

CALL TO ORDER

ROLL CALL

Present: John Perry, Member, Drew Fitch, Member, Steve Bellantone, Member, Russell White, Member, Ronald Ledgett, Member, Karen Kalmar, Vice Chair and Dutch Dunkelberger, Chair

Absent: none

Staff: Bart McDonough, Town Planner and Adam Causey, Director of Planning

Advisory: Earldean Wells, Conservation Commission

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Chair Dunkelberger proposed moving Item 4 to last. The Board agreed.

APPROVAL OF MINUTES- None

PUBLIC COMMENTS

Public comment and opinion are welcome during this open session. However, comments related to development projects currently under review by the Planning Board shall be heard only during their respective scheduled public hearing. Due to the current pandemic, all meetings and public hearings held by the Planning Board are conducted via Zoom webinar. To register in advance for the webinar, please submit a request to bmcdonough@kitteryme.org. After registering, you will receive a confirmation email containing information about joining the webinar. Webinar participants will be able to submit questions and comments during the public hearing and public comment period. Members of the public unable to participate during the webinar may submit comments for agenda items via email, US Mail, or by dropping written comments in the Drop Box outside the Town Hall entrance. Emailed comments should be sent to bmcdonough@kitteryme.org. Comments received by noon on the day of the meeting will be read into the record by the Planning Board Chair.

There being no comments, the Chair closed the public comments.

OLD BUSINESS

4:07

ITEM 1—459 U.S. Route 1—Major Modification Review to a Master Site Development Plan and Subdivision / Site Plan

Action: Accept or deny plan as complete; continue to a subsequent meeting; approve or deny plan; Pursuant to §16.10.9.3 *Modifications to approved plan* of the Town of Kittery Land and Use Development Code, owner/applicant Middlesex Land Holdings, LLC requests the review and consideration of a major modification to both an approved Master Site Development and Subdivision plan proposing to reduce the residential dwelling unit count from 44 (32 age-restricted; 12 non-age-restricted) to 32 (16 age-restricted; 16 non-age-restricted) dwelling units within 8 buildings and make associated improvements on real property with an address of 459 U.S. Route 1, Tax Map 60, Lot 24, in the Mixed-Use (MU) Zone.

Mr. McDonough reported that the applicant has requested a continuance to the May 27, 2021 meeting. The applicant sent revised home owners association documents for the Board to review before the next meeting. Mr. McDonough and the Board discussed the project briefly in terms of the phasing plans.

Vice Chair Kalmar moved to continue the plan to May 27, 2021. Seconded by Mr. Ledgett. The motion passed by roll call vote 7-0-0.

9:46

ITEM 2—4 Pepperrell Road—Shoreland Development Plan Review

Action: Accept or deny application as complete; continue application to a subsequent meeting, schedule site walk and/or public hearing; approve or deny plan; Pursuant to §16.7.3.3.B *Nonconforming structure repair and/or expansion* and §16.10.3.4 *Shoreland Development Review* of the Town of Kittery Land Use and Development Code, the Planning Board shall consider an after-the-fact permit application from owner/applicant Elizabeth Kirschner requesting approval to maintain a patio with an enclosed screened porch and expand a legally nonconforming dwelling unit on a legally nonconforming lot within the base zone setback of the Shoreland Overlay Zone on real property with an address of 4 Pepperrell Road, (Tax Map 18, Lot 45-4) located in the Residential-Kittery Point Village (R-KPV) Zone and the Shoreland (OZ-SL-250) and Resource Protection (OZ-RP) Overlay Zones

Chair Dunkelberger told the Board that the applicant has withdrawn her request. Mr. McDonough reported that the applicant is complying with her notice of violation.

10:25

ITEM 3—164 Rogers Road—Right-of-Way Plan Review

Action: Accept or deny application as complete; respectively schedule site walk and public hearing, if necessary; approve or deny plan. Pursuant to §16.10.7.2.S *Right-of-way plan* of the Town of Kittery Land Use and Development Code, owner Melinda Birse and applicant Ryan Birse propose a new Right-Of-Way extending from Rogers Road to access a new lot not created by a subdivision located on real property with the address of 164 Rogers Road (Tax Map 22 Lot 23) in the Residential-Urban (R-U) Zone

Mr. McDonough gave an overview to the Board, noting the requests of the Board from the last time the plan was seen.

Mr. Birse asked the Board for any comments or questions.

The Board was in agreement that the plan looked good. The curb cuts were discussed briefly.

Mr. White moved to accept the right-of-way plan. Seconded by Mr. Ledgett. The motion passed by roll call vote 7-0-0.

Vice Chair Kalmar moved to grant the waivers, 1-7. Seconded by Mr. Ledgett. The motion passed by roll call vote 7-0-0.

The Board did not want to schedule a public hearing.

Mr. White moved to approve the right-of-way plan with stated conditions.

Seconded by Mr. Ledgett. The motion passed by roll call vote 7-0-0.

Vice Chair Kalmar read the findings into record. The Board voted to approve the findings, 7-0-0.

