

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: Drew Fitch, Member; Dutch Dunkelberger, Member; Russel White, Member; Mark  
6 Alesse, Member; Karen Kalmar, Vice Chair; and Ann Grinnell, Chair

7

8 Absent: Ronald Ledgett, Member;

9

10 Staff: Jamie Steffen, Town Planner; Adam Causey, Director of Planning and Development;  
11 Jessa Kellogg, Shoreland Resource Officer/Stormwater Coordinator

12

13 **PLEDGE OF ALLEGIANCE**

14

15 **PUBLIC HEARING**

16

17 **ITEM #1 – Town Code Amendments – 16.9 and 16.7 Land Use Zone Regulations**

18 The proposed amendments clarify and update the Title 16 zoning ordinance pertaining to  
19 wetland setbacks (16.9 Wetland Setback Table) and nonconforming structure repair and/or  
20 expansion (16.7.3.3.2 Nonconforming Structure Repair and/or Expansion) in the shoreland  
21 zone. Public Hearing Vote to Recommend. Take public comment. Review and discuss  
22 proposed changes to 16.9 Wetland Setback Table and 16.7.3.3.2 Nonconforming Structure  
23 Repair and/or Expansion. Vote to recommend to the Town Council.

24

25 **Vice Chair Kalmar moved to recommend the proposed amendments to the**  
26 **forementioned codes to the Town Council, seconded by Mr. Dunkelberger.**

27

28 The Board thanked Jessa Kellogg Shoreland Resource Officer/Stormwater Coordinator for her  
29 work on drafting the amendments.

30

31 Mr. White questioned the origin of the green highlighted language. Ms. Kellogg explained that  
32 after the last meeting she sent the amendments to Mike Morse at Maine DEP for approval. The  
33 green highlighted additions are his comments to meet state minimum shoreland zoning  
34 standards. Everything else he is okay with.

35

36 Chair Grinnell stated that it will now go to the Town Council with the full support of Planning  
37 Board.

38

39 **Motion carried 6-0-0.**

40 **Continuation of the PUBLIC HEARING 8-21-18 -Town Zoning Map Amendment**

41 This zoning map amendment is the second step to a two-part process replacing the Business  
42 Park (B-PK) zoning district. The first step proposes a text amendment changing the B-PK zone  
43 to the Neighborhood Mixed-Use (MU-N) zone and replace the zoning requirements. This step  
44 is currently under consideration by Town Council after going through a public hearing process  
45 with the Planning Board on June 14, 2018. This second step proposes a zoning map  
46 amendment which will expand the proposed boundary of the new Neighborhood Mixed-Use  
47 (MU-N) zone currently under consideration by Town Council.

48  
49 **PUBLIC COMMENTS**

50  
51 Debbie Driscoll, Pepperrell Terrace asked if the Board would be answering the questions that  
52 were brought up at the previous meeting.

53  
54 Jen Thayer, Martin Rd also asked about getting answers to the questions asked. She stated  
55 her concerns about wetlands being filled on other side of Martin Rd. She discussed the fill  
56 being composed of asphalt from the road and noted her concern about trees are dying in the  
57 area.

58  
59 Ms. Kellogg shared that the process for wetland filling starts with the town and they look at if  
60 the wetland is of special significance and how much fill proposed. Maine DEP may issue  
61 permits but wetland filling and crossings require Planning Board approval. She stated that she  
62 was not aware of when the fill for Happy Ave was placed there but she was aware of the filling  
63 that was done at 122 Martin Road.

64 Chair Grinnell explained that Ms. Kellogg would happily deal with any their complaints in that  
65 regard.

66  
67 The Board then addressed the questions from the public hearing on August 21<sup>st</sup>.

68  
69 Barry Fitzpatrick, Rodgers Rd questions: The parcels are owned by individual property owners  
70 not by the Town of Kittery. They have access to Town sewer but do not have any roads built.  
71 Water would need to be extended and they do not have 3 phase power. Power could be  
72 extended. The height of 70 feet for the proposed zone only.

73  
74 Vern Gardner Tucker Cove questions: The additional twelve lots will not be in the TIF District.

