

**CALL TO ORDER**

Chair Grinnell introduced the new Minutes recorder, Jordan Williams.

**ROLL CALL**

Present: Drew Fitch, Ronald Ledgett, Dutch Dunkelberger, Russell White, Karen Kalmar, Anne Grinnell

Absent: Mark Alessi

Staff: Jamie Steffen, Planner; Jessa Kellogg, Shoreland Resource Officer/Stormwater Coordinator and Adam Causey, Director of Planning and Development

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES – July 26th, 2018**

**Line 274 – Mr. Ledgett stated that the minutes should reflect more of the discussion that occurred on short term rentals. He read what he had prepared: The Town of Kittery has received written concerns from residents in Kittery, ME that homes in their neighborhood have been purchased by non-residents in the neighborhood for short term investments, commercializing their residential zones. 2. Short term rentals decrease the availability and increase the cost for remaining year around Kittery rentals, as well as the cost of Kittery homes, impacting the availability of inclusionary housing. 3. There are a lot of examples of other communities’ efforts made by the Town of Kittery to regulate short term rentals to inform evaluation of short term rental regulation by Kittery.**

**Line 166 - Take out the letter “d” after required making “require”**

**Line 100 – Mrs. “Pilkington” correct spelling.**

**Mr. Dunkelberger moved to accept the Minutes as amended.  
Vice Chair Kalmar seconded the motion.**

**The motion carried 6-0-0.**

## **PUBLIC HEARING**

### **OLD BUSINESS**

**ITEM 1 – Miller Road – Major Subdivision Preliminary Plan Review** Action: Re-schedule public hearing date. Owners Paul E. and Peter J. McCloud and Applicant Joseph Falzone request consideration of a 6-lot conventional subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones. Agent is Michael Sudak, Staff Engineer on behalf of Ken Wood, Attar Engineering Inc.

Vice Chair Kalmar stepped down on this application.

Michael Sudak representing Attar Engineering gave an overview of the project to date. The Miller Road subdivision entails a 6-lot residential subdivision on a 9.97 acres parcel in the Residential - Rural and resource protection zones. The proposed lots will be serviced by private individual drilled wells & private subsurface waste water disposal systems. A 400-foot private road will be built to serve lots 1, 2 and 6. He gave an update on the no-cut, no-disturb buffer requirement. He discussed the wording changes for the HOA documents and the plan notes. Final wording will come from Town Staff. CMA's comments are being addressed and are minor in nature. Working on more concise language to match the law. The proposed conditions of approval also includes providing the impervious surface calculations. Due to final submission deadline it was added to sheet.

Chair Grinnell asked about the test pit results for the septic systems. Mr. Sudak responded that was noted on lot 4 a typical test pit was provided and performed. Mr. Steffen noted that CMA is generally satisfied with the plans and will be reviewing the test pit information. HOA revision document page 8 paragraph 3.30 seeking tree removal language. Mr. Sudak stated that he was happy to change page 8 paragraph 3.30 to have it match the final approved wording and to match note 10 wording on the plan. He will work with Ms. Kellogg on the language for the newest HOA document. Staff is interested in helping to make sure everyone's point of view is properly expressed. They will work with the abutters, and the town attorney to fine tune the language upon approval.

Chair Grinnell reiterated what Ms. Kellogg stated about working with the applicant and the neighbors on the HOA document.

Dan Bailey, 25 Miller Road, spoke and noted that it was just the HOA document that need to be revised but also the language on the plan. He explained that the HOA document gives the owners the he ability to make minor changes in the agreement as long as it doesn't detract from the Planning Board approved plan. He expressed concerns about maintaining the natural scenic look of the area and wants to make sure the plan language stays intact. He inquired about constructing fences in the buffer. Doesn't say "no disturb", the duff to remain is in the wording and the 100 foot set back in resource protection zone on Miller Rd. etc. Not consistent HOA is one thing, but the plan is something that stands alone. Wanted clarification on no-cut, no-disturb buffer requirements. Staff can work with applicant on the language to fit with Planning Board approval. Condition of approval for the final plan referring to the Shoreland Resource Officer, Town Attorney and Town Planner working with applicant on the language. 90-day window. Paragraph 3.30 on page 8 of the HOA document language will be addressed. Mr. Sudak understands and wants to mirror the staff review comments and language.

