

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

**APPROVED  
FEBRUARY 25, 2016**

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

**Roll Call:**

Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Secretary Debbie Driscoll-Davis, Robert Harris, Mark Alesse, Dutch Dunkelberger

Board members absent: Deborah Lynch

Staff present: Chris Di Matteo, Town Planner

**Pledge of Allegiance**

**Minutes: February 11, 2016**

Line 53 – replace the word “retailing” with “retaining”

Line 58 – replace “Ms. Lynch” with “Ms. Driscoll-Davis”

Line 63 – include the word “make” between “can” and “reference”

Line 101 – remove the phrase “with conditions”

Line 138 – replace the word “staff” with “committee”

Line 176-179 – add a new sentence after “...the applicant should not.” that reads “She also stated that the wetland alteration application and the street naming application should be submitted at the next review.”

Line 179 – replace the word “numbering” with “naming”

**Ms. Kalmar moved to approve the February 11, 2016 minutes, as amended.**

**Mr. Alesse seconded.**

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

**Site Walk Minutes: February 4, 2016**

**Ms. Kalmar moved to approve the February 4, 2016 site walk minutes.**

**Mr. Dunkelberger seconded.**

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

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

Milton Hall, 54 Bowen Road

Mr. Hall requested the current status of the Shore and Harbor Plan after it reached the Planning Board in October 2014. Ms. Grinnell stated it did not make it through the Planning Board due to numerous amendments requiring review. Mr. DiMatteo will conduct further research and discuss those findings with Ms. Grinnell.

Ms. Grinnell closed the public comment.

**ITEM 1 – Memorial Circle and Related Improvement Plan.**

**Action: Hold a public meeting and receive public comment.**

Maine Department of Transportation (MDOT) Locally Administered Project consultants will discuss the re-design of Memorial Circle and related improvements, including pedestrian access along State Road (U.S. Route 1) to Adams Drive. Representatives from Wright Pierce Engineers, and Gorrill-Palmer traffic engineers, will present progress to date, obtain feedback and answer questions

Ms. Grinnell opened the public meeting.

Don Ettinger – Vice President and Principal Partner at Gorrill Palmer Consulting Engineers, Inc.

Mr. Ettinger’s presentation provided a summary of the project status and responses to questions raised at the

last public meeting in October 2015. It included the following statements:

- The layout of the circle has been fine-tuned with regard to the roadway footprint, curbing locations, and paint striping after review from Town of Kittery, KACTS MPO, and Maine DOT's sub consultant GHD. The alterations are described as follows:
  - The multi-use path at the perimeter of the circle has been reduced by 2 feet from 10 feet to 8 feet which is consistent with the Wright Pierce Side Path Project at State Road.
  - Environmental impacts of the project directly effecting the area between State Road and Rte. 236 have been considered by Wright Pierce and other environmental agencies.
- Requests and questions from the last presentation were addressed as follows:
  - The circle project and the first section of the path project will be incorporated into the base bid package. The second half of the path closest to State Road will be part of a bid alternative package. The determination of implementing the bid alternative package is based upon funds availability once the base bid package is received.
  - The path at the north section is estimated at \$50,000. The extension piece of the side path on State Road is estimated at \$260,000. Consequently, the estimated cost difference is too large to remove the north section and add the entire extension piece on State Road in the base bid.
  - Mr. Ettinger's staff worked with the Town of Kittery to propose solutions addressing concerns of parking accessibility and space restrictions at The BBQ Barn property. The existing parking lot is contained within the State right of way and Maine DOT directed that no parking improvements be located in private property. There are currently still discussions between the property owner and Maine DOT.
  - Construction costs to ease the curvature of Rogers Road and State Road intersection are estimated at \$80,000 to \$100,000. The Town of Kittery and Maine DOT determined there was not enough funding in the project to include this construction. To address this concern, the proposed design will include improved striping and a stop condition to replace the current yield condition.
  - The Route 1 Bypass off-ramp is currently a stop condition and the proposed design will include a yield condition.
- Design features highlighted include the following:
  - Light poles will be located at each approach to the circle.
  - A new guard rail will replace the existing guardrail between State Road and Rte. 236.
- Forward action steps for the proposed plan include the following:
  - A Plan Impacts Complete (PIC) submittal to understand the grading limits expect to be accomplished in the next few weeks.
  - Maine DOT will begin the right of way process once the PIC submittal is approved. That process lasts about 6-8 months to evaluate the impact on the adjacent properties.
  - The drainage design is near completed to ensure there are no utility conflicts.
  - Project advertisement is scheduled for Fall 2016 to begin construction in Spring 2017.

Jennifer Williams – Gorrill Palmer Consulting Engineers, Inc.

