

CALL TO ORDER

ROLL CALL

Present: Karen Kalmar, Dutch Dunkelberger, Mark Alessi, Drew Fitch, Russell White, Ronald Ledgett

Absent: Ann Grinnell

Staff: Kathy Connor, Interim Planner; Adam Causey, Director of Planning and Development, Jessa Kellogg, Shoreland Resource/Protection Officer

Advisory: Earldean Wells, Conservation Committee

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – April 26, 2018

Line 131 – change “expediate” to “expedite”

Line 167 -168 change to “building with the flat roof”

Line 52 – change “and” to “but”

Add Jessa Kellogg and advisory Earldean Wells

Line 69 – replace Mr. Fitch and Mr. White with “staff”

Line 96 – strike out first “tree” and add deciduous and evergreen trees.

Mr. Dunkelberger moved to accept the Minutes of April 26, 2018 as amended.

Mr. Ledgett seconded the motion

The motion carried 6-0-0.

Mr. Dunkelberger requested to hear Item 4 before Item 1. The Board agreed.

PUBLIC COMMENT

The Vice Chair opened the public comment section. There being none, the Vice-Chair closed the public comment section.

OLD BUSINESS

ITEM 1 – 459 Route 1 - Site and Subdivision Preliminary Plan Review Action:
Approve or deny plan. Owner, DSS Land Holdings, LLC, and Applicant Michael Brigham of Landmark Hill, LLC, request consideration of a mixed-use development for a 20+/- acre site located on U.S. Route 1 (Tax Map 60, Lot 24) in the Mixed-Use (MU) and Rural Residential (R-RL) Zones. Agent is Ken Wood, Attar Engineering

Mr. Wood explained waivers will be requested for parking, extension of MU Zone, entrance location and street standards. CMA Engineers have followed up with the issues from Mr. Wood's April 18th letter and are reviewing the lighting plan. Ms. Connor has received the documentation from CMA Engineers.

The Board reviewed the following:

- The Shoreland Overlay Zone be depicted on the map.
- The applicant will change the word "will" to "must" on Map 1.1, Note 11.
- The applicant clarified that the appearance of a tail for pond #20 is actually the outlet pipe and part of the structure.
- The applicant will work with staff regarding the Town's ordinance for the buffer restriction document.
- The applicant has fixed the net residential numbers on the plan.
- The revised plan shows the no-cut buffer around the wetlands of special significance at the 100 ft. wetland setback as requested by the Board.
- The applicant will add signage in the conservation area per Ms. Kellogg's request.

Mr. Dunkelberger moved to approve the 50-foot extension of the MU Zone which would allow the entire parcel located at 459 U.S. Route 1 (Tax Map 60 Lot 24) to be considered under the MU Zone as requested by applicant, Michael Brigham of Landmark Hill, LLC.

Mr. White seconded the motion.

The motion carried 6-0-0.

Mr. Dunkelberger moved to approve the parking waiver request by applicant, Michael Brigham of Landmark Hill, LLC to allow 148 parking spaces rather than 152 at 459 U.S. Route 1 (Tax Map 60 Lot 24) for the preliminary site and subdivision plan application dated April 18, 2018.

Mr. Ledgett seconded the motion.

The motion carried 6-0-0.

Mr. Dunkelberger moved to approve the 1,000-foot entrance location waiver request by applicant, Michael Brigham of Landmark Hill, LLC to allow two entrances closer than 1,000 feet apart at 459 U.S. Route 1 (Tax Map 60 Lot 24) for the preliminary site and subdivision plan application dated April 18, 2018.

Mr. Ledgett asked if this waiver item needs Town and the State action. Mr. Wood replied both the State and the Town will be involved. He added he will send the approved preliminary plan to the State and he is confident they will not change their previous approval. The 1,000 ft. criteria are part of the Town's ordinance. The Board is allowing this waiver because of the mitigating issues on the property.

Mr. Ledgett seconded the motion.

The motion carried 6-0-0.

