

**Town of Kittery  
Planning Board Meeting  
September 28, 2023**

**ITEM 2 – 77 Bartlett Road – Conservation Subdivision Plan – Preliminary Review**

Action: Hold public hearing. Continue review. Michael Tadema-Wielandt, on behalf of owner/applicant Geoff Bowley, is proposing to divide a 19.11-acre parcel into a conservation subdivision of 9 single-family residential building lots, a private street system, and an open space plot around identified wetlands, vernal pools, and a pre-existing cemetery. The proposed subdivision is located on the property of 77 Bartlett Road, Map 62 Lot 26, in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones.

**PROCESS SUMMARY**

REQ'D	ACTION	COMMENTS	STATUS
YES	Sketch Plan Acceptance/Approval	5/11/23	Accepted
YES	Planning board determination of completeness	8/24/23	Pending
NO	Site Visit	8/21/23	TBD
YES	Public Hearing	Scheduled for 9/28/23	TBD
YES	Preliminary Plan Approval		TBD
YES	Final Plan Review and Decision		TBD
<p><b>Applicant: Prior to the signing of the approved Plan any Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS. <u>As per Section 16.4.4.L - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.</u></b></p>			

**PROJECT INTRODUCTION**

This is the second review for a proposed 9-lot conservation subdivision located at 77 Bartlett Road in the R-RL (Residential-Rural) zoning district and partially within the OZ-RP Resource Protection Overlay Zone. The lots are proposed to be accessed from Bartlett Road through a private street system ending in one cul-de-sac, designed to meet the standards of a Class II private street with a 3-foot widened shoulder and a painted strip on the west side for pedestrian movement. Nine proposed lots will all be accessed from the new road. Lot sizes range from approximately 21,000 square feet to 34,000 square feet. The property currently contains a single residential dwelling; the structure will remain on the lot after renovations, and the driveway currently providing access to Bartlett Road will be removed.

A private cemetery, located between proposed lots 1 and 2, will be maintained as open space with public access provided. Public water and sewage are unavailable to the property; the developer proposes installing private septic systems and wells for each individual lot. The site contains wetland areas around the proposed subdivision, including two vernal pools (that have not been deemed of significant size by the state) located east of the proposed development, and an area containing a wetland of special significance as well as a floodplain abutting the proposed subdivision to the southwest.

34 The planning board first reviewed this application on August 24<sup>th</sup>, where they accepted the application as  
 35 complete, scheduled a site walk for September 21<sup>st</sup>, and scheduled a public hearing during the September  
 36 28<sup>th</sup> planning board meeting. After plan acceptance, a third-party review of the drainage analysis by CMA  
 37 engineer identified a number of concerns and deemed the drainage analysis would have to be resubmitted,  
 38 noting that additional stormwater treatment would likely be required. Once the hearing has been  
 39 completed, staff suggest the planning board advise the applicant based on the feedback provided by the  
 40 public and peer review.

