

CALL TO ORDER

Chair Grinnell called the meeting to order at 6:00 p.m.

ROLL CALL

Members Present: Dutch Dunkelberger, Karen Kalmar, Ann Grinnell, Debbie Driscoll-Davis, Mark Alesse, Marissa Day

Later arrival: Robert Harris

Staff Present: Chris Di Matteo

PLEDGE OF ALLEGIANCE

REVIEW OF MINUTES – August 10, 2017

Page 8, Item 7 - vote was 5-1-0.

**Mr. Dunkelberger moved to accept the August 10, 2017 Minutes as amended.
Vice Chair Kalmar seconded the motion.**

The motion carried 6-0-0.

AMENDMENT TO AGENDA

REVIEW OF MINUTES – August 15, 2017 Site Walk – Huntington Run

**Vice Chair Kalmar moved to approve the August 15, 2017 Site Walk Minutes for
Huntington Run.**

Mr. Dunkelberger seconded the motion.

The motion carried 6-0-0.

PUBLIC COMMENTS

The Chair opened the public comment. There being none, the Chair closed the public comment.

OLD BUSINESS/PUBLIC HEARING

ITEM 1 – Huntington Run – Cluster Subdivision Preliminary Plan Review

Action: Hold a public hearing. Approve or deny preliminary plan. Owner, Landmark Properties, LTD and Kingsbury and Veronica Bragdon and applicant, Chinburg Builders, Inc., request consideration of a 20-lot cluster subdivision on 86.6 +/- acres located on Betty Welch Road (Tax Map 66 Lots 2A, 8 & 8A) in the Residential Rural Zone (R-RL) and a portion located in the Shoreland Overlay (SH-250-OZ) Zone. Agent is Jeff Clifford, P.E., Altus Engineering.

Mr. Clifford listed others in attendance who included Jim Gove, Gove Environmental; Jim Logan, Long View Partners, LLC; Mark Cowperthwaite, Aeration Systems; and Dave Chapman, Sweet Associates. Mr. Clifford gave an overview of the proposed plan of a cluster subdivision which will have 20 lots at 10,000 sq. ft. each. He reviewed the size and layout of the 86.6-acre parcel and explained the area for the site was chosen because it has better soils to support the septic system's disposal fields.

He explained the existing conditions of the disposal areas and the location of the uplands. There is a 50-ft. easement for the water district. He explained how he came up with the calculation of 19.72 acres for the net residential density[acreage] yielding 21 lots. Mr. Clifford also explained there is a permit from the prior and current Public Works Commissioner to trim the trees along the property line at the site area.

The applicant is no longer requesting a waiver of the 60-ft right of way, because the project is now designed with a 60-ft right of way. The applicant is now requesting it be a public road. He described the paths to the disposal fields, the culvert and crossing designs. There are four disposal fields proposed. Vernal pools will be treated as a normal wetland because the state says none are significant. Some are the result of wheel ruts from logging trucks. The applicant has honored the 100-ft. setback of the road to the wetland.

Mr. Clifford explained the disadvantages of pushing the wastewater away and the benefits of the OxyPro System, which will provide for very clean water going to the disposal fields. There are 450 OxyPro Systems installed in the State of Maine of which 10% are in the Kittery area, including 33 Lewis Farm, but they do not have a common field.

He added a habitat study for existence of the cotton-tail rabbits and long-eared bats was done by the State with the result being none. As part of a cluster subdivision, the requirement is to have 50% open space and they will have 88% which he recognizes includes leach fields.

For stormwater management, the applicant would like to use wooded buffers as much as possible. He added the wet pond will have a detention basin. York River Association's map was reviewed and Mr. Clifford explained the water direction and how water moves to Libby Brook. The disposal area is over 2,000 feet away from areas that the Association wants to protect. He added a peer review from CMA's consultant for wastewater was performed. The nitrate standards for the project are the 10 milligrams per liter at the property line. The septic design will be reviewed by the Maine Department of Health and the MDEP.

