

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, Robert Harris

Member Absent: Marissa Day

Staff Present: Chris Di Matteo

PLEDGE OF ALLEGIANCE

REVIEW OF MINUTES – August 24, 2017 and September 14, 2017

August 24, 2017 Minutes

Included is a corrected review from Jeff Clifford for Huntington Run, which the Board accepted.

Line 132 - take out “inconsistency for”

Line 136 - add “with the flagged-shaped lot”

Line 185 - change to “skidder tracks going through the wall”

Line 189 - change to “as a landfill”

Line 362 - change to “municipal management”

Line 383 - add the word “of”

Line 206 - strike the sentence

Line 230 - add “association” before documents

Lines 122 - 127 and Line 85 - Ms. Driscoll-Davis will review the tape

The August 24, 2017 Minutes will be reviewed at the October 12, 2017 meeting.

September 14, 2017 Minutes

Line 173 - change to “nonfunctional”

Line 179 - change to “aerial”

Line 293 - change to “Mr. Dunkelberger argues there is no definition for workforce housing in town ordinance for the board to review:

Line 13 - change to “Huntington Run”

Line 335 - mixed-use zone should be” has been removed”

Line 316 - “Ms.” not “Mr.” ahead of Driscoll-Davis

**Vice Chair Kalmar moved to approve the Minutes of September 14, 2017 as amended.
Mr. Dunkelberger seconded the motion.**

The motion carried 5-0-1.

PUBLIC COMMENT

The Chair opened the public comment.

Earl Dean Wells, Conservation Commission, handed out a memorandum from the Commission regarding Huntington Run which is attached to these Minutes.

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

OLD BUSINESS/PUBLIC HEARING

ITEM 1 - Town Code Amendment - 16.2.2 Definitions, 16.3.2.15 Mixed Use Kittery Foreside Zone

Applicant, Wallingford Square, LLC, requests consideration of an amendment to Title 16, Land Use and Development Code to allow as a special exception Inns with greater than 12 and no more than 30 rooms in the Mixed-Use Kittery Foreside (MU-KF) Zone. Agent is Leah Rachin, Bergen & Parkinson, LLC.

Ms. Rachin gave a summary of their initial application and of their proposed amendment to expand the definition of an inn to the Land Use and Development Code. She added tonight's meeting is the fifth time they have been in front of the Board regarding this item.

Ms. Rachin explained the proposal will allow inns that are between 12 and 30 rooms be a special exception within the mixed-use Foreside Zone. The proposed amendment adds additional criteria and stringent rules for inns of this kind. They have listened to the Board's concerns. A requirement of a parking management plan, which is required to be approved prior to any inn of this kind, was added to the proposal. Ms. Rachin added there are permitted uses currently in the zone that would need more parking than their plan and they have included a 1,000-foot buffer to address the concern of too many of this kind of inn being allowed in the foreside. Ms. Rachin read from the current and proposed Comprehensive Plan and believes their plan will enhance the area and is compatible of the area.

The Chair opened the public hearing.

Deane Rykerson, resident of Kittery Point and State Representative of District 1, commented he has not have a problem with economic revitalization or hotels but they need to look at the effect for parking and affordable housing program. He recommended placing conditions and require this developer to initiate a shuttle for all people in the foreside for parking. Mr. Rykerson recommended adding affordable housing as a condition of the application.

Resident Roger Cole commented of a work group that Town is spending money and requested the Board to wait until the recommendations come from the group. He added there is nothing in the pending Comprehensive Plan that the Town should change the town use code to serve applicants. He stated the foreside has a very healthy economic growth. There are current short-term accommodations available in many in-home units. He believes the applicant bought the property knowing of the code and now wants to change it. There are forums stating to keep

mixed-use housing and work force housing integrated into the district. He requested the Board asked the applicant to withdraw and look at workforce housing.

Shannon Hill, former business owner in the foreside, mentioned the Comprehensive and the Foreside Study are going and she agrees to ask the Board to wait. She added Kittery does not owe these people only come into the town and done research and require them to change their zoning laws.