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 42 **STAFF COMMENTS**

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 45 1. While the drainage analysis needs to be resubmitted, the peer review found only insignificant errors  
 46 in the site plan, which could be revised without significant change.  
 47 2. At the last meeting, the planning board requested the applicant show proof that a community water  
 48 system was too costly to provide instead of private wells for each individual lot.  
 49 3. A 40-foot right-of-way is proposed, with a 5-foot grading and drainage easement along both sides  
 50 of the ROW. The proposed road shall be private and maintained by a homeowner’s association.  
 51 4. Part of the cul-de-sac is within 100 feet of the wetland. **§16.5.30** requires traveled ways greater than  
 52 18 feet in width only maintain a 30-foot setback, or 10 feet from the toe of the slope, whichever is  
 53 greater. Additionally, this is a standard that can be modified in a conservation subdivision.  
 54 5. The grading plan shows the test pits for potential septic and wells, as well as proposed transformer  
 55 locations to be coordinated with Central Maine Power.  
 56 6. The water report confirms the recharge capacity of the aquifer is greater than the anticipated water  
 57 usage of the proposed wells, and the bedrock is a good site for wells to be dug.  
 58 7. The Maine Department of Inland Fisheries and Wildlife does not anticipate essential habitats to be  
 59 directly affected by the project. Endangered, threatened, and significant wildlife have not been  
 60 identified in the parcel area, and impact to nearby identified habitats is not anticipated.  
 61 8. Because the conservation subdivision ordinance strongly recommends all buildings within the  
 62 subdivision be designed for maximum energy efficiency per **§16.10.6.A.(4)**, it is suggested that  
 63 buildings be designed as south-facing whenever possible in this subdivision.  
 64 9. The conservation subdivision requires low impact development wherever possible. The proposal  
 65 plans to reuse the materials from the portions of the stone wall to be dismantled and is proposing a  
 66 forested stormwater buffer adjacent to lot 4. Staff believe these examples show the applicant is  
 67 working to meet this requirement.  
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69 **PROJECT ANALYSIS**

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Code Ref.	§16.4 Land Use Zone Standards	
	Standard	Determination
§16.4.10.B	Permitted/Special Exception Uses	The proposed subdivision is a permitted use
§16.4.10.E.(2).(a).	Minimum area per dwelling: 40,000 sq ft.	It appears the standard is satisfied.

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§16.4.10.E.(2).(b).	Lot size: 40,000 sq ft minimum	Not all lots meet this standard. Requirements need not be met in a conservation subdivision
§16.4.10.E.(2).(c).	Street frontage: 150 ft minimum	Not all lots meet this standard. Requirements may be modified in a conservation subdivision.
§16.4.10.E.(2).(d).	Front setback: 40 ft minimum	Not all lots meet this standard. Requirements may be modified in a conservation subdivision.
§16.4.10.E.(2).(e).	Building coverage: 15% maximum	Not all lots meet this standard. Requirements may be modified in a conservation subdivision.
§16.4.10.E.(2).(f).	Rear and side setbacks: 20 ft minimum.	Not all lots meet this standard. Requirements may be modified in a conservation subdivision.
§16.4.10.E.(2).(g).	Building height: 35 ft maximum	It appears the standard is satisfied.
§16.4.10.E.(2).(i).	Minimum water-body setbacks: up to 100 feet from high-water line of identified wetlands	The plan is missing a setback from the wetlands abutting lot 1.
Code Ref.	§16.5 Performance Standards	
	Standard	Determination
§16.5.4	Affordable housing requirements	Not applicable, as the subdivision has less than 10 lots.
§16.5.9	Conservation of vernal pools	Identified vernal pools were not deemed significant. Standard setback applies determined by size.
§16.5.10	Essential services	Test pits and well locations have been notated. Underground utilities are proposed. Standards appear to be met
§16.5.11	Floodplain Management	The proposed development is outside of the indicated

		floodplain. Standards appear to be met.
§16.5.14.B	Lots	The flag-shaped lot proposed in the sketch review has been removed. Lot standards appear to be met, save for issues noted in the table above.
§16.5.18.	Net residential acreage	Staff found an error in calculations: the “less space” totaled 265,047 sq ft, not 256,264. Despite this error, there is still enough land to support a maximum of 14 lots. The standard appears to be met.
§16.5.27	Street Standards	The proposed road appears to meet the standards of a class II private street. A paved “pedestrian way” has been provided instead of required sidewalks.
§16.5.30	All wetlands of 501 sq ft. or greater trigger setbacks for certain uses	Delineation was submitted, and wetlands of special significance have been identified. Standards appear to be met, save for the missing setback mentioned above.
Code Ref.	§16.10 Additional Requirements for Conservation Subdivision	
	Standard	Determination
§16.10.4.B	Indicate any proposed public open space and Town Council approval	Standard is not required. Public access is not proposed by applicant, and the cemetery on the property would not be considered a public park.
§16.10.5.C	Proposed private and water systems must show: <ul style="list-style-type: none"> <li>adequate groundwater is available.</li> <li>Proposed groundwater sources are safe from on-site and off-site contamination.</li> <li>Proposed individual septic systems will not endanger drinking water supply.</li> <li>The costs of a community water or wastewater system is prohibitively expensive</li> </ul>	Standards appear to be met.