Based on the agreement that the roads remain private, Mr. Dunkelberger moved to approve the street standards waiver request by applicant, Michael Brigham of Landmark Hill, LLC to allow private roads to be 20 and 22-feet wide, no ROW and 3-foot shoulders at 459 U.S. Route 1 (Tax Map 60 Lot 24) for the preliminary site and subdivision plan application dated April 18, 2018.

Mr. White seconded the motion.

Ms. Connor read the revised Note 13 as requested by the Board.

The motion carried 6-0-0.

Mr. Dunkelberger moved to approve the preliminary site and subdivision plan application dated April 18, 2018 from applicant, Michael Brigham of Landmark Hill, LLC, for 459 U.S. Route 1 (Tax Map 60 Lot 24) in the Mixed Use Zone with the following conditions:

a. All CMA comments must be addressed prior to submission of the final plan.

b. The no-cut buffer along the 100-foot setback must be shown on the plans prior to final plan submission.

c. Plan Note 13 must be revised per Staff Note #15 prior to final plan submission.

d. Sidewalks along Route 1 must be shown on the plans prior to final plan submission.

e. The buffer restriction documents will be changed to reflect the Town of Kittery's restrictions.

f. The Shoreland Overlay Zone will be depicted on the map.

g. The Home Owner's Association is responsible for maintaining and updating the signage for the conservation area. The Applicant will work with the Town to ensure annual inspections of the markings for conservation areas are adequate.

Mr. White seconded the motion.

The motion carried 6-0-0.

ITEM 2 – Miller Road – Major Subdivision Sketch Plan Review Action: Accept or deny application, Approve or deny plan. Owners Paul E. and Peter J. McCloud and Applicant Joseph Falzone request consideration of a 6-lot conventional subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones. Agent is Ken Wood, Attar Engineering.

Vice Chair Kalmar recused herself for this item and Mr. Dunkelberger chaired this section of the meeting.

Mr. Wood reported a site walk of the property was held on May 1, 2018. He added the Board considered three options; two conventional subdivision plans and one cluster subdivision plan. Board members discussed their preference of the conventional subdivision with one shared driveway. Reasons noted were the hammerhead will use less pavement, there will be less curb cutting and a conventional subdivision will allow for sufficient buffer requirements which will maintain the scenic road.

Mr. Dunkelberger pointed out Miller Road is a designated scenic road. The homes are set back, which gives rural character to the neighborhood. He added a cluster subdivision would detract from this scenic area and he is in favor of the proposed conventional subdivision with the shared driveway and revised hammerhead solution.

Mr. Fitch pointed out a shared driveway can be problematic between neighbors and questioned why one additional curb cut on the road is an issue. Mr. Dunkelberger commented Miller Road is busy and an extra curb cut poses safety issues.

Mr. Alesse is in favor of adding buffering for the road because it is scenic.

The Board reviewed and discussed the following staff comments:

- The Board is in favor of the option of the conventional subdivision with the shared driveway.
- Note 5 - Calculations for Net Residential Acreage – the applicant will update in Note 6.
- Note 7 – Scenic Road - the applicant agreed not to cut any trees in the 40 ft. setback and no cut buffer on the right edge of Lot 5. Mr. Wood listed the areas that will remain wooded. He added the applicant has no issues adding supplemental evergreen plantings in the 40ft. buffer to maintain the scenic quality. This will be added to the preliminary plan. Mr. Wood explained they are only planning to clear for dwellings, septic systems and yard areas. The applicant agreed to incorporate that the consensus of the Board is that no clearing be done within the 40 ft. buffers.
- The applicant agreed to review cutting for the utility poles and will consider no cutting within the 40 ft. buffer which begins behind the clearing.
- Mr. Ledgett commented that he likes the curve at the entrance way.
- Mr. White referred to an approach taken at Lewis Farms where guidelines for vegetation removal for the lots was part of the approval. He suggested the applicant review what was done for the Lewis Farm project and incorporate it for his plan.

The Board was in consensus to allow the public to comment.

