

TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers

APPROVED
July 24, 2014

Meeting called to order at 6:10 p.m.

Board Members Present: Tom Emerson, Karen Kalmar, Deborah Driscoll Davis, Bob Melanson, Ann Grinnell

Members absent: Susan Tuveson, Mark Alesse

Staff: Gerald Mylroie, AICP, Planner; Chris DiMatteo, Assistant Planner

Pledge of Allegiance

Minutes: July 10, 2014

Ms. Grinnell moved to accept the minutes of July 10, 2014 as amended

Mr. Melanson seconded

Motion carried with 4 in favor; 0 against; 1 abstention (Davis)

Public Comment: No public comment.

PUBLIC HEARING

ITEM 1 –Town Code Amendment – Title 16.8.7 Sewer System and Septic Disposal, 16.9.1.4 Soil Suitability, 16.8.16 Lots and 16.2.1 Definitions. Action: hold a public hearing and schedule a joint workshop with Town Council. Amendments to the Town Code to address soil suitability as it pertains to septic disposal systems and other development standards. Amendments also address regulations for sewer, subsurface wastewater disposal systems and holding tanks, and changes in form, format and language to address clarity.

Earldean Wells: Stated the Conservation Commission's July 11 letter included in the Board's packets regarding the Shore & Harbor Plan would also apply to this item. She read a letter from George Kathios, Superintendent, Wastewater Services (Attachment 1), and a memo regarding the 'Royal Flush' pump-out boat (Attachment 2).

Jeff Clifford, Altus Engineering: Read a letter from Chinburg Builders (Attachment 3).

There was no additional public comment.

Board discussion:

Ms. Davis: Section 16.8.7.2 only refers to residential subdivisions. What about industrial or commercial uses? Asked that all information on test pits be included, including failing test pits.

Mr. Melanson: What are the consequences of this amendment going forward, as addressed by the Chinburg letter?

Mr. Mylroie: It is in the town's authority to limit density and development and in this case, limiting development to a maximum of 3 units with subsurface wastewater disposal.

Ms. Kalmar: This proposed amendment directs growth to areas with sewer and water, per the Comp Plan. If land is divided carefully, with 3 units at a time, growth is slowed, not stopped. It precludes the development of multiple unit subdivisions, at one time, in those large parcel areas identified in the Comp Plan as low or no growth.

Mr. Melanson: This appears to place property owner's rights at risk by reducing the value of large parcel properties, for example the industrial and business park that requires residential inclusion, and sewer is not yet available to those locations.

Ms. Kalmar: This language is a way to work around the need to slow growth in an area where this has not been accomplished using larger acreage.

Mr. Emerson: There is an economy to developing larger parcels, by spreading infrastructure costs over a larger area. By breaking down into 3-unit developments, higher cost housing will result, changing the valuation of the properties.

Mr. Melanson: There is no sewer availability in the Foreside area. The proposed amendment language for the holding tank and pump out facility is a water dependent use, supported by the Maine DEP.

Ms. Wells: There is a pump-out boat available that services individual boats.

Ms. Grinnell: So this ordinance language must be adopted to provide pump-out facilities at the pier.

Mr. Melanson explained the process for marina pump-outs. The inspection requirements in the ordinance appears sufficient, and there are no requirements for inspection of holding tanks currently in the ordinance.

Ms. Davis: Float systems and alarms are used to monitor holding tanks.

Ms. Wells: The current ordinance already includes language that does not allow holding tanks in the shoreland zone and this would reverse that language.

Ms. Kalmar moved to accept the draft amendments to Title 16.8.7, 16.9.1.4, 16.8.16 and 16.2.1 as presented July 24, 2014, and as amended to include 'All test pits, pass or fail, must be shown on the plan.' in Title 16.8.7.1.E.3, and schedule this item for a joint workshop with Council.

Mr. Melanson seconded

Motion carried unanimously by all members present

OLD BUSINESS

ITEM 2 – Town Code Amendment – Chapter 2, Definitions, Chapter 3, Article 2, Section 17 Shoreland Overlay Zone, Chapter 7, Article 3 Nonconformance and Chapter 8, Article 28 Single and Duplex Family Dwellings in the Shoreland Overlay Zones in Title 16 Land Use Development Code. Action: review amendment and make recommendation to Town Council for adoption. Amendment includes changes to the town's Shoreland zoning to comply with the Maine Department of Environmental Protection 2000 and 2010 conditional approvals.

Mr. DiMatteo: Summarized the Maine DEP comments. The Planning Board initially approved the amendment language pending DEP comments regarding the definition of a residential unit in the shoreland zone. The MDEP did not agree with the Board. The solution would be to include two definitions of residential unit and proceed to Council review for adoption.

Mr. Mylroie: The MDEP definition is more narrow than the existing ordinance definition.

Discussion followed regarding reduction of the proposed minimum lot size on Badgers Island to 3,000 sf for the first two dwelling units and whether this will then apply to the state's minimum lot site for mobile homes.

Ms. Kalmar: Include the definition of 'family' in the Council packet.

Mr. Mylroie: Add "(per Maine DEP Guidelines)"

Ms. Davis: Include the date of the establishment of the Shoreland or Resource Protection Overlay Zones (line 484).

Mr. DiMatteo: Will ask the state when these zones were established.

Mr. Melanson moved to approve amendments to Chapter 2, Definitions, Chapter 3, Article 2, Section 17 Shoreland Overlay Zone, Chapter 7, Article 3 Nonconformance and Chapter 8, Article 28 Single and Duplex Family Dwellings in the Shoreland Overlay Zones in Title 16 Land Use Development Code as presented July 24, 2014, and forward to Council for adoption.

Ms. Grinnell seconded

Mr. Melanson amended the motion to include:

State definition of dwelling unit (lines 39-43), and inclusion of Shoreland and Resource Protection Zones establishment date (line 484)

Ms. Driscoll seconded the amended motion

Discussion followed as to whether a date is needed.

Motion carried unanimously by all members present

ITEM 3 – Quality Improvement Plan for Kittery Shore and Harbors

Action: review and make recommendation to Town Council for adoption. Town advisory committee is transmitting draft plan for Town Planning Board review, hearings and recommendation to Town Council for adoption. The QIP Plan is a specific plan that includes goals/policies and implementation strategies for improving/protecting the Town's shores and harbors. Town Planner, Gerald R. Mylroie, ACIP will make a presentation.

Ms. Grinnell moved to continue discussion of this item to a future meeting

Mr. Melanson seconded

Comments on the plan by Ms. Davis shared with Board members.

Motion carried unanimously by all members present

ITEM 4 – Town Code Amendment - Title 16.10.8.2.1 Conditions – General

Action: review amendment and make recommendation to Town Council for adoption. Proposed amendment adds off-site improvements to potential Planning Board conditions of approval.

Mr. Mylroie: Requested continuance of this item to subsequent meeting. After further discussions with the Town attorney, there may be changes.

Mr. Melanson moved to continue amendment to Title 16.10.8.2.1 Conditions – General pending further information from the Town Planner.

Ms. Kalmar seconded

Motion carried unanimously by all members present

ITEM 5 – Town Code Amendment - Title 16.8.10 Signs – Action: discuss outcome of 7/17 workshop regarding updating the town's sign regulations and determine how to proceed.

Mr. Emerson: Removal of restriction to LED lighting is the first step.

Ms. Kalmar: There seemed to be a consensus from the workshop participants to include LED lighting and static electronic message boards. Concerned about large window signs that could include movable signs. Would this be a loophole?

Mr. Emerson: State law does not allow flashing and moving signage. Recommend adding LED lighting and static message boards on the Action List. Further discussion on signage should include window, A-frame signs/portable signs (and banners). Ability for enforcement must be a consideration in amendment development.

Ms. Grinnell: Whatever amendments to be reviewed by the Board need to be included on the Action List. The workshop participants indicated they did not want to be restricted to their sign design.

Ms. Kalmar: If sign character and appearance is to be considered in the future, it would be helpful to include Debbie's sign association contacts.

Mr. Emerson: The ordinance can work toward appearance and character, but it's important to deal with immediate needs, including internally/externally lit signs and timers.

Mr. Mylroie: These amendments were requested by Council members and former Town Managers and the need to consider the Comprehensive Plan. It seems desirable to have a subcommittee and further workshops to clarify these other issues.

ITEM 6 – Town Code Amendment - Title 16.8.10.1 Signs – Purpose and Title 16.8.10.2 Signs – General Requirements. Action: review amendment and make recommendation to Town Council for adoption. Proposed amendment makes sign character and appearance standard consistent with the Kittery Design Handbook.

No discussion/action taken.

ITEM 7 – Town Code Amendment - Title 16.8.10.2.C Signs – General Requirements. Action: review amendment and schedule a public hearing. Proposed amendment re-defines Light-emitting diode (LED) lighting use including the limited use for a gasoline price sign.

Mr. Emerson: Reference to any particular industry, i.e. gas stations, should be removed. The Board needs to determine priority of amendments on Action List.

No action taken.

ITEM 8 – Board Member Items / Discussion

A. Action List: Added items 45, 46 and 47

B. Committee Updates:

Ms. Grinnell: Economic Development Committee has not met since last Board meeting. will meet again on August 12.

Wood Island Advisory Committee: WILSSA is working on repairing the roof.

Foreside Parking Committee: Discussed crosswalks/ladder crosswalks; does not seem painting of crosswalks, bike paths has been done.

Mr. Emerson: Housing subcommittee in need of volunteers.

Ms. Davis: Comprehensive Plan Committee appointed Russell White as new chairman. Plan is being compiled by Planner.

Mr. Melanson: Assistant Harbormaster Paul Burke appointed as interim harbormaster; job announcement published; interviewing/screening in August.

C. Other:

Mr. Emerson: Spoke about construction at the by-pass and bridge, and the confusing/lengthy detours associated with construction. The state needs to listen to community residents regarding impact of these and future construction projects.

ITEM 9 – Town Planner Items:

A. Town Code amendment related to Quality Improvement Overlay Zone: Not discussed

B. Other

- \$810,000 sidewalk, drainage and street improvement projects through KACTS for the Walker / Kittery Foreside area.
- Regional Planning Commission issued a long range transportation plan for the area. Copies will be provided to Board members.
- Gate 1 bridge design needs to be shared with the Board.
- Improvements at foot of Sarah Long Bridge will be shared with the Board.
- \$20,000 grant obtained for street improvements along the Route 1 Bypass.

- It would be beneficial if the Board had other ideas for the Route 1 Bypass area. The Planning Board will be advised when this group meets again.

General discussion regarding next workshop with Council members.
Mr. Melanson will not be available for the 8/14/14 Board meeting.

Ms. Kalmar moved to adjourn
Mr. Melanson seconded
Motion carried unanimously by all members present

The Kittery Planning Board meeting of July 24, 2014 adjourned at 8:07 p.m.
Submitted by Jan Fisk, Recorder, July 29, 2014

Attachment 1



TOWN OF KITTERY, MAINE
SEWER DEPARTMENT
200 Rogers Road, Kittery, ME 03904
Telephone: (207) 439-4646 Fax: (207) 439-2799

7/14/2014
Town of Kittery
Planning Board

Kittery Foreside Boat Offloading Pump Station

The feasibility of the Town having an offloading facility for stored sewerage on sea going vessels is viable. The location at the Town dock in the Foreside section has been suggested. Logistically, this would be one of the areas that the sewer main runs by to accept this utility. The Wastewater Department has installed 23 pump stations in Town, All which have been designed by utility engineering companies. This project would be no exception. The funding for the design and installation of such a facility would have to be designed to state and local standards. The Kittery Wastewater Department would not be able to provide financial assistance or perpetual maintenance for this project.

Seeking a State or Federal Grant for the project's design, installation and continued maintenance, is suggested.

George Kathios
Superintendent of Wastewater Services

Attachment 2



Town of Kittery, Maine
Conservation Commission

P.O. Box 808, Kittery, Maine 03904

DATE: July 22, 2014

TO: Tom Emerson, Chairman
Kittery Planning Board

FROM: Earledean Wells, Chairman

RE: Ordinance 16.8.7.1.G.2 Holding Tanks in Shoreland Overlay Zone

As promised in KCC's July 11, 2014 letter, this is the information on the pump out boat, Royal Flush, that operating in our area. The company name is DES Pump out Boat; they can be reached on either channel 9 or at 603-670-5130.

This boat covers from Hampton, N.H. to York, Maine and is already regularly coming to Kittery.

The Royal Flush pumps out its tanks at the Wentworth Marina into a New Castle town sewer connection. The State of N.H. pays the town of New Castle to accept the pumps from this boat.

Since George Kathios, Superintendent of Wastewater Services has written a letter to verify that a sewer connection at the Foreside Town Dock is feasible, the Kittery Conservation Commission respectfully requests that the Planning Board not approve the proposed changes to Kittery Land Use Ordinance 16.8.7.1.G.2 to allow new holding tanks in the Shoreland Overlay Zone, but allow this ordinance to remain as it presently reads, prohibiting any new holding tanks in the Shoreland Overlay Zone.

Attachment 3



Dear Chairman Emerson,

As you are aware, Chinburg Builders, Inc. (CBI) has developed two clustered subdivisions in Kittery and recently received final approval for a third project. CBI is proud to provide quality housing at an affordable price while also preserving large tracts of open space. We have just learned that a public hearing is being held at tonight's Planning Board for amendments to Titles 16.8.7, 16.9.1.4, 16.8.16 and 16.2.1 of the Land Use and Development Code (LUDC) and have prepared this letter to provide initial comments for the Board's consideration.

The amendment to 16.8.7.1.C, which eliminates reference to the outdated *Soil Suitability Guide* (circa 1975) is a welcome and essential update. This will end confusion of the document's interpretation and clarify administration of this portion of the LUDC.

Also of interest (and of particular concern) is the proposed amendment to Section 16.8.7.2 that would prohibit subsurface wastewater disposal in a residential subdivision with four (4) or more lots or dwellings. This amendment will most certainly decrease the value of currently divisible parcels. With the advent of modern subsurface wastewater disposal systems, limiting the number of lots and units in the development of even a large tract of land to only three (3) lots is overly restrictive. Highly effective advanced treatment systems are now available and are proven to deliver much cleaner effluent to the soil. Severely limiting density based on the use of subsurface wastewater disposal is a complex issue and should be reconsidered by the Board.

We are requesting our business associates to evaluate the overall impact of the proposed amendments and offer additional comments prior to the pending workshop that will be held with the Town Council.

Thank you for your consideration and efforts to update the Code.

Sincerely

Paul J. Kerrigan,
Chief Operating Officer
Chinburg Builders, Inc.

Cc: Nancy Puff, Town Manager
Jeffrey Thompson, Town Council Chairman