

**Town of Kittery Maine  
 Planning Board Meeting  
 September 24, 2020**

**ITEM 1— 8 Wentworth Street, Rice Public Library – Final Site Plan Review**

Action: Approve or deny plan, or continue public hearing. Owner/applicant, the Town of Kittery, requests consideration of a final site plan approval for a three-story addition and related site improvements to the Rice Public Library located at 8 Wentworth Street (Tax Map 4, Lot 88) in the Mixed Use – Kittery Foreside (MU-KF) Zone. Agents are Ryan Kanteres, Scott Simons Architects and Steve Doe, Sebago Technics, Inc.

**PROJECT TRACKING**

REQ'D	ACTION	COMMENTS	STATUS
NO	Sketch Plan Review	1/9/2020	APPROVED
NO	Site Visit	--	NOT HELD
YES	Determination of Completeness/Acceptance	2/27/20	ACCEPTED
YES	Public Hearing	8/13/20; 8/27/20	ONGOING
YES	Preliminary Plan Review and Decision	8/27/20	HELD
YES	Final Plan Review and Decision	PENDING	PENDING

Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.L - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

**Background**

This is a final plan application to expand the existing 2.5 -story + full basement Romanesque Revival structure known as the Rice Public Library (listed on the National Register of Historic Places), by adding a three-story expansion to the southeastern corner of the original building. The .8 acre (34,947 sf) lot is located in the Mixed Use – Kittery Foreside Zone.

The existing library building is a nonconforming structure as it exceeds the 40-foot height limit set in the Mixed Use - Kittery Foreside Zone. Given the lot’s nonconforming status, the Town of Kittery (“Applicant”) filed and was granted a miscellaneous variance by the Board of Appeals (“BOA”) at their January 14, 2020 to both expand a nonconforming structure and construct a flat roof located on the south, southwest and southeast sections of the expansion<sup>1</sup>. Attached hereto is the BOA’s January 14, 2020 Notice of Decision.

In conjunction with the BOA’s application process, the Planning Board (“Board”) held several meetings as part of their development review process. The Board accepted and approved the sketch plan at their meeting on January 9, 2020, and at their February 27, 2020 meeting accepted the preliminary plan as complete and originally set the public hearing date for March 26, 2020 with the condition that the absent submission requirements, as identified in the February 27, 2020 Planner Review Notes (“PRN”), were included in the ensuing plan submission. Nevertheless, due to the current pandemic, it was decided by the Applicant to postpone the public hearing to a later date. After a few months delay, the Applicant decided to resume the site plan review process and requested the Board at their July 23,2020 meeting to schedule a public hearing

<sup>1</sup> On January 14, 2020, the Board of Appeals heard an application for a miscellaneous variation request to allow the non-conforming library building to be expanded per 16.7.3.3.B *Nonconforming structure repair and expansion* and to allow a portion of the roof to be flat as 16.3.2.15.D.(4).(e) *Roof slope and shapes* does not allow it. The BOA granted both miscellaneous variation requests. The Notice of Decision is included with this PRN.

for August 13, 2020, which was granted. The Board held the public hearing on August 13, 2020 and had the applicant update the Board with the latest revisions. There were a few comments from staff as listed below; however, CMA had not had the chance to review the plan set. Given the importance of this project and the current policy of the Planning Board on public hearings, the Board decided to continue the meeting to the August 27, 2020 meeting. At the August 13, 2020 meeting, there were two public comments on the proposed application. Please see said comments for your review which is included in the meeting packet.

### **Staff Review**

#### **Submission**

The preliminary plan submission included the information required under 16.10.5.2. *Planner Review and confirmation of submittal content for preliminary plan* that would apply to a currently developed lot on which a public building is located. The Applicant with their previous plan rendition omitted the following content for which is now included in the current site plan set and application before the Board:

1. Missing abutter locations and information;
2. Absent Map and Lot information in the title block of the site plans; and
3. Submission of most current deed that reflects the Town of Kittery having the fee interest of the property.

#### **Waiver Request**

The Applicant is requesting a waiver from §16.8.4.13.A Sidewalks along Traip Avenue. The Applicant bases their request on the fact that there is insufficient right-of-way space to construct a sidewalk. Moreover, the Applicant states a sidewalk is inappropriate for Traip Avenue as sections of the road are used for parking and the road becomes increasingly narrow and steep in certain sections, rendering the installation of a sidewalk ill-suited and, if required, cost prohibitive.

