fines	3	CDM to discuss with TM	
11	11/14/2013	Staff	16.7.3.5.6 Structure replacement outside of shoreland zone (missing from code)	1	Proposed language reviewed 12/18/14; no action	
12	11/14/2013		Review flood hazard ordinance; 16.5.3.4; (esp. No alteration of the natural contour of the land by grading or filling for any purpose is permitted in an area subject to periodic flooding.)	3	Coordinate w CMA; draft language, if needed	
13			Comp Plan Items	CPC*		
	12/12/2013	-	Pedestrian / Bike paths / Bike Racks	-	CDM will provide existing bike path plan; disc. 12/18; req. input from T. Emerson 1/22/15; input to CPC when appropriate	
	3/28/2013	-	CONTINUE WORKSHOP WITH KCPC, KOSC REGARDING 1 - 3 ACRE RR; and future land use regulation; restrict # building permits issued per year	-	May 15, 2013 Workshop; December 3, 2013 workshop, w Soil Suitability; PB input to CPC* when appropriate	
14	1/23/2014		Outdoor Seating/Use of Public Way; extend to other zones	1	PB review: 10/23/14; rev. language 12/18/14; 1/22/15 discussion; Foreside only; CDM to work w NCP/TC to add to Title 5 permanently	
15	2/27/2014		Approved Plan Expiration; Requests for Extension; Expiration of Wetland Alteration Permit	Done	Reviewed 3/27/14; PB approval 6/26/14; to Council 11/10/14	Pending
16	2/27/2014	AG	List of Committees/Boards to monitor	1	CDM to place in 2/26 packets	
17	2/27/2014		Flag Lots (16.8.-16.9)	Done		Pending

2012-2015
PLANNING BOARD ACTION ITEMS

ITEM #	DATE	BY	ITEM	PRIORITY	ACTION TAKEN	COMPLETE
18	3/13/2014		Septic pretreatment requirement as bonus (See also: VIII.3.I.ii 2015 Code Amendments: Briefing Book, #38)	Done		Pending
19	3/27/2014	DD	Kittery Historic Resources; historic designation identification	3		
	5/8/2014	Staff	Sign ordinance changes: Message boards/internal & external lights & timers Window/A-frame & portable signs/banners Sign character/appearance/administration & enforcement	2	Workshop: 7/14/14; Int'l Sign Assoc. 10/23/14	
20						
21	5/22/2014	DD	Parking credits	1	Staff review; PB to discuss/recommend amendment if needed	
	1/22/2015		Shoreland Zone: Invasive plants; shoreland invasive plant removal Excavation Structure replacement; time periods Shoreland definition	3		
22						
23	1/8/2015		Forside Review Committee (16.3.2.15.F)		CDM to research Code for use of term; Discussed 1/22; deferred awaiting TMI report	
STAFF						
24	2/28/2013		UPDATE DESIGN STANDARDS FOR LED LIGHTING:	Staff		
25	10/13/2012		BUSINESS OVERLAY ZONES: WHERE AND WHAT CHANGES: 16.3.2.20 Proposed Quality Improvement Overlay; form based code vs. individual ordinances	Staff/CPC	Workshop: Sustain So ME; set up January 2014 workshop; Further discussion; PB input to CPC when appropriate	
26	10/24/13 Amendment		DPW Road Cuts; Title 12 amendment; approved by PB 10/24/13; to Council 11/25/13	Staff	Revise per Council Action / Re-visit. January 2015; 1/15: Shared notification w/ DPW & Planning per CDM	
27	10/24/2013		Definition: Substantially complete re: development vs. building permits (for May 2015 TC workshop)	Staff	Staff draft definition differentiating from bldg permits as appropriate	