Jeff Clifford, 27 Miller Road, commented the conventional subdivision makes sense in this case and suggested to slightly relocate the shared driveway because of a large tree. Mr. Clifford also commented he was at the site walk and was told by the applicant that buffers would be 50 to 60 ft. He added the applicant agreed to provide buffering along his and the Viele ROW area. Mr. Clifford added there should be a no cut buffer along the setback to the wetland. He commented with proper buffers, it makes sense to go to a conventional subdivision and he pointed out there is criteria in granting special exception. He thanked the applicant for listening.

John Viele explained he owns 19 acres and his home is located behind the proposed development. He commented that he doesn't oppose special exception for a conventional subdivision if there are adequate no cut buffers around Miller Road. He would also like buffers for his driveway area which is an aesthetic spot. He added 50 and 60 ft. buffers are important along with covenants and restrictions which need to be adequate to preserve of the beauty of the area which includes a lot of wildlife.

Sheila Pinkerton, 36 Miller Road, expressed her concern of maintaining and safeguarding the beauty of the road. She added currently telephone poles are not very visible and she would like to maintain that. She also would like a 60 ft. buffer. She asked the Board to take into consideration preserving what they can for residents who live on the road.

Michael Getty, 36 Miller Road, commented that in addition to the beauty of the road, he is happy to hear comments that consideration is being done to preserve the rural area. He commented on the utility poles and would like minimal tree cutting and explained what was done on another road where the utility poles were zig zagged.

Peter McCloud, 46 Norton Road, commented he has fought the Town for years to save the trees on Norton Road. He also commented on his concern with lights and recommended plantings added that are grown in the area such as white pine trees.

Joseph Falzone, applicant, clarified what he stated at the site walk which was that any place he can extend the buffer to 50 to 60 ft he will. He added leaving the trees makes lots more valuable. He has no control over CMP and would need to offset the poles from the trees. He is willing to work with the Board and would appreciate any support from them in dealing with CMP.

It was decided that the sketch plan will be called Conventional Plan B.

Mr. Wood commented that they will extend the buffer where they can as Mr. Falzone stated and will show the clearing limit on the preliminary plan.

Mr. White reported he has worked on pole relocation for his street and got a CMP planner to come out and set stakes and give details. Ms. Connor pointed out it is the applicant's responsibility to coordinate with CMP and support from the Planning Board is a good idea.

Mr. Ledgett moved to accept the sketch plan application as complete for Conventional Plan B for owners Paul E. and Peter J. McCloud and applicant Joseph Falzone for a 6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones.

Mr. White seconded the motion.

The motion carried 5-0-0.

NEW BUSINESS

ITEM 3 – 16 Bond Road – ROW Plan Review Action: Accept or deny application, Approve or deny plan. Owner and applicant, Sami Yassa requests consideration of a conceptual right-of-way sketch plans for a 3.04 +/- acre parcel located on Bond Road (Tax Map 25 Lot 12) in the Residential Kittery Point Village zone (R-KPV) and the Shoreland Overlay zone (OZ-SL-250). Agent is Chris Mende, PLS., Civil Consultants.

Mr. Mende explained the parcel has 30 ft. of frontage and is just over 3 acres. He added two homes are currently located on the property of which one is occupied by the applicant who would like to eventually divide the lots. The existing driveway runs adjacent to underground utilities making it impractical to relocate the road to the center of the ROW. He explained the existing road is approximately 12 ft. wide and the applicant would like to expand the width to 16 ft. He added the roadway is pavement and gravel. There will be a hammerhead turnaround and the minimum lot sizes and frontages will be met. Mr. Mende described the lots and explained the usable net area. The existing road materials meet construction standard for gravel roads and the proposal will have very little impact on the neighborhood.

The applicant clarified the proposed lot line. Mr. Dunkelberger commented the lot line is overly complex and suggested having it straighter with less curving. Mr. Mende pointed out the area of the paved roadway for the waiver request and can make it all gravel if the Board would prefer. Ms. Connor commented the ROW will be required to be named.

Mr. Ledgett asked why the applicant can't use the smaller ROW located on the northside of the property. Mr. Mende explained the applicant does not benefit from that ROW and does not have access according to the Registry of Deeds. He added the former Town Planner and current staff have been involved in this as well. Ms. Kellogg stated her understanding is that the private ROW cannot support more lots and they cannot have legal access, which she believes is due to the length of the ROW.