Jim Gove, Gove Environmental Services, explained his previous findings from the Fall of 2013 and explained the delineated criteria approach he used for the areas of the property. In 2015, a vernal pool study was conducted and he found most of the pools were created by rutting from the logging trucks except for vernal pool #3 which is located on the edge of the property. Maine Department of Inland Fisheries and Wildlife sent a letter dated December 2, 2016 that had determined there were no significant areas. In 2016, he performed a habitat study for the cotton tails and only found snow-shoe rabbit and no long-eared bat habitats either. There are no known significant habitats of rare or threatened wildlife.

Jim Logan, Long View Partners, LLC, explained he was retained to check the high-density soil survey for the project and to provide soil information for the wastewater system. He explained there are limiting factors around the home lots, which would require mounded systems. After flowing through its own advanced treatment unit, each home will have their own pump stations that conveys the wastewater to the four disposal fields consist of 66 concrete chambers each. The use of this system allows a reduction of square footage of the disposal fields. The reduction as designed is 24%, which is well below the 50% allowed. OxyPro has been in use for many years and well documented of meeting the standard in the Maine Plumbing Code.

Mr. Logan explained there is two feet of distance from the ground system and the proposed bottom of the system. Wastewater will not mound to an extent where it will be a concern. In addition, there will be a cross section of the chamber system which will be approximately 27 inches from under the bottom the rock under the concrete. Septic tanks have outlet filters. Back up pumps have not yet been discussed and backup generators may be provided. Vice Chair Kalmar asked to address the backup systems by the final plan.

The applicant agreed to address questions 2 through 6 on Page 4 of CMA's questions by the final plan.

Vice Chair Kalmar expressed her concern of the impact of the plumes if they encompass reserve fields, especially those closest to the property line. Mr. Logan replied the standards of the Code requires them to show the areas and the Maine Plumbing Code for a conventional system requires a half of an acre of suitable soil area for a reserve. The applicant has about 5 acres of suitable land and Mr. Logan stated they can meet every standard of the DEP.

Dave Chapman, Sweet Associates hydrologist, explained he was retained to help with nitrate and mounding concerns. He explained the standards for nitrates are 10 milligrams per liter at the property line. This is a drinking water standard they have used even though this will not impact any drinking water. Mr. Chapman explained how he came up with his results and the plume ends before the property line. He also explained how he calculated the extent of mounding and Mr. Logan figured that into his design.

Mark Cowperthwaite, Aeration Systems, explained they are using 1,000-gallon machines that will process 500 gallons per day, essentially turning black water in to dirty river water or river water. The OxyPro process: home to septic tank to OxyPro aerator (which runs trouble free for 5-7 years and can be rebuilt in 15 minutes), then to a pump station which sends the wastewater to leachfield. The lifespan of the pumps station is five to seven years. He added an alarm will alert the homeowner when the air blower pump needs to be replaced. Homeowners should not use garbage disposals or too much bleach. Mr. Cowperthwaite suggested adding mandated inspections to the Home Owner Association's documents along with required maintenance. In response to the question of going out of business, he explained there are 450 machines in the state and will transfer to a maintenance company if this should occur. There are 3 or 4 such companies in Maine. There are 45 machines in Kittery and Kittery Point.

Mr. Clifford pointed out on the map the location of the wells in the area and explained the water is not flowing to them so they are not an issue.

Mr. Dunkelberger expressed his concerns of granting waivers waiver for flagged-shaped lots for cluster subdivisions but not for conventional subdivisions because the code says flagged lots are prohibited. Vice Chair Kalmar explained the Code allows modifications of dimensions of lots to promote clusters. Mr. Di Matteo explained the Code allows the provision in clusters to reduce the development footprint. Mr. Dunkelberger wanted it noted that he is not in consensus with the flagged shaped lot.

The Chair opened the public hearing.

Steve Brake, 45 Cutts Road, asked when the Town allowed the cluster developments for this area. He owns property west of 95, in a rural residential area and was told by code enforcement that a cluster development is not allowed. Ms. Driscoll-Davis replied the ordinance was changed in 2012. Mr. Di Matteo will speak to the code enforcement officer. Mr. Brake expressed concern about the recreational area being so small.