2012-2015
PLANNING BOARD ACTION ITEMS

COMPLETED ITEMS		
Complete	LEGAL NOTICES IN PACKET OR EMAILED TO PB MEMBERS (email to PB @ same time sent to publication)	Complete
4/25/2013	UNBUNDLE ZONING AMENDMENTS	Complete / Ongoing
Complete	BUILDING PERMIT LIST IN PACKETS	Complete / Ongoing
3/25/2013	Amendment: 16.8.24.2 F (LED lights); amended 12/14 (allowing LED lighting)	Ordained: 3/25/2013; ordained 12/14
3/25/2013	DISCUSS PUBLIC NOTICES; ABUTTER'S LIST EARLY, INCLUDE M/L AND PHYSICAL ADDRESS; Sales (assessor) close April 1; system update in Fall	Complete
4/25/2013	Amendment: Speciality Food & Beverage	ordained 6/10/2013
1/24/2014	Forside workshop with Council	
1/24/2014	REVIEW REPORT TO COUNCIL (RTC) FORMAT	1/24/2013
4/25/2013	PB Workshop Update: training; education; conflict of interest; attendance/voting;	Retreat: January 10, 2014; MMA workshop 3/25/14
4/25/2013	Title 16.11 Marine Development	Ordained: 1/27/2014
2/14/2013	Outdoor Seating/use of public ROW extension period/Title 5 (Seasonal only; extend sunset date)	To Council 6/9/14
	Proposed Ordinance Changes on line	Packets posted online
4/24/2013	ABUTTER'S LIST TO PB EARLY ON, BEFORE PUBLIC HEARING (at sketch plan)	
	Waivers;	January 2014
	Post Building Permits on Web Site	Provided in Board packets
11/14/2013	ByLaw Changes	Adopted 1/22/15

SEBAGO

T E C H N I C S

1000 STATE STREET • PORTSMOUTH, ME 04106

Memorandum

Project: 14375

To: Myranda McGowan
Chris DiMatteo

From: Stephen S. Sawyer, Jr., PE

Date: January 21, 2015

Subject: Kittery Neighborhood Bicycle/Pedestrian Plan Inventory Report and Meeting with
Portsmouth Planning Department

Attachments: Three Study Area Inventory Graphics

Following our Kick-Off Meeting in Kittery with the Town and Dan Stewart from MaineDOT on December 16, 2014, we conducted a field inventory of the Study Area to document the existing pedestrian and bicycle accommodations, and compiled a list of relevant traffic/roadway information from MaineDOT's website about the Area's roadways. This information has been displayed on the attached three graphics, labelled Sheets 1, 2, and 3 of 3.

Sheet 1 of 3

This graphic illustrates the Scope of the Study Area as per the KACTS original RFP and Sebago's Proposal with the exception that we have added Maple Street and Government Street between Walker and State Road based on our Kick-Off Meeting.

Sheet 2 of 3

This graphic present's information about the Study Area as it relates to Roadway Classifications and Ownership, Corridor Priorities, Posted Speeds, AADT's, and Corridor Service Levels.

Points of interest for us in looking at this information are the following:

- Bridge Street within the existing Route 1 Bypass interchange at the end of the Sarah Mildred Long Bridge is now classified as an "arterial" under State ownership. With the reconfiguration of this interchange as part of the new bridge, it seems that the portion of this roadway that passes under the new bridge should be reclassified as a local roadway and no longer be a State owned roadway.

- A Section of Bridge Street and Government Street has Customer Service Levels of D and F for Safety and Condition. It may be worth exploring why this is the case. All other Study Area Roadways have ratings that are C or better.
- The posted speeds for all Study Area roadways are 25 mph, which is compatible with shared bike usage. The Eastern Trail and East Coast Greenway currently has a “signed” route through the Study Area.
- Traffic volumes on all Study Area roadways are relatively light with the exception of the Route 1 Bypass.

Sheet 3 of 3

This graphic presents dimensional information for Study Area roadways and shoulders. It also indicates the extent of existing sidewalks within the Study Area, as well as where the current crosswalks are located.

Points of interest for us in looking at this information are the following:

- Sidewalks are prevalent throughout the Study Area, with the exception of the Route 1 Bypass, South Eliot Road and a section of Old Post Road from the athletic fields to Memorial Circle. Norm Albert explained at our Kick-Off Meeting that the missing section of sidewalk on Old Post Road was in his budget to construct in 2015.
- Existing crosswalks have ADA ramps at each termini, but do not have truncated domes.
- The existing Route 1 Bypass is a four-lane roadway with portions having a fifth two-way center turn lane. Shoulder widths vary from 0’ to 12’ between the Sarah Mildred Long Bridge and Memorial Circle. The new SML is only a two-lane bridge, which might suggest that four lanes may not be needed to the north. Should this be a topic for discussion?

