

**Town of Kennebunk**  
**Planning Board**  
**Meeting Minutes**  
**Monday, February 11<sup>th</sup>, 2019**

**Present:** Chris MacClinchy—Chair; Richard B. Smith—Vice Chair; Janice Vance; Robert Metcalf; Edward Trainer—Alt.;

**Absent:** David Smith—Secretary

**Also Attending:** John Stoll—Town Planner

**1. Open Meeting**

C. MacClinchy opened the meeting at approximately 6:58 PM. Today is Monday, February 11<sup>th</sup>, 2019.

**2. Agenda Items (I)**

C. MacClinchy states that [the Board will review] proposed zoning ordinance amendments and regulations. He notes that the first proposed zoning amendment is for article 8, section 10E, for MRCU York Street and mixed-use. He states that J. Stoll will give an overview and then [the Board] will open up a public hearing, then the Board will make a recommendation.

J. Stoll states that these changes “in sum” are working to reduce the minimum net lot area based on where sewer is located [and] eliminate space and bulk requirements for mixed-us—allowing mixed use to be developed and be a better “use of the land.” He states you can combine mixed-use and do a more traditional development that way, with what is proposed. He states that it also provides a more impervious lot coverage with LID standards.

C. MacClinchy wonders if the Board members have any discussion.

R. Smith states that, on the coversheet “to this,” low impact development LID is utilized. He wonders what defines “low-impact.”

J. Stoll states that [the Board] discussed if they wanted standardized [definitions] or to leave it open to interpretation. He notes that [the Board] could reference DEP for best management practices.

C. MacClinchy states that this is “something we should do.”

R. Smith states that [the Board] needs “some kind of standards” to define it.

J. Vance wonders if it is defined in definitions. J. Stoll states, “no.”

J. Vance wonders what would be in the definition [section].

J. Stoll states that [the definition] could be in [the definition section] or in a section of the zoning ordinance.

R. Metcalf states that he wasn't at the last [Planning Board] meeting and he has a "litany of comments." He asks for clarification on the first page. He notes that [it discusses] multi-family then "we cross out" 40,000 [square feet] to 10,000 [square feet] to sewer. He states that his concern is when there is no sewer and "we are saying" 20,000 square feet. He states that currently State plumbing code requires 20,000-square feet for a residential unit to put subsurface waste disposal. He notes that, in short of multi-family housing, unless they had a total of 40,000 [square feet]—if "we are talking" minimum lot area--20,000 [square feet] for a lot isn't going to work. He notes that it would have to be at least 40,000 [square feet]. He states that [this needs to be] clarified so "we don't open a can of worms. He states that with new technology [the Board] may be able to adjust at some point. He states that then following that concern is the minimum net lot area per dwelling unit. He states that for no sewer, 10,000 [square feet] doesn't "work there either."

J. Stoll suggest making it 20,000 [square feet].

R. Metcalf states that the elderly congregate in "one spot" [the Board] put that they were not allowed without public sewer. He states to do an elderly congregate, [the Board] would have to look at the engineered system. He notes that he is not sure if that would fall in permitted use. He states that if there is language put in for an engineered system, if they had to do 20,000 [square feet for a] minimum lot area for subsurface waste, they could get the opportunity to modify the design and get reasonable density. He states that he has reservations on this. He notes that he had a comment the first time [the Board discussed this], making sure that if [an applicant] comes and does lower retail or office space, he wonders how the density for residential gets calculated when using a "multi-family site."

J. Stoll states that it is calculated off of residential units.

R. Metcalf states that if there is a 40,000-square foot building, and there are 2-levels residential above, 5,000 [square feet] would be needed as far as the lot area. He states that [this would be] controlled by the lot coverage factor.

J. Stoll states that this would control it as well in addition to dwellings per net lot area, and then for the minimum lot too. He states that this is where the "commercial gets kicked in," so it is automatically the minimum net lot area, and then it is added on.

R. Metcalf states that he didn't think it was 100% clear. He wonders how he would calculate that. He notes that the lot coverage factor controls the foot-print. He wonders how many units "you would get in there."

C. MacClinchy wonders if [R. Metcalf] wants to put a line in [to clarify].

Metcalf states that he wants to make sure it is defensible. He states that he would [give it to the Town Attorney] for legal interpretation. J. Stoll states that he is “happy to run it by” [the Town Attorney].

R. Metcalf states that he is concerned if [the Board] interprets it in one way and a developer or abutter challenges it. He states that [they need] a legal interpretation that says it exactly the way “we thought it was written.”

C. MacClinchy states that [it could be] added to section E on this ordinance. He states that [J. Stoll] will put it on the next policy meeting.

R. Metcalf states that in reducing the setbacks in “those areas,” his concern is for hotels and motels if they are adjacent to the residential zone. He notes that if [the Board] is allowing or permitting a hotel in “my backyard,” he is “not thrilled” with a 20-foot setback [for the] side or rear. He states that he is “throwing that out there” for the Board’s discussion and consideration. He notes that [the Board] needs to [consider] abutting use. He states that [the Board] does this in subdivision and site plans. He notes that a 20 or 25-foot setback isn’t substantial. He states that [the Board] needs to accommodate for that. He notes that there is residential on the High Street side [of] York street, as well as there is residential developments in York Street mixed-use that could have lots redeveloped.

C. MacClinchy states that there is commercial and residential in the mixed-use zone “all over the place.”

R. Metcalf states that if you have residential and mixed-use “here” and put a hotel “right there,” he won’t be thrilled about reducing the rear setback.

R. Smith reminds [the Board] of the issues with the hotel behind Cummings [Market]. He states that the people that lived there [expressed] “lots of acrimony.”

R. Metcalf states that the setback [there] was greater and [the Board] needs to cover where [a hotel could be] adjacent to a residential zone.

C. MacClinchy states that he would be in favor of specifying the language for abutting residential districts. He notes that in this section it is talking about “every lot.”

R. Metcalf states that he is thinking the High Street side and Brown Street.

J. Stoll wonders if [R. Metcalf is referring to] just hotels or multi-family also.

R. Metcalf states that he was more concerned with hotels because of the transient coming and going and “noisy aspects,” not with multi-family.

J. Stoll wonders about performance standards. He notes that these were specific to hotels and motels and inns. R. Metcalf states, “yes.”

J. Stoll states that he will “add a letter” and put it in.

R. Metcalf states that the maximum height in consideration with the lot coverage LID [could be used to promote] affordable housing and work-force [housing]. He states it could be an incentive that would allow [applicants] to go up to a maximum of 45-feet in height. He notes that [the Board] would have to consider percentages. He states that [the Board] has density bonus provisions for zoning but that it is for single family. He states that if [the Board] provides some incentives to create affordable housing, [it would be good]. He states that he doesn't think York Street will be subsidized housing. He notes that there needs to be a definition for work-force housing in terms of market rate [and] what is considered affordable work-force housing. He notes this may be a bonus that doesn't happen now, but that [the Board] can revise it later if [the amendment should be finished] by March. [This amendment would have to be finished at a later date].

J. Stoll states that he can try [to add this in] and [the Board] can “toss it” if it doesn't work.

R. Metcalf states that he likes the LID development opportunities [as it] gives good incentives. He notes that it is not like technology has just come on the market. He states that there are lots of “folks” that can design to that and can get better coverage [with] storm water quality treatment.

C. MacClinchy wonders, because there are “a number of changes,” if the Board needs to rehear this. He wonders if it is enough changes to warrant a public hearing.

R. Smith states that they are substantive enough changes. He states that [the Board] doesn't want people to “raise a stink.”

R. Metcalf states that if they were changes that made it less restrictive [they wouldn't need to move the public hearing], but because [the Board] changed the net lot area and minimum lot size based on the State plumbing code [they do need to move the public hearing].

C. MacClinchy states that [the Board] will reschedule.

### **3. Agenda Items (II)**

C. MacClinchy begins discussing the changes to the zoning ordinance article 10 section D3, multi-family dwellings, multi-family lots, and perimeter buffer. He states that he will let J. Stoll tell [the Board] about the changes and the memo that [the Board] will talk about.

J. Stoll states that zoning currently requires multi-family development a 50-foot landscape buffer around the entire perimeter of the lot, which [the Town] found can sometimes shrink the lot to the

point where it is not developable as a multi-family development. He states that what was initially proposed was that in accordance with site plan buffering article 11, the Planning Board could

reduce the buffer. He notes that in working the [Town] Attorney, that isn't legal [to do]. He notes that [the Town Attorney] gave him an amendment [with] language changes, [as she] added a sentence to the bottom. He notes that the simple change allows reductions but—

C. MacClinchy finishes his sentence, stating, “sets a limit.”

J. Stoll states that this is where this “sits right now.”

R. Smith wonders where this fits in to the proposed amendment.

J. Stoll states that rather than the language under D3 perimeter buffer, the sentence was added to the first paragraph.

R. Metcalf states that what is “in red” on the draft J. Stoll gave [the Board], “the red” on the comment would be replaced.

J. Stoll states that he thinks [the Town Attorney] wants “all in one paragraph,” but “yes.”

J. Vance states that it refers to permitted multi-family projects. She wonders [what] that is to be used for. J. Stoll states “just multi-family.” J. Vance states that it ties into what is already discussed.

C. MacClinchy states that this could be multi-family in any district that it is permitted. He states that the question is, what is a minimum buffer that would be for that type of use. He states that 25 is what [the Board] has used before in other districts, which seems like a standard minimum buffer.

R. Metcalf states that [the Board] is making side-yards a 20-foot setback. He states that a 25-foot buffer is “essentially making” a 25-foot setback. He wonders if a 25 [foot buffer] is reasonable in the mixed-use zone. He wonders if it is a reasonable number for multi-family. He states that he thinks the issue will be where multi-family can occur in the Town beyond what is initially being looked at for the mixed-use. He states for multi-family to “really work,” it will have to be on public sewer. He states that if you have multi-family on non-sewer land, it will be too expensive.

C. MacClinchy states that these would be more developed in the area that has sewer. He notes that in making it a 25-foot buffer would restrict it as well.

R. Metcalf states that 20-feet would make it more of a reasonable approach.

R. Metcalf states that for the perimeter buffers [beginning with], “provided around perimeters of the site,” [the word should be changed to] “required.”

C. MacClinchy wonders if there should be a public hearing on this.

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R. Metcalf states that he doesn't think it is a substantive [change] and suggests that [the Board] just redo [all the public hearings] at the same time.

C. MacClinchy states that [the Board] is rescheduling the public hearing for March 11<sup>th</sup>, [2019].

#### 4. Agenda Items (III)

C. MacClinchy begins reviewing the 3<sup>rd</sup> amendment proposed, an amendment for subdivision regulation, article 63, 72, and 82, submission requirements. He asks J. Stoll to tell [the Board] about the changes.

J. Stoll states that [the Board] started looking at these in May or June [of 2018]. He notes that [it concerns] the submission requirements for minor final, major preliminary, and major final. He states that it reorganizes the text is in an easy-to-read format, [that] adds plan requirements. He notes that it builds minor, the preliminary, then final. He states that it is “smaller as you through.” He notes that it requires the application to add a GIS file and electronic submission for the website. He states that most of [the information] was pulled out but reorganized.

J. Vance states that on the 2<sup>nd</sup> page, under 4B for “subdivision in the watershed of a lake,” she wonders if that would also apply to rivers and streams if they are in a watershed close enough to any kind of water or just for a lake.

J. Stoll states that it can be required but there are phosphorus requirements in State subdivision language so it addresses that and allows [it].

C. MacClinchy states that the issue with phosphorus concentration is that it is more prone to lakes, [in rivers] the water is moving so the phosphorus is less concentrated.

J. Vance states that she was wondering if this is “the place” to ask for information on site distance to [the] entrance or if that is someplace else. She states that [the Board] routinely looks at that anyway.

C. MacClinchy states that it is a performance standard, which lists site distances. He notes that if it does need to be mentioned “here” he is not sure.

J. Stoll states that there could be an access condition to the site, including site distance, that could be added [to the document].

R. Metcalf states that this is fine, he notes that this document is a model for the application. He states that the standard and zoning is black and white, there is no waiver if there are no particular issues. He states that he would do the site distance requirements.

C. MacClinchy states that J. Stoll can add that.

J. Vance states that 10 dimensions that are “at the top note” under “natural features, waterbodies, wetland and existing vegetation cover,” she states that [the Board] likes to see when they get a site

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plan how wetlands attach to [other wetlands] off site. She wonders if [the Board] asks for it at this point in time or do they discuss it in the review.

R. Metcalf states that the “challenge with that” is that the developer has no right to go to other property to delineate wetlands. He states that [this information would be derived from] wetland mapping.

C. MacClinchy states that there is “some in between in there,” [where the Board] wouldn’t ask [the applicant] to map, but to show how the wetland was connected [to other] areas.

C. MacClinchy states that the GIS files on the Town site [has] maps which aren’t very accurate. He notes that it is not definitive, but it gives an idea of how “this piece” is connected to the surrounding area. He notes that when [the Board] reviews the project, they consider [these things]. He notes that he is not sure if it is mentioned “here.”

J. Stoll states that if [the Board] wanted to make it more specific, [he could] come up with language.

R. Metcalf states that [J. Stoll] could put, “including adjacencies provided by available mapping resources.”

C. MacClinchy states that this is vague.

J. Vance states that “basically” it is the same question “under 8.”

R. Metcalf notes that, to include in [the document], that [the Board] has mapped wildlife habitats and he doesn’t think [the Board] should include that in terms of amending subdivision regulations.

J. Stoll states that this is in the Comprehensive Plan.

R. Metcalf states that 6.3 under D, plan requirements, [beginning with], “all plans shall not exceed a scale of than,” it should be “more than.” He suggests putting the exception “in there” with the exception of overall site context plan, to show the limits of the property. He states that this would give an overall context of the size of the lot and the division on a larger scale.

R. Metcalf states on “the next one,” where it says, “title block,” under “owner’s name,” it should be “applicant and/or owner.” He notes that under “licensed land surveyor,” surveyor should include Maine State co-ordinance requirements that are under GIS.

C. MacClinchy moves on to discuss 7.2 preliminary plan submission requirements.

R. Metcalf states that [the Board] has a sketch plan phase. He states that he thought it was in the subdivision standards. J. Stoll states that he thinks it has its own standards. R. Metcalf notes that he wants to make sure it isn’t “dropped out.”

J. Stoll states that [it is in] article 5, right before “this all starts.”

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C. MacClinchy states that for section 8.2, item A, he wonders if that should be article 7.3 or—

J. Stoll states [it should be] 7.2.

C. MacClinchy asks R. Metcalf if that caveat should be added to the rest of the sections. R. Metcalf states, "no," that the plans that get recorded cannot exceed 1-inch equals 100. He states that sometimes there can be an entire site on a plan. He notes that if the Board is looking at it, then you don't have to look at 2-sheets. He states that the exception is to allow a smaller scale.

C. MacClinchy states that since [the Board] made changes, [the Board] will reschedule the public hearing for March 11<sup>th</sup> [2019].

R. Metcalf wonders if [the Board] can vote on these. C. MacClinchy states that [they can vote] after the public hearing, [in order to] approve and adopt the changes to the subdivision regulations.

### **3. Approval of Minutes of Previous Meeting**

C. MacClinchy begins reviewing the meeting minutes for Monday, January 28<sup>th</sup>, 2019.

J. Vance moves to accept the meeting minutes for Monday January 28<sup>th</sup>, as corrected.

R. Smith seconds the motion.

All are in favor, none opposed. The motion passes 5/0.

### **4. Other Business**

J. Stoll states that [the] "30 Western Avenue" [application] needs signatures.

C. MacClinchy states that the MMA or Maine Municipal Association is having a planning board workshop on March 20<sup>th</sup> in Portland [Maine]. He states that if any Board members wish to go, [the Planning Board] has money in the budget for the registration. He states that it is a Wednesday evening from 4:30-8:30.

R. Smith wonders where it is. C. MacClinchy states that it is at the Fireside Inn and Suites. He states that he will forward the email to the Board. He notes [that the Board members should] let J. Stoll know so he can register [the Board members].

C. MacClinchy states that he will be away the next meeting, so he will miss the February 25<sup>th</sup> [meeting].

R. Metcalf states that the [public meeting for the Comprehensive Plan] last week went "well" and he was impressed with how many people showed up. E. Trainer notes that [there were] a lot of Town leaders and Town officials. J. Vance states that there was a "good push" early [in the meeting].

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### **5. Adjourn**

R. Smith moves to adjourn..



R. Metcalf seconds the motion.

All are in favor, none opposed. The Motion passes 5/0.

The meeting adjourned at approximately 7:59 PM.

Respectfully submitted by Megan Hall.

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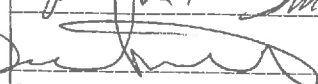
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**Signature Date:**

Signature Page:

Richard Smith Uchein

 2-25-19

James Uchein 2/25/19

Edward Strain 2/25/19

Signature Date:

