

**CALL TO ORDER**

**ROLL CALL**

Present: Earldean Wells, Member, Steve Bellantone, Member, Ethan Bensley, Member, Robert Doyle, Member, Russell White, Member, Karen Kalmar, Vice Chair, and Dutch Dunkelberger, Chair

Absent:

Staff: Jason Garnham, Director of Planning

Advisory: Nanci Lovett, Conservation Commission

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

**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\\_qycXEoK5SLm6FOA1FJDjYg](https://us02web.zoom.us/webinar/register/WN_qycXEoK5SLm6FOA1FJDjYg) 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 [jgarnham@kitteryme.org](mailto:jgarnham@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.

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

**OLD BUSINESS-**

5:26

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

Action: Public Hearing was held 11/17/22; continue review, 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.

Robert Doyle recused himself from the item as he is an abutter.

Eric Weinrieb, Altus Engineering, gave a brief overview of the project. Mr. Weinrieb and the Board discussed storm drainage, private road classification, road design, and landscaping.

**Mr. White moved to accept the sketch plan. Seconded by Vice Chair Kalmar. The motion passed 5-0-1, with Mr. Bensley abstaining.**

20:20

**ITEM 2 – 21 Happy Avenue and 12 Roseberry Road Right-of-Way (ROW) Review**

Action: ROW was accepted with Conditions 12/08/22, Review and Findings of Fact to be read. 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.

Caroline Hall informed the Board of a few issues relating to the snow storage removal and access, and property lines.

Mr. Garnham suggested a third-party to field verify the property lines on site and on the plans. Mr. Dunkelberger asked the Board if they should reconsider their prior vote.

Discussion ensued on the course of action.

**Mr. White moved to reconsider the vote of final approval on December 8, 2022. Seconded by Mr. Bellantone. The motion passed 7-0-0.**

**Mr. White moved to continue the item, not to exceed 90 days. Seconded by Vice Chair Kalmar. The motion passed 7-0-0.**

33:50

**ITEM 3 – 41 Route 236 – Preliminary Site Plan Review**

Action: Public Hearing held 10/13/22; 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.

Mike Sudak, Attar Engineering, gave an update on the project. Parking changes, culvert crossing, DEP correspondence, and wetland restoration were discussed. Traffic analysis updates and comparisons were discussed with the Board. Snow storage area and design clarified briefly. Culverts and DOT review, and stormwater discussed. Wetland restoration plan mentioned. The applicant and the Board agreed to a 90-day extension.

**Mr. White move to continue the application, not to exceed 90 days. Seconded by Vice Chair Kalmar. The motion passed 7-0-0.**

**NEW BUSINESS-**

1:22:55

**ITEM 4 – 39 Badgers Island West – Minor Subdivision Sketch and Shoreland Development Plan Review**

Action: continue review, approve, or deny plan: Pursuant to §16.4 Land Use Regulations and §16.9.3 Shoreland Development Review requirements of the Town of Kittery Land Use and Development Code, owner applicant B.I.W. Group, LLC and agent Chris Atwood Otter Creek homes with Ambit Engineering propose to subdivide the 0.48-acre parcel identified as Lot 38 of Tax Map 1 into 4 residential condominiums. The property is located at 39 Badgers Island West, in the Mixed-Use Badgers Island Zoning District (MU-BI) and Shoreland Overlay Zone (OZ-SL-250').

John Chagnon, Ambit Engineering presented the project to the Board. He reviewed the site plan. Road design and landscaping discussed briefly.

**Mr. White moved to accept the plan as complete. Seconded by Mr. Bellantone. The motion passed 7-0-0.**

**Mr. White moved to schedule a site walk on January 25, 2023 at 4 PM. Seconded by Vice Chair Kalmar. The motion passed 7-0-0.**

**Vice Chair Kalmar moved to schedule a public hearing on February 9, 2023 at 6 PM. Seconded by Mr. White. The motion passed 7-0-0.**

1:43:35

**ITEM 5 – 47 Cutts Road – Major Subdivision Sketch Plan Review**

Action: continue review, approve, or deny plan: Chip and Anne Andrews, represented by Attar Engineering, Inc., propose to subdivide a 36-acre parcel into 10 residential building lots, a private street system, and a tract to be dedicated to the Kittery Land Trust. The property is identified as Lot 10-3 of Tax Map 60 and is located at 47 Cutts Road in the R- RL Residential Rural Zoning District.

Mike Sudak, Attar Engineering, presented the project and reviewed the plans. Mr. Sudak explained the intent of a conventional subdivision versus a conservation subdivision. The Board discussed the impacts of the conventional subdivision, and requested to see both subdivision categories for the project. Road standards and build-out of lots were discussed briefly.

The Board took no action on the item.

Mr. Garnham read a note from the Kittery Land Trust requesting information from the applicant.

2:07:45

**ITEM 6 – Proposed Amendments to Title 16.8.10.D**

Action: set a public hearing date, continue review: Kittery property owners James and Tudor Austin request a change to §16.8.10-D of Kittery's Land Use and Development Code to allow variances for first-time septic systems in minimum setback areas. §16.8.10-D.2.b.1 currently states that the minimum setback distance for a first-time subsurface disposal system may not be reduced by variance.

The Board discussed the item briefly, however there was no applicant present to discuss the item. Mr. Garnham will reach out to the applicant.

The Board did not take action on the item.

**APPROVAL OF MINUTES**

2:12:00

**ITEM 7 – December 8, 2022 Meeting Minutes**

Line 67: the vote was 5-0-0, add "(Mr. Perry had stepped out of the room)"

Line 92: insert "her" to recuse herself

Line 91: change ark to "arq"

**Vice Chair Kalmar moved to approve the minutes as amended. Seconded by Mr. Doyle. The motion passed 5-0-2. Mr. Bensley and Mr. Doyle abstained.**

2:15:25

**BOARD MEMBER ITEMS-**

**2023 Election of Officers**

**Mr. White nominated the current Chair and Vice Chair to serve another year. Mr. Bellantone seconded the nomination. The motion passed 7-0-0.**

**Ms. Wells nominated Mr. Bellantone for Secretary. Seconded by Vice Chair Kalmar. The motion passed 7-0-0.**

**2023 Planning Board goals**

Chair Dunkelberger requested to look at goals in late February.

**New Board member training and resources**

MMA training webinar on Thursday February 16<sup>th</sup>. 4 PM-7:30 PM.

**Subcommittee reports from Housing and from Climate Adaptation and Kittery Land Issues.**

Chair Dunkelberger volunteered to be a member on the Climate Adaptation Committee. Mr. White would like the draft report to Council as the subcommittee report for Housing Committee to the Planning Board.

Ms. Wells asked if two Planning Board members could serve on KLIC. Ms. Wells introduced Nanci Lovett and Clayton Smith as the new member representative from Conservation Commission.

2:24:35

**TOWN STAFF ITEMS-**

Mr. Garnham asked the members their preference on paper packets. All members would like to continue receiving paper packets.

2:29:15

**Adjournment**

**Mr. Bensley moved to adjourn. Seconded by Mr. Doyle. The motion passed 7-0-0.**

The Kittery Planning Board meeting of January 12, 2023 adjourned at 8:29 p.m.

Submitted by Carrie Varao, Development Staff Clerk on January 19, 2023.

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

**APPROVED**  
**JANUARY 12, 2023**

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>.