Meeting with Juliet Walker, Transportation Planner, City of Portsmouth, January 6, 2015

I met with Juliet to review her recently released Bicycle and Pedestrian Master Plan for the City of Portsmouth, dated 2014. We discussed the fact that their Plan indicates the Memorial Bridge as a formal bike route and that the Eastern Trail and Eastcoast Greenway is routed across this bridge into Kittery.

The Portsmouth Plan also shows pedestrian and bike access on the Sarah Mildred Long Bridge. I pointed out that there are no provisions for pedestrians on this bridge and she was aware of this, but the City wanted to have this on their Plan for future consideration.

We next spoke about the routing of bikes across the Sarah Mildred Long Bridge (SML). NHDOT has prohibited bikes on the Route 1 Bypass southerly of the Albacore Connector. Therefore, all bike traffic will be “signed” to exit the Bypass at the Albacore Connector and proceed to Market Street for entry into the City. This situation raises an interesting point. On the Kittery side of the SML can bikes use the Bypass, or should be directed off onto other Study Area roadways? If bikes can use the Bypass, then some modifications may be needed at the Bridge Street intersection for northbound traffic, and we should decide what the accommodations will look like between there and Memorial Circle – shoulders only? formal bike lanes? shared lanes?

Juliet also raised the question about whether joggers would be permitted on the SML? Her point was that it might make an interesting loop to use both the SML and Memorial bridges from downtown Portsmouth or Kittery.

Summary

It appears that the Study Area roadways, with the exception of the Bypass, have a fair amount of pedestrian and bicycle accommodations already. Do you all agree with this? If so, then does the focus of this Study revert back to the Bypass? Topics might include:

- bike signage for the new SML, the Bridge Street intersection design, and usage of the Bypass to the north by bikes?
- the number of lanes required between the SML and Memorial Circle
- the interest in having pedestrian facilities on this section of roadway

If you don't agree that the main focus going forward should be the Bypass, then we should discuss what you envision for the other Study Area roadways.

A follow up meeting to review and discuss this information may be in order. Please let us know how you would like to proceed.



STUDY AREA
 OF
 KITTERY NEIGHBORHOOD PEDESTRIAN AND BICYCLE
 IMPROVEMENT PLAN
 FOR
 KITTERY AREA COMPREHENSIVE TRANSPORTATION SYSTEM
 SPRINGVILLE, MAINE 03883

PROJECT NO. 14375
 SCALE 1" = 80'
 SHEET 1 OF 3

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 IMPROVEMENT PLAN
 FOR
 KITTERY AREA COMPREHENSIVE TRANSPORTATION SYSTEM
 27 BRADSHAW STREET, SUITE 304
 BOWDOINHAM, MAINE 04008

<u>Committee</u>	<u>Representative</u>
Open Space	Members appointed by Manager
Comprehensive Plan	PB representative
Economic Development	Town Planner and Manager
Port Authority	PB representative

Appointed Boards & Committees

Printer-Friendly Version

Public Service Handbook

Board of Assessment Review	When needed
Comprehensive Plan Update Committee	1st and 3rd Wednesday
Economic Development Committee	As Needed
Mary Safford Wildes Trust	Quarterly
Parks Commission	2nd Thursday
Port Authority	1st Thursday
Registration Appeals Board	As Needed
Shellfish Conservation Committee	As Needed
Town Council	2nd and 4th Mondays

**Town of Kittery
 Planning Board Meeting
 February 26, 2015**

Town Code Amendment - Title 16.4.4.1 Inspection of Required Improvements; 16.10.3.7 Independent Review/Inspection Consultant Review; 16.10.3.8 Independent Review Applicant Funding; 16.10.8.2.2 Performance Guaranty Conditions; and 16.10.9.1 Post Approval Actions Required. . Action: review amendment and schedule a public hearing. Proposed amendment: codifies the need to hold a pre-construction meeting; updates provisions associated with inspections; and provides clarity through minor changes where needed.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
NO	Workshop		
YES	Initial Planning Board Meeting	Scheduled 2/26/13;	
YES	Public Hearing (special notice requirements)	Must be published 2x prior to PH	
YES	Review/Approval/ Recommendation to Town Council		

Background

The Board is interested in codifying the current practice of holding a pre-construction meeting with the developer and the Peer-Review Engineer. Staff has reviewed the Code and identified the pertinent provisions that need to be amended to meet the objective.