This waiver does not include the proposed sidewalk along Wentworth Street, which abuts the frontage proposed development, allowing patrons to access safely the Rice Public Library.

#### **Project Description**

A detailed description of the project can be found in Applicant's agent project narrative, dated February 6, 2020. An updated narrative is also provided, dated July 23, 2020 that enumerates the changes made to the application since the Board was last presented the application.

#### **Response to Staff Comments, Dated March 5, 2020**

The Applicant provided a response to staff comments that were issued on March 5, 2020 that emanated from the February 27, 2020 meeting. Please see reference response letter provided herein.

#### **Comments on the July 24, 2020 submission and discussed at the August 13, 2020 meeting.**

##### *Site Plan Content*

1. The Book and Page reference on Map 4 Lot 84 is incorrect. The correct reference should read as follows: 17564 / 144.
2. It is unclear how the tree and its root system located on the corner of Traip and Wentworth shall be preserved during the re-grading of the site. The Applicant should provide an updated site plan illustrating how this will be accomplished along with other trees slated to be preserved or transplanted.
3. It is unclear if there will be enough snow storage capacity located along the eastern edge of the upper parking lot given the type of trees proposed (*Thuja plicata*—spring grove) and whether or not the *Thuja plicata* are salt tolerant. The Applicant should confirm the salt tolerance of the proposed vegetation and whether there will be adequate space for current and future snow storage. In addition, the Applicant should comment on the proposed spacing of the spring grove plants.
4. The Applicant should also consider locations of future bicycle racks to accommodate multiple modes of transportation.

5. The Applicant should confirm whether or not the stormwater management plan will need to be revised that reflects the updated plans.
6. The proposed location of the dumpster on the northeast corner of the upper lot appears to encroach on the side yard setback. The Applicant needs to confirm if this is the case and, if so, propose an alternative location that satisfies the requirement, pursuant to §16.3.2..14.D Standards.
7. As stated in the Applicant's narrative dated July, 23, 2020, a revised floor plan will be submitted to the Fire Chief to confirm the location of the mechanical room and its conformance with Fire Code standards. The Applicant should provide to the Board a timeline for that submission and subsequently submit a letter authored by the Fire Chief to the Board confirming the mechanical room's suitability
8. The "Surveyor's Statement" on Sheet 1 of 1 needs endorsement.
9. While an erosion control plan is provided by the Applicant there appears a construction sequencing plan has not been furnished. The Applicant should provide a construction sequencing plan to the Board for review and approval.
10. The Applicant appears not to have provided information on construction staging, which should be furnish for review and approval.

#### Peer Review and TRC Comments

CMA Engineers, Inc. review the application and found few issues with the plans. Specifically, a note of concern was raised in regard to the parking calculation and the justification for 29 spaces. In addition, while CMA was not overly concern about the stormwater design, a suggestion was made for it to be updated to reflect the revised conditions. In addition to the CMA review, the Technical Review Committee ("TRC") took another look at the plans. Comments emanating from the meeting were of the following:

1. All proposed granite curbing shall be sloped in order to accommodate the fire trucks.
2. The 6" water lines coming off of Traip Avenue must be verified to be adequate to support the proposed sprinkler system. Applicant should contact the Fire Department to confirm adequacy.
3. Maintenance on the basement floor of the proposed expansion shall be in a location that permits immediate access for fire/rescue staff.
4. Determination letter from Maine Historical should be provided prior to commencement of work.
5. Revised elevations need to be provided prior to final approval
6. Prior to construction, the applicant needs to contact the Department of Public Works to review the construction sequencing plans so as to ensure the proposed utilities that intersect the corner of Traip Avenue and Wentworth Street are compatible.

#### Staff Comment for the September 10, 2020 Final Plan Submission

The applicant has sufficiently provided answers that satisfy the concerns of staff and CMA with the exception of parking. The Board needs to make a determination on whether the parking is adequate or not as the use of a 'library' is not listed in the parking standards. The Board needs to look at the site holistically and determine if there is enough infrastructure accommodating alternative modes of transportation, such as sidewalks and bicycles that will off-set the need for more vehicular parking. Another outstanding issue is the letter of determination from the Maine Historic Commission. The Board should consider conditioning their approval upon receipt of a positive determination.

