

**TOWN OF KITTERY  
JOINT COUNCIL & PLANNING BOARD WORKSHOP**

**APPROVED**

Council Chambers  
Thursday, August 28, 2008  
Meeting called to order 6:07 p.m.

Members Present: Russell White, Joseph Carleton, Megan Kline, Ernest Evancic, Michael Luekens,  
D. Scott Mangiafico

Members Absent: Douglas Muir

Councilors present: Frank Dennett, Glenn Shwaery, and Jeffrey Brake

Staff: Sandra Mowery, Town Planner

Jonathan Carter, Town Manager

**PUBLIC COMMENT**

**Chairman White** asked if there was anyone present who would like to comment on any non-agenda items. There being none, the board proceeded to agenda item #1.

**ITEM 1 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance - Workshop**

- The Town administration, endeavoring to define zoning in accordance with the Comprehensive Plan and to update the official zoning map, proposes to amend Title 16 *Land Use and development Code* as follows:

- The amendment of Title 16.12.060 - Urban residential (UR)
- The amendment of Title 16.12.100 - Local Business (LB)
- The amendment of Title 16.12.101 - Local Business 1 (LB1)
- The amendment of Title 16.12.110 – Commercial (specifically zone C-3)
- The amendment of Title 16.12.150 – Kittery Foreside (KF)

**Ms. Mowery** summarized the history of the zoning areas, the missing descriptions, and omitted zones from the official zoning map. **Councilor Dennett** stated he believed that the Comprehensive Plan stated that lot line zoning should not be supported, only straight line zoning for district boundary lines. **Town Planner** will confirm the wording of the Comprehensive Plan.

Amendments will be reviewed by the Planning Board at a Public Hearing prior to recommendation to Council. Notification of zone amendments will be mailed to all affected parties. Item closed at 6:35 pm

**ITEM 2 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance –**

**Workshop** - The Town administration proposes to amend Title 16 *Land Use and Development Code* with the addition of Article XXIX - *Fences and Retaining Walls* and the amendment of the Section 16.08.020 - *Definitions* in order to establish minimum clearances, heights, placement and installation.

**Mike Asciola** presented the proposed, revised ordinance.

**Councilor Dennett** stated he was opposed to the ordinance as an invasion of privacy and asked why it was being pursued at this time.

**Mr. Carter** explained the reasons for ordinance compilation, which was primarily from citizens' requests to control the construction of large retaining walls and fences.

**Councilor Dennett** commented that an ordinance drafted to prevent such structures that create a hazard to public health and safety would be a reasonable objective of the town.

Discussion followed concerning the need for a fence ordinance vs. the civil process, the types of structures that should be covered by an ordinance, whether rip-rap would fall under review as a retaining wall, aesthetic issues, the definition of structure, shoreland zoning issues,

**Charlie Kuehl**, Four-Seasons Fence spoke regarding his experience with municipal fence ordinances in other communities. For instance, in Portsmouth, NH, the fence regulations cover pool fencing, line of sight for traffic, fencing over six feet, and encroachment.

Council and Planning Board Members agreed that the ordinance needs further work, specifically addressing freestanding walls as structures.

Joint workshop closed at 7:40 pm

Conservation Commission members present for Item 3:  
Earldean Wells, Anne Borden, and Jan Carson

**ITEM 3 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance –  
Workshop Wetlands Ordinance** –Discussion of proposed revisions to Article XII –Conservation of Kittery Wetlands; Title 16.28.380 through 16.28.500 to incorporate certain State requirements and other amendments.

Board and Conservation Commission members read and discussed the revised ordinance, made general corrections and re-constructed definitions to make the proposed ordinance more compatible with the existing ordinance. Establishing fee levels for wetland alterations was deferred to the Council for determination. It was discussed that fees received be earmarked for the Wetlands Mitigation account, and the account be used for education, preservation, acquisition and buffering. This account should be part of the Town's Annual Report of accounts. There was considerable discussion regarding wetland maintenance through homeowner's documents and use of Letters of Credit to insure completion of development as approved. Road construction and other activities/structures which use or impact land within 30 feet of the edge of wetlands not shown on the Shoreland Zone map was briefly discussed and will be further investigated prior to ordinance completion.

**APPROVAL OF MINUTES** – July 10, 2008 Sitewalk and August 14, 2008 Meeting  
Review and approval of the minutes were postponed to the next Planning Board meeting.

**PLANNER'S TIME** – There was no presentation by the planner.

**ADJOURNMENT:**

**Mr. Mangiafico** motioned to adjourn

**Mr. Luekens** seconded

**Motion carries unanimously**

Meeting adjourned at **9:17 pm**

Submitted by Jan Fisk, Recorder

September 6, 2008