Staff Comments

Attached is a draft code amendment that modifies four sections of the Code. These sections are related to inspections and independent review. Along with requiring pre-construction meetings, the noted sections were also amended for clarity, including moving the topic of inspections from 16.10.3.7 and incorporating it in 16.4.4.1.

Recommendation

If the Board is comfortable with the draft amendment, staff can draft an Ordinance Review Memo and a public hearing can be scheduled, or the Board may wish to incorporate changes and continue to another meeting without a public hearing to accommodate more time for review.

Chapter 16.4 ADMINISTRATION and ENFORCEMENT

16.4.4.1 Inspection of Required Improvements.

A. Prior to the commencement of any work associated with development approved in accordance with this Code the developer or duly authorized representative must provide a schedule of expected construction activities by phase to the inspecting official, the Code Enforcement Officer (CEO) or their representative, or when applicable, the Town's Peer Review Engineer, and coordinate a pre-construction meeting. Attendance at said meeting must at a minimum include authorized representation from the Town, developer and their General Contractor. Meeting minutes must be prepared and distributed to all attendees and the Town Planner.

B. A. The developer or General Contractor shall coordinate inspections with the inspecting official and provide At least five days written notice prior to commencing each major phase of construction as outlined in the construction schedule. At completion the General Contractor shall request a final inspection where the inspecting official shall prepare a punch-list of any outstanding items to be completed. Once construction is complete the developer or the General Contractor shall coordinate a final walk-through where the inspecting official certifies that the construction has been completed in accordance with the approved plans. of required improvements, the applicant or duly authorized representative must notify the CEO, in writing, of the time when construction of such improvements is proposed to commence, so inspection may be made to ensure all specifications are met during the construction of the required improvements, and to insure the satisfactory completion of improvements and utilities required by the Planning Board.

C. B. If the inspecting official finds, upon inspection of the required improvements, that any of the required improvements have not been constructed in accordance with the Planning Board approved plans and specifications filed by the developer, the inspecting official must shall report, in writing, to the Town Planner, Planning Board, CEO and the developer or duly authorized representative, and, when applicable the, CEO. The Town Planner shall inform the Planning Board of any issues identified by the inspections. The Town shall take any steps necessary to preserve the municipality's rights.

D. Where applicable and in advance of any construction the developer must establish sufficient funds for said inspections in an Applicant's Service Account per Title 3.3. The amount is based on a scope of services and fee prepared by the Town's Peer Review Engineer after review of the developer's professionally prepared construction estimate.

Chapter 16.10 DEVELOPMENT PLAN APPLICATION AND REVIEW

Article III. Development Plan Review and Approval Process

16.10.3.7 Independent Peer Review/Inspection Consultant Review.

A. ~~All development may be reviewed by an independent review/inspection consultant(s) engaged by the Code Enforcement Officer, with the approval of the Town manager, after prior notification to and at the expense of the applicant, to assure compliance with all requirements of this Code related to public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies must be deposited with the Town prior to their undertaking.~~

47 ~~A4.-The Town Planner, in addition to the Planning Board or~~ the Town Planner and the Code Enforcement
48 ~~Officer,~~ with the Town Manager's approval, may require the applicant to pay the cost of an independent
49 consultant or specialist engaged by the Town, at the applicant's expense if required by the Town Planner and
50 ~~approved by the Town manager, to:~~

51 1. assure compliance with all requirements of this Code related to public health, safety and welfare, and the
52 abatement of nuisances; or

53 2. assist with the technical review of applications submitted for new or amended development. The estimated
54 cost of such a review will be deposited in a Town escrow account prior to the application review/inspection
55 work being conducted. Remaining funds in the account will be returned to the applicant or, at the applicant's
56 option, used to pay any further costs associated with the project application.

57
58 B. When peer-review is required of the applicant, sufficient funds, based on a written estimate by the
59 required consultant, must be deposited in an Applicant's Service Account per Title 3.3, prior to commencing
60 said review.

