

CALL TO ORDER

ROLL CALL

Present: Steve Bellantone, Member; Drew Fitch, Member, Ronald Ledgett, Member; Russell White, Member, and Karen Kalmar, Vice Chair,

Absent: Mark Alesse, Member; Dutch Dunkelberger, Chair

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

Advisory: Earledean Wells, Conservation Commission

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – January 24, 2019

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

APPROVAL OF MINUTES – February 14, 2019

Mr. Ledgett moved to accept the minutes of the meeting of February 14, 2019. Seconded by Mr. White.

The motion carried 5-0-0.

APPROVAL OF MINUTES – February 28, 2019

Mr. Ledgett moved to accept the minutes of the meeting of February 28, 2019. Seconded by Mr. White.

The motion carried 5-0-0.

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

OLD BUSINESS

ITEM 1 – Andrews Cluster Subdivision – Final Plan Review

Action: Accept or deny application. Approve, approve with conditions, disapprove, postpone action or continue plan. Owner /Applicant, Arthur W. Andrews Rev. Trust requests consideration of a 11-lot cluster subdivision on 93.32 acres located off Deer Ridge Lane (Tax Map 60, Lot 10) in the Residential Rural (R-RL) and Shoreland Overlay and Resource Protection (OZ-RP & OZ-SL 250') Zones. Agent is Jeff Clifford, P.E., Altus Engineering.

Mr. Clifford gave an overview of the final plan elements. He discussed the Kittery Land Trust's intent to acquire the open space parcel. He noted that they were in midst of developing the management plan for the parcel in conjunction with their abutting protected land and easements. He further noted that they will be providing two parking spaces at the end of Deer Ridge lane within the road easement for use by the land trust only to monitor the conservation land.

Mr. Clifford provided the Board with copies of the written justification for the applicant's waiver requests and then spoke to them in detail.

Mr. Steffen noted the Board's previous approval of the preliminary plan on December 13, 2018 and read the conditions of approval.

After question from Vice Chair Kalmar, Christine Bennett, Executive Director of the Kittery land Trust spoke to her support for a narrower road to lessen potential stormwater runoff impacts on the conservation land.

Mr. Ledgett asked about the rationale for the 1' paved shoulders. Mr. Clifford responded that he felt it was more important to have a good gravel base and to and construct it to keep water of base layer. The Board discussed the road standards and the special circumstances of the proposed development. Vice Chair Kalmar asked the Board for its position on the waiver criteria? The consensus of the Board was in support of the requests. After a brief discussion, the Board determined that the request for the waiver to permit the turnaround tee in lieu of a cul-de-sac was not necessary.

Mr. White moved to approve the special exception request for the eight lots that are partially within the Shoreland Overlay Zone (OZ-SL-250'). Seconded by Mr. Ledgett.

The motion carried 5-0-0.

Mr. White moved to approve the following waivers from Title 16:

- 1. Section 16.10.5.2.B (2) for drawings scale to allow the scale to be 1" = 200' for the Soils Plan.**
- 2. Section 16.9.2.2 (B) Clearing or removal of vegetation in Resource Protection Zone to construct a centralized stormwater treatment BMP.**
- 3. Section 16.8.4.6 Center line. To preserve mature trees in the right-of-way to the extent possible, allow the center line of the travelled way to be not be aligned with the center line of the right-of-way.**
- 4. Section 16.8.4.4 and Table 1 Class III Private Street – Street Width Design: c. Sidewalk/pedestrian way to not require the construction of a sidewalk along Deer Ridge Lane and the proposed Turkeytail Lane.**
- 5. Section 16.8.4.4 and Table 1 Street Width Design: c. Travel pavement to allow 18 feet of width with 2' gravel shoulders for Deer Ridge Lane from Sta. 0+00 to Sta. 5+50 and for Turkeytail Lane.**
- 6. Section 16.8.4.4 and Table 1 Street Width Design: d. Paved shoulder to allow 2' gravel shoulders for Deer Ridge Lane Sta. 5+50 to Sta. 10+33.**

Seconded by Mr. Ledgett.