75  
76 Mr. Alesse mentioned the question - Why has this parcel been so hard to develop. He stated  
77 that the obvious answer is that the property has a lot of wetlands. Plus, the area didn't have  
78 sewer.

79

80 Vice Chair Kalmar asked Mr. Causey to speak about the implications of changing the  
81 ordinance to improve the desirability of the land for future development.

82

83 Adam Causey, Director of Planning and Development discussed the study done in 2017 by the  
84 Southern Maine Planning and Development Commission which examined the reasons why the  
85 parcel hasn't been developed. He noted that the study is on the Town's website. He explained  
86 that it touches many aspects, such as sewer extension, environmental conditions including  
87 wetlands, roadway infrastructure and modifying the zoning to create higher densities that  
88 would attract worthwhile development.

89

90 EDC letter by George Dow, Bartlett Rd: Mr. Steffen noted that he had not received the letter for  
91 the Board's packets. Needs to be included in packet.

92

93 Judy Spiller, Rosellen Dr: No questions.

94

95 Kathy Hardy, Armour Drive: No questions.

96

97 Chair Grinnell noted that affordable housing is not included into the zone currently, however,  
98 there was potential for the topic to be included at a later time.

99

100 Chair Grinnell stated the question by Susan Emery, School Lane about how much effort was  
101 being put into using the property as a strictly business zone. It was noted even with sewer  
102 available there has been none.

103

104 Mr. Alesse mentioned the question about who owns the largest parcels of land within the  
105 proposed zone. Mr. Gerison approached the podium and explained the ownership  
106 arrangement for the properties involved – thirteen (13) acres are owned by Gerison Family  
107 Entities LLC, and eighty (83) acres are owned by YSKICE, LLC. He pointed out the parcels on  
108 the maps furnished by the Planning Department.

109

110 Mr. Causey answered the question about traffic concerns by noting that the Kittery Area  
111 Comprehensive Transportation System (KACTS) traffic and safety study for Route 236 will  
112 kick-off next month. For the Dennett Road he discussed the Joint Land Use Study with the  
113 Naval Shipyard, financed by the Department of Defense through a grant beginning in the  
114 October – November timeframe. The study will look at the impact on the town and the region of  
115 the shipyard traffic. He explained that a big part of the study will be looking the traffic impact at  
116 every corridor coming into Kittery and Dennett Rd will be part of that. He further explained that  
117 any proposed development whether or not this area gets rezoned depending on the intensity of

118 the use would require a traffic study. After question from Chair Grinnell, he discussed the  
119 funding for the Shipyard study and explained that he thought the cost was \$240,000 with the  
120 Town's match being 10%. He further discussed previous plans and study and felt this would be  
121 a great benefit.

122

123 Chair Grinnell discussed the proposed building height allowance of 70 feet. She stated that  
124 the owner of the property said at the last meeting he did not foresee building anything 70 feet  
125 high and would be okay with a 50 foot height limit. The EDC also stated that 55 feet would be  
126 acceptable provided it include allowances to exclude solar and other rooftop equipment in the  
127 height calculation. Vice Chair Kalmer explained that the language of the proposed zoning  
128 amendment does exclude solar and other appurtenances from the height limitation. Chair  
129 Grinnell noted that the Town Council would be meeting on Monday and will discuss the  
130 language change to Title 16 and when the public hearing will be set.

131

132 Mr. Alesse ask for clarification on the proposal relative to the 70 foot height allowance. He  
133 asked if we were opening the door on allowing that height in the expanded zone along Route  
134 236. Vice Chair Kalmar explained that the Board voted a recommendation and cannot undo  
135 that, however, the Chair can ask for greater consensus. Vice Chair Kalmar stated that she is  
136 not in favor of the map amendment. The Board discussed obtaining consensus around the  
137 building height and sending a recommendation to Town Council.

138

139 The Board discussed giving the Town Council suggestions for the new zoning but not vote on  
140 the map. Vice Chair Kalmar, Mr. Alesse and Mr. Fitch all stated that they would like to table the  
141 proposal until the language is changed on the 70 foot height.

