

**TOWN OF KITTERY, Maine
PLANNING BOARD MEETING
COUNCIL CHAMBERS**

APPROVED
November 17, 2022

CALL TO ORDER

ROLL CALL

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

Staff: Jordan Kelley, Town Planner

Advisory: Earledean Wells, Conservation Commission

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Dutch Dunkelberger amendment to the agenda, move Item 5 to the first item of business

PUBLIC COMMENTS

The public may attend the meeting in person or remotely via Zoom. Attendees via Zoom will be recognized during the public hearings and public comment portion of the meeting. Please note: every effort will be made to make this run smoothly, however some technical difficulties may occur. To register via Zoom visit https://us02web.zoom.us/webinar/register/WN_Rcj4kiG4SRayzgXJDsCeyg or at <https://www.kitteryme.gov/planning-board>

Public comment and opinion are welcome during this meeting. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate. Those providing comment must state clearly their name and address, and record it in writing at the podium. Further, the public may submit written public comments via email, US Mail, or by hand delivery to Town Hall. Emailed comments should be sent to jkelley@kitteryme.org. Comments received by noon on the day of the meeting will become part of the public record and may be read in whole or in summary by the Planning Board or Town Staff.

Dutch Dunkelberger- There being no public comments, the Chair closed the public comments.

OLD BUSINESS

ITEM 1 – 28 Wyman Avenue – Sketch Plan Review – Cluster Residential Subdivision – Public Hearing

Action: hold Public Hearing; continue, approve or deny plan: Pursuant to Title 30-A M.R.S.A. §4401-4408 Municipal Subdivision Law and §16.8.10.H, Cluster Residential Development of the Town of Kittery Land Use and Development Code, owner Lusitano, LLC requests approval for a cluster residential development proposing three (3) single-family residences as a condominium on real property with an address of 28 Wyman Avenue (Tax Map 16, Lot 148) located in the Residential-Urban (R-U) Zone.

ITEM 2 – 181 State Road – Sketch Site Plan Review, Marijuana Business

Board Must Take Action: Accept or Deny application as complete; if accepted, set site walk. Pursuant to 16.4 *Land Use Regulations*, 16.4.21 *Special Exception Use Request*, 16.5.32 *Marijuana Business*, and 16.7 *Site Plan Review* of the Town of Kittery Land Use and Development Code, applicant IDC 5, LLC and

agent Sebago Technics request approval for special exception use to construct a 1,100-sf Marijuana Business on real property with an address of 181 State Road (Tax Map 22, Lot 4) located in the Commercial (C-3) Zone and Business Local (BL) Zone.

ITEM 3 – 41 Route 236 – Preliminary Site Plan Review – Note See Letter of Continuance Request §16.7.10.C (3) a & c, Continued to December 8th, Please see attached Letter in Place of ITEM 4 PRN
Action: hold Public Hearing; continue, approve, or deny plan. Pursuant to §16.4 Land Use Regulations, §16.4.20 Special Exception Use Request, §16.5.32 Marijuana Business, and §16.7 Site Plan Review of Kittery Land Use and Development Code, owner LaPierre Properties LLC and applicant Well Field 44 LLC with agent Attar Engineering requests approval for a special exception use to construct a 1,034-sf Marijuana Business with appurtenant infrastructure and a wetland alteration of 1,367-sf, located on real property with the address of 41 Route 236, Tax Map 29, Lot 1, in the Commercial 2 (C-2) zoning district.

ITEM 4 – 21 Happy Avenue and 12 Roseberry Road Right-of-Way (ROW) Review

Action: Accept or deny application. Approve or deny plan. Owners and applicants, William and Cathy Cullen and Caroline Hall request consideration of a right-of-way plan for a 4.78 acre +/- acre parcel (Tax Map 11, Lot 29) proposing a ROW located on Happy Avenue (Tax Map 11 Lot 29-5) in the Residential Suburban Zone (R-S). Agent is Nathan Amsden, PLS., Amsden Field Survey.

NEW BUSINESS

ITEM 5 – 6 Chauncey Creek - Shoreland Development Plan Review

Action: Accept or deny application. Approve or deny plan. Owners and applicants, Beneficial Owner Andy Kaplan with approval from legal owner Creek House Nominee Trust (Matthew J. Downey Trustee) requests consideration to construct a 2'-6" x 4'-6" concrete pad for a generator on a nonconforming single family dwelling on a 871 +/- square foot upland section of the parcel located at 6 Chauncey Creek Road (Tax Map 44 Lot 71) in the Residential Kittery Point Village (R-KPV), Shoreland Overlay (OZ-SL-250') and Resource Protection (OZ-RP) zones.

Item 5 was addressed first at **MINUTE MARK 4:55**

Andy Kaplan summarized the project and mentioned the devegetation would remain under 20% (17% on plan)

Karen Kalmar asked about the propane being above the High Annual Tide (it is 2' above HAT)

Drew Fitch asked about moving the pad, Andy Kaplan has confirmed this is the best location

Ron Ledgett asked why it's under Planning Board, Kaplan stated the State required it

Steve Bellantone, will it require a stamped plan? TBD

Russell White Motioned to Accept for Approval, Karen Kalmar Seconded. Motion Passes 7-0-0.

Condition of approval to locate the tanks on the map, north arrow, and get stamped if necessary

Russell White Motioned to Approve Project, Seconded by Ron Ledgett. Motion Passes 7-0-0.

Finding of Facts were read by Karen Kalmar. Motion Passes 7-0-0.

Item 1 was addressed at **MINUTE MARK 27:14**

Erik Saari spoke to the project, mentioned he would submit Condo Docs, and address drainage and screening as well as signage for the vernal pool/wetland and written documentation for no fertilizer

**TOWN OF KITTERY, Maine
PLANNING BOARD MEETING
COUNCIL CHAMBERS**

**APPROVED
November 17, 2022**

Dutch Dunkelberger asked if there was anyone that wanted to speak in the room or online, (nobody spoke)

Ron Ledgett Motioned to continue the plan, Russell White Seconded. Motion Passes 7-0-0.

Item 2 was addressed at **MINUTE MARK 34:47**

Owen McCullough from Sebago Technics spoke to the project including the 7 Questions that the Board had supplied at the last meeting July 28th

John Perry and Drew Fitch began to discuss the potential for traffic and the blocking of emergency vehicles.

Karen Kalmar, Stephen Bellantone, and Ron Ledgett spoke to traffic and parking speculations on the project.

Dutch Dunkelberger spoke to the definition of the special exception use i.e. §16.2.12 F (b) [3] "The safety, the health, and the welfare of the Town will not be adversely affected by the proposed use or its location."

Russel White mentioned that if there was an emergency then those vehicles would drive on the grass and that there are other parking spaces available as noted on the plan and that the applicant should be given the chance to do the traffic study

Karen Kalmar, Steve Bellantone, Russell White mentioned wanting to see traffic data

Dutch Dunkelberger again spoke to backups and theorized traffic issues and mentioned the relevant sections of the code he is citing

Russell White asked if this was a Fly-Fishing store would we be having this conversation

Owen McCullough from Sebago Technics commented on being willing to provide traffic data and get it peer-reviewed by CMA

Dutch Dunkelberger again stated that this is a pass-through town, knows what the tourists are like, and believes it would be a problem.

Ron Ledgett and John Perry suggested that the Route 1 Bypass would be a better spot but there is no way to access the site from there. John Perry suggested that the Waze app has a way to bypass everything.

Russell White Moved to Accept the Application, Karen Kalmar Seconded,

- (Pause Vote) Dutch Dunkelberger stated that a traffic study wouldn't supply significant information – Karen Kalmar stated there are other Marijuana Business locations and that the Board should not deny the opportunity for the traffic study to occur – (Resume Vote)

Motion Fails 3-4-0. Steve Bellantone, Karen Kalmar, Russell White [Yes] / Dutch Dunkelberger, John Perry, Drew Fitch, Ron Ledgett [No]

Owen McCullough from Sebago Technics asked about possible resubmittal

Dutch Dunkelberger mentioned that if they could provide a traffic study that is similar to the circumstances at this location, then they can try and resubmit but did not think they would be able to provide that information.

Item 3 was addressed at **MINUTE MARK 1:07:50**

**TOWN OF KITTERY, Maine
PLANNING BOARD MEETING
COUNCIL CHAMBERS**

**APPROVED
November 17, 2022**

Dutch Dunkelberger stated the applicant has requested a continuance to December 8th

Ron Ledgett Motioned to Continue until Dec 8, Drew Fitch Seconded. Motion Passes 7-0-0

Item 4 was addressed at **MINUTE MARK 1:10:02**

Nathan Amsden summarized project

Drew Fitch asked for clarification of the frontage for Lot A and Lot B and to describe Happy Ave and Happy Ave Extension. The road has been there for 20 + years according to Mr. Amsden

Russell White Motioned to Accept the ROW Plan, Seconded by John Perry Motion Passes 7-0-0.

Dutch Dunkelberger mentioned concerns on the water flow around the site

Nathan Amsden mentioned there are Culverts underneath the road and that the flow is indiscernible

Russell White Motioned to Schedule Site walk at 12 Roseberry Lane on Monday, November 28th, 2022 at 9:00AM

Seconded by Karen Kalmar, Motion Passes 7-0-0.

Russell White Motion to Schedule a Public Hearing on Thursday, December 8th, 2022 at 6:00PM

Seconded by Karen Kalmar, Motion Passes 7-0-0

Earleean Wells commented on the PVC pipe being a concern of Conservation Commission for the longevity of the site and also brought up a concern for a Stormwater Management Plan.

APPROVAL OF MINUTES- –

ITEM 6 was addressed at **MINUTE MARK 1:25:32**

October 27th PM Minutes – The Board Requested to redo the minutes, these will be resubmitted for December 8th.

BOARD MEMBER ITEMS / DISCUSSION

ADJOURNMENT

Drew Fitch Motioned to Adjourn, John Perry Seconded. The Motion Passes 7-0-0

The Kittery Planning Board meeting of October 27, 2022 adjourned at 7:32 p.m.

Submitted by Jordan Kelley, Town Planner November 22, 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>.