**Mr. Dunkelberger moved to approve special exception request for plans dated July 19, 2018 from owners Paul E. and Peter J. McCloud and applicant Joseph Falzone which include two lots for single family residence, known as Lot 1 and Lot 6 within a 6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) which lie within the Resource Protection Overlay (OZ-RP) Zones.**

**Mr. Ledgett seconded the motion.**

**The motion carried 5-0-0.**

**Mr. Dunkelberger moved to approve the waiver requested from Section 16.8.8.1 to allow for minor increases in stormwater flow at two analysis points for the final subdivision plan application dated July 19, 2018 from owners Paul E. and Peter J. McCloud and applicant Joseph Falzone for a 6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) in a Residential Rural and Resource Protection Overlay (OZ-RP) Zones**

**Mr. White seconded the motion.**

**The motion carried 5-0-0.**

**Mr. Dunkelberger moved to approve the final subdivision plan dated July 19, 2018 from owners Paul E. and Peter J. McCloud and applicant Joseph Falzone for a 6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) in a Residential Rural and Resource Protection Overlay (OZ-RP) Zones with the conditions that all CMA comments must be addressed, impervious surface calculations added and that the HOA**

**documents and final subdivision plan be updated reflecting the no-cut, no-disturb buffer requirements including that any cutting of dead, dying or any hazardous trees. Which while allowed, must receive a permit through the Shoreland Resource Officer (Staff is directed to work with the applicant and the abutters to refine the language for the buffer requirements).**

**Mr. Ledgett seconded the motion.**

**The motion carried 5-0-0**

**KITTERY PLANNING BOARD  
FINDINGS OF FACT -  
for  
Miller Road  
Major Subdivision Plan**

**Approved**

Note: This approval by the Planning Board constitutes an agreement between the Town and the Developer incorporating the Development plan and supporting documentation, the Findings of Fact, and all waivers and/or conditions approved and required by the Planning Board.

**WHEREAS:** Owners Paul E. and Peter J. McCloud and Applicant Joseph Falzone requests consideration of a 6-lot conventional subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones. Agent is Ken Wood, Attar Engineering.

Hereinafter the “Development”.

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 08/09/2018;

Sketch Plan Review	Held	5/10/2018
Site Visit	Held	5/01/2018
Preliminary Plan Completeness Review	Held, accepted	6/14/2018
Public Hearing	Held	7/26/2018
Preliminary Plan Approval	Granted (conditional)	7/26/2018
Final Plan Approval	Granted (conditional)	8/09/2018

and pursuant to the Project Application and Plan and other documents considered to be a part of the approval by the Planning Board in this finding consist of the following and as noted in the Plan Review Notes dated 08/09/2018 (Hereinafter the “Plan”).

1. Final Subdivision Plan, Attar Engineering, Inc. dated 7/19/2018
2. Grading and Utility Plan, Attar Engineering, Inc. dated 7/19/2018
3. Site Details, Attar Engineering, Inc., dated 7/19/2018
4. Class A High-Intensity Soil Survey, Longview Partners, dated 1/17/2018
5. Boundary & Topographic Survey, dated 3/21/2018

**NOW THEREFORE**, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by Section **16.10.8.3.4.** and as recorded below:

**FINDINGS OF FACT**

Action by the Board shall be based upon findings of fact which certify or waive compliance with all the required standards of this title, and which certify that the development satisfies the following requirements:

**A. Development Conforms to Local Ordinances.**

*The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.*

Finding: The subdivision meets the requirements for a subdivision as laid out in Title 16.

Conclusion: This standard appears to be met.

**Vote of   5   in favor    against    abstaining**

**B. Freshwater Wetlands Identified.**

*All freshwater wetlands within the project area have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.*

Finding: The wetlands associated with Hutchins Creek have been delineated and are depicted on the final plan.

Conclusion: This standard is appears to be met.

**Vote of   5   in favor    against    abstaining**

**C. River, Stream or Brook Identified.**

*Any river, stream or brook within or abutting the proposed project area has been identified on any maps submitted as part of the application. For purposes of this section, “river, stream or brook” has the same meaning as in 38 M.R.S. §480-B, Subsection 9.*

Finding: Hutchins Creek has been identified on the site as it serves as the western boundary of the property. The centerline of the creek is depicted on the final plan.

