CALL TO ORDER

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

ROLL CALL

Members Present: Robert Harris, Dutch Dunkelberger, Karen Kalmar, Ann Grinnell, Mark Alesse, Marissa Day

Members Absent: Debbie Driscoll-Davis

Staff Present: Chris Di Matteo

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – October 12, 2017

The Board tabled the approval of the Minutes for October 12th until the next meeting.

August 24, 2017

Vice Chair Kalmar moved to accept the August 24, 2017 Minutes as revised. Mr. Dunkelberger seconded the motion

There were no questions or comments.

The motion carried 6-0-0.

OLD BUSINESS

ITEM 1-117 Haley Road – Right of Way Plan Review.

Action: Approve or deny plan. Owner and applicant, Pauline Grover request consideration of a new right-of-way of a 3.92 +/- acre parcel located off Haley Road (Tax Map 48 Lot 8B) in the Residential Rural (R-RL) zone. Agent is Chris Mende, PLS., Civil Consultants.

Tom Harmon, Civil Consultants, was present and representing the applicant. He stated he does not believe a presentation is necessary tonight for the Findings of Fact. Mr. Di Matteo reported a condition was added to the Findings of Fact on the last page of the requirement of a maintenance agreement and identifies the reasons which include snow removal and clearing the vegetation.

Mr. Dunkelberger moved to approve with conditions for the right-of-way plan application dated August 15, 2017 from owner/applicant Pauline Grover, for a right-of-way on Haley

Approved

Road (Tax Map 48 Lot 8B) in the Residential Rural Zone upon the review and voting, in the affirmative on the Findings of Fact. Mr. Alesse seconded the motion.

The motion carried 6-0-0.

FINDINGS OF FACT	
for	
117 Haley Road	
Private Right-of-Way Plan	

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: Owner and applicant, Pauline Grover request consideration of a private right-ofway plan of a 3.92 +/- acre parcel located on Haley Road (Tax Map 48 Lot 8B) in the Residential Rural (R-RL) zone. Agent is Chris Mende, PLS., Civil Consultants.

Hereinafter the "Development".

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 10/26/2017;

Sketch Plan Review	Held	3/23/2017
Site Visit	Held	6/5/2017
Preliminary Plan Completeness Review	Held, accepted	5/11/2017
Public Hearing	Held	6/8/2017
Preliminary Plan Approval	Granted	6/11/2017
Final Plan Approval	Granted (conditional)	10/12/2017

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 and as noted in the Plan Review Notes dated 10/26/2017 (Hereinafter the "Plan").

- 1. Existing Conditions Plan, Sheet ROW, by Civil Consultants, dated September 18, 2017.
- 2. Site Plan, Sheet C1, by Civil Consultants, dated September 21, 2017.
- 3. Erosion Control Notes and Details, Sheet C2, by Civil Consultants, dated September 21, 2017.
- 4. Roadway Plan and Profile, Sheet R1, by Civil Consultants, dated September 21, 2017.

5. Existing Conditions and Lot Plan, Sheet LOT-PLAN, by Civil Consultants, dated September 18, 2017.

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.

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.

Finding: The proposed right-of-way appears to conform to applicable Title 16 standards with the conditions of approval included herein.

Conclusion: This standard appears to be met.

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

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.

Finding: All wetlands have been identified and no impacts are proposed.

Conclusion: This standard appears to be met.

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

C. River, Stream or Brook Identified.

Any river, stream or brook within or abutting the proposed project area has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. §480-B, Subsection 9.

Finding: No rivers, streams, or brooks have been identified on site.

Conclusion: This standard is not applicable.

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

D. Water Supply Sufficient. *{and}*

The proposed development has sufficient water available for the reasonably foreseeable needs of the development.

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.

Finding: There is no proposed water use at this time. Presumably KWD service will be used in the future. These residential lots pose no significant water use. The applicant has stated that wells can be considered if connection to public water cannot happen.

Conclusion: This standard appears to be met.

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

F. Sewage Disposal Adequate.

The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

Finding: There is no proposed sewer treatment at this time. Municipal services will not be used.

Conclusion: This standard appears to be met.

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

G. Municipal Solid Waste Disposal Available.

The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.

Finding: The proposed Street ROW and future residential lots pose no significant burden om solid waste use.

Conclusion: This standard appears to be met.

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

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.

Finding: There is no development proposed within a setback of the wetland. The right-of-way is not located in the shoreland overlay zone.

Conclusion: This standard is not applicable.