Mr. Brake expressed his concern of the proposed location of the road. He described water is present to that area and always has been. Mr. Clifford responded they will have a wetland mitigation off Betty Welch Road and into the project. He asked where rain water and run off will be going. Mr. Clifford stated there is a stormwater management plan and explained the stormwater mitigation techniques that will be used. Ms. Driscoll-Davis asked if homes will have drains in the basement or perimeter drains to go into the storm basins. Mr. Clifford stated the soil is tight because it is clay so the dynamic is different.

Howard Mathews 58 Betty Welch Road, explained he has lived in the area for 30 years and the original plan by the State was to use the property as a landfill. This failed because of the wetlands. He expressed his concern of the project failing and does not believe it is a complete and thorough plan. He also spoke of his concern of additional traffic on Betty Welch Road and the safety for the residents.

Dave Moulton, 54 Cutts Road, is against the subdivision. He explained a proposed project was brought to the Planning Board 25 years ago when he was on the Board. The plan was denied and he suggested Board members look at the Minutes from the meetings. The reports commented on the instability of the wetland area and poor soils. Mr. Moulton also spoke of his concern with needing to replace the pumps in each home and the skidder making a wetland. He added some of the vernal pools have been there for years. All delineation has change of the wetland from lumbering operations and asked the Board to please not do this.

Michael Young, 64 Cutts Road, is an abutter of the back of the property. He stated there is currently approximately 2 ½ inches of water on the area. He added he grew up there and the water has not flowed properly since the logging. His spoke of his concern of this size of this development damaging the water shed to York River.

Sean Harris, abutter, spoke of his concern of the road culvert. He explained the water line is built up and explained why it never drains. The swales around the property do not go all the way around and he recommends it do so. Another concern is the grass knoll for erosion control stops on both sides of the water line. The ford south of the boxed culvert should be a boxed culvert as well. He pointed out on the map an area by the property line that has no vegetation. For wet pond #3 he recommended would the water exit be changed and suggested where swales should be moved. He also recommended the deeds be reviewed along with the Home Owner's documents.

There being no further comment, the Chair closed the public hearing.

The applicant had the following responses to the comments:

- Mr. Clifford is willing to look at the skidder tracks that are going through the wall. If it can be restored, the developer will be willing to do that.
- There are undulations which were shown with topography and that makes it difficult for swales to go all the way around the property.
- Mr. Clifford believes when the property was being considered for as a landfill, it wasn't selected because of reasons other than the wetlands.
- The subdivision Mr. Moulton referred to had a proposal for over 200 lots and were to tie into the sewer system.
- Jim Gove addressed the vernal pool issue and described how he made his findings.

The applicant is willing to work with the Town regarding its standards for a public road. Public Works will need to send a letter regarding this issue for the Board to vote on the waiver.

Mr. Clifford would like to pursue the wetland boundary waiver. A class C soil survey has been done. Discussion of the Board previously requesting a delineation ensued. Vice Chair Kalmar explained the importance of having the information for the Home Owner's documents to protect against unauthorized activity. Mr. Logan explained passive recreation is allowed in wetlands including a 6- ft. wide pathway. After further discussion, the applicant will prepare a narrative to address the definition of passive recreation and include restrictions or limits for the Home Owner documents. Mr. Clifford will add signs indicating where people can walk.

The applicant requested a waiver to allow two lots to be flagged shaped. Mr. Di Matteo read the standard in Code 16.3.2.1. Chair Grinnell asked why not make lots 11 and 12 one lot. Mr. Clifford replied the developer wants 20 lots. After further discussion, the following motion was made:

Vice Chair Kalmar moved to approve the modification of the frontage to allow for irregularly shaped lots for lots 11 and 12.

Ms. Day seconded the motion.

The motion did not carry 2-4-0.

Ms. Driscoll-Davis requested wooden guardrails for the culvert. Mr. Clifford stated he does not like using wooden guardrails and would speak to the developer. Discussion of trimming the trees ensued.

Mr. Alesse moved to approve with conditions and preliminary subdivision plan dated June 22, 2017 from Owners Landmark Properties & Kingsbury and Veronica Bragdon, and applicant, Chinburg Builders, Inc., for a 20-lot cluster subdivision located on Betty Welch Road (Tax Map 66 Lots 2A, 8 & 8A in the Residential Rural and Shoreland Overlay Zones. Ms. Day seconded the motion.