§16.10.5.D	Designated open space to be permanently preserved	Appears to meet minimum open space standards. Proposed configuration requires planning board approval
§16.10.5.E	Minimum lot size with private water/wastewater: 20,000 sq ft	Standard appears to be met
§16.10.5.F	No individual lot may have direct vehicular access onto a public road	All proposed lots will access the proposed private way. The driveway of the existing dwelling currently connecting to Bartlett Road will be removed. Standard appears to be met.
§16.10.5.G	All areas designated as Resource Protection must be protected as open space	While wetlands of special significance are notated, there is no boundary line for the resource protection overlay zone.
§16.10.5.I	Wetlands designated as open space to have a “no-cut, no disturb” buffer	Staff suggest adding a note in the site plan indicating the identified wetland setbacks will be “no cut, no disturbance” areas, as that is a code requirement.
§16.10.5.J	All utilities must be installed underground	The standard appears to be met.
§16.10.5.K	All subsurface wastewater disposal areas to be indicated on plan	The standard appears to be met
§16.10.6.F	Vegetated buffer located on front lot line, a minimum width of 40 feet	The standard appears to be met.

§16.10.6.H	Low-impact design must be incorporated into the plan whenever possible	The stormwater drainage plan proposes a forested stormwater buffer on Lot 4. The standard appears to be met.
§16.10.7.A	Open space minimum: 60% of lot, with 40% of that consisting of net residential acreage	Numbers in this calculation seem to conflict with the net residential acreage calculations. Staff suggest revising calculations, and incorporating the error indicated above.
§16.10.7.B	All wetlands, water bodies, and floodplains must be located within open space boundaries	This standard appears to be met.
§16.10.7.C	Significant natural resources or wildlife habitat areas must be designated as open space	This standard appears to be met.
§16.10.7.D	Open space must include any notable features	This standard appears to be met.
§16.10.7.E	All historic, cultural, or archaeological resources must be included as open space	The Payne Cemetery is designated as open space. The standard appears to be met.
§16.10.7.F	Open space areas must be made contiguous to the greatest extent possible	Staff believe this standard has been met, but open space configuration is up to the decision of the planning board.
§16.10.7.G	Open space may not be mowed unless part of a public park/trail	This standard will be met with the addition of the above mentioned “no cut” buffers.
§16.10.10	The homeowner's association will be held responsible for: <ul style="list-style-type: none"> <li>• Maintenance of open space</li> <li>• Maintenance public facilities such as road and stormwater systems</li> <li>• An initial capital fund required to cover expenses</li> <li>• Maintenance and replacement of plantings, including additional plantings required by the planning board</li> </ul>	The plan indicates the subdivision will be maintained by a Homeowner's Association

§16.10.11	<p>Prior to the beginning of any site work, the applicant must:</p> <ul style="list-style-type: none"> <li>• Define the limits of any proposed clearings.</li> <li>• File all required performance guarantees and inspection escrows in forms acceptable to the Town Manager</li> </ul>	Not applicable at preliminary stage
Code Ref.	§16.8.9.C Preliminary Subdivision Plan Requirements	
	Standard	Determination
§16.8.9.C.(5).(a-i).	<ul style="list-style-type: none"> <li>* Paper plan sheets no smaller than 11" x 17"</li> <li>* Scale of drawing no greater than 1 inch = 30 feet</li> <li>* Code block in right-hand corner</li> <li>* Standard boundary survey of existing conditions</li> <li>* Compass with arrow pointing true north</li> <li>* Locus map of property</li> <li>* Vicinity map and aerial photograph</li> <li>* Surveyed acreage of parcel(s), rights-of-way, wetlands, and amount of street frontage</li> <li>* Names and addresses of owners of record abutting property</li> </ul>	Provided
§16.8.9.C.(5).(j).	Existing conditions survey including all identified structures, natural resources, rights-of-way, and utilities located on and within 100 feet of the property	Provided
§16.8.9.C.(5).(k).	<p>Proposed development area including:</p> <ul style="list-style-type: none"> <li>* Location and detail of proposed structures and signs</li> <li>* Proposed utilities including power, water, and sewer</li> <li>* Sewage facilities type and placement</li> <li>* Domestic water source</li> <li>* Lot lines, rights-of-way, and street alignments</li> <li>* Road and other paved area plans</li> <li>* Existing and proposed setbacks</li> <li>* Storage areas for waste or hazardous materials</li> <li>* Topographic contours of existing contours and finished grade elevations</li> <li>* Locations and dimensions of artificial features such as pedestrian ways, sidewalks, curb cuts, driveways, fences, retaining walls,</li> </ul>	Provided
§16.8.9.C.(6).(a).	Documents showing legal interest in the property	Provided
§16.8.9.C.(6).(b).	Identified property encumbrances	Provided

§16.8.9.C.(6).(c).	Kittery Water District approval letter	Private water proposed: hydrogeologist letter has been provided.
§16.8.9.C.(6).(d).	Erosion and sedimentation control plan	Provided
§16.8.9.C.(6).(e).	Stormwater management plan and drainage analysis	Provided
§16.8.9.C.(6).(f).	Soil survey	Provided
§16.8.9.C.(6).(g).	Vehicular traffic report	Provided
§16.8.9.C.(6).(h).	Traffic impact analysis	Not deemed applicable due to low traffic volume
§16.8.9.C.(6).(i).	Test pit analysis for proposed septic systems	Provided
§16.8.9.C.(6).(j).	Town sewage department confirmation	Not applicable.
§16.8.10.C.(6).(k).	Evaluation of development by Police, Fire, and Public Works department heads	Provided
§16.8.10.C.(6).(l).	Additional submissions as required	None proposed at this time

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### **DISCUSSION, NEXT STEPS, AND RECOMMENDATIONS**

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75 The purpose of a public hearing is to gather feedback from abutters, residents, and interested parties that  
76 may identify potential conflicts or suggestions to the proposed development. As the peer review has  
77 indicated that the applicant must resubmit their drainage analysis, the planning board cannot approve the  
78 plan at this meeting. After holding the hearing, staff suggest the planning board discuss the feedback  
79 gathered by the public and peer review and advise the applicant on next steps.

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### **RECOMMENDED MOTIONS**

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82 Below are recommended motions for the Board's use and consideration:

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#### ***Motion to continue the application***

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85 Move to continue review of the site plan by Michael Tadema-Wielandt, on behalf of owner/applicant  
86 Geoff Bowley, proposing to divide a 19.11-acre parcel into a conservation subdivision of 9 single-family  
87 residential building lots, a private street system, and an open space plot around identified wetlands, vernal  
88 pools, and a pre-existing cemetery on the property of 77 Bartlett Road, Map 62 Lot 26, in the Residential-  
Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones.





September X, 2023

Maxim Zakian, Town Planner  
Town of Kittery  
200 Rogers Road  
Kittery, Maine 03904

**RE: Town of Kittery, Planning Board Services  
Bartlett Road Conservation Subdivision  
77 Bartlett Road, Tax Map 62, Lot 26  
CMA #591.161**

Dear Max:

CMA Engineers has received the following information for Assignment #161, review of the Bartlett Subdivision at 77 Bartlett Road (Tax Map 62, Lot 26).