Discussion: Vice Chair Kalmar stated that she would like the record to convey that the Board reviewed the special circumstances of the plan and found that it was demonstrated that the additional impacts of vegetation removal and road runoff that would result from applying the code standards for the road and stormwater improvements did not promote the public health, welfare and safety.

The motion carried 5-0-0.

Mr. White moved to approve the final cluster subdivision plan application, dated March 27, 2019, from owner / applicant Arthur W. Andrews Rev. Trust for an 11-lot cluster subdivision located off of Deer Ridge Lane (Tax Map 60 Lot 10) in the Residential Rural (R-RL) and Shoreland Overlay and Resource Protection (OZ-RP & OZ-SL 250') Zones. Seconded by Mr. Fitch.

The motion carried 5-0-0.

Mr. White moved to accept and approve a street naming application from Jeffrey Clifford, dated February 20, 2019, to name a new private road off of Deer Ridge Lane (Map 60, Lot 10), Turkeytail Lane. Seconded by Mr. Ledgett.

The motion carried 5-0-0.

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 Title 16, Article XI Cluster Residential Development, Section 16.8.1.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

B. Freshwater Wetlands Identified.

Finding: The wetland boundaries have been delineated/flagged by Joseph W. Noel, Maine Certified Soil Scientist #209 and depicted on the subdivision plans. No wetlands will be impacted by the development.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

C. River, Stream or Brook Identified.

Finding: Cutts Ridge Brook headwaters begin on the property and flow northwesterly from the parcel onto abutting Johnson Farm property. The brook has been identified on the subdivision plans.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

D. Water Supply Sufficient.

E. Municipal Water Supply Available

Finding: The proposed lots are being serviced by an existing 8-inch municipal water main along Deer Ridge Lane and a proposed 6-inch water main along the new roadway. The applicant has submitted a letters from the Kittery Water District, dated October 23, 2018 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 5 in favor 0 against 0 abstaining

F. Sewage Disposal Adequate.

Finding: Individual septic and leach field systems are proposed on each lot. A minimum two (2) required test pits were located on each lot by Joseph W. Noel, Maine Certified Site Evaluator, indicating that the lot can support a septic system. Test pits were also performed at proposed reserved areas, where required.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

G. Municipal Solid Waste Disposal Available

Finding: The proposed development doesn't not require any changes to municipal solid waste services.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

H. Water Body Quality and Shoreline Protected.

Finding: The eleven (11) proposed lots are within a significant sand and gravel aquifer and/or the Shoreland – Wetlands Protection Area (OZ-SL-250") at the northeasterly end of the project. The lots will require advance pre-treatment aeration at each subsurface wastewater disposal system. Therefore, the proposed development should not adversely affect the quality or quantity of surface water..

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

I. Groundwater Protected.

Finding: The eleven (11) proposed lots are within a significant sand and gravel aquifer and/or the Shoreland – Wetlands protection Area (OZ-SL-250”) at the northeasterly end of the project. The lots will require advance pre-treatment aeration at each subsurface wastewater disposal system. Therefore, the proposed development should not adversely affect the quality or quantity of groundwater.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

J. Flood Areas Identified and Development Conditioned.

Finding: Flood Hazard Zone A per FIRM Map #23031C0663G, dated preliminary November 5, 2013 is shown along the Cutts Ridge Brook corridor. Zone A has no defined 110-year flood elevation. No buildings will be constructed within **this zone**.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

K. Stormwater Managed.

Finding: Stormwater from impervious and disturbed areas on the site will be treated by the use of stormwater BMPs designed to remove fine particulates and suspended sediments. A grassed underdrain soil filter, wooded buffers, grass swales, level spreaders and riprap protection are utilized to obtain the required stormwater treatment. A comprehensive review of the stormwater management plan will be performed by MDEP under the Stormwater Law License permit.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

