

**TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING**

**APPROVED
JULY 23, 2015**

Council Chambers

Meeting called to order: 6:00 p.m.

Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Robert Harris, Deborah Lynch, Secretary Debbie Driscoll-Davis, Mark Alesse.

Members absent: David Lincoln.

Staff present: Chris Di Matteo, Town Planner.

Pledge of Allegiance

Minutes: July 9, 2015

Ms. Kalmar moved to approve the minutes of July 9, 2015 as written.

Mr. Alesse seconded.

Motion carried: 6-0-0

Public Comment: Ms. Grinnell provided an opportunity for public comment.

Bruce Wiggin, Jones Avenue Resident

- Mr. Wiggin wanted to discuss clarification of the wording of the moratorium
- When he purchased his house, he needed to perform certain demolitions to make the house safe for occupancy
- He would like the moratorium to allow demolition when a property presents a danger to private citizens as well as just presenting a danger to the public
- Although he is in favor of growth, Mr. Wiggin is not in favor of placing restrictions on one group of people based on their residence in a certain area of the town

Ms. Grinnell closed public comment.

ITEM 1 – Town Code Amendments – 16.7.8 Land Not Suitable for Development; 16.8.7 Sewer System and Septic Disposal; 16.8.11.5 Application Procedure; 16.8.16 Lots; 16.9.1.4 Soil Suitability; 16.2.2 Definitions; and associated zones in 16.3.2.

Action: review amendment, hold a public hearing, and make recommendation to Town Council.

The proposed amendments: address soil suitability as it pertains to septic disposal systems and other development standards; update soil suitability standards; address regulations for sewer and subsurface wastewater disposal systems; address changes to net residential acreage calculations and associated definitions; reformat and clarify language.

Mr. Di Matteo noted a change in Item 2 on line 133. He also noted a minor change in Item 1 on line 353 where the reference should be changed from 16.7.8.1 to 16.7.8 and in Item 2 on line 255

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where “domestic wastewater” should be organized with “wastewater” so it reads “wastewater, domestic”

Ms. Grinnell opened the public hearing.

Earledean Wells, Chair of the Conservation Committee, asked for clarification in Item 2 on line 216. Ms. Wells states that she was under the impression that septic systems were not allowed in the Shoreland. Mr. Di Matteo comments that Shorelands are allowed to have septic systems and he believes that has always been the case but that the Town does not allow holding tanks for residential uses.

Ms. Grinnell closed public hearing.

Ms. Driscoll-Davis, referring to Item 1 on line 87, asked whether or not it was possible to fill in land to decrease the slope percentage. Mr. Di Matteo commented that these deductions are based on existing lot conditions. Ms. Grinnell then commented that land cannot be altered for calculations.

Ms. Driscoll-Davis, referring to Item 1 on line 107, mentioned that if the zones or names of the zones change, the wording of 16.7.8.3, Section B will need to be changed as well. Ms. Driscoll-Davis stated that they might want to reword the Section to not include the names.

Ms. Driscoll-Davis, referring to Item 2 on line 112, comments that she is uncomfortable saying that commercial or industrial is located within 1,000 feet and, in addition, does not like saying that commercial or industrial is not tied into town sewer. Ms. Kalmar stated that this has always been allowed and that there is a different standard once you have over 2,000 gallons per day.

Ms. Driscoll-Davis, referring to Item 2 on line 107, asked whether or not it has to mention gravity flow since a lot of systems have pumps. Mr. Di Matteo commented that the language is from 13.1. Ms. Kalmar mentioned that 13.1 allows for pumping and confirmed that the ordinance states if you do not have gravity flow, you do not have to tie in but you can choose to do so Mr. Di Matteo commented that you might need to have a forced main. Ms. Kalmar suggested that they refer back to 13.1 but she believes that it states that the Superintendent decides whether you have adequate gravity flow. If you do not, you have either have a septic or choose to pump.

Ms. Driscoll-Davis, referring to Item 2 on line 178, asked about septic systems that have not been used for a number of years. She would prefer that they be required to comply with current regulations. Mr. Di Matteo commented that he believes that it is a requirement to test the system prior to providing a building or occupancy permit. Mr. Di Matteo mentioned that the situation is

similar to electrical and plumbing codes where they would not require them to rip out the entire system. Ms. Lynch commented that as long as it is functioning and there is not expansion then it is fine.

Ms. Driscoll-Davis asked whether or not it could be a requirement for everyone to use pre-treatments, at least in the Shoreland. Ms. Kalmar stated that at this time that is not what they are suggesting, unless it was part of the comprehensive plan.

Mr. Alesse moved to recommend to the Town Council the Town Code Amendments.

Seconded by Ms. Driscoll-Davis.

Motion carried: 5-1-0 with Mr. Harris in opposition.

ITEM 2 – Town Code Amendment – 16.9.1.3 Prevention of Erosion; 16.2.2 Definitions

Action: review amendment, hold a public hearing, and make recommendation to Town Council.

The proposed amendment allows the Town to take enforcement actions related to the contractor certification requirements of 38 M.R.S.A Section 439-B Contractors certified in erosion control; “Excavation contractor” will be defined.

Earldean Wells would like to add language regarding the removal of the erosion control measures before obtaining an occupancy permit. Mr. Di Matteo commented that removal might already be a part of the Maine Erosion & Sediment Control Practices. Ms. Wells stated that they brought this issue to the attention of a number of code enforcement officers who replied that if it was not stated in the ordinance they would not do it. Ms. Kalmar commented that on line 13, where it states what excavation contractors are required to do, it mentions when erosion control measures should be removed. Ms. Kalmar states that it is the job of the excavation contractor to determine when the control measures should be removed and the job of the code enforcement officer to make sure that it has been removed. Ms. Lynch commented that it varies from project to project because not all measures are removed so it is difficult to determine a time frame for removal. Mr. Di Matteo suggested adding a sentence at the end of G, on line 82, that states “all erosion control measures that are no longer necessary as determined by the CEO must be removed at the owner’s expense”.

Ms. Grinnell opened the public hearing.

Tom Emerson, Osborne Drive Resident

- The CEO’s job is done once the Certificate of Occupancy is obtained so the wording should say “CEO/Resource Protection Officer”
- Two concerns: erosion control measures are removed too soon and the ground is not stable or the erosion control measures rot in place because they are not removed
- Mr. Emerson suggests a longer time frame to let the growth stabilize the area

- Mr. Emerson would like the Code Enforcement Office to inform owners of their requirements as soon as they begin their project

Ms. Grinnell closed the public hearing.

Mr. Harris commented that the Kittery Water District performs work on or near the wetlands and never does anything for erosion. Ms. Grinnell stated that they should be following code just like everyone else and if not it should be looked into. Ms. Grinnell asked Mr. Di Matteo to look into that.

Ms. Wells asked if a time limit could be added so that someone would follow up. Mr. Di Matteo commented that it is more a fluid issue that should be left up to the CEO and Resource Protection Officer to determine. Mr. Emerson suggested adding the follow up to the job duties of the CEO.

Ms. Kalmar moved to recommend to the Town Council for adoption as amended.

Ms. Driscoll-Davis seconded.

Motion carried: 6-0-0.

ITEM 3 – Kittery Neighborhood Bicycle/Pedestrian Planning

No formal action. The Kittery Area Comprehensive Transportation System (KACTS) and the Town of Kittery are working together, with consultants of Sebago Technics and Alta Planning + Design, to study the Route 1 Bypass from Memorial Circle to the Sarah Mildred Long Bridge and develop and long-term vision for improving bicycle and pedestrian safety. This is an opportunity for the Board to review and discuss the options developed thus far, prior to a public workshop with other stakeholders.

Bradley R. Lyon, P.E., Senior Transportation Engineer at Sebago Technics gave a presentation to the Board, which included the following points:

- Work on the project began in November of 2014 when they began compiling existing conditions data of sidewalks, bike paths and other information.
- The project was introduced to the Board during a Planning Board Workshop on April 23rd and public comments were taken.
- A “planning workshop” was held on May 26th, 2015 with the Town of Kittery staff, ALTA Planning + Design, MaineDOT, the Bike Coalition of Maine and KACTS to discuss the Route 1 Bypass. ALTA focuses on bike and pedestrian traffic whereas Sebago focuses on automobile traffic.
- The question was posed to MaineDOT whether or not a change from a 5 lane road to a 3 lane road would affect traffic. MaineDOT confirmed that there are 15,500 vehicles per day on the bypass, which will increase once the bridge is opened.

- The railroad overpass is only 58 feet wide and may need to be widened for certain plans to work. It was confirmed with MaineDOT that it is not currently in operation and it can be abandoned. MaineDOT attempted to abandon the structure in the past but there were right-a-way abutting concerns that they did not want to deal with.
- Sebago contacted the owner of Irving to see if they had any insight as to what the daily truck traffic would be once the SML (Sarah Mildred Long) bridge opens. Since the station is under new ownership, they could not quantify what the opening of the bridge will mean for traffic.
- Mr. Alesse suggested speaking with NHDOT regarding the truck traffic in the area.
- FHWA Road Diet: a reduction in amount of traffic lanes which in turn decreases conflict points on the roads, lowering the risk of accidents. Although there are no major intersections in this instance, there are “curb cuts” (entrances and exits to businesses) which create conflict points.
- Sebago reviewed crash statistics on the bypass. There are no high crash locations (eight crashes or more in a three year period & CRF greater than 1.0) and the area does not appear to pose a safety risk.
- Reducing the amount of lanes also reduces speed, causing more consistent speed, and improves sight distance and creates the ability to improve aesthetics.
- Option 1: full build 3-lane option. This option has a 100ft right-a-way width with pavement fluctuation. The total width is 70ft (5ft bike lane, 3ft buffer space, two 11ft travel lane with one center 12ft lane, another 3ft buffer space and 5 ft bike lane, 4-10ft esplanade and a 10ft multi use path)
- Option 2: this option accommodates bicyclists and could also add in a sidewalk. In this option you would leave the road as a five lane section and introduce bike paths. This would be a 72 ft wide corridor plus a 5ft sidewalk (if you want to introduce pedestrian accommodations) for a total width of 77ft. This would require the widening of the railroad overpass (if you want a sidewalk over the railroad overpass). This is the most expensive option.
- Option 3: this option provides a pedestrian path on the road (not grade separated) and is all done by using paint. This includes 11ft travel lanes with 12ft center turn lane, 3ft buffer space, 5ft bike lanes and 4ft pedestrian path. This option could be added to the current structure and be used a test case to evaluate a three lane option.
- Option 4: do nothing. This option does not accommodate bikes or pedestrian.
- Mr. Lyon showed an aerial picture of Option 1 and explained that the benefit of this option is the added 8ft shoulder space in case of breakdowns. In Option 1, in the section of the road where there are no left turns, you could put a raised island (similar to how it is now) or could put a striped median area or stamped asphalt. Public Works does not like the idea of a raised median for plowing reasons. As the road gains width, the 4ft-10ft esplanades are added. Near Gorges Road, through right lane would become right turn only lane.

- Mr. Lyon showed an aerial picture of Option 2. The difference with this option is that over the overpass, the road stays at four lanes on the overpass instead of going down to two lanes. All of the widening would be done on the westerly side and there would be no impact on the opposite side.
- At this time, these scenarios are just providing the facts and are open to suggestion. More thought also needs to be put into the area leading to the Kittery traffic circle.
- Ms. Lynch suggested adding traffic counting strips to the road to determine the truck traffic. Mr. Lyon commented that they could add the tubes to get axle counts or just contact NH DOT to see if they have more information.
- Ms. Lynch inquired about the new stoplight on the Kittery side of the SML Bridge and mentioned that it has increased traffic backup significantly. Mr. Lyon responded that once the bridge is completed, it will be higher which will allow more vessels to pass through without having to open up and stop traffic (reduces the number of openings by 68%). Ms. Lynch asked about the traffic light itself backing up traffic and creating a safety concern with the gates on the bridge. Mr. Lyon commented that once the construction is complete, a green right turn arrow will alleviate traffic back up significantly and the traffic lights will work in tandem with the gates on the bridge. Ms. Driscoll-Davis added that tug boats will be able to hold the ships until traffic clears off the bridge.
- Ms. Driscoll-Davis commented that she would maintain a two lane option in the area leading into the traffic circle where traffic merges with Route 236. Mr. Emerson commented that tractor trailer trucks take a wide right turn there that causes them to sweep into the left lane and it would be a good idea to keep that in consideration when designing the road in that area.
- Ms. Grinnell thanked Mr. Lyon for his presentation and asked to schedule a workshop where they can review the plans in more detail. At this time, she commented that she was leaning toward the option of just adding paint since it is the most cost effective.

ITEM 4 – Kittery Foreside Demolition Moratorium Request

No formal action. A number of residents presented a proposal for a moratorium on demolition of buildings in the Kittery foreside area.

Cathy Wolff of Old Armory Lane spoke as to her thoughts on the subject.

- Ms. Wolff would like to avoid hasty development which she has seen happen in nearby areas.
- She would like a temporary moratorium on the destruction of any viable building until an approved plan is in place. The only exception for this would be if the building posed a risk to public safety.
- The foreside is at the edge of rampant development.

- Some argue that the moratorium is not needed and this sort of development is not happening here. Ms. Wolff believes that this is not the case.
- The temporary moratorium would slow development.
- Rampant development causes a town to lose its soul.
- The moratorium is a draft for now but she would like the Board to edit it

Ms. Grinnell asked for each member to provide their input on the situation.

Mr. Alesse is conflicted because he has sympathy for the residents and acknowledges that they deserve consideration. He understands the point of view regarding the structures being torn down but the situation is not black and white. Mr. Alesse stated that the temporary moratorium might be a good idea for now but he is not sure what sort of time frame to put on it. He posited whether or not 180 days would be long enough. He also commented that he is not sure the Town Council would pass the moratorium but recommends that they give it consideration.

Ms. Driscoll-Davis is in favor of taking a closer look at the area. She does not think a 180 day time frame is long enough if they have to wait for the comp. plan to be completed. She suggested taking a closer look at the commercial versus residential area. She expressed concern that it is all one zone right now. She also stated that the board also needs to discuss parking in the area. Mr. Driscoll-Davis agrees that it would be a good idea to slow down development until a plan is in place but is not sure that the Town Council will agree or that there is enough proof of necessity.

Ms. Kalmar agrees that there is not enough factual evidence of necessity at this time. She believes that they need more data, for legal purposes, of an urgent threat and is not in favor of the plan at this time. Ms. Kalmar is in support of the idea of the historical resource inventory and would support a recommendation to Council that it got underway sooner than later. Mr. Alesse asked Ms. Kalmar if she would support a moratorium until that study was completed and Ms. Kalmar replied that for legal purposes, they need to have factual evidence that the moratorium is required.

Ms. Lynch understands the need to preserve the quaintness of the area but the age of the 190 properties effected by the moratorium needs to be looked at. She mentioned that houses only 50 years old do not necessarily add to the quaintness or character of the area. She commented that Portsmouth had a historic district committee which oversees maintenance regulations of houses that are in a specific age range. Ms. Lynch suggested also looking into the age of homes in Kittery Point and asked why they were only concerned with the foreside. She also agreed with Ms. Driscoll-Davis' comments regarding commercial versus residential zones. She is undecided on the moratorium at this time.

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Mr. Harris noted that there are a lot of buildings in the area that are in need of serious repair. He does not support the moratorium because he does not want to put a hold on one group of people and does not believe the situation is urgent at this point. Mr. Harris commented that Kittery does not allow the sort of rampant development that people fear.

Ms. Grinnell abstained from discussion because her personal situation with her home would create unfair bias.

The Board voted on whether or not they would present the idea to the Town Council.

The motion failed 1-3-2

Mr. Alesse voted yes, Mr. Harris, Ms. Kalmar and Ms. Lynch voted no, Ms. Driscoll-Davis was undecided and Ms. Grinnell abstained.

Ms. Grinnell suggested that the group take their idea to the Town Council themselves.

Ms. Wolff asked the Board whether or not they would recommend the resource survey to the Council. Ms. Driscoll-Davis commented that she would bring this idea to the comp plan when they reconvene. Mr. Di Matteo explained that the survey is done with the Maine Historic Preservation Commission which trains volunteers to perform the survey. Ms. Wolff commented that the survey gives more information on the homes in the area. It costs approximately \$30 per house. It would require volunteers to be trained to perform the survey. The survey would only look at the foreshore area.

The Board voted on whether or not they would recommend the resource survey to the Town Council.

The motion failed 2-3-1

Mr. Alesse and Ms. Kalmar voted yes, Mr. Harris, Ms. Lynch and Ms. Driscoll-Davis voted no and Ms. Grinnell abstained.

Ms. Grinnell requested a five minute break.

ITEM 5 – Kittery Economic Development Committee Discussion

No formal action. The Economic Development Committee has been invited to discuss its work with the Planning Board and how the two groups can better collaborate. The EDC is also invited to provide comment on the bicycle/pedestrian planning effort.

George Dow, chair of the Economic Development Committee (EDC) informed the Board that it is the goal of the EDC to work together with the Planning Board and provide guidance. Mr. Dow would like both groups to be on the same page. He also commented that the bypass project is a great opportunity for business growth.

Mr. Alesse asked the group what New Hampshire has that Maine does not have.

Mr. Emerson commented that New Hampshire has better tax structure and business climate and that Kittery lacks infrastructure. He noted that parts of Route 236 have no water. A business park was built on Route 236 in 2003 and there was no infrastructure put in place for water. The area needs either larger companies to come into the area and pay for the water to be brought over (at an additional cost) or the Kittery Water District needs to relocate to that area and take the water with it. Mr. Emerson commented that the job of the EDC is to pave the road for business. He also stated that the northern area of Kittery needs more business.

Mr. Alesse asked how many acres are in the business park. Mr. Emerson stated that he believed that there are 28 acres.

Ms. Grinnell commented that it is good for both groups to be on the same page and to have the same area of focus. They should communicate with each other and focus on one zone at a time. She suggested that they have a workshop and that EDC send copies of their reports, minutes and agendas to the Board.

Ms. Kalmar commented that having a vision of the business structure in the bypass area must be accomplished before they can determine the roadway structure. Mr. Emerson agreed.

Mr. Di Matteo suggested creating a priority list that includes easy fixes and issues that need to be dealt with. He stated that this could help to create an outline for the Board.

Mr. Alesse asked whether or not Mr. Di Matteo has received any serious inquiries from businesses interested in the Kittery area. Mr. Di Matteo responded that he has not received anything serious except the hotel near the outlets. Mr. Alesse stated that the town will not approve spending on speculation and that they need to get businesses interested in the area first.

Mr. Dow commented that if businesses are interested in a certain area of Kittery and the EDC supports their idea, they will discuss it with the Planning Board at that time.

ITEM 6 – Board Member Items/Discussion

Ms. Driscoll-Davis stated that she would like to discuss parking in the foreside.

Mr. Di Matteo said they would need to look at parking requirements versus parking as a whole and also stated that there is a strong residential component in the foreside zone.

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Ms. Grinnell commented that the parking situation in the foreside needs to be dealt with and they cannot wait until the comp plan has been completed.

Ms. Driscoll-Davis commented that giving parking credits on side streets is not fair to residents.

Ms. Grinnell asked Ms. Driscoll-Davis to work with Mr. Di Matteo to prepare information for their packets for the next meeting.

Earldean Wells asked the Board to put created or manmade wetlands on the action list for the next meeting.

Mr. Di Matteo commented that there is a new interim assessor, Paul McKinney. He also noted the new Minutes Recorder and that Elena had left for Dover and there was an ad out for her position.

Mr. Alesse moved to adjourn.

Mr. Harris seconded.

Motion carried: 6-0-0

The Kittery Planning Board meeting of July 23, 2015 was adjourned at 8:03 p.m.

Submitted by Valerie Porrazzo, Minutes Recorder, July 31, 2015.