Conclusion: This standard appears to be met.
Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining
<b>D. Water Supply Sufficient.</b> <i>{and}</i>
<i>The proposed development has sufficient water available for the reasonably foreseeable needs of the development.</i>
<b>E. Municipal Water Supply Available.</b>
<i>The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.</i>
Finding: The subdivision will use private wells.
Conclusion: This standard is not applicable.
Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining

<b>F. Sewage Disposal Adequate.</b>
<i>The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.</i>
Finding: The proposed development will not connect with Town Sewer. The proposed development will use individual septic systems.
Conclusion: This standard appears to be met.
Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining
<b>G. Municipal Solid Waste Disposal Available.</b>
<i>The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.</i>
Finding: The proposed development will not burden the Town Resource Recovery Facility.
Conclusion: This standard appears to be met.
Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining
<b>H. Water Body Quality and Shoreline Protected.</b>

*Whenever situated entirely or partially within two hundred fifty (250) feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.*

Finding: The proposed development is partially located within the Resource 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   5   in favor    against    abstaining

**I. Groundwater Protected.**

*The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.*

Finding: The proposed development will not adversely affect the quality or quantity of groundwater.

Conclusion: This standard appears to be met.

Vote of   5   in favor    against    abstaining

**J. Flood Areas Identified and Development Conditioned.**

*All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.*

Finding: A portion of the property is located within a flood zone according to FEMA maps. A LOMA was requested and granted to the applicant. There is no proposed construction within a flood prone area based on the floodplain boundary adjustment provided by the LOMA.

Conclusion: This standard appears to be met.

Vote of   5   in favor    against    abstaining

**K. Stormwater Managed.**

*Stormwater Managed. The proposed development will provide for adequate stormwater management*

<p>CMA, town peer-review engineer, reports that the applicant has prepared a complete stormwater design and associated analysis and the proposed development meets the requirements of the LUDC. The design was prepared by Attar Engineering and reviewed by CMA Engineers.</p>
<p>Finding: The proposed development conforms to Title 16.8.8 Surface Drainage and will provide for adequate stormwater management.</p>
<p>Conclusion: This standard appears to be met.</p>
<p><b>Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining</b></p>
<p><b>L. Erosion Controlled.</b></p>
<p><i>The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.</i></p>
<p>The Contractor shall follow MDEP best management practices for erosion and sediment control (silt fencing, silt sacks, etc.), and CMA engineers will be notified to observe application during construction (see conditions of approval #2).</p>
<p>Finding: The proposed development conforms to Title 16.8.8 Surface Drainage and will provide for adequate erosion and sediment control measures on site.</p>
<p>Conclusion: This standard appears to be met.</p>
<p><b>Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining</b></p>
<p><b>M. Traffic Managed.</b></p>
<p><i>The proposed development will:</i></p> <ol style="list-style-type: none"> <li><i>1. Not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; and</i></li> <li><i>2. Provide adequate traffic circulation, both on-site and off-site.</i></li> </ol>
<p>The proposed development does not require a traffic movement permit as it does not create an additional 100 vehicle trips during peak traffic hours. CMA engineers have reviewed the on-site traffic circulation and found it to be adequate.</p>
<p>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.</p>
<p>Conclusion: This standard appears to be met.</p>
<p><b>Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining</b></p>
<p><b>N. Water and Air Pollution Minimized.</b></p>
<p><i>The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:</i></p> <ol style="list-style-type: none"> <li><i>1. Elevation of the land above sea level and its relation to the floodplains;</i></li> </ol>



<p>2. <i>Nature of soils and sub-soils and their ability to adequately support waste disposal;</i>          3. <i>Slope of the land and its effect on effluents;</i>          4. <i>Availability of streams for disposal of effluents;</i>          5. <i>Applicable state and local health and water resource rules and regulations; and</i>          6. <i>Safe transportation, disposal and storage of hazardous materials.</i></p>
<p>1. The development is located outside of a Flood Hazard Area per the LOMA obtained from FEMA.          2 thru 6. Not applicable to the proposed development.</p>
<p>Finding: It does not appear the proposed development will result in undue water or air pollution</p>
<p>Conclusion: This standard appears to be met.</p>
<p style="text-align: right;"><b>Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining</b></p>
<p><b>O. Aesthetic, Cultural and Natural Values Protected.</b></p>
<p><i>The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.</i></p>
<p>Finding: Miller Road has been identified as a scenic road – a no-cut, no-disturb buffer along Miller Road is provided.</p>
<p>Conclusion: This standard appears to be met.</p>
<p style="text-align: right;"><b>Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining</b></p>
<p><b>P. Developer Financially and Technically Capable.</b></p>
<p><i>Developer is financially and technically capable to meet the standards of this section.</i></p>
<p>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.</p>
<p>Conclusion: This standard appears to be met.</p>
<p style="text-align: right;"><b>Vote of <u>  5  </u> in favor <u>  </u> against <u>  </u> abstaining</b></p>
<p><b>Chapter 16.6 DECISION APPEAL, VARIANCE and OTHER REQUESTS</b></p>
<p><b>16.6.4.4 Special Exception Use Request.</b></p>
<p>B. The Planning Board will review, decide and may approve an applicant’s Special Exception Use request where the proposed project requires Planning Board review as defined in Section 16.10.3.2 or is located in a Shoreland or Resource Protection Overlay Zone. The Planning Board must find the proposed project and use meets the criteria set forth in Section 16.10.8.3.4 and 16.6.6.</p>
<p>Finding:          The proposed use of the Development as a conventional residential major subdivision located in the Residential- Rural zone appears to have no adverse impact with consideration of the conditions and factors outlined in 16.6.6, including:</p>

