

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

**APPROVED
APRIL 28, 2016**

Meeting called to order: 6:00 pm

Pledge of Allegiance

Roll Call:

Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Robert Harris, Debbie Driscoll-Davis, Mark Alesse, Dutch Dunkelberger
Staff present: Chris Di Matteo, Town Planner

Minutes: April 14, 2016

Line 7 – replace “Deborah Lynch” with “Debbie Driscoll-Davis”

Line 8 – replace “Debbie Driscoll-Davis” with “Deborah Lynch”

Line 14 – revise to read “replace 17 with 72”

Line 48 – replace “bits” with “pits”

Line 105-106 – revise to read “that the proposed conveyance associated with Map 49 Lot 39 should be executed prior to submitting the plan since it is essentially exempt from the subdivision.”

Mr. Dunkelberger moved to approve the April 14, 2016 minutes, as amended.

Ms. Driscoll-Davis seconded.

Motion passed 6-0-0.

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

Ms. Earledean Wells noted at the most recent Conservation Committee meeting, it was discussed to the Open Space Committee a matter at the condominium building in front of Badger’s Island Marina, East and West owned by Darren LaPierre. A sign in front of the building has been changed to allow no public access which is a violation of terms under the conditions for approval in that plan.

Jessa Kellogg, Shoreland Resource Officer, presented a short update to the Conservation Committee for the use of culvert grants received. She determined there are 34 culverts in desperate need of repair or replacement out of over 100 culverts assessed. Ms. Wells suggested to Ms. Kellogg to confer with the Planning Board to discuss further. Ms. Kellogg was not able to submit a grant application for 3-10 foot culverts because the comprehensive plan is not finished. Ms. Kellogg was not able to access the culverts on private roads for any assessment.

Ms. Wells raised the issue of filling manmade wetlands and vernal pools. There is an area in Town where a vernal pool was recently filled and as a result the runoff is seeping into adjacent properties.

Ms. Grinnell asked Mr. Di Matteo to speak with Code Enforcement regarding the sign at the condominium in front of Badger’s Island Marina, East and West signs and to ask Ms. Kellogg to present her research to the Planning Board.

Ms. Grinnell closed the floor for public comment.

PUBLIC HEARING

ITEM 1 – 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

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Action: Hold a public hearing; Recommend to Town Council. The proposed amendments provide clarity with regard to open space and other requirement standards in cluster residential and cluster mixed-use development.

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

Mr. Di Matteo cited a letter from Jeffrey Clifford dated April 28, 2016 which included proposed revisions. They are in the context for what CMA considers legislative authority. There are ordinances that make it unclear what the ordinance calls for. Mr. Di Matteo suggested that the Planning Board have the Town attorney review his proposals in regard to MMA. Ms. Grinnell agreed with that notion. Ms. Driscoll-Davis recommended that it be reviewed by the Board before sending to Town attorney. Ms. Kalmar agreed that legal advice would be helpful. Ms. Driscoll-Davis wondered if Mr. Clifford's revisions could potentially be incorporated into the Comprehensive Plan. Mr. Di Matteo noted that the proposed amendments have been discussed by Town Council. After more discussion, the Planning Board decided to have both the proposed ordinance document and Mr. Clifford's document forwarded to the Town attorney for review.

Ms. Kalmar requested to add at the end of Line 191 "not included within the proposed development" in the intent to mitigate confusion for developments on existing streets. Mr. Dunkelberger agreed with Ms. Kalmar's suggestion.

Ms. Kalmar made a motion to continue deliberations for 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.

Mr. Dunkelberger seconded.

Motion passed 5-1-0.

ITEM 2 – Town Code Amendment – 16.3.2.17.D – Shoreland Overlay Zone Standards; and 16.2.2 - Definitions

Action: Hold a public hearing; Recommend to Town Council. The proposed amendment removes redundancies and improves consistency with regard to language and intention throughout the code.

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

Ms. Kalmar requested to remove "that have been" on Line 160.

Mr. Alesse made a motion to recommend to Town Council the adoption of Town Code Amendment – 16.3.2.17.D – Shoreland Overlay Zone Standards; and 16.2.2 - Definitions.

Ms. Driscoll-Davis seconded.

Motion passed 5-1-0.

ITEM 3 – Town Code Amendments - Table 1- chapter 16.8, Article IV - Design and Construction Standards for Streets and Pedestrian Ways

Action: Hold a public hearing; Recommend to Town Council. The proposed amendment eliminates the requirement for secondary access for secondary collectors street to be for emergency use only.

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

Mr. Alesse made a motion to recommend to Town Council the adoption of amendments to 16.8.

