

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: John Perry, Member, Drew Fitch, Member, Steve Bellantone, Member, Russell
6 White, Member, Ronald Ledgett, Member, Karen Kalmar, Vice Chair and Dutch
7 Dunkelberger, Chair

8

9 Absent: none

10

11 Staff: Bart McDonough, Town Planner and Adam Causey, Director of Planning

12

13 Advisory: Earldean Wells, Conservation Commission

14

15 **PLEDGE OF ALLEGIANCE**

16

17 **APPROVAL OF AGENDA**

18 Chair Dunkelberger proposed moving Item 4 to last. The Board agreed.

19

20 **APPROVAL OF MINUTES- None**

21

22 **PUBLIC COMMENTS**

23

24 Public comment and opinion are welcome during this open session. However,
25 comments related to development projects currently under review by the Planning
26 Board shall be heard only during their respective scheduled public hearing. Due to the
27 current pandemic, all meetings and public hearings held by the Planning Board are
28 conducted via Zoom webinar. To register in advance for the webinar, please submit a
29 request to bmcdonough@kitteryme.org. After registering, you will receive a confirmation
30 email containing information about joining the webinar. Webinar participants will be able
31 to submit questions and comments during the public hearing and public comment
32 period. Members of the public unable to participate during the webinar may submit
33 comments for agenda items via email, US Mail, or by dropping written comments in the
34 Drop Box outside the Town Hall entrance. Emailed comments should be sent to
35 bmcdonough@kitteryme.org. Comments received by noon on the day of the meeting
36 will be read into the record by the Planning Board Chair.

37

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

39

40 **OLD BUSINESS**

41

42 4:07

43 **ITEM 1—459 U.S. Route 1—Major Modification Review to a Master Site**
44 **Development Plan and Subdivision / Site Plan**

45 Action: Accept or deny plan as complete; continue to a subsequent meeting; approve or
46 deny plan; Pursuant to §16.10.9.3 *Modifications to approved plan* of the Town of Kittery
47 Land and Use Development Code, owner/applicant Middlesex Land Holdings, LLC
48 requests the review and consideration of a major modification to both an approved
49 Master Site Development and Subdivision plan proposing to reduce the residential
50 dwelling unit count from 44 (32 age-restricted; 12 non-age-restricted) to 32 (16 age-
51 restricted; 16 non-age-restricted) dwelling units within 8 buildings and make associated
52 improvements on real property with an address of 459 U.S. Route 1, Tax Map 60, Lot
53 24, in the Mixed-Use (MU) Zone.

54

55 Mr. McDonough reported that the applicant has requested a continuance to the May 27,
56 2021 meeting. The applicant sent revised home owners association documents for the
57 Board to review before the next meeting. Mr. McDonough and the Board discussed the
58 project briefly in terms of the phasing plans.

59

60 **Vice Chair Kalmar moved to continue the plan to May 27, 2021. Seconded by Mr.**
61 **Ledgett. The motion passed by roll call vote 7-0-0.**

62

63 9:46

64 **ITEM 2—4 Pepperrell Road—Shoreland Development Plan Review**

65 Action: Accept or deny application as complete; continue application to a subsequent
66 meeting, schedule site walk and/or public hearing; approve or deny plan: Pursuant to
67 §16.7.3.3.B *Nonconforming structure repair and/or expansion* and §16.10.3.4 *Shoreland*
68 *Development Review* of the Town of Kittery Land Use and Development Code, the
69 Planning Board shall consider an after-the-fact permit application from owner/applicant
70 Elizabeth Kirschner requesting approval to maintain a patio with an enclosed screened
71 porch and expand a legally nonconforming dwelling unit on a legally nonconforming lot
72 within the base zone setback of the Shoreland Overlay Zone on real property with an
73 address of 4 Pepperrell Road, (Tax Map 18, Lot 45-4) located in the Residential-Kittery
74 Point Village (R-KPV) Zone and the Shoreland (OZ-SL-250) and Resource Protection
75 (OZ-RP) Overlay Zones

76

77 Chair Dunkelberger told the Board that the applicant has withdrawn her request. Mr.
78 McDonough reported that the applicant is complying with her notice of violation.