L. Erosion Controlled.

Finding: Runoff is primarily maintained as sheet flow and minimized concentrated flow. Other best management practices include the use of undisturbed wooded buffers, grass swales, riprap protection, minimization of pavement widths, stabilized construction exit and silt barriers. Best management practices for erosion control will be reviewed as part of the MDEP Stormwater Law License permit.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

M. Traffic Managed.

Finding: The applicant has provided a Traffic Generator Summary for the development and the ADT peak hour and peak day is appropriate for Cutts Road.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

N. Water and Air Pollution Minimized.

Finding:

1. No filling or development is proposed within the 100-year floodplain.
2. Applicant has provided a Class A High Intensity Soil Survey, test pit logs, proposed subsurface disposal area locations, and reserve locations for the proposed lots.
3. Proposed subsurface disposal areas are located outside of steep slope areas.
4. There will be no activity with 500' of Cutts Ridge Brook.
5. The applicant has received an MDEP Stormwater Law License permit.
6. N/A.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

O. Aesthetic, Cultural and Natural Values Protected.

Finding: The proposed development will create an 84.25 acre lot designated as reserved open space, protecting over 90% of the parent parcel. The Kittery land Trust will take ownership of the open space lot and manage it in accordance with an approved management plan and in conjunction with their abutting protected land and easements. There are a number of vernal pools on the parcel. MDEP determined that only one (1) vernal pool meets the standards of a significant vernal pool (SVP). All development will be outside the 250 foot MDEP buffer to the SVP.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 0 abstaining

P. Developer Financially and Technically Capable.

Finding: 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 5 in favor 0 against 0 abstaining

Chapter 16.6 DECISION APPEAL, VARIANCE and OTHER REQUESTS

16.6.4. D (2) Special Exception Use Request.

Finding: Lots 2, 3, 4, 5, 6, 7, 8, and 11 are either partially or entirely located in the Shoreland Overlay Zone (OZ-SL-250'). The lots will require advanced pre-treatment (aeration) at each subsurface wastewater disposal site. No wetlands will be impacted by the development.

The proposed project appears to have no adverse impact with consideration of the conditions and factors outlined in 16.6.6, including:

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.

Conclusion: The special exception can be met.

Vote of 5 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 16.10.5.2.B (2) for drawings scale to allow the scale to be 1" = 200' for the Soils Plan.
2. Section 16.9.2.2 (B) Clearing or removal of vegetation in Resource Protection Zone to construct a centralized stormwater treatment BMP.
3. Section 16.8.4.6 Center line. To preserve mature trees in the right-of-way to the extent possible, allow the center line of the travelled way to be not be aligned with the center line of the right-of-way.
4. Section 16.8.4.4 and Table 1 Class III Private Street – Street Width Design: c. Sidewalk/pedestrian way to not require the construction of a sidewalk along Deer Ridge Lane and the proposed Turkeytail Lane.
5. Section 16.8.4.4 and Table 1 Class II Street Width Design: c. Travel pavement to allow 18 feet of width with 2' gravel shoulders for Deer Ridge Lane from Sta. 5+50 to Sta. 10+33 and for Turkeytail Lane.
6. Section 16.8.4.4 and Table 1 Class III Street Width Design: d. Paved shoulder to allow 2' gravel shoulders for Deer Ridge Lane Sta. 0+00 to Sta. 5+50.
7. Section 16.8.4.4 and Table 1 Class II Street Gradients: a. Longitudinal (Max) to allow a portion of the Deer Ridge Lane to be reconstructed with a 10.6% slope. (Granted by the Planning Board on 4/25/2019 - Vote: 5-1-0).

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 in the Findings of Fact (dated: 04/11/2019).

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

1. 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.
2. 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.
3. Provide the additional documents and/or responses to all CMA comments prior to presentation of final Mylar.