### **Recommendation**

The final site plan appears complete and ready for a vote. The Board should provide additional comments to the applicant, or any other suggestions and considerations that assist the application. Thereafter, the Board should entertain a motion for a final determination. If the Board decides to vote for approval, the following conditions are recommend to be appended to the vote:

1. Prior to the issuance of a building permit, the applicant shall submit to the Code Enforcement Officer a letter of determination from Maine Historic Commission demonstrating their approval of the project.
2. Prior to construction, the applicant needs to contact the Department of Public Works to review the construction sequencing plans so as to ensure the proposed utilities that intersect the corner of Traip Avenue and Wentworth Street are compatible.

### **Recommended motions**

Below are recommended motions based on how the Board would like to proceed. Again, procedurally, the Board needs to vote to continue or close the public hearing. If the Board decides to close the public hearing, a vote to approve or deny the final site plan should occur.

#### ***Continuing the application***

*Move to continue the application to the October 8, 2020, Planning Board meeting for a final site plan application, dated February 20, 2020, and last revised on September 10, 2020 from owner/applicant the Town of Kittery for a three-story addition and related site improvements to the Rice Public Library located at 8 Wentworth Street (Tax Map 4, Lot 88) in the Mixed Use – Kittery Foreside (MU-KF) Zone.*

#### ***Vote to approve***

*Move to approve a final site plan application, dated February 20, 2020, and last revised on September 10, 2020 from owner/applicant the Town of Kittery for a three-story addition and related site improvements to the Rice Public Library located at 8 Wentworth Street (Tax Map 4, Lot 88) in the Mixed Use – Kittery Foreside (MU-KF) Zone with the following condition:*

3. *Prior to the issuance of a building permit, the applicant shall submit to the Code Enforcement Officer a letter of determination from Maine Historic Commission demonstrating their approval of the project.*
4. *Prior to construction, the applicant needs to contact the Department of Public Works to review the construction sequencing plans so as to ensure the proposed utilities that intersect the corner of Traip Avenue and Wentworth Street are compatible.*

#### ***Vote to deny***

*Move to deny final site plan application, dated February 20, 2020, and last revised on September 10, 2020 from owner/applicant the Town of Kittery for a three-story addition and related site improvements to the Rice Public Library located at 8 Wentworth Street (Tax Map 4, Lot 88) in the Mixed Use – Kittery Foreside (MU-KF) Zone with the following condition:*

**KITTERY PLANNING BOARD  
FINDINGS OF FACT  
for  
8 Wentworth Street  
Site Plan Review**

**UNAPPROVED  
M4 L88**

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/applicant, the Town of Kittery, requests consideration of a final site plan approval for a three-story addition and related site improvements to the Rice Public Library located at 8 Wentworth Street (Tax Map 4, Lot 88) in the Mixed Use – Kittery Foreside (MU-KF) Zone. Agents are Ryan Kanteres, Scott Simons Architects and Steve Doe, Sebago Technics, Inc.

Hereinafter the “Development”.

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated September 24, 2020;

REQ'D	ACTION	COMMENTS	STATUS
NO	Sketch Plan Review	1/9/2020	APPROVED
NO	Site Visit	--	NOT HELD
YES	Determination of Completeness/Acceptance	2/27/20	ACCEPTED
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YES	Preliminary Plan Review and Decision	8/27/2020	APPROVED
YES	Final Plan Review and Decision	Pending approval 9/24/20	PENDING

And pursuant to the Application and Plan and other documents considered to be a part of the plan review decision by the Town Planning Board in this Finding of Fact consisting of the following (Hereinafter the “Plan”).

1. Site Plan Review Application and supplemental materials, 2/6/20 and last revised on 9/10/20
2. Site Plan Kittery Rice Public Library, Kittery ME, Sebago Technics, 2/6/20 and last revised on 9/10/20
3. Architectural elevations and floor plans, Scott Simons Architects, dated and last revised on 8/14/20
4. CMA Engineering Inc., peer review letter dated, August 18, 2020 and September 16, 2020

**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 and conclusions:

**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.**

**Standard:** *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 site plan application for an expansion to the Rice Public Library appears to conform with the applicable Title 16 standards with the waivers conditions of approval included herein.

**Conclusion:** This standard appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**B. Freshwater Wetlands Identified.**

**Standard:** *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:** There were no freshwater wetlands identified on or in close proximity of the subject property which would warrant special considerations.