Ms. William's presentation addressed the side path along State Road from the circle to the A Perfect Move establishment. Her presentation included the following statements:

- In accordance with U.S. Access Board guidance documents, crosswalks will be placed at Rogers Road and Kittery Estates driveway.
- The existing concrete sidewalk extending from State Road ends before of Adams Drive. Maine DOT and the Bicycle Coalition of Maine requested that aforementioned sidewalk be extended around the far end corner of Adams Drive.
- Maine DOT has requested a painted share-use lane marking on Adams Drive road surface at 250-300 foot intervals pointing both ways.
- The driveway configuration between The Mural Building and A Perfect Move establishments has been modified from the last plan set to restore the existing circulation pattern of the Mural Building.
- A pre-application meeting with Maine Department of Environmental Protection was held to discuss

permitting requirements. The permitting process will continue while the right of way process is underway. The 2012 survey was updated to reflect the site's current conditions.

Ms. Grinnell asked to see the location point where the base bid ends and bid alternative starts. Ms. Williams explained the base bid ends and base alternative starts at the Kittery Estates pathway. The base alternative extends to the corner of Adams Drive.

Mr. Dunkelberger asked who is responsible for maintenance. Mr. Norman Marcotte, Maine Department of Environmental Protection, responded that the Town of Kittery maintains the traffic circle. His committee is responsible for mowing the islands, except for the Rte. 236 off-ramp and the backside of The BBQ Barn property. The Town of Kittery will be responsible for painting. Mr. Marcotte confirmed to Ms. Driscoll-Davis that his committee will be clearing the share-use path around the circle. There will be seagrass planted and mowed prior to winter season allowing room for signage.

Bill Widi, The BBQ Barn Owner, 185 State Road

Mr. Widi felt his concerns were not taken into account after receiving Plans 1, 3, and 4 each time. He understands that the business' parking lot is technically in the right of way of the state. His lease indicates 11 parking spaces and the proposed plan will result in 9 spaces. He calculated that average revenue of \$12 per person for those two parking spots will cost his business \$960 per day in the summer season for a total of \$192,000 annually. He determines that eleven parking spaces is the minimum requirement to keep his business sustainable.

Oscar Boreth, 185 State Road

Mr. Boreth cited a letter that he anticipates submitting to the State Governor. He introduces himself as a Kittery resident, manager of 30 people, a military veteran, and a volunteer teacher at the Kittery Community Center. He supported the project and donated \$1,000, but now feels it is ironic his small business is threatened by the proposed plan due to the parking impediments it poses. He admits the area is not within his property, but stated in the past 35 years he has paid the expenses to maintain the area to include paving, seal coating, and painting. He has witnessed one bicyclist every three months in front of the property. Today, Mr. Boreth feels the several changes have resulted in a misguided design that has cost over \$200,000 in consulting fees. In an attempt to alleviate the concerns with Maine DOT, he feels the Department could not address the situation. He questions why the need for public hearings at this time if the project has already been approved. If the project continues as it stands, the traffic circle will one day have beautiful curbs and a former business establishment collapsing in disrepair.

Jason Scanlon, 23 Day Street

Mr. Scanlon expressed his concern that lost profit at The BBQ Barn equals lost food and beverage tax paid to the State. He feels the business owner should be entitled to some form of compensation or abatement for his projected losses. Mr. Ettinger clarified to Mr. Scanlon that the bid alternate will be pulled from the base bid package if there is a lack of funding. He does not see the value in the project if the bid alternative package is not funded since without it the State Road pathway is incomplete.

Donald Gray, 19 Adams Drive

Mr. Gray expressed concerns regarding space available for vehicles since the plan proposes a 6-foot wide share-use lane on both sides of a road that spans only 25 feet wide. In his opinion, the space readily available on Route 1 should be converted for the shared use lane, instead of at Adams Drive. Ms. Williams clarified to Mr. Gray that the path located at the dead end portion of Adams Drive will be built straight and on the left side. He requested additional street lighting to the beginning of Adams Drive due to the sharp turn and blind driveway.

Bill McCarthy, 27 Adams Drive, voiced his support to the residents of Adams Drives and feels that changes are not necessarily improvements in this situation.

Ms. Grinnell asked Mr. Ettinger if consideration was made of the board's suggestion to remove the sidewalk from the northern side of Old Post Road to northern side of State Road. Mr. Ettinger confirmed that the plan remains. Ms. Grinnell expresses no support to this plan.

Philip James, Adams Drive, has not witnessed any foot traffic around the circle and in front of The BBQ Barn and feels the project is a misuse of resources.

Mr. Dunkelberger suggested to Mr. Boreth to submit a copy of his letter to Maine Representative Deane Rykerson. Mr. Boreth added a copy will be provided to the Portsmouth Herald.

Ms. Driscoll-Davis does not feel that this is what was asked for originally. Ms. Grinnell explained that the Town of Kittery has no control to make changes at this stage in the project. Mr. Scanlon feels disheartened of the position the Town of Kittery is in. The Board reiterated that there is nothing the Town of Kittery can do to further address the concerns. Ms. Driscoll-Davis added that a breach of contract results in the Town of Kittery to be liable for costs incurred up to this point. Mr. DiMatteo explained that there exists an agreement between the town and state to move forward with the project and the Town of Kittery is responsible for 20% of the agreement.

Mr. Dunkelberger asked at what point project scope creep can be identified. Mr. DiMatteo explained that it is difficult to identify what was originally intended since the project has been shrunk down quite a bit. It is unfortunate the manner in which the project has changed.

