

CALL TO ORDER

ROLL CALL

Present: Steve Bellantone, Member; Ronald Ledgett, Member; Russell White, Member; Mark Alesse, Member; Karen Kalmar, Vice Chair, and Dutch Dunkelberger, Chair

Absent: Drew Fitch, Member

Staff: Jamie Steffen, Town Planner; Adam Causey, Director of Planning and Development

Advisory: Earldean Wells, Conservation Commission

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – January 24, 2019

Chair Dunkelberger stated that these would need to be postponed until the next meeting due to the lack of members present that were in attendance at that meeting.

APPROVAL OF SITE WALK MINUTES – February 28, 2019

Vice Chair Kalmar moved to accept the site walk minutes of February 28, 2019. Mr. Ledgett stated that he wanted it noted that most of the site was inaccessible due to snow and ice conditions. Vice Chair Kalmar moved to approve the minutes as amended. Seconded by Mr. Ledgett.

The motion carried 6-0-0.

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

PUBLIC HEARING

ITEM 1 – 50 Chauncey Creek Road – Shoreland Development Plan Review.

Action: Accept or deny application. Approve or deny plan. Owners and applicants, Thomas and Michele Jordan request consideration to reconstruct and expand a nonconforming single family dwelling on a 7,800 +/- square foot parcel located at 50

Chauncey Creek Road (Tax Map 44 Lot 59) in the Residential Kittery Point Village (R-KPV), Shoreland Overlay (OZ-SL-250') and Resource Protection (OZ-RP) zones. Agent Tom Emerson, studioB-E.

Mr. Emerson gave a brief overview of the proposal. He noted that the owners would be taking the proposed shed out of the application.

No members of the public spoke to the application.

Mr. Ledgett questioned the deck structure in relation to the 25' setback from the Highest Annual Tide (HAT) line. He asked for more details to be shown on the plan regarding the portion of the deck structure within the 25' setback. There was discussion amongst the Board and the Mr. Emerson regarding this information. It was decided that the final plan would be revised to the existing dimensions of the house that are within 25' of the HAT must be shown on the plan as well as any changes to the deck corner post or foundation location.

Mr. White moved to accept the Shoreland Development Plan application as complete and approve the Shoreland Development Plan application dated November 20, 2018, as revised from owners / applicants, Thomas and Michelle Jordan, to reconstruct a nonconforming single family dwelling on a 7,800 +- square foot parcel located at 50 Chauncey Creek Road (Tax map 44 Lot 59) in the Residential Kittery Point Village (R-KPV), shoreland Overlay (OZ-SL-250') and Resource Protection (OZ-RP) zones. Seconded by Mr. Ledgett.

Mr. Ledgett asked the Planner about the guard railings for the 2nd floor roof deck relative to the height definition. He asked if the Town Attorney had weighed in on the matter. Mr. Causey explained that it was staff's interpretation that the railings do not count toward the height of the structure. They would be considered an appurtenance with no associated floor area.

The motion carried 6-0-0.

FINDINGS OF FACT

The Planning Board made the following factual findings and conclusions:

Section 16.3.2.17.D Shoreland Overlay Zone

(1)(d). The total footprint of areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development except in the following zones...

Finding: The existing devegetated and impervious surfaces area is 26.5% of the lot area. The applicant will remove some impervious surfaces and revegetate to lower the overall devegetated area at 25.3%.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Section 16.7.3.1 Prohibitions and Allowances

A. Except as otherwise provided in this Article, a nonconforming condition must not be permitted to become more nonconforming.

Finding: This is an existing, nonconforming single family dwelling structure relative to the 100 foot setback from the water and side yard setbacks. A dwelling is a special exception in the Shoreland Overlay Zone.

The proposed development does not increase the nonconformity as permitted in 16.7.3.3.B Nonconforming structure repair and/or expansion.

The proposed development does not increase the nonconformity as permitted in 16.7.3.3.B. Nonconforming structure repair and/or expansion.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Section 16.7.3.3 Nonconforming Structures

16.7.3.3.B Nonconforming structure repair and/or expansion

In cases where the structure is located in the Shoreland or Resource Protection Overlay Zone, the repair and/or expansion must be approved by the Planning Board. See 16.6.6.A.2 reference below.

Finding: The proposed development increases the nonconformity as permitted in 16.7.3.3.B. (1) [4] [a] Nonconforming structure repair and/or expansion. The expansion of the footprint of the structure will not exceed 1,000 square feet in size. The height of the structure will not be greater than the height of the existing structure.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Section 16.6.6. Basis for Decision

16.6.6.A.2 In hearing appeals/requests under this Section, the Board of Appeals [note: Planning Board is also subject to this section per 16.7.3.3.B.(1) above] must use the following criteria as the basis of a decision:

1. Proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;
2. Use will not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located, or of permitted or legally established uses in adjacent use zones;
3. Safety, the health, and the welfare of the Town will not be adversely affected by the proposed use or its location; and
4. Use will be in harmony with and promote the general purposes and intent of this Code.

Finding: The proposed development does not pose a concern.

Conclusion: The requirement appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Section 16.10.10.2 Procedure for Administering Permits

D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:

Finding: The Planning Board made a positive finding on Criteria 1-10 with all of the criteria appearing to be met.

Vote of 6 in favor 0 against 0 abstaining

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan subject to any conditions or waivers, as follows:

Waivers: None

Conditions of Approval (to be included on final plan to be recorded):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2).
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. All Notices to Applicant contained herein (Findings of Fact dated 3/14/19).
5. The existing dimensions of the portions of the house that are within 25' of the Highest Annual Tide (HAT) must be shown on the plan as well as any changes to the deck corner post or foundation location.
6. Remove the proposed 80 sf shed from the plan and revise the devegetated area calculations accordingly.

The Planning Board authorizes the Planning Board Chair or Vice Chair to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of 6 in favor 0 against 0 abstaining

Per Title 16.6.2.A – An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

OLD BUSINESS

ITEM 2 - 230 U.S. Route 1 – Preliminary Site Plan Review

Action: Approve or deny preliminary site plan Owner/Applicant Green Brook, LLC requests consideration to develop a food truck pod on a 1.04 acre lot located at 230 U.S. Route 1 (Tax Map 22 Lot 14) in the Commercial (C-1) Zone. Agent is Barbara Jenny.

Barbara Jenny, owner/applicant, gave a brief overview of the final plan changes from the previous reviews by the Board. She discussed the proposed landscaping additions

to the plans. She then discussed the waiver granted from MDOT to put the trough planters in the ROW for traffic control but explained that MDOT has dictated changes to the proposed traffic movement plan for the site. She indicated that she was amenable to doing what the State has asked but she would prefer to keep the traffic flow as proposed.

The Board and the Planner discussed MDOT's position and how to handle the approval of the traffic movement plan. The Board expressed its support of the plan as presented by the applicant and expressed concerns with the changes called for by MDOT. Mr. Causey informed the Board that he would be meeting with MDOT on another project involving Route 1 and he would seek clarity on the letter regarding the traffic flow changes. He advised that the Board should approve the plan they are comfortable with and if MDOT objects then the applicant may need to come back for an amended approval.

Ms. Wells stated that she would like to see the note landscaping addendum which calls for additional pines to be planted behind the porta-potties, if necessary, to fill out the existing screening added as a plan condition.

Mr. White moved to approve the final site plan application dated 9/25/18, revised 2/15/19 from owner / applicant Green Brook, LLC to develop a food truck pod on a 1.04 acre lot located at 230 U.S. Route 1 (Tax Map 22 Lot 14) in the Commercial (C-1) Zone. Mr. Ledgett seconded the motion.

Vice Chair Kalmar noted her changes / corrections to the Findings of Fact.