Susan Tavelon, 64 Government Street, only someone who is not for the foreside says hotel will revitalize the foreside. She referred to the Comprehensive Plan and the Kittery Foreside Committee along with the Rice Library referendum and requested to allow these projects to end before a decision is made regarding this item. She also stated her concerns with parking and the congestion of the delivery trucks.

Duncan McCallum, standing in for his wife who owns property on Stimson Street, stated he fought against the overgrowth in Portsmouth. Wife is renting the house now. Fought runaway projects in Portsmouth. They have run out of land in Portsmouth and are turning their attention to Kittery. He stated a large in does not belong here and will serve as a precedence for the future. He said it will destroy the character of Kittery.

Aaron Trainor, Government Street, asked if preserving the character of the Foreside includes a commitment to renovate instead of replacing the existing building. Chair Grinnell responded the code would not prevent developers from replacing a building.

Matt Brock Kittery Point, spoke of the lack of a plan in Kittery for affordable housing or workforce housing. He added people have lost their homes from the property being purchased and the applicant wants something, the Town should get something back. He doesn't believe the time is now for a decision and questioned why the proposal to change the ordinance came after the purchase. He asked the Board to consider more detail on project before going forward.

Lucinda Schlaffer, Kittery Point, spoke of her participation in the Foreside Group Study and listed other planning studies she has taken part in, which had a good number of citizens come out and express ideas. She is an architect and explained the first thing to look at is what is allowable in the zone before you purchase properties. The applicant is out of sequence. Workforce housing has been the number one issue that has come out of the studies and there was no mention of a larger inn in her recollection. She recommends allowing the current projects completed before deciding on the ordinance.

Kathy Wolfe, foreside resident, asked why an amendment instead of a request of a variance and if the Planning Board denies this, will it still go before Town Council. She also questioned if the owner will live at the inn as and owner lives at inn. She stated her concern of seeing Kittery changing as Portsmouth has and would prefer this be put on hold, have less rooms and add some workforce housing.

Chair Grinnell stated the application statute for variances cannot be changed so the plan if board denies plan because it is a recommendation it will go to the Town Council.

Terry Lochhead, 16 Old Armory Way, endorsed the previous comments from residents and this item be held off. She also endorses affordable housing.

Laney McCartney questioned why the applicant needs more than 12 rooms and following the code. She is not in support of this code amendment and is concerned with the scale. She added losing the demographic will price people out of the town.

Holly Zurr reminded the Board the Town is in the middle of a traffic study for the foreshore.

Lynn Rosoff, 61 Tilton Street, agrees with the idea about scale and she feels it is too big and the area will be more congested with traffic. She likes the idea of 12 rooms.

Ms. Richey responded to the comments:

- The applicant stated the project would “enhance” the vitality of the area.
- The proposed changes to the amendment include a reduction of the number of rooms, a limitation on the number of inns like this within a 1,000-foot buffer. Ms. Richey added the buffer was at the suggestion of the Planning Board and they will strike this out if needed.
- Workforce housing - there is no requirement for workforce housing due to owner purchasing the property.
- The studies have been going on for a long time and there is a process the Town has established. They have gone through the process and request the process for amendments be followed.
- Parking - the ordinance requires a permitted use before applying. The parking plan is not developed now because it is not a permitted use. Current parking standards and those being suggested would need to be met. She listed the permitted uses in the zone including a grocery store, theaters and restaurants. Ms. Richey added just because these are listed, does not mean it will be allowed because of regulations.
- Opening the flood gates - larger scale would not be consistent with the stated goals of the foreshore and permitted uses.

Comments sent via email are attached to these Minutes.

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

Board Discussion

Chair Grinnell explained the 1,000-foot buffer was brought up at the last meeting with the applicant. Also, the applicant agreed to change the word “hotel” to “inn” with 12 to 20 rooms. Ms. Driscoll-Davis explained she suggested a 500-foot buffer to avoid having more of this kind of inn added in the Wallingford Square area. She now feels the statement would not be fair to the abutters. Mr. Alessi added changes were not to be anti-competitive it was for the town’s benefit not the applicants.