142

143 Mr. Dunkelberger stated that he would like to add a caveat that any building adjacent to Route  
144 236 have a height limit of 50 feet.

145

146 The Board discussed that it doesn't want any 70-foot high buildings in Town. Mr. White added  
147 Chair Grinnell wasn't present at the meeting where the vote on the recommendation was made  
148 and explained that the Board probably should have waited until it had a full board for the vote.  
149 He felt that the expansion changes picture of the zone. Chair Grinnell echoed having a full  
150 board on matters such as this one.

151

152 Mr. Dunkelberger stated that the reason for the 70-foot height increase was in part because of  
153 the business park development and from the Town Manager whom he noted wasn't present.  
154 There was discussion amongst the Board on the purpose of allowing the 70 foot height. It was  
155 stated that it intended to allow for greater flexibility and higher density and because of the  
156 limitations of the property. Mr. Steffen explained that it was also to allow for parking

157 underneath the building and to allow one to utilize more of the property for building rather than  
158 for parking lots. The EDC has made the suggestion that it is cost prohibitive and the Board  
159 stated it is willing to limit it.

160

161 Chair Grinnell polled the Board on the limiting the building height in the proposed new zone to  
162 50 feet. The vote was 5-1-0. Chair Grinnell discussed that it was non-binding and wanted  
163 consensus on what to say in a memo to Town Council.

164

165 Vice Chair Kalmar includes discussed the buildable area of the larger parcel that runs up to  
166 Martin Rd. She stated that she would like to see a greater buffer, or some adjustment  
167 precludes any large structure being built near that residential area. She discussed the building  
168 envelope that could be filled between two homes and was concerned about maintaining the  
169 residential character of Martin Rd. She discussed the need for an intensive buffer within 500  
170 feet anywhere that there is residential. The Board discussed further buffering for adjacent  
171 residential areas. Chair Grinnell proposed changing the section of the business park property  
172 to up near martin Road to R-S. Mr. Steffen responded by stating that would require a whole  
173 new public hearing process as it would be another zoning change.

174

175 The Board discussed further buffering for adjacent residential areas. Mr. Steffen added that  
176 those types of requirements could be included in the text amendment.

177

178 Mr. Gerison discussed the available upland for development in regard to Dennett and Martin  
179 Roads. He explained that there will be a significant amount of woodland between any potential  
180 development and the residential areas. Mr. White suggested that the Board not pick a number  
181 like 500 feet because a developer and the Town would need to work with the site on any  
182 development proposal.

183

184 Mr. Causey discussed the current zoning amendment text which includes a lot of buffer  
185 requirements between different uses. He explained that the Board could add requirements to  
186 the text amendment for additional buffering or fencing where needed to protect residential  
187 properties. He discussed incorporating a height plane into the requirements as a form of  
188 buffering. Mr. Steffen read the current language in the text amendment for the buffer  
189 requirements. Mr. Dunkelberger noted that this would be in addition to those requirements.  
190 Mr. Causey explained that the buffer would be determined by the appropriate height plane and  
191 discussed a possible development scenario. Vice Chair Kalmar asked about applying the  
192 buffer requirements where single family residential would abut multi-family residential. Mr.  
193 White discussed including a larger buffer for more intensive development on the ground.

194

195 The Board reached a consensus increasing the perimeter buffers to protect existing residential  
196 structures regardless of zone and to add that text to the proposed ordinance.

197

198 The vote of the Board was 6-0-0.

199

200 The Board reached a consensus that it did not want to vote at this time on the proposed  
201 amendment to expand the boundaries of the new zone. Vice Chair Kalmer stated that the  
202 Board would be in favor of the zone expansion if the Town Council voted to reduce the building  
203 height to 50 feet and adding the extra buffer requirements.

204

205 The Board then had a lengthy discussion on what they were going to vote on for a  
206 recommendation to Town Council on the proposed zoning map change. The Board discussed  
207 drafting a memo for the Town Council. It was decided by Board that staff would write the  
208 memo detailing the Board's position on the proposed zoning change and have it sent to the  
209 Board for its approval before it is forwarded to the Town Council. The Board wished to have  
210 Mr. Causey communicate with the Town Council about the memo.