61
62 2.—Compliance Inspection Fees. The reviewing/inspection consultant, upon direction of the Town Planner,
63 will be assigned to conduct compliance inspections of the approved new or amended plans to assure
64 compliance with the codes and conditions of approval. Inspection compliance reports will become a part of
65 the applicant's project file and submitted at agreed to intervals based on the required inspection items
66 developed between the Town and the developer following Town approval. Copies of all inspection reports
67 will be submitted to the Town Planner, CEO, and project owner or agent. The estimated cost of the
68 compliance inspection will be deposited in a Town escrow account prior to the inspection work being
69 conducted. Remaining funds in the account will be returned to the applicant or, at the applicant's option,
70 used to pay any further costs associated with the project application.

71
72 3.—Records of application review and inspection reports are public records.

73
74 4.—Determination of the need for application review and/or compliance inspection is made by the Town
75 Planner, with the oversight of the Town manager. The Planning Board will be advised of such requests as
76 they occur.

77
78 5.—As part of each request, feedback about the process will be gathered by the reviewing/inspection
79 consultant from the applicant, Planning Board, and planning department, and made a part of the record.
80

81 **16.10.3.8—Independent Review Applicant Funding.**

82 ~~The Planning Board must require an applicant to pay the costs of an independent consultant or specialist~~
83 ~~whose services the Planning Board may require, at its discretion, to analyze any or all of the application, in~~
84 ~~the Town's interest.~~

85

87 **Article VIII. Planning Board Final Plan Action**

88 **16.10.8.2.2 Performance Guaranty Conditions.**

89

90 Where improvements for the common use of lessees future lot or unit owners or the general public have
91 been approved, the Planning Board ~~must~~ shall require a performance guaranty of an amount sufficient to pay
92 for said improvements as a part of the agreement. The applicant must file with the Town, as a condition for
93 approval of the final plan, a performance guaranty in a form acceptable to the Town manager.

94 1. The amount must be at least equal to the total cost of furnishing, installing, connecting and completing all
95 street grading, paving, storm drainage and utilities and other improvements specified in the development

- 96 master plan and shown on the final plan, ~~and~~ **In addition, it** must guarantee the satisfactory coordination with
97 other related phases of development and satisfactory completion of all specified improvements.
- 98 2. Where the Planning Board reviews and approves project phasing, the Board may also require the
99 developer to provide performance ~~assurances~~ **guaranties** directly related to a particular phase or phases of
100 the project where it can be demonstrated that the uncompleted portions thereof do not detrimentally affect
101 the completed development or the current and ongoing development.
- 102 3. No phase of construction may commence until the required performance assurances have been met.
- 103 4. Performance ~~guarantees~~ must be based on professionally prepared cost estimates for all approved
104 infrastructure improvements **and verified by the Town's Peer Review Engineer and include a ten (10) percent**
105 **additional cost for contingencies and/or warranty period** ~~an inspection escrow agreement for site inspection~~
106 ~~equal to two percent of construction costs.~~
107 ~~(Ordained 9/26/11; effective 10/27/11)~~
- 108 **5. Ten (10) percent of the performance guaranty may be retained to cover circumstances where additional**
109 **time or resources are required for satisfactory final completion of improvements that include, but are not**
110 **limited to: vegetated swales and slopes, plantings, and lawns. This warranty period may be up to one year.**
- 111 **6. Inspection of improvements that require a performance guaranty must be performed at the expense of the**
112 **applicant and in accordance with Title 16.4.4.1.**
113
-

114 Article IX. Post Approval

115 16.10.9.1 Post Approval Actions Required.

116 16.10.9.1.1 Approved Final ~~Subdivision~~ Plan.

- 117
- 118
- 119
- 120 A. An approved subdivision plan must be filed with the York County Registry of Deeds within ninety
121 (90) days from date of such approval. Any plan not so filed and recorded is null and void, unless particular
122 circumstances dictate and upon petition, the Planning Board grants an extension which may not exceed two
123 additional ninety (90) day periods.
- 124
- 125 B. Where applicable, the Stormwater and Erosion Control Maintenance Agreement that must be
126 included in the Document of Covenants, Homeowners Documents and/or as riders to the individual deed
127 must be recorded with the York County Registry of Deeds.
- 128
- 129 **C. A pre-construction meeting, in accordance with Title 16.4.4.1 must be held prior to any clearing or**
130 **earthwork for approved development that requires inspections.**
131