PUBLIC HEARING

31:13

ITEM 5— 21 Litchfield Road—Preliminary Plan Review, Cluster Subdivision

Action: Continue public hearing to a subsequent meeting; close public hearing; approve or deny preliminary plan. Pursuant to Title 30-A M.R.S.A. §4401-4408 *Municipal Subdivision Law* and §16.10, Article V *Preliminary Plan Application Review and Approval Process Phase* of the Town of Kittery Land Use and Development Code, the Planning Board shall hold a public hearing to consider an application from owner Brenda Haley and applicant Chingburg Development, LLC requesting approval for a preliminary plan for a cluster subdivision development proposing eight (8) lots with 9 units (two (2) existing and seven (7) proposed) with appurtenant infrastructure on real property with an address of 21 Litchfield Road (Tax Map 46, Lot 6) located in the

Residential-Rural (R-RL) Zone and Shoreland-Stream Protection (OZ-SL-75) Overlay Zone.

Mr. McDonough gave an introduction and an update to the project.

Eric Weinrieb reviewed the site plans and gave the Board updates on the project. He reviewed the existing conditions, roadway layout and grading, water lines, landscape plan, bus stops, and waivers. He asked the Board for any questions on the updates. Chair Dunkelberger opened the item up to the public. There were no public comments. The Chair closed the public comment portion of the hearing.

The Board made comments and asked questions regarding the landscaping and home owners association, vegetation and stormwater management, the cemetery, and snow storage.

Vice Chair Kalmar moved to approve the preliminary plan with the stated conditions. Seconded by Mr. White. The motion passed by roll call vote 7-0-0.

NEW BUSINESS

1:09:01

ITEM 6— 52 State Road—Shoreland Development Plan and Sketch Plan Review

Action: Accept or deny application as complete; continue application to a subsequent meeting, approve or deny sketch plan: Pursuant to §16.3.2.17 *Shoreland Overlay Zone*, Article III *Nonconformance* of §16.7 *General Development Requirements*, §16.10.3.4 *Shoreland Development Review* and §16.10.4.2 *Sketch plan review phase* of the Town of Kittery Land Use and Development Code, owner/applicant Kevin Cambridge and agent Attar Engineering Inc. requests approval expand a legally nonconforming commercial structure and construct a (27) parking lot on real property with an address of 52 State Road, (Tax Map 3, Lot 1) located in the Business-Local 1 (B-L1) Zone and the Shoreland Stream Protection Overlay Zone (OZ-SL-75).

Mr. McDonough gave an overview of the project.

Michael Sudak, Attar Engineering Inc. reviewed the site plans including an addition with no change in use, parking lot in the rear of the property, utilities and stormwater management.

Chair Dunkelberger suggested that the Board get a peer review study of the area with the stream, and have a site walk.

The Board decided to take no action, and wait for the third-party review of the site.

OLD BUSINESS

1:25:14

ITEM 4— Land Use Development Code Amendments—Proposed Revisions to Title 16 to Include Marijuana Uses

Action: Continue to a subsequent meeting, recommend or not recommend amendments to Town Council. Pursuant to M.R.S.A Title 30-A, Chapter 187, §4352 and §16.1.9 *Amendments* of the Town of Kittery Land Use and Development Code, the Planning Board seeks to make recommendations to Town Council on amendments to §16.2 *Definitions*, §16.3 *Land Use Regulations* and §16.8 *Design and Performance Standards for Built Environment* and §16.10 *Development Plan Application Review* of the Land Use and Development Code of the Town of Kittery by respectively removing and adding new definitions related to marijuana uses, designating areas of operation for marijuana businesses and medical marijuana registered caregiver home establishments within certain zoning districts, establishing performance standards for marijuana businesses and medical marijuana registered caregiver home establishments, and adding application approval criteria, or taking any other action relative thereto.

Mr. McDonough gave the Board an overview of the amendments, and updated the Board on the changes. The Board was given a map on the buffer zoning between establishments that was proposed.

The Board discussed the buffers and establishment types, zoning and uses, educational facilities, and home caregivers.

Vice Chair Kalmar moved to recommend the amendments to Town Council as amended. Seconded by Mr. Ledgett. The motion passed by roll call vote 7-0-0. Mr. Ledgett moved to reconsider the amendments. Seconded by Mr. White. The motion passed by roll call vote 6-1-0. Mr. Ledgett dissented.

The Board discussed allowed uses in the Mixed-Use zone, specifically cultivation. Mr. McDonough summarized the Board's corrections.

Vice Chair Kalmar moved to approve as amended and recommend to Town Council. Seconded by Mr. Ledgett. The motion passed by roll call vote 7-0-0.

OTHER BUSINESS

2:19:20

ITEM 7 – Board Member Items/Discussion

Mr. Ledgett asked if Mr. McDonough would pass along the notes from the three MMA trainings.

2:20:07

ITEM 8 – Town Planner/Director of Planning & Development Items

Mr. McDonough told the Board the next meeting's agenda should be light.
Mr. Causey gave the Board an update on the Joint Land Use Study and informed them of a presentation next week with Urban Land Institute.

2:25:02

Adjournment

Vice Chair Kalmar moved to adjourn the meeting. Seconded by Mr. White. The motion passed by roll call vote 7-0-0.

The Kittery Planning Board meeting of May 13, 2021 adjourned at 8:24 p.m.

Submitted by Carrie Varao, Development Staff Clerk on February 8, 2022.

Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort has been made to ensure the accuracy of the information, the minutes are not intended as a verbatim transcript of comments at the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.