211

## 212 **NEW BUSINESS**

213

### 214 **ITEM #2 – Midway Way – Street Naming Application**

215 Action: Accept or deny application. Grant or deny approval of street name. Owner/applicant  
216 Ronald Dalrymple requests consideration of naming a private right-of-way off of Shapleigh  
217 Road currently known as 1 Mill Lane to Midway Way (Tax Map 15 Lot 1).

218

219 **Vice Chair Kalmar moved to approve the renaming of 1 Mill Lane to Midway Way,**  
220 **seconded by Mr. White.**

221

222 **Motion carried 6-0-0.**

223

224 **ITEM #3 – Bayberry Lane – Street Naming Application** Action: Accept or deny application.  
225 Grant or deny approval of street name. Applicant William Cullen requests consideration of  
226 naming the unnamed private right-of-way off of Martin Road to Bayberry Lane (Tax Map 11 Lot  
227 29-2). - **WITHDRAWN**

228

### 229 **ITEM #4 – Proposed Amendments Related to Signs**

230 Discussion: Changes proposed to clarify language and requirements for certain types of  
231 signage, location and approval thereof.

232

233 Mr. Steffen gave an overview of the proposed amendments. He explained that these have  
234 come from staff for sections of the code that caused problems in the past. He highlighted the  
235 areas that have been trouble spots for staff, applicants and the Planning Board – message  
236 boards / internal and external lights and timers; numbers and sizes of free-standing signs  
237 allowed, temporary signs; sign location, character / appearance and sign permit application /  
238 administration procedures. He noted that the proposed amendments are shown in yellow  
239 highlight, strike out text and underline.

240

241 Mr. Steffen discussed the proposed language for moving or animated signs, and sign lighting.  
242 There was discussion amongst the Board about internally illuminated signs and what was  
243 currently allowed. Trailer sign only permitted if sign is used on day to day transportation use.

244

245 Specific questions from the Board on the proposed changes: Line 191 – where does the 21  
246 days come from and who is going to keep track of it. Do they have to have a permit? If they  
247 want a banner sign does it need to go through the permit process? Would this apply to  
248 banners placed over the street? Mr. Causey responded it was more for businesses put them  
249 on a railings, etc. There was discussion about enforcement and who is going to count the 21  
250 days. Mr. Causey responded that it would be the job of Code Enforcement staff. He further  
251 explained that we would need to go out with an education push and inform the businesses of  
252 what is allowed and what is not allowed. After question from the Chair, clarification was made  
253 for the 21 day period. It is out of 90 days. It essentially gives a business a time in a season for  
254 special sales.

255

256 The Board stated that it approves of the draft language and would like a schedule a public  
257 hearing.

258

259 **Mr. Dunkelberger moved to hold a Public Hearing on the proposed amendments at the**  
260 **September 27, 2018 meeting, seconded by Vice Chair Kalmar.**

261

262 **Motion carried 6-0-0.**

263

## 264 **OLD BUSINESS**

265

### 266 **ITEM #5 – Board Member Items / Discussion**

267 A. Planning Board Action Item List

268

### 269 **ITEM #6 – Town Planner/Director of Planning & Development Items**

270 A. Other

271

272 **ITEM #7 – Adjournment**

273

274 **Moved by Mr. Alesse, seconded by Mr. Dunkelburger.**

275

276 Motion carried 6-0-0.

277

278 Board meeting of Aug 23<sup>th</sup>, 2018 adjourned at 7:18 p.m.

279

280 Submitted by Jordan Williams, Minute Recorder, on September 17<sup>th</sup>, 2018.

281

282 Disclaimer: The following minutes constitute the author's understanding of the meeting.

283 Whilst every effort has been made to ensure the accuracy of the information, the minutes are

284 not intended as a verbatim transcript of comments at the meeting, but a summary of the

285 discussion and actions that took place. For complete details, please refer to the video of the

286 meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery->

287 [maine.](http://www.townhallstreams.com/locations/kittery-)

288