79 10:25

80 **ITEM 3—164 Rogers Road—Right-of-Way Plan Review**

81 Action: Accept or deny application as complete; respectively schedule site walk and
82 public hearing, if necessary; approve or deny plan. Pursuant to §16.10.7.2.S *Right-of-*
83 *way plan* of the Town of Kittery Land Use and Development Code, owner Melinda Birse
84 and applicant Ryan Birse propose a new Right-Of-Way extending from Rogers Road to
85 access a new lot not created by a subdivision located on real property with the address
86 of 164 Rogers Road (Tax Map 22 Lot 23) in the Residential-Urban (R-U) Zone

87

88 Mr. McDonough gave an overview to the Board, noting the requests of the Board from
89 the last time the plan was seen.

90 Mr. Birse asked the Board for any comments or questions.

91 The Board was in agreement that the plan looked good. The curb cuts were discussed
92 briefly.

93

94 **Mr. White moved to accept the right-of-way plan. Seconded by Mr. Ledgett. The**
95 **motion passed by roll call vote 7-0-0.**

96 **Vice Chair Kalmar moved to grant the waivers, 1-7. Seconded by Mr. Ledgett. The**
97 **motion passed by roll call vote 7-0-0.**

98 The Board did not want to schedule a public hearing.

99 **Mr. White moved to approve the right-of-way plan with stated conditions.**

100 **Seconded by Mr. Ledgett. The motion passed by roll call vote 7-0-0.**

101 **Vice Chair Kalmar read the findings into record. The Board voted to approve the**
102 **findings, 7-0-0.**

103

104 **PUBLIC HEARING**

105

106 31:13

107 **ITEM 5— 21 Litchfield Road—Preliminary Plan Review, Cluster Subdivision**

108 Action: Continue public hearing to a subsequent meeting; close public hearing; approve
109 or deny preliminary plan. Pursuant to Title 30-A M.R.S.A. §4401-4408 *Municipal*
110 *Subdivision Law* and §16.10, Article V *Preliminary Plan Application Review and*
111 *Approval Process Phase* of the Town of Kittery Land Use and Development Code, the
112 Planning Board shall hold a public hearing to consider an application from owner
113 Brenda Haley and applicant Chingburg Development, LLC requesting approval for a
114 preliminary cluster subdivision development proposing eight (8) lots with 9 units (two (2)
115 existing and seven (7) proposed) with appurtenant infrastructure on real property with
116 an address of 21 Litchfield Road (Tax Map 46, Lot 6) located in the Residential-Rural
117 (R-RL) Zone and Shoreland-Stream Protection (OZ-SL-75) Overlay Zone.

118 Mr. McDonough gave an introduction and an update to the project.
119 Eric Weinrieb reviewed the site plans and gave the Board updates on the project. He
120 reviewed the existing conditions, roadway layout and grading, water lines, landscape
121 plan, bus stops, and waivers. He asked the Board for any questions on the updates.
122 Chair Dunkelberger opened the item up to the public. There were no public comments.
123 The Chair closed the public comment portion of the hearing.
124 The Board made comments and asked questions regarding the landscaping and home
125 owners association, vegetation and stormwater management, the cemetery, and snow
126 storage.

127
128 **Vice Chair Kalmar moved to approve the preliminary plan with the stated**
129 **conditions. Seconded by Mr. White. The motion passed by roll call vote 7-0-0.**

130
131 **NEW BUSINESS**

132
133 1:09:01
134 **ITEM 6— 52 State Road—Shoreland Development Plan and Sketch Plan Review**
135 Action: Accept or deny application as complete; continue application to a subsequent
136 meeting, approve or deny sketch plan: Pursuant to §16.3.2.17 *Shoreland Overlay Zone*,
137 Article III *Nonconformance* of §16.7 *General Development Requirements*, §16.10.3.4
138 *Shoreland Development Review* and §16.10.4.2 *Sketch plan review phase* of the Town
139 of Kittery Land Use and Development Code, owner/applicant Kevin Cambridge and
140 agent Attar Engineering Inc. requests approval expand a legally nonconforming
141 commercial structure and construct a (27) parking lot on real property with an address
142 of 52 State Road, (Tax Map 3, Lot 1) located in the Business-Local 1 (B-L1) Zone and
143 the Shoreland Stream Protection Overlay Zone (OZ-SL-75).