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

I. Groundwater Protected.

The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

Finding: There is no proposed sewer treatment at this time. In the future, the proposed residential lots will use individual septic systems designed by a Licensed Professional as required by state and local regulations and the proposed street is not detrimental to the groundwater.

Conclusion: This standard appears to be met.

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

J. Flood Areas Identified and Development Conditioned.

All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.

Finding: There is no proposed construction located within a flood prone area.

Conclusion: This standard is not applicable.

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

K. Stormwater Managed.

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

Finding: The proposed right-of-way construction is simple with marginal stormwater produced. The stormwater plan is simple and effective.

Conclusion: This standard appears to be met.

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

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.

Finding: The proposed right-of-way construction is simple with marginal stormwater produced. The erosion control plan is simple and effective.

Conclusion: This standard appears to be met.

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

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. Provide adequate traffic circulation, both on-site and off-site.

Finding: The proposed right-of-way does not meet the threshold for a full traffic study. The proposed development includes some regrading of the property on Haley Road to increase site distances.

Conclusion: This standard appears to be met.

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

N. Water and Air Pollution Minimized.

The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:

- 1. Elevation of the land above sea level and its relation to the floodplains;
- 2. Nature of soils and sub-soils and their ability to adequately support waste disposal;
- 3. Slope of the land and its effect on effluents;
- 4. Availability of streams for disposal of effluents;

5. Applicable state and local health and water resource rules and regulations; and

6. Safe transportation, disposal and storage of hazardous materials.

1. All proposed development is located outside of a Flood Hazard Area.

2. No sewage disposal is proposed at this time. Septic disposal in the future will require a licensed professional engineer.

3 thru 6. Not applicable to the proposed development.

Finding: It does not appear the proposed development will result in undue water or air pollution

Conclusion: This standard appears to be met.

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

O. Aesthetic, Cultural and Natural Values Protected.

The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

Finding: The proposed development does not impact any significant aesthetic, cultural or natural values that require protection.

Conclusion: This standard appears to be met.

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

P. Developer Financially and Technically Capable.

Developer is financially and technically capable to meet the standards of this section.

Finding: The developer will provide a performance guarantee and an inspection escrow in an amount suitable to cover the costs of required infrastructure including on-site inspection by the Peer Review Engineer to ensure the proposed development is constructed according to the approved plan.

Conclusion: This standard appears to be met.

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

S. For a Right of Way.

The proposed ROW:

- 1. Does not create any nonconforming lots or buildings; and
- 2. Could reasonably permit the right of passage for an automobile.

Finding: The proposed development does not create any nonconforming lots or buildings and provides adequate of passage for an automobile.

Conclusion: This standard appears to be met.

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

Article III. Street Signage

16.8.3.1Names.

Streets which join or are in alignment with streets of abutting or neighboring properties must bear the same name. Names of new streets may not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and are subject to the approval of the Planning Board.

Finding: The applicant has completed a Street Naming Application that has been reviewed by appropriate town departments, including public safety and find the proposed street name, *Grover Lane* to conform to the ordinance.

Conclusion: This requirement appears to be met

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

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

Waivers:

Submittal requirement 16.10.5.2.B.2, plan scale

Sidewalk/Pedestrian Way 16.8.4, (c) on Table 1 street standards

<u>Conditions of Approval (to be included on the final plan):</u>

- 1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
- 2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with right-of-way construction to ensure adequate erosion control and slope stabilization.
- 3. Prior to the issuance of a building permit a road maintenance agreement, that also includes assurances to maintain clearing of vegetation for site distance within the easement depicted on the plan and snow removal to ensure public safety access, must be recorded at the York County Registry of Deeds.
- 4. All Notices to Applicant contained in the Findings of Fact (dated: 10/26/2017).

Conditions of Approval (Not to be included on the final plan):

- 5. A signed waiver request for the sidewalk requirement
- 6. Approved street name to be added to the final plan.
- 7. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for Staff review prior to presentation of final Mylar.

Notices to Applicant: (not to be included on the final plan)

- 1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with review, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
- 2. <u>State law requires all subdivision and shoreland development plans, and any plans receiving waivers or variances,</u> <u>be recorded at the York County Registry of Deeds within 90 days of the final approval.</u>
- 3. <u>One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all related</u> <u>state/federal permits or legal documents that may be required, must be submitted to the Town Planning</u> <u>Department</u>. Date of Planning Board approval shall be included on the final plan in the Signature Block.
- 4. The owner and/or developer, in an amount and form acceptable to the town manager, must file with the municipal treasurer an instrument to cover the cost of all infrastructure and right-of-way improvements and site erosion and stormwater stabilization, including fees for inspection by the Town Peer Review Engineer for same, per 16.10.8.2.2.
- 5. <u>This approval by the Town Planning Board constitutes an agreement between the Town and the Developer,</u> incorporating the Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

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

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

APPROVED BY THE KITTERY PLANNING BOARD ON OCTOBER 26, 2017

Ann Grinnell, Planning Board Chair

Per Title 16.6.2.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.