Chair Grinnell commented she will vote in favor but has serious concerns about the home owner's association documents.

The motion moved 6-0-0.

OLD BUSINESS

ITEM 2 – Town Code Amendment – 16.2.2 Definitions, 16.3.2.15 Mixed Use Kittery Foreside Zone, 16.3.2.17 Shoreland Overlay Zone

Action: Review Amendment, Schedule a public hearing. Applicant, Wallingford Square, LLC, requests consideration of an amendment to Title 16, Land Use and Development Code, to allow Hotels in the Mixed-Use Kittery Foreside (MU-KF) Zone.

Leah Rachin, Bergen & Parkinson, LLC, representing the applicant, gave an overview of the of the proposal of applicant Barrett Bilotta to allow a boutique hotel to be developed in the Foreside. She added the application was submitted in May and this is the fourth time they have been before the Board. The applicant has responded to questions from the Board which are included in the Board packet. The following is a summary:

- *How would hotels not impact the character, scale and residential community in the Foreside?*
 - The Foreside already has performance standards in place to address the scale and fitting in with the neighborhood. It is a mixed-use zone – not residential only. The past and current Comprehensive Plans spoke of Kittery Foreside being a lively, visitor-friendly zone.
- *How hotels would benefit the character of the Foreside?*
 - The Foreside is becoming increasingly vital and the applicant believes a small hotel would enhance the area. Data shows the shipyard employs 4,000 to 4,500 people and a hotel can serve as a destination for business trips for the shipyard along with serving tourists.
- *How is 35-room hotel sustained?*
 - The applicant calculated what would make the hotel successful and consideration of demand. They have had conversations from surrounding business owners and took

into consideration the number of employees at the shipyard. Residents could use the hotel as well for guests.

- *How does current traffic conditions support the hotel?*
 - Impact of traffic for a small hotel will be small compared to the shipyard, which a current study calculated to be 2,000 trips per day.
- *How many other land parcels within the Foreside could be utilized to construct a similar scale hotel?*
 - After looking at overlay design standards and other factors, the applicant found three parcels. One is owned by the State and two are wetlands.
- *How many rooms are being leased in the method of air B&B and accessory dwellings?*
 - The applicant stated there are 20- 25 units of which 85% are in dwelling units.
- *How does the addition of a hotel use relate to purpose of the zone as it is described in the Code?*
 - Ms. Rachin explained why the definition of the Kittery Zone Ordinance for the Foreside zone fits the purpose and is consistent with the historical use of the building. In the past, the building was used as a hotel and is consistent because there is an inn located in the area.
- *Are there ordinance-related strategies to mitigate impact of hotels?*
 - The hotel can be a special exception which would add more limitations and regulations. The Applicant is open to this idea and understand the concern for parking. It is an issue that all permitted use businesses have a problem meeting the criterial.

Ms. Rachin went over Mr. Di Matteo's suggestions. The applicant would like to hear from Board of what is a reasonable number for rooms would be. The applicant also expressed they are willing to work with the Board and would very much like the opportunity for a public hearing.

Mr. Dunkelberger moved to schedule a public hearing for Town Code Amendment 16.2.2 Definitions 16.3.2.15 Mixed Use Kittery Foreside Zone, 16.3.2.17 Shoreland Overlay Zone for September 28, 2017.

Ms. Day seconded the motion.

Board members comments:

- Vice Chair Kalmar – supports an inn with a range of 15 to 20 rooms. She would like to honor the need for rooms and not encourage people to obtain many lots. She also requested omitting the residential manager, making it a special use exception, and have a parking plan.
- Mr. Dunkelberger - would add to special exception use parking requirements, height limitations and available land.