144
145 Mr. McDonough gave an overview of the project.
146 Michael Sudak, Attar Engineering Inc. reviewed the site plans including an addition with
147 no change in use, parking lot in the rear of the property, utilities and stormwater
148 management.
149 Chair Dunkelberger suggested that the Board get a peer review study of the area with
150 the stream, and have a site walk.
151 The Board decided to take no action, and wait for the third-party review of the site.

152
153 **OLD BUSINESS**

154
155 1:25:14
156 **ITEM 4— Land Use Development Code Amendments—Proposed Revisions to**
157 **Title 16 to Include Marijuana Uses**

158 Action: Continue to a subsequent meeting, recommend or not recommend amendments
159 to Town Council. Pursuant to M.R.S.A Title 30-A, Chapter 187, §4352 and §16.1.9
160 *Amendments* of the Town of Kittery Land Use and Development Code, the Planning
161 Board seeks to make recommendations to Town Council on amendments to §16.2
162 *Definitions*, §16.3 *Land Use Regulations* and §16.8 *Design and Performance Standards*
163 *for Built Environment* and §16.10 *Development Plan Application Review* of the Land
164 Use and Development Code of the Town of Kittery by respectively removing and adding
165 new definitions related to marijuana uses, designating areas of operation for marijuana
166 businesses and medical marijuana registered caregiver home establishments within
167 certain zoning districts, establishing performance standards for marijuana businesses
168 and medical marijuana registered caregiver home establishments, and adding
169 application approval criteria, or taking any other action relative thereto.

170

171 Mr. McDonough gave the Board an overview of the amendments, and updated the
172 Board on the changes. The Board was given a map on the buffer zoning between
173 establishments that was proposed.

174 The Board discussed the buffers and establishment types, zoning and uses, educational
175 facilities, and home caregivers.

176

177 **Vice Chair Kalmar moved to recommend the amendments to Town Council as**
178 **amended. Seconded by Mr. Ledgett. The motion passed by roll call vote 7-0-0.**
179 **Mr. Ledgett moved to reconsider the amendments. Seconded by Mr. White. The**
180 **motion passed by roll call vote 6-1-0.**

181

182 The Board discussed allowed uses in the Mixed-Use zone, specifically cultivation. Mr.
183 McDonough summarized the Board's corrections.

184

185 **Vice Chair Kalmar moved to approve as amended and recommend to Town**
186 **Council. Seconded by Mr. Ledgett. The motion passed by roll call vote 7-0-0.**

187

188 OTHER BUSINESS

189

190 2:19:20

191 ITEM 7 – Board Member Items/Discussion

192

193 Mr. Ledgett asked if Mr. McDonough would pass along the notes from the three MMA
194 trainings.

195

196 2:20:07

197 ITEM 8 – Town Planner/Director of Planning & Development Items

198
199 Mr. McDonough told the Board the next meeting's agenda should be light.
200 Mr. Causey gave the Board an update on the Joint Land Use Study and informed them
201 of a presentation next week with Urban Land Institute.

202
203 2:25:02

204 **Adjournment**

205
206 **Vice Chair Kalmar moved to adjourn the meeting. Seconded by Mr. White. The**
207 **motion passed by roll call vote 7-0-0.**

208
209 The Kittery Planning Board meeting of May 13, 2021 adjourned at 8:24 p.m.

210
211 Submitted by Carrie Varao, Development Staff Clerk on February 8, 2022.

212
213 Disclaimer: The following minutes constitute the author's understanding of the meeting.
214 Whilst every effort has been made to ensure the accuracy of the information, the
215 minutes are not intended as a verbatim transcript of comments at the meeting, but a
216 summary of the discussion and actions that took place. For complete details, please
217 refer to the video of the meeting on the Town of Kittery website at
218 <http://www.townhallstreams.com/locations/kittery-maine>.