Mr. Yassa explained he purchased the property in 2012 and the paved roadway was existing. The gravel road was placed after consulting with the Town. He added he was unable to get access to the ROW in the rear of the property and had contacted an attorney regarding this. He discovered the ROW can only serve the five lots and the limits are specified in each lot owner's deed.

Mr. Dunkelberger suggested the applicant to draw the property line straight. Mr. Yassa agreed if he can maintain the tree line between the two homes.

Discussion of the division of the two lots will be reviewed by the Board to ensure each lot has adequate frontage and the ROW is designed to ensure the two lots are legally conforming. Mr. Mende explained the waiver for the roadway width is because of the low traffic condition and not creating more road than they need.

The Board asked the applicant to give attention to the staff comments and is subject to the Fire Chief's review.

Mr. Dunkelberger moved to accept the sketch plan application dated April 13, 2018 as complete and approve the sketch plan for Sami Yassa requesting consideration of a right-of-way for a 3.04 +/- acre parcel located on Bond Road (Tax Map 25 Lot 12) in the Residential Kittery Point Village zone (R-KPV) and the Shoreland Overlay zone (OZ-SL-250).

Mr. Ledgett seconded the motion

The motion carried 6-0-0.

OLD BUSINESS

ITEM 4 - Neighborhood Mixed Use (formerly Business Park) Zoning District

Discussion, Set public hearing. Review and discuss proposed changes to the former Business Park Zone, now called the Neighborhood Mixed Use Zone. Set public hearing date.

Town Manager Amaral reviewed some items from the last meeting. She has followed up with Mr. Fitch and Mr. Ledgett regarding the proposal to add affordable or inclusionary housing to the proposed neighborhood. She explained she does not feel this should be incorporated at this time. The Inclusionary Working Group is still in the process of deciding how to handle inclusionary housing. She asked the Board to move forward with the understanding that once the working group has a plan for inclusionary housing, this item can be reopened and added.

Mr. Dunkelberger suggested the following changes:

- Page 2, Lines 64-67 - change No. 1 to "If the use is consistent with the Comprehensive Plan and Zoning District purposes and/or one or more of the following:

- Change No. 3 to “If the proposed use is compatible with the listed uses of that zone”.

Ms. Connor reported she has already made similar changes to those items.

Vice Chair Kalmar had the following changes:

- Under D “Other Uses”, Line 67 - move No. 4 – to No. 1.
- Line 192 – change the word “is” to “are”.
- On Page 4, Lines 144, 153 and 160 - insert language “as amended from time to time” for Volume I – III.

Ms. Connor read over her changes since the last review and reported the Town’s Fire Chief will give his opinion on the building separation and building height.

Mr. Dunkelberger moved to schedule a public hearing for comment on the proposed amendment to 16.3.2.10 for June 14, 2018.

Mr. Ledgegett seconded the motion.

The motion carried 6-0-0.

Item 5 – Board Member Items/Discussion

Mr. Ledgegett informed the Board he conducted a review of the housing impact on the Town for accessory dwelling units and short-term rentals as a follow up from previous Board discussion. He described the results of his review and believes this is an item the Board should be examining soon and requested comments for the next meeting.

Vice Chair Kalmar requested staff to inform them of their priorities and projects to help the Board set their priorities. She added the Board’s action list has several Number 1 priorities. After discussion, the Board agreed to have one item as priority Number 1.

Ms. Wells informed the Board the State has a new program for mitigation of vernal pools and wetland areas called SAMP. This will impact the business park property and she passed out information of the program to the Board.

Item 6 - Town Planner Items

None.

Item 7 - Adjournment

**Mr. Alesse moved to adjourn the meeting.
Mr. Dunkelberger seconded the motion.**

The motion carried 6-0-0.

The Kittery Planning Board meeting of May 10, 2018 adjourned at 7:52 p.m.

Submitted by Mary Mancini, Minute Recorder, on May 15, 2018.

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>.