**Conclusion:** This standard is not applicable

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**C. River, Stream or Brook Identified.**

**Standard:** *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 were identified on the property.

**Conclusion:** This standard is not applicable.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**D. Water Supply Sufficient. {and}**

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

**E. Municipal Water Supply Available.**

**Standard:** *The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.*

**Finding:** The proposed development will not adversely impact the municipal water supply as indicated in a letter, dated January 23, 2020, from the Kittery Water District. Furthermore, the in a letter dated, September

16, 2020, from the Kittery Fire Department, the waterline coming from Traip Avenue servicing the proposed library expansion was deemed satisfactory to support fire suppression infrastructure.

**Conclusion:** This standards appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**F. Sewage Disposal Adequate.**

**Standard:** *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:** The proposed library expansion demonstrated its design shall provide for adequate sewage waste conveyance and disposal and the applicant confirmed that the Town’s capacity to manage the increase volume is sufficient as indicated in an email from the Town’s sewer department, dated January 22, 2020.

**Conclusion:** This standard appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**G. Municipal Solid Waste Disposal Available.**

**Standard:** *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 library expansion demonstrated that the Town’s sewer system will not be unreasonably burdened.

**Conclusion:** This standard appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**H. Water Body Quality and Shoreline Protected.**

**Standard:** *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:** The proposed library expansion and the subject property are not located in the Shoreland or Resource Protection Overlay Zones.

**Conclusion:** This standard is not applicable.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**I. Groundwater Protected.**

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

**Finding:** The proposed library expansion will not adversely affect groundwater as the existing and proposed buildings are connected to both municipal water and sewer utilities, and the run-off generated from the site will either infiltrate, be collected and treated by the proposed landscaping and stormwater infrastructure.

**Conclusion:** This standard appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**J. Flood Areas Identified and Development Conditioned.**

**Standard:** *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 are no flood-prone areas present on the property.

**Conclusion:** This standard is not applicable.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**K. Stormwater Managed.**

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

**Finding:** The proposed library expansion is located on a 0.8-acre lot with a designed stormwater collection and treatment system that will provide for adequate stormwater management.

**Conclusion:** This standard appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**L. Erosion Controlled.**

**Standard:** *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 contractor is following MDEP best management practices for erosion and sedimentation control with site work for the proposed library expansion.

**Conclusion:** This standard appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**M. Traffic Managed.**

**Standard:** *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 library expansion will not impose a heavier traffic burden on the site nor in the surrounding neighborhood as the development is incorporating 26 spaces on the lot and anticipated not to generate more 400 trips per day. As regards the traffic circulation on the site, the design of the two proposed parking lots appears to provide adequate space for vehicles travel, maneuver and park.

**Conclusion:** This standard appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**N. Water and Air Pollution Minimized.**

**Standard:** *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.

**Finding:**

1. All proposed development is located outside of a Flood Hazard Area.
2. Addressed in the previous standard on waste disposal.
- 3 thru 5. Not applicable to the proposed development.
6. The applicant shall follow all applicable state rules and regulations on removing gray water and any other hazardous byproducts from the site.

**Conclusion:** This standard appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**O. Aesthetic, Cultural and Natural Values Protected.**

**Standard:** *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:** During the design process, the Town of Kittery and its architectural agent, Scott Simons Architects, have been in close communication with Maine Historic Preservation Commission and have received verbal approval to proceed with the project. The Town of Kittery is currently waiting on the Commission's final determination letter.

**Conclusion:** This standard appears to be met upon written confirmation from Maine Historical.

Vote of \_\_ in favor \_\_ against \_\_ abstaining

**P. Developer Financially and Technically Capable.**

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

**Finding:** The applicant has the financial capacity to move forward with the proposed development.

**Conclusion:** This standard appears to be met.

Vote of \_\_ in favor \_\_ against \_\_ 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:**

None.

**Conditions of Approval:** (to be included on the final plan):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan unless conforming with the provision under §16.10.9.1.2, §16.10.9.2 and §16.10.9.3.

2. Prior to the issuance of a building permit, the applicant shall submit to the Code Enforcement Officer a letter of determination from Maine Historical demonstrating their approval of the project.
3. Prior to construction, the applicant needs to contact the Department of Public Works to review the construction sequencing plans so as to ensure the proposed utilities that intersect the corner of Traip Avenue and Wentworth Street are compatible.
4. All Notices to Applicant contained in the Findings of Fact (dated: 9/24/2020).

**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. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department. Date of Planning Board approval shall be included on the final plan in the Signature Block.
4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, 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    in favor    against    abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON \_\_\_\_\_

\_\_\_\_\_  
Dutch Dunkelberger, Planning Board Chair

**Appeal of Decision:**

1. 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.