The motion carried 6-0-0.

FINDINGS OF FACT

The Planning Board made the following factual findings and conclusions:

A. Development Conforms to Local Ordinances

Finding: The proposed development conforms to one of the primary objectives of the comprehensive plan for economic development as it creates a creative and viable redevelopment of an underutilized commercial parcel on the Rt. 1 Bypass. The site plan and subdivision plans comply with the provisions of Title 16.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

B. Freshwater Wetlands Identified.

Finding: There are no wetlands present.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

C. River, Stream or Brook Identified.

Finding: None present.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

D. Water Supply Sufficient.

E. Municipal Water Supply Available

Finding: The food trucks will utilize private water supplies.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

F. Sewage Disposal Adequate.

Finding: The food trucks will utilize private sewage disposal.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

G. Municipal Solid Waste Disposal Available

Finding: Solid waste disposal will be through private means. The proposed development will not burden the Town's facility.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

H. Water Body Quality and Shoreline Protected.

Finding: This standard is not applicable.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

I. Groundwater Protected.

Finding: This standard is not applicable.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

J. Flood Areas Identified and Development Conditioned.

Finding: There is no proposed development located within a flood prone area.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

K. Stormwater Managed.

Finding: No changes will be necessary to the existing stormwater management system for this site.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

L. Erosion Controlled.

Finding: This standard is not applicable.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

M. Traffic Managed.

Finding: The site plan clearly indicates on-site traffic flow. Direction of traffic through the parking lot is shown as one-way. Traffic off the Bypass and from the traffic circle via

Route 1 will be able to use two entrances, which are two-way. Staff concerns about the lack of protection of the pedestrian space from cars entering via the north entrance have been addressed through the placement of additional trough planters in the MDOT ROW, painted divided lane and stop lines and signage indicating “stop” and “No Left Turn”. At the south entrance, there will also be striping and signage to control flow into and out of the site. The applicant has provided MDOT with a traffic flow plan for the site.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

N. Water and Air Pollution Minimized.

Finding:

1. 1. The proposed development is located outside of a floodplain.
2. 2-4. The proposed development will be serviced by Town sewer.
3. 5. The proposed development will adhere to all applicable State regulations.
4. 6. Not applicable to the proposed development.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

O. Aesthetic, Cultural and Natural Values Protected.

Finding: The property does not include any significant aesthetic, cultural or natural values that require protection.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

P. Developer Financially and Technically Capable.

Finding: The site contains existing commercial development that is viable and no major investment in the property is necessary to establish the food truck pod.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board hereby

grants final approval, including approval for a special exception use request for the development at the above referenced property, including any waivers granted or conditions as noted.

Waivers:

- 1) None.

Conditions of Approval (to be depicted on the final site plan):

1. Planter troughs to be placed in the MDOT ROW between the island and the pedestrian area to the right of the exit lane.
2. No changes, erasures, modifications, or revisions may be made to the approved plan, and no further land division or additional dwelling units may be established without Planning Board-approval.
3. All Notices to Applicant contained in the Findings of Fact (dated: March 14, 2019).
4. Additional pines will be planted, if necessary, behind the porta-potties to fill out the existing screen of three (3) pines between the neighboring senior housing.

Conditions of Approval (NOT to be depicted on the final plan):

5. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for Staff review prior to presentation of final Mylar. The amended subdivision plan must be submitted to Staff for review prior to recording with the York County Registry of Deeds within 90-days of approval.

The Planning Board authorizes the Planning Board Chair or Vice Chair to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of 6 in favor 0 against 0 abstaining

Per Title 16.6.2.A – An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

ITEM 3 - Huntington Run - Cluster Subdivision Final Plan Review

Action: Accept and deny application. Approve, approve with conditions, disapprove, postpone action or continue plan. Owner, Landmark Properties, LTD and Kingsbury and Veronica Bragdon, and applicant, Chinburg Builders, Inc., request consideration of a 20-lot cluster subdivision on 86.6 +/- acres located on Betty Welch Road (Tax Map 66 Lots 2A, 8 & 8A) in the Residential Rural Zone (R-RL) and a portion located in the Shoreland Overlay (SH-250'-OZ) Zone. Agent is Jeff Clifford, P.E., Altus Engineering.

The Planner noted a couple of corrections to the application wording.

Jeff Clifford, Altus Engineering, gave an update on where the project was in the review process. He discussed the waiver requests, specifically the waiver for Street Width Design: d. Paved Shoulder. He highlighted the key points of his waiver justification letter to the Board dated March 6, 2019.

Vice Chair Kalmar discussed the waiver request and commented that the Board needed to determine if there were special circumstances that distinguishes this project from others. She commented on the harm aspect as part of the waiver conditions and asked for more detail relative to the waive justification. Mr. White discussed road widths and vehicle speed. He stated he agreed with the analysis presented for reducing the pavement width.

There was more discussion amongst the Board and Mr. Clifford regarding road widths and the applicant making a case for the Board granting the waivers.

Mr. White moved to approve a waiver from Section 16.10.5.2.B.2 Plan Size. Drawing scale: 1"=100' for Existing Conditions and Topographic Plans and Subdivision Plans; 1"=150' for Soils Plan. The smaller scale coincides with the Lot Plans, while having a scale that is easily readable. Seconded by Vice Chair Kalmar. The motion carried 6-0-0.

Mr. White moved to approve a waiver from Section 16.9.3.2 Wetlands Boundaries. Jurisdictional wetlands were not delineated on approximately 22 acres of the northern portion of the parcel since additional developable area was not needed for the density calculation and the area will be protected open space. As agreed to at the August 24, 2017 Planning Board meeting, a Natural Resource Assessment was prepared for the 22 acres by Gove Environmental in lieu of flagging and surveying the wetlands. Seconded by Vice Chair Kalmar. The motion carried 6-0-0.

Mr. White moved to approve a waiver from Section 16.8.4.4 and Table 1 Class III Private Streets Standard. Street Width Design: d. Paved Shoulder: To maintain

the rural character of the area and reduce impervious surfaces, the applicant proposes to construct 1' wide paved and 3' wide gravel shoulders on each side of the paved 20' travelled way in lieu of the Minor Streets standard of 2' and 8' paved shoulders. Seconded by Chair Dunkelberger.

Vice Chair Kalmar further expressed her concerns with granting a waiver from this standard without more detail provided relative to the harm issue and how much difference to the wetlands a reduction in pavement width would make. Mr. Clifford responded in general terms. Mr. White asked the Conservation Commission for their input on the matter. Ms. Wells responded that they had a number of problems with the proposed development. The wetlands impact being one of them. She commented though that they hadn't looked specifically at the road standards and what a reduction in pavement would do for their concerns.

Chair Dunkelberger shared his concerns about pedestrian safety, specifically school kids walking to and from the bus stop, with a reduction in pavement.

The motion was defeated 1-4-1. Waiver was denied.

Mr. White moved to approve a waiver from Section 16.8.4.4 and Table 1 Class III Private Streets Standard. Street Gradients: b. Side Slope (horiz. to vert.). To minimize wetland impact, the applicant proposes to construct 2:1 road side slopes in lieu of 3:1 standard. Seconded by Vice Chair Kalmar.

The Board and Mr. Clifford discussed the details of this request. It was determined that the waiver was justified based upon the minimizing the wetlands impact.

The motion carried 6-0-0.

Ms. Wells shared her other concerns with the proposed maintenance of the wastewater systems and the community wastewater disposal fields. She indicated that the Conservation Commission would like to see more frequent inspections of the wastewater systems. She suggested monthly inspections with revisions to the HOA documents and subdivision plan to reflect that. Vice Chair Kalmar suggest two inspections per year by a professional inspector – beginning of May and the end of September and monthly checks by the Homeowners Association heads. The applicant agreed to the requests and would revise the documents and plans accordingly.