Mr. DiMatteo answered to Mr. McCarthy that the project was likely initiated by the former Public Works Director and former Kittery Town Planner in 2011 with the intent to increase pedestrian safety.

Ms. Grinnell closed the public forum.

**ITEM 2 – Town Code Amendments – 16.10.3 – Development Plan Review and Approval Process; 16.10.3.2 Other Development Review; 16.10.3.4 Shoreland Development Review; 16.10.10 Shoreland Development Review; 16.10.10.1.1 Permits Required; 16.10.10.1.2 Permit Application; 16.10.10.2 Procedure for Administering Permits**

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

Ms. Grinnell opened the floor for public hearing. Hearing none, Ms. Grinnell closed the public hearing.

Ms. Kalmar requested at line 47 to “when not” instead of “and is” at the end of the sentence.

**Ms. Kalmar made a motion to recommend to Town Council for adoption the Town Code Amendments – 16.10.3 – Development Plan Review and Approval Process; 16.10.3.2 Other Development Review; 16.10.3.4 Shoreland Development Review; 16.10.10 Shoreland Development Review; 16.10.10.1.1 Permits Required; 16.10.10.1.2 Permit Application; 16.10.10.2 Procedure for Administering Permits. Mr. Dunkelberger seconded. Motion passed 5-0-1.**

**ITEM 3 – Town Code Amendments – 16.2 Definitions; 16.8.8.2.3 Applicability; 16.10.7.2 Final Plan Application Submittal Content**

Action: Hold a public hearing and recommend to Town Council for adoption. The proposed amendments provide clarity with regard to a Municipal Separate Storm Sewer System (MS4) regulation for a Post-Construction Stormwater Management Plan.

Ms. Grinnell opened the floor for public hearing. Hearing none, Ms. Grinnell closed the public hearing.

Ms. Kalmar requested to add “Best Management Practices (BMP)” at line 5.

**Ms. Kalmar made a motion to recommend to Town Council for adoption the 16.2 Definitions; 16.8.8.2.3 Applicability; 16.10.7.2 Final Plan Application Submittal Content. Ms. Driscoll-Davis seconded. Motion passed 6-0-0.**

**ITEM 4 –Town Code Amendments – 16.8.11 - Cluster Residential and Cluster Mixed-Use Development. 16.8.11.1 Purpose; 16.8.11.3 Dimension Standards Modifications; 16.8.11.5 Application Procedure; 16.8.11.6 Standards; 16.8.20.1 Green Strip; 16.9.1.7 Buffer areas; and 16.2.2 Definitions**

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

Mr. DiMatteo feels the board should schedule a public hearing after review.

Ms. Driscoll-Davis request to replace the word “discouraging” with “encouraging” in Item 4.

Mr. Dunkelberger questioned the legality of making references to a comprehensive plan. Mr. DiMatteo reminded that the standards seeking a positive finding include being consistent with the comprehensive plan. Mr. Dunkelberger stated that being consistent is different than being designated. Mr. DiMatteo added this discussion is still ongoing with MMA and further guidance is forthcoming.

Ms. Kalmar requested the following changes:

Line 122 – insert “is” after the word “space”

Line 123 – remove “weather”

Line 126 – replace “fish” with “fisheries” and replace “or” with “and”

Line 186 – insert “in” between “described” and “subsection”

Line 201-202 – remove the phrase “and other environmental enhancements” since it does not exist in the state statute and is difficult to define

**Ms. Kalmar moved to continue the Town Code Amendments – 16.8.11 - Cluster Residential and Cluster Mixed-Use Development. 16.8.11.1 Purpose; 16.8.11.3 Dimension Standards Modifications; 16.8.11.5 Application Procedure; 16.8.11.6 Standards; 16.8.20.1 Green Strip; 16.9.1.7 Buffer areas; and 16.2.2 Definitions until the next meeting.**

**Mr. Alesse seconded**

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

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

**A. Committee Updates**

- The Comprehensive Planning Board first public forum will be held on March 12, 2016 from 10:00-12:30pm at the Kittery Community Center. Food, beverages, and childcare will be provided.
- A committee of two members from the Town Council and members of the Port Authority. The purpose is to help delineate the relationship between the two committees.

**B. Action List**

- Item 17 is completed.
- Item 18 was removed for the reasoning that it is a choice for one to live in an area consisting of more than 25% wetlands.
- Item 6 replaces Item 13.
- Ms. Grinnell requested to add trash recycling receptacles to the Action List.
- Mr. Alesse requested to add “ride right, walk left” signs throughout the Town to the Action List.

**C. Other - None**

**ITEM 6– Town Planner Items – None**

**Ms. Kalmar moved to withdraw her motion to approve the February 11, 2016 minutes, as amended.**

**Mr. Alesse seconded.**

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

**Ms. Kalmar moved to reconsider the approval of the February 11, 2016 minutes.**

**Mr. Alesse seconded.**

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

**Mr. Alesse moved to adjourn.**

**Mr. Harris seconded.**

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

The Kittery Planning Board meeting of February 25, 2016 adjourned at 7:40 p.m.

Submitted by Marissa Day, Minutes Recorder, on March 3, 2016.

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