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 5 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.

NEW BUSINESS

ITEM 2 - Huntington Run Cluster Subdivision – Major Modification to an Approved Subdivision Plan

Action: Approve or deny major modification. Owner / applicant Chinburg Development, LLC requests consideration of a major modification to an approved plan to amend the roadway design for 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.

Jeff Clifford, Altus Engineering, gave an overview of the request. He explained that the modification would be amend the roadway design to build 4' paved shoulders on the south side of the road up to the cul-de-sac loop with 1' paved shoulders along the cul-de-sac and along the north side of the new roadway.

He discussed the special circumstances of the proposed development that justified the requested waiver from the paved shoulder requirement.

The Board briefly discussed the special circumstances in particular the lessening of the environmental impact to protect bat habitat that would warrant the approval of the plan modification and the granting of the waiver relative to the paved shoulders. Mr. Ledgett suggested the following motion:

Mr. Ledgett moved to approve a major modification to the approved plan and a waiver from Title 16, Section 16.8.4.4 and Table 1 Class III Private Streets Standard. Street Width Design: d. Paved Shoulder to reduce the overall pavement width as follows: a 4-foot wide paved shoulder on the south side of Huntington Way, from Betty Welch Road to the beginning of the cul-de-sac loop (adjacent to Lot 19), a distance of 935 feet. Striping will delineate the paved shoulder from the travelled way. All other roadway shoulders are proposed to be constructed as 1-foot of pavement and gravel shoulders of varying width as depicted on the plans. With the 20-foot travelled way, the overall pavement width along the first section of Huntington Way will be 25 feet. The loop portion will have a total pavement width of 22 feet. Seconded by Mr. White.

The motion carried 5-0-0.

ITEM 3 - Wilson Road – Minor Subdivision Sketch Plan Review

Action: Accept or deny application; Approve or deny sketch plan. Owner Kerry A. Major and applicant Paul Hollis request consideration of a minor subdivision to construct a duplex on a 6.38-acre parcel located on Wilson Road, (Tax Map 54 Lot 20) in the Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250') Zones.

Paul Hollis, owner of Great Lots of Maine, gave an overview of the proposal.

Vice Chair Kalmar asked for more detail on the plan relative to the calculations for the Net Residential Acreage. Mr. Hollis responded that it would be added to the plan. The Board discussed conducting a site walk and staking out the perimeter of the building and the driveway.

Mr. White moved to schedule a site walk for the proposed subdivision on April 30th at 10 am. Mr. Ledgett seconded the motion.

The motion passed 5-0-0.

Mr. White moved to accept and approve the sketch plan application, dated February 21, 2019 from owner Kerry A. Major and applicant Paul Hollis for a minor subdivision to construct a duplex on a 6.38-acre parcel located on Wilson Road, (Tax Map 54 Lot 20) in the Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250') Zones. Seconded by Mr. Ledgett.

The motion carried 5-0-0.

ITEM 4 – Board Member Items/Discussion

None.

ITEM 9 - Town Planner Items

Adam Causey, Director of Planning and Development, informed the Board about an upcoming Design Workshop for the Rice Public Library Building Expansion & Renovation that would be occurring on April 24th from 6 PM – 8 PM at the KCC.

The Board and Mr. Causey had a brief discussion about putting the Short Term Rentals (STR) item on the Board's agenda. Staff will get the Board some materials on the subject for them to review as a starting point.

Adjournment

**Mr. White moved to adjourn the meeting.
Mr. Ledgett seconded the motion.**

The motion carried 6-0-0.

The Kittery Planning Board meeting of April 11, 2019 adjourned at 8:17 p.m.

Submitted by Jamie Steffen, Town Planner, on June 12, 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

**TOWN OF KITTERY, Maine
PLANNING BOARD MEETING
Council Chambers**

**APPROVED
April 11, 2019**

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>.