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**Ms. Kalmar seconded.
Motion passed 6-0-0.**

NEW BUSINESS

ITEM 4 – Town Code Amendment - 16.3.2.15.A - Mixed Use - Kittery Foreside Purpose; 16.3.2.15.D - Standards; 16.3.2.15.F -Design Review

Action: Review Amendment, Schedule a Public Hearing. The proposed amendment removes Design Review regulations from the Mixed Use -Kittery Foreside zone.

Ms. Grinnell stated that the proposed amendment intends to remove any reference to Kittery Foreside Committee which the Planning Board voted on that intent on March 24, 2016.

Mr. Alesse made a motion to schedule a public hearing for proposed Town Code Amendment 16.3.2.15.A - Mixed Use - Kittery Foreside Purpose; 16.3.2.15.D -Standards; 16.3.2.15.F -Design Review to the May 26, 2016 Planning Board meeting.

Ms. Driscoll-Davis seconded.

Ms. Kalmar requested to keep strike Lines 8-10 and then replace “review is” with “standards are” because it is still valuable language for the purpose statement.

Ms. Kalmar requested to remove “, the maximum size of the footprint of the pre-existing building was larger than one thousand five hundred (1,500) square feet,” at Lines 68-69.

Ms. Kalmar and Ms. Grinnell requested to replace “must meet the maximums set forth above” with “must not exceed the maximums within this subsection” at Lines 100-101.

Mr. Alesse amended his motion to include the discussed revisions.

Ms. Driscoll-Davis seconded.

Motion passed 5-1-0.

ITEM 5 – Board Member Items / Discussion

A. Committee Updates

- a. Ms. Driscoll-Davis noted that the Comprehensive Plan 2015-2025 is progressing forward. The committee members have received copies of the inventory packages and all comments were due on April 27, 2016. The next meeting is Wednesday, May 18, 2016 at 6:00 PM. Mr. Di Matteo noted that the staff is leaning toward having a joint presentation to the Town Council after the June public forum.

B. Action List

- a. Ms. Kalmar asked if Items 6, 8, 10, 13, 14, 15, 20, and 26 could be removed now that they are completed. Mr. Di Matteo suggested to have the complete list provided quarterly.

C. Other – None.

ITEM 6– Town Planner Items:

- A. M66 L2A & 8 – Betty Welch Road; 90-day extension request

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Ms. Kalmar made a motion to grant a 90-day time extension of the Sketch Plan Review approval to allow for filing of a Preliminary Subdivision Application.

Mr. Dunkelberger seconded.

Motion passed 6-0-0.

B. Animal control measures in Title 16

Ms. Grinnell cited the background and current situation statements included in the attached draft report to Town Council.

Mr. Di Matteo suggested a few options for the Board to consider. One fundamental question is whether this type of ordinance would need to be in Land Use. To date, this issue is captured in stand alone ordinances for other Towns. If it is equivalent to domestic animals or canines then it would be captured outside the Land Use code.

Ms. Kalmar noted that commercial chickens are special exception uses in rural-residential zones of other Towns. She would prefer to see chickens listed under Title 6.

Mr. Dunkelberger suggested to consider how the Town of Eliot handled the issue since their results were simple and effective.

Ms. Driscoll-Davis hoped that chickens not be banned entirely. Mr. Dunkelberger noted that there are ways to guide specific setbacks for chicken enclosures. Ms. Grinnell supported how other ordinances limited the number of chickens and roosters allowed. Mr. Di Matteo confirmed that if written into Title 6, it is not in the Planning Board's purview. After further discussion, the Board agreed that the Town Council should help to develop this ordinance.

Ms. Wells suggested that horse waste be considered, specifically in Roger's Park. The elementary schools and Kittery Community Center conduct outdoor classrooms in the park and have observed some horse waste along the trails.

Mr. Alesse learned after speaking with Animal Control that there is no ordinance in place governing dog waste removal on Seapoint and Crescent beach. He asked that staff consider a revision to Title 6.1 that would allow Code Enforcement the authority to fine for not bagging and disposing of canine waste. Mr. Di Matteo cited Title 6.1.14 Penalties and Title 6.1.5 Record to be Kept by Animal Control Officer –Contents. Mr. Dunkelberger noted Title 6.1.13 addresses the concern Mr. Alesse raised and Title 6.1.14 refers the penalties for any violation. Mr. Di Matteo will research further as to why Title 6.1.0 exists, which excepts Seapoint and Crescent Beaches from the article.

Mr. Alesse moved to adjourn.

Ms. Driscoll-Davis seconded.

Motion carried 6-0-0.

The Kittery Planning Board meeting of April 28, 2016 adjourned at 6:51 p.m.

Submitted by Marissa Day, Minutes Recorder, on May 5, 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

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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>.