Mr. Ledgett and Mr. Clifford had a brief discussion about flows and the monitoring of those.

Mr. White moved to approve the final cluster subdivision plan dated January 24, 2019 and wetlands alteration application dated June 22, 2017, as revised on February 14, 2019 from owner / applicant Chinburg Development, LLC for a 20-lot cluster subdivision located on Betty Welch Road (Tax Map 66 Lots 2A, 8 & 8A) in the Residential Rural and Shoreland Overlay Zones without the waiver for the Street Width Design: d. Paved Shoulder. Seconded by Vice Chair Kalmar.

Vice Chair Kalmar commented regarding the open space requirement and requested that staff makes sure that those were covered in the approval.

The motion carried 6-0-0.

Mr. White moved to accept and approve a Street Naming Application from Chinburg Development, LLC, dated February 6, 2019 to name a new private road off of Betty Welch Road (Map 66, lots 2A, 8, 8A), Huntington Way. Seconded by Mr. Ledgett. The motion carried 6-0-0.

FINDINGS OF FACT

The Planning Board made the following factual findings and conclusions:

A. Development Conforms to Local Ordinances

Finding: The subdivision is a permitted use in the Residential – Rural (R-RL) zone and does not require any variances as proposed.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

B. Freshwater Wetlands Identified.

Finding: The wetlands have been delineated by Gove Environmental and depicted on the subdivision plans.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

C. River, Stream or Brook Identified.

Finding: A small intermittent stream originating at a culvert under Betty Welch Road and leaving the property near the intersection of the water main and property line has been identified on the site.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

D. Water Supply Sufficient.

E. Municipal Water Supply Available

Finding: When completed, the proposed project is anticipated to use 5,400 gallons of water per day. The applicant has submitted letters from the Kittery Water District, dated July 25, 2017 and February 14, 2019, indicating that it will be capable of servicing this project and that the design of the water infrastructure and materials meets their specifications.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

F. Sewage Disposal Adequate.

Finding: Wastewater will be disposed of by an engineered system that consists of a septic tank and advanced treatment system for each lot which will connect to community wastewater disposal fields. MDEP has found that the proposed wastewater disposal system will be built on suitable soil types and that Maine's Drinking Water Standard for nitrates will be met at the project's property lines.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

G. Municipal Solid Waste Disposal Available

Finding: The proposed development will not burden the Town Resource Recovery Facility.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

H. Water Body Quality and Shoreline Protected.

Finding: The proposed development is partially located within the Shoreland Water Body / Wetland Protection Overlay Zone. All proposed development in the regulated zone is outside of the required 100-foot setback and will not adversely affect the water quality of the regulated wetland.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

I. Groundwater Protected.

Finding: MDEP has found that the proposed project will not unreasonably deplete groundwater resources. The Department further found that the proposed project will not have an unreasonable adverse effect on groundwater quality or quantity.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

J. Flood Areas Identified and Development Conditioned.

Finding: Flood Insurance Rate maps (FIRM) and Town Maps indicate that the only designated floodplain area on the property is located well away from the area of development.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

K. Stormwater Managed.

Finding: MDEP has found that the applicant has made adequate provision to ensure that the proposed project will meet the following: Basic Standards contained in Chapter 500 (4) (B); General Standards contained in Chapter 500 (4) (C), and the Flooding Standard contained in Chapter 500 (4) (F).