Mr. Dunkelberger stated there are current parking restrictions that limit growth and he would like the last paragraph of the proposed amendment be struck. Mr. Di Matteo explained a meeting has been scheduled to present to the public recommendations of the Foreside Study on October 25th.

Chair Grinnell realizes they have met with the applicant five times and explained government moves slowly.

Vice Chair Kalmar commented of her concern that the applicant is proposing over 20 rooms now and she would like to see fewer than 20. Another concern is the impact to parking and she proposed the following addition from 13.3.2.15(e) be the new number 5: Commercial and Private Parking Lots - *“The creation of a surface parking lot as a principal use is prohibited where an existing building is displaced on a property that fronts along the following streets: Walker, Government, Wallingford Square and Wentworth. The prohibition includes accessory parking for use on another lot.* Vice Chair Kalmar explained this will ensure buildings aren’t destroyed to increase surface parking. The applicant agreed to add her proposal as part of their amendment. Mr. Dunkelberger expressed he would like to have stronger language for the parking management plan. Vice Chair Kalmar requested to see commercial added to the list of private lots if a lot was to be used as a parking outside of the area. The applicant agreed.

Chair Grinnell stated she does not have all the information to decide tonight because the studies for foreside have not been completed and she does not want to shortcut resident initiatives. Ms. Rachin stated they are asking for due process and a recommendation be made this evening. Discussion of the timeframe and the importance of being consistent ensued. Mr. Di Matteo explained the Board should use the same procedure as plan applications and a continuance of the plan is allowed for 90 days, if needed and a mutual agreement exists. Ms. Rachin stated the applicant is requesting a decision tonight.

The Board asked if it is possible to have an inn manager be within a reasonable driving distance instead of requiring an owner live at the inn. Ms. Rachin stated there would always be a manager available. The applicant stated less than 20 rooms is not feasible. The applicant agreed to remove the word “reasonably” on Line 125. Discussion of keeping the 1,000 feet buffer ensued.

Mr. Harris commented housing and parking is a problem in the foreside and the Comprehensive Plan hasn’t been approved. He believes there is not enough room in the area for what they want. He hasn’t heard any one tonight saying this is a good idea.

Mr. Dunkelberger commented he appreciates the work done between the Board and applicant but believes a 1,000-foot buffer is too much. He would like to see the Foreside Study before he can decide. Mr. Alessi agreed about seeing the Foreside Study first as well. Mr. Di Matteo stated the Board can itemize if they vote against this so Town Council has clarity. After further discussion, the applicant agreed to wait until after the Foreside Study meeting on October 25th with the condition that the Board gives their decision at the November 9th Board meeting. Mr. Di Matteo added he would like to have a workshop before the November 9th meeting to go over the recommendations from the Foreside Study meeting.

The following changes to the proposed document were agreed upon:

- Lines 147 - 151 will be taken out;
- Keep the number of guest rooms to 12 with no more than 30;
- Line 125 - take out “reasonably”;
- Addition under number 5 prohibiting destroying a structure for parking lots in certain areas. agreement that the addition to a new number 5
- Line 129 - use and/or in place of “or”.
- Line 678 - add would have a manager available 24/7.

**Mr. Dunkelberger moved to continue the adoption of the proposed amendments to Title 16 regarding Inns within sections: 16.2.2 Definitions and 16.3.215 Mixed Use Kittery Foreside Zone, to November 9, 2017 and make a final decision at that meeting.
Mr. Alessi seconded the motion.**

The motion carried 5-1-0.

Item 2- Wood Island Life Savings Station - Shoreland Development Plan - Sketch Plan Review

Action: Accept or deny application: approve or deny concept plan. Owner, Town of Kittery, and Applicant, Wood Island Life Saving Station Association (WILSA), requests consideration of the reconstruction of the existing Historic building marine seawalls and railway to be used as a museum located on Wood Island, Tax Map 51, Lot 14, in the Residential - Rural Conservation (R-RC) and the Shoreland and Resource Protection Overlay (OZ-SL-250'/OZ-RP) zones. Agent is Sam Reid, WILSA and Tristan Donovan, Tighe & Bond.