- Ms. Driscoll-Davis -likes what Vice Chair Kalmar said concerning displacing workforce housing. She is concerned with parking and does not like valet parking for this because people may not opt to have their car parked by the valet leaving them to find parking locations on the street. She would like limitations added as to how far apart another inn would be.
- Mr. Harris - still thinking about it.
- Mr. Alesse – likes having a limitation on the number of inns and questioned the concern for the number of rooms. He prefers to wait until the public hearing to hear what their concerns about parking are.
- Ms. Day – is more concerned with the standards of what will look like. Should look like it fits into the Foreside. She is also concerned with the impact to traffic and would like to know who will be using the hotel.
- Chair Grinnell – stated she appreciates what the applicant has said regarding wanting to work with the Town. She doesn't like the word hotel and has never heard the word mentioned during comprehension plan meetings. She believes an *inn* would fit better in the foreside than a *hotel* and explained why she couldn't support a hotel. She is also concerned for the parking.

Discussion ensued of the best way to bring the new concept forward to a public hearing. Mr. Di Matteo explained he needs time to post a public hearing notice of the amended application.

Ms. Rachin offered to prepare an amended application. Ms. Driscoll-Davis reminded the applicant of the Code's definition of a hotel is 20 or more rooms.

Mr. Dunkelberger moved to remove his motion to schedule a public hearing for Town Code Amendment 16.2.2 Definitions 16.3.2.15 Mixed Use Kittery Foreside Zone, 16.3.2.17 Shoreland Overlay Zone for September 28, 2017.

Ms. Day seconded the motion

Mr. Harris added to consider the proximity to the shipyard.

Discussion of the possibility of combining apartment units and inn rooms and the benefits for the businesses ensued.

After further discussion, it was decided the applicant will amend their application for the September 28, 2017 meeting.

Mr. Dunkelberger moved to schedule a public hearing for Town Code Amendment 16.2.2 Definitions 16.3.2.15 Mixed Use Kittery Foreside Zone, 16.3.2.17 Shoreland Overlay Zone for September 28, 2017.

Ms. Day seconded the motion

The motion carried 7-0-0.

BOARD MEMBER DISCUSSION

Extension to Quiet Pines Subdivision

**Vice Chair Kalmar moved to extend the Quiet Pines subdivision approval date for one year
Ms. Driscoll-Davis seconded the motion.**

The motion carried 7-0-0.

Kittery Port Authority Conversion to Municipal Management

Town Manager Kendra Amaral was present to answer questions from the Board regarding the conversion of the KPA to the Town. She explained one of her goals from Council is to address Port Authority issues. She listed the issues such as the harbormaster's position and insurance. She added the Town is limited to what they can do to support the KPA. If the Town Council adopts the KPA as a board under the Town Charter, the KPA will retain its authority to set fees, enforce rules and regulations. They will keep their five-year terms and the Harbormaster will continue taking direction from them. Maine Municipal Association will cover everything under insurance at a lower cost to them. She added no council member will be on the KPA.

Discussion of removing the Planning Board member from the KPA ensued. Town Manager Amaral explained they now have administrative support, unlike in the past. She added KPA members serve for five years and Planning Board member is three. Having someone serve on two jurisdictional bodies could cause some issues. The Town Manager will ask the Maine Municipal Association for their opinion on someone serving on two boards. Mr. Alesse explained why he disagrees with removing the Planning Board member and placing the KPA under the Town. Town Manager Amaral explained once the KPA is under the Charter, changes could only be made by amending the charter, which protects the Board more than a intermunicipal agreement.

Mr. Alesse will draft a letter to Town Council of support of a Planning Board member remaining and will attend the Town Council meeting.

The Board suggested having a nonvoting member on the KPA

**Ms. Driscoll-Davis moved to extend the meeting to 10:15 p.m.
Vice Chair Kalmar seconded the motion.**

The motion carried 7-0-0.

Parking and Traffic in Foreside - Working Group Meeting Update

Ms. Day gave a summary of the recent working group meeting. She would like Planning Board review before this goes to Council. Mr. Di Matteo will send Board members links to the video of the meetings and will tentatively place this on the September 14th agenda.

ADJOURNMENT

**Ms. Driscoll-Davis moved to adjourn the meeting.
Mr. Dunkelberger seconded the motion.**

The motion carried 7-0-0.

The Kittery Planning Board meeting of August 24, 2017 adjourned at 10:10 p.m.

Submitted by Mary Mancini, Minute Recorder, on August 30, 2017.

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>