ITEM 2 – Wood Island Life Saving Station – Shoreland Development Plan - Sketch Plan Review

<u>Action: approve or deny concept plan</u>. 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. Agents is Sam Reid, WILSA and Tristan Donovan, Tighe & Bond.

Duncan Mellor, Tighe & Bond water front engineer and representing Wood Island Life Saving Station Association (WILSA) thanked the Board for attending the recent site visit. He added WILSA is looking forward to having the Maine National Guard working on rebuilding the seawalls and working on the dock this spring. They are planning to submit the Shoreland Development Plan application on November 2nd for the December 14th board meeting. Mr. Mellor commented he has had discussions with the town planner regarding the application and there are two issues. One is for a special exception for the dwelling to accommodate the docent use and the other is the reconstruction of the historic shed. They are planning to include more detail on this comment on the upcoming application.

Mr. Dunkelberger asked about the staff comment to receive a legal reading regarding the dwelling. Mr. Di Matteo reported WILSA's attorney has provided an opinion and he did not want to bring it to the Board at the sketch plan level. He added if the board and applicant agree that it must be demonstrated in the Shoreland Development Plan application, it will be saved for that submission. Mr. Dunkelberger commented on the site walk and the logistics involved and found it be a very interesting project. Mr. Di Matteo added when the next application is completed, the Board will get the opinion on the docent program and suggested approving with consideration.

Vice Chair Kalmar spoke of her concern of the variances going forward prolonging the project. Mr. Di Matteo replied it makes more sense to have the details discussed during the Shoreline Development Plan to clarify the reason for the variance and to determine if there will be a need to go to the Board of Appeals.

Mr. Dunkelberger moved to approve with consideration of staff plan review notes and board member comments, the concept plan presented by applicant, Wood Island Life Saving 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.

Mr. Alesse seconded the motion.

The applicant stated they would like to get on the December 14, 2017 meeting agenda. Mr. Di Matteo stated this would be within the 21-day requirement from applying.

The motion carried 5-0-1.

NEW BUSINESS

ITEM 3 – 88 Pepperrell Road – The Bistro - Business Use Change Review

<u>Action: Approve or deny plan</u>. Owner, Chatham Street, LLC, and applicant, Ann Kendall, are establishing a new business entity in an existing facility where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lot 49A) in the Business Local (B-L) and Shoreland Overlay (OZ-SL-250') Zones.

Carla Goodnight, CJ Architects and representing the applicants, explained the renovation began in May with the building permit application for the Wharf. She explained in order to open as soon as possible, the applicants do not want to pursue any changes to the property that would require extensions and are not requesting variances or relief. Ms. Goodnight described the current structures and their uses. She added no footprint or volume changes are being proposed. The uses will stay the same but in different locations on the property. They have met with the planning and code departments to determine allowable areas for those uses. She went over the assignment of parking for each business and added the parking calculations are in the board packets. The calculations were based on the parking plan approved by the Planning Board in 2010 for 108 spaces.

Mr. Di Matteo explained a plan from 2012 that is in the Board's packet is for reference use only. He added this plan was submitted by a prior owner.

Vice Chair Kalmar requested documentation demonstrating there are 108 spaces for parking. Ms. Goodnight replied they were given the last official finding from the Planning Board and no surveys had been done with other changes of use since then. Vice Chair Kalmar stated she is certain the applicant will succeed, however, she reiterated the need for the applicant to demonstrate there is sufficient parking for what they are proposing. Ms. Goodnight explained it would take time to commission a site plan survey and she would like to use the present standard for parking. Chair Grinnell agreed with the Vice Chair for the need to have documentation of parking. Donna Ryan, applicant, explained they did not submit a parking site plan because they were given a map from the September 9, 2010 Planning Board meeting when the prior owner requested to add 20 picnic tables. Ms. Ryan added they were led to believe there was no requirement for a parking plan because they are working with the existing plan. Their uses have been based on that 2010 document. Chair Grinnell stated the Board agrees but they need to have a site plan for parking.

Mr. Dunkelberger questioned why this issue of a large change is before them based on previous use. Vice Chair Kalmar pointed out the documents in their packets stated this will be a more intense business use. Ms. Ryan commented the Frisbee store had an intense use in the past and the parking was sufficient. Chair Grinnell commented she wants this project to succeed but is concerned with future parking issues since the location is in in the middle of a residential area.

Ms. Ryan added her goal is to bring the property back to what it was when it was a very joyful place to go. She added they have support of the community and submitted the support letters.

Extensive discussion of significant change of use ensued. Mr. Dunkelberger suggested the Board send this back to the town planner and code enforcement officer, with the knowledge of the Board's thoughts, in order to move the project forward. Mr. Di Matteo suggested the applicant seek approval for three of the four businesses now, since the Wharf cannot open until May of 2018. Parking would not be an issue for three businesses and this would give them more time to come back to the Board to present a parking site plan. Ms. Ryan added they have the opportunity to lease two properties for valet service to avoid parking issues.

Mr. Harris commented he does not see what the problem is and they should move ahead on this.

Ms. Ryan reported she and board member, Debbie Driscoll-Davis, walked the property and Ms. Driscoll-Davis' concerns were eased. Mr. Di Matteo confirmed that Ms. Driscoll-Davis did meet on the property and she was satisfied. Chair Grinnell would like to see the email from Ms. Driscoll-Davis regarding this.

Mr. Di Matteo reiterated his proposal of having the Board determine this is a business use change for the planner and code enforcement officer and send it to them with the provision that, prior to the occupancy of the Wharf, the applicant return and show sufficient parking. Ms. Goodnight and the applicant agreed.

Mr. Dunkelberger moved that the Board return this applicant to the Planner and Code Enforcement Officer as a business use change but not of such an intensity that requires Planning Board purview with the condition that applicant, prior to opening the final project the Wharf, come back with a detailed plan for parking for the entire project. Vice Chair Kalmar seconded the motion.

The motion carried 6-0-0.

Chair Grinnell stated the 2012 map will be officially taken out of the packet.

Earldean Wells, Conservation Committee, commented the two septic systems should be looked at to ensure they are adequate and in working order. Mr. Di Matteo replied that will be part of the building permit.

ITEM 4 - Board Member Items/ Discussion

a. Workforce Housing

Chair Grinnell requested to have this item on tonight's agenda because she has read workforce and affordable housing are important to communities and helps them to stay together. Mr. Di Matteo suggested holding a workshop in January with the Economic Development Committee for discussion. Mr. Dunkelberger believes having incentives created would encourage this to take place. Vice Chair Kalmar commented there are advantages but Kittery is small town and they need to be careful when deciding where to maximize density. Mr. Dunkelberger suggested locating in a mixed-use zone. Ms. Day reported the Seacoast Housing Coalition is interested in having a workforce housing Charette, potentially in the spring. If this were to happen, Chair Grinnell would like to include the business owners in the outlet area.

The Board agreed to hold a joint workshop for the first meeting in January at 5:00 p.m. The Chair commented she would like this keep topic at the top of their list. Mr. Dunkelberger added having the definitions of workforce and affordable housing is important.

b. Board Updates

Ms. Day informed the Board she is moving to Portsmouth and will not be able to remain a member. The Board wished her the best. Mr. Dunkelberger will take her spot on the Foreside Working Group.

ITEM 5 - Town Planner Items

Mr. Di Matteo reviewed an email he sent to the Board to grant a one-year extension for 24 Williams Avenue to applicant and owner Doug and Karen Beane.

Vice Chair Kalmar moved grant a one-year extension for the shoreland development plan located at 24 Williams Avenue, applicant and owner Doug and Karen Beane. approved on April 14, 2016, with a new expiration date of April 14, 2019 for completion. Mr. Alesse seconded the motion.

The motion carried 6-0-0.

Mr. Di Matteo reminded the Board of the 5:00 p.m. workshop on November 9th with the working group for the foreside study to discuss draft recommendations.

He also reminded the Board a site walk which will take place on November 2nd for 10 Spinney Cove Drive at 1:00 p.m.

ADJOURNMENT

Mr. Alesse moved to adjourn the meeting. Mr. Dunkelberger seconded the motion.

The motion carried 6-0-0.

The Kittery Planning Board meeting of October 26, 2017 adjourned at 7:30 p.m.

Submitted by Mary Mancini, Minute Recorder, on October 31, 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