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

L. Erosion Controlled.

Finding: The proposed project meets the standard for erosion and sedimentation control in 38 M.R.S Section 420-C provided that sewer grit and sediment are disposed of in compliance with Maine Solid Waste Management rules. The installation of stormwater components will be overseen by CMA Engineers and documented according to State rules. Executed deed restrictions for the designated stormwater buffers will be recorded and marked on the ground.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

M. Traffic Managed.

Finding: With consideration of the waivers granted below, the proposed development conforms to Title 16.8.9 Parking, Loading and Traffic and will provide for adequate traffic circulation. CMA Engineers has indicated that the site distances on Betty Welch Road are acceptable.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

N. Water and Air Pollution Minimized.

The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:

- 1. Elevation of the land above sea level and its relation to the floodplains;**
- 2. Nature of soils and sub-soils and their ability to adequately support waste disposal;**
- 3. Slope of the land and its effect on effluents;**
- 4. Availability of streams for disposal of effluents;**
- 5. Applicable state and local health and water resource rules and regulations; and**
- 6. Safe transportation, disposal and storage of hazardous materials.**

Finding: 1 thru 6 have been addressed previously approval by MDEP of Site Location of Development Permit application or are not applicable to the proposed project.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

O. Aesthetic, Cultural and Natural Values Protected.

Finding: The applicant has made adequate provision for the protection of wildlife and fisheries. MDEP had found that the proposed development will not have an adverse effect on the scenic character of the area and preservation of unusual natural areas.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

P. Developer Financially and Technically Capable.

Finding: The developer has been involved with many large scale construction projects through completion. The developer will provide an inspection escrow in an amount suitable to cover the costs of on-site inspection by the Peer Review Engineer to ensure the proposed development is constructed according to the approved plan.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board hereby grants final approval, including approval for a special exception use request for the development at the above referenced property, including any waivers granted or conditions as noted.

Waivers:

1. Section 16.8.4.13. Sidewalks. No sidewalk is proposed. A walking and biking direction sign shall be provided.
2. Section 16.10.5.2.B.2 Plan Size. Drawing scale: 1"=100' for Existing Conditions and Topographic Plans and Subdivision Plans; 1"=150' for Soils Plan. The smaller scale coincides with the Lot Plans, while having a scale that is easily readable.

3. Section 16.9.3.2 Wetlands Boundaries. Jurisdictional wetlands were not delineated on approximately 22 acres of the northern portion of the parcel since additional developable area was not needed for the density calculation and the area will be protected open space. As agreed to at the August 24, 2017 Planning Board meeting, a Natural Resource Assessment was prepared for the 22 acres by Gove Environmental in lieu of flagging and surveying the wetlands.
4. Section 16.8.4.4 and Table 1 Class III Private Streets Standard. *Street Gradients: b. Side Slope (horizontal. to vertical).* To minimize wetland impact, the applicant proposes to construct 2:1 road side slopes in lieu of 3:1 standard.

Conditions of Approval (to be included as notes on the final plan in addition to the existing notes):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. All Notices to Applicant contained in the Findings of Fact (dated: 03/14/2019).

Conditions of Approval (Not to be included as notes on the final plan):

5. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for Staff review prior to presentation of final Mylar.
6. The Home Owners Association (HOA) document must be reviewed and found satisfactory by the Shoreland Resource Officer and the Town Attorney prior to the final Mylar being signed by the Chair.
7. Provide the additional documents and/or responses to all CMA comments prior to presentation of final Mylar.

8. Ensure that the open space requirements per Section 16.8.11.7 are satisfied.

The Planning Board authorizes the Planning Board Chair or Vice Chair to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of 6 in favor 0 against 0 abstaining

Per Title 16.6.2.A – An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

ITEM 4 – Board Member Items/Discussion

- A. Kittery Climate Adaptation Committee Representation

Mr. Ledgett volunteered to serve as the Planning Board representative.

ITEM 9 - Town Planner Items

None

Adjournment

Mr. Alesse moved to adjourn the meeting.

Mr. Ledgett seconded the motion.

The motion carried 6-0-0.

The Kittery Planning Board meeting of March 14, 2019 adjourned at 8:21 p.m.

Submitted by Jamie Steffen, Town Planner, on May 8, 2019.

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>.