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 requirement appears to be met

Vote of 5\_\_ in favor \_\_ against \_\_ abstaining

**NOW THEREFORE** the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers:

- 1) Plan scale per 16.10.5.2.B.2 from 1 inch = 30 feet to 1 inch = 50 feet.
- 2) Sidewalks: the applicant proposes no sidewalks on the private road since there no sidewalks on Miller Road to connect them to.
- 3) Allowance of minor increase in post-development stormwater peak flow from the project site.

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: 08/09/2018).

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.

Notices to Applicant: (not to be included on the final plan)

1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with review, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department. Date of Planning Board approval shall be included on the final plan in the Signature Block.
4. The owner and/or developer, in an amount and form acceptable to the Town Manager, must file with the municipal treasurer an instrument to cover the cost of all infrastructure and right-of-way improvements and site erosion and stormwater stabilization, including inspection fees for same.
5. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating the Plan and supporting documentation, the Findings of Fact, and any Conditions 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 \_5\_ in favor \_\_ against \_\_ abstaining**

APPROVED BY THE KITTERY PLANNING BOARD ON August 9, 2018

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Ann Grinnell, Planning Board Chair

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 2– 459 Route 1 - Site and Subdivision Preliminary Plan Review** Action: Accept or deny application, Approve or deny plan. Owner, DSS Land Holdings, LLC, and Applicant Michael Brigham of Landmark Hill, LLC, request consideration of a mixed-use development consisting of a 112-room hotel, and three residential buildings with 32 elderly housing units and 16 residential units, for a 20+/- acre site located on U.S. Route 1 (Tax Map 60, Lot 24) in the Mixed-Use (MU) and Rural Residential (R-RL) Zones. Agent is Brian Neilson, Attar Engineering on behalf of Michael Brigham to present the homestead.

Brian Neilson, representing Attar Engineering gave an overview of the changes to the proposal since the last meeting. They have added amenities which include: an expanded passive recreation area, grilling and picnic area, space for volleyball, 20' by 23' seasonal pavilion.

The Board discussed the two separate uses and the definition of Elderly Housing based on Kittery ordinance code titles 6 & 17. Common area good, very limited dining space, excluding independent living.

Vice Chair Kalmar questioned the difference between the over 55 units and the regular apartments. There was discussion amongst the Board and staff about the definition of elderly housing and the community living arrangement. Mr. Ledgett discussed the independent living clause of the definition. The Board discussed a community kitchen / dining space and a very limited shared community space. Mr. White inquired about providing a meeting room in the hotel and there was discussion amongst the Board regarding that.

Mr. Brigham stated he is willing to turn one of the ten units into a community space. The Board discussed its ongoing concerns about the proposed uses and code definition for Elderly Housing.

Mr. Brigham explained why he believes this is a better plan for the property. The plan will enable greenspace to remain and will expand the walking trails. He explained that the hotel is an extended stay one with rates that will be lower than the Hampton Inn. The elderly apartments will include a membership at the hotel for the pool and gym. It will be cash positive instead of negative for 55 and older communities are a much better financial situation for a town. He discussed the different ratio tax generator. He discussed the proposed passive recreation area. He discussed needing a kitchen / small dining area for the elderly apartments. The Board discussed moving to continue the preliminary plan review and having the applicant work with Staff some of the remaining issues.

**Mr. Dunkelberger moved to continue the preliminary plan dated July 19, 2018, as prepared by Attar Engineering, Inc. and presented by applicant, Michael Brigham Landmark Hill, LLC, for 459 U.S. Route 1 (