Chair Grinnell explained in 2009 she worked to negotiate the agreement with WILSA and was on the Wood Island Advisory Committee. The group was disbanded and she feels she can review this item objectively. The Board agreed.

Sam Reid thanked the Town for helping with their application. He reported the Maine National Guard is planning to come this spring with 50 men and women to help with the project for 30 days. Mr. Reid introduced the team who included members of their Board of Directors, Butch Rickey, project manager, Jim White, videographer, Duncan Malore and Tristen Donovan from Tighe & Bond, Attorney Alan Shepherd and Captain Doan and Captain Howard of the National Guard.

Mr. Reid gave a history of the island and the creation of WILSA. He pointed out the concession agreements that are included in the board packet and gave an update on the project.

A waiver for the high intensity class A soil survey will be submitted because there is adequate information about the soil for the septic system. The subservice wastewater system will be explained in future documents.

The following staff comments were addressed:

- The Board decided the museum be designated as public recreation.

- Comment 3 - Contract specifies a docent program be created which would allow for volunteers and visitors to spend the night and only occur during the summer season. The purpose is to help and is free labor. There is no dwelling only an accommodation for the docent program. This will be further looked at.
- Comment 7 - The applicant will go to the Board of Appeals for a variance for the pedestrian walk and drill pole. Mr. Reid explained the drill pole is a tradition of the U. S. Lifesaving Service.
- Comment 8 - The applicant will go to the Board of Appeals for a variance for the shed, which the applicant pointed out, is part of the historic designation of the whole site.
- Comment 10 - The upland edge of the proposed rockfill will be marked for the site walk.
- Comment 11 - the applicant is working with the charter boat companies from Portsmouth to cut down on parking.

Mr. Dunkelberger asked the National Guard present if the volunteering comes out of their training budget. Capt. Doan and Capt. Howard replied it will come out from their state AT funds. Mr. Dunkelberger asked because funds are stretched due to disasters. He urged Mr. Reid to have a plan B.

Earldean Wells asked if there is a mitigation plan for wetland impacts and do they require a stormwater plan. Mr. Reid responded they have the Maine DEP permit for a mitigation plan and there is no requirement for a stormwater plan.

**Mr. Dunkelberger moved to accept the sketch plan application dated September 7, 2017 from owner, Town of Kittery, and Applicant, Wood Island Life Saving Station Association for the reconstruction of the existing building as a museum located on Wood Island, Tax Map 51, Lot 14, in the Residential - Rural Conservation (R-RC) and the Shoreland and Resource Protection Overlay (OZ-SL-250'/OZ-RP) zones.
Mr. Alessi seconded the motion.**

The motion carried 6-0-0.

**Vice Chair Kalmar move to continue the sketch plan presented by applicant, Wood island Life Savings Station Association, Wood Island, Tax Map 51, Lot 14, in the Residential - Rural Conservation (R-RC) and the Shoreland and Resource Protection Overlay (OZ-SL-250'/OZ-RP) zones, not to exceed 90 days and schedule a site walk for October 18th at 4:30 p.m.
Mr. Dunkelberger seconded the motion.**

The motion carried 6-0-0.

ITEM 3 - Board Member Updates

Vice Chair Kalmar reported the KOSAC (Kittery Open Space Advisory Committee) will have the product of the business park discussion soon.

ITEM 4 - Town Planner Items

Mr. Di Matteo requested a workshop before the November 9th meeting to discuss the information from the Foreside Study along with the working group members. The Board agreed to have the workshop at 5:00 p.m.

The public meeting of the Foreside Study recommendations is October 25th at 6:00. Mr. Di Matteo will send the links to the board members.

**Mr. Alesse moved to adjourn the meeting.
Vice Chair Kalmar seconded the motion.**

The motion carried 6 -0-0.

The Kittery Planning Board meeting of September 28, 2017 adjourned at 9:13 p.m.

Submitted by Mary Mancini, Minute Recorder, on October 3, 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>