- 1) Drawings titled Subdivision Plans, Bartlett Road Subdivision, Bartlett Road, Kittery, Maine, Dated May 18, 2023, by Terradyn Consultants, LLC of Portland, ME.
- 2) Stormwater Management Report prepared by Terradyn Consultants LLC and dated August 2023.
- 3) Preliminary plan application and supporting documentation dated August 3, 2023.

We have reviewed the information submitted for conformance with the Kittery Land Use and Development Code (LUDC) and general engineering practices and offer the comments below that correspond directly to the Town's Ordinances.

The project is proposed as a 9-lot conservation subdivision with access off Bartlett Road. The project is located in the residential-rural district (R-RL) zone with a small area in the resource protection overlay zone. The proposed development is located on a 19.3-acre lot and includes single family residences (including one existing home) and a roadway ending in a cul-de-sac. Lots are proposed between 21,000 square feet and 29,000 square feet. 13 acres are proposed to be preserved as open space. The lots will be served by individual septic systems and wells. There are wetlands, potential vernal pools, and a cemetery on the property. There are no wetland impacts associated with the project. Stormwater treatment is accomplished through the use of vegetated swales, a level spreader, and a forested wetland buffer.

## **16.4 Zoning Regulations**

### *16.4.13 Residential-Urban(R-U)*

The proposed use (dwelling, single family) is a permitted use, and a conservation residential development is specifically included in the permitted uses.

The project conforms to all zoning standards.

## 16.5 General Development Requirements

### 16.5.9 Conservation of Wetlands Including Vernal Pools

The vernal pools on site are not significant per a letter from Maine Department of Environmental Protection dated July 5, 2023. There are no proposed alterations to the wetlands on site. A portion of the cul-de-sac is constructed within the wetland buffer. We note that if the cul-de-sac were shifted west then the setback to the wetland could be increased.

### 16.5.18 Net Residential Acreage

The applicant has presented calculations to show that the net residential acreage allows 14 dwelling units. The applicant is proposing 9 dwelling units.

### 16.5.27 Streets and Pedestrianways/Sidewalks Site Design Standards

16.5.27.H.(4) The site distance in both directions on Bartlett Road should be indicated on the plans.

## 16.8 Subdivision Review

### 16.8.10 Performance Standards and Approval Criteria

#### 16.8.10.D. Sewage Disposal

16.8.10.D.2.(a) The developer Will need to submit plans for the subsurface wastewater disposal systems.

16.8.10.D.2.(d)[1]. Test pits on Lots 3,4,6 and 7, have limiting factors within 24". Reserve disposal locations should be shown on each lot.

#### 16.8.10.E. Stormwater and Surface Drainage

The applicant is proposing to manage stormwater through the use of open drainage swales. Stormwater from the cul-de-sac is directed to a stone berm level lip spreader that discharges to a forested stormwater buffer adjacent within a wetland buffer. Peak flows are reduced slightly post-construction. We have the following comments:

1. The nodes on the pre- and post-development routing diagrams should be labeled to be consistent with watershed plan notes. For example, the notes describe study points flowing to Brave Boat Harbor and Spruce Creek, but it's unclear in the routing diagram which nodes correspond to which outlets.
2. Pre-development and post-development curve numbers are both 76. With the proposed houses, driveways, and road, the post-development curve number should be higher.
3. The post-construction peak rates of runoff appear to be mitigated by the inaccurate use of reaches in the form of large swales. The plans do not show any proposed swales where reaches are called for, so they cannot be used to lower peak rates.
4. The drainage design should be revised to model pipe SD-1, which flows under the proposed road at its intersection with Bartlett Road.

#### 16.8.10.G. Vehicular Traffic

16.8.10.G.(3)(a) The sight distances on Bartlett Road should be shown on the plans.

#### 16.8.10.J. Prevention of Erosion

16.8.10.J.(1)(a) Does excavation occur in the Resource protection overland zone? If so, a responsible person for management of erosion and sedimentation control practices will need to be defined during construction.

We have the following comments on the plans:

Cover Sheet:

1. General Note 6 has a spelling error in the word "Maine".
2. General Note 7 has a grammatical error with the word "is".
3. Several of the plan set names in the Sheet Index are different than those listed on the plans.

Existing Conditions Plan:

1. The test pit locations should be numbered. Where is the corresponding test pit information?
2. There are items in the legend that do not apply to the plan.
3. The Resource Protection Overlay Zone should be shown on the plan.
4. The plan should be stamped by the wetland delineation professional.

Sheet C-2.0 Existing Conditions & Demolition Plan:

1. The wetland boundary on Lot 26A should be shown.
2. Based on proposed grading and utilities on Sheet C-3.1, more than 46 feet of stone wall will need to be removed.

Sheet C-3.0 Subdivision Plan

1. The lines of sight should be shown on the Plan.
2. Note 4 lists the proposed minimum lot area as 25,000 SF but Lots 1,2 and 6 are less than that. Please clarify.
3. The Open Space Requirements calculations in Note 7 do not add up or correspond to calculations in Note 6. Please clarify.

Sheet C-3.1 Plan & Profile:

1. The test pit numbers and locations appear to be different than those in the Class A High Intensity Soil Survey. Please clarify.
2. Test pits on Lots 3,4,6 and 7, have limiting factors within 24". A second disposal location should be shown on each lot.
3. The right-of-way width should be shown on the plan.
4. The lines of sight on Bartlett Road should be shown.
5. Proposed well locations and protective well radii should be shown on the plan.
6. Silt fence and proposed tree lines run through the proposed level spreader. Adjust both lines so they go around the proposed work.
7. This plan has multiple purposes (plan and profile, grading and drainage, erosion control, and utilities) with overlapping linetypes that make it difficult to read. Separating these onto several plans would make the plans more legible.

Sheet C-4.0 Erosion Control Notes & Details:

1. General Housekeeping Note 7 references the "department" and "Appendix C". Do these apply to this project?

Sheet C-4.1 Site Details

1. The Typical Road Section and Typ. Driveway Pavement Section reference different pavement mixes. Is this the intent?

2. Does the Town of Kittery require lane joint adhesive at the pavement joint in Bartlett Road (only tack coat is specified)?
3. "Instaled" is misspelled in the Driveway Culvert detail.
4. The plans should provide a stop sign detail.
5. The plans should provide a striping detail.

Should you have any questions, please do not hesitate to call.

Very truly yours,

CMA ENGINEERS, INC.



Jodie Bray Strickland, P.E.

Senior Project Engineer

cc: Michael Tedema-Wielandt, P.E., Terradyn Consultants, LLC

## SITE WALK MINUTES

77 Bartlett Road

9/21/23, 4:30 pm.

**PB members present:** Earldean Wells, Bob Doyle, Ethan Bensley, Karen Kalmar, Steve Bellantone.

**Other attendees:** Terradyn Consulting Staff, Kittery planning dept staff, representative of the Kittery Land Trust, and the following abutters:

- Henry Martin 88 Bartlett Rd.
- Melinda Boucher 18 Lynch Ln.
- Kevin Niles 80 Bartlett Rd.
- Jeff Clifford 27 Miller Rd.
- Karen Pelkey 6 Lynch Ln.
- Bill Paarlberg 82 Bartlett Rd.
- Adam Baran 84 Bartlett Rd.
- Thomas Emery 41 Bartlett Rd.
- Carrie Lyons 69 Bartlett Rd.
- Carter Lyons 69 Bartlett Rd,
- Rober M. Hooce 60 Bartlett Rd.

Consults Michael Tadema-Wielandt and Griffith Wood took the staff on a tour of the property. The site walk observed the existing house to remain, lot corners & boundaries marked, future ROW, cemetery, wetland edge. Applicant, neighbor, and several attendees visited SW property corner. SW property corner location may be disputed, to be resolved via survey/ legal (NOT planning board).

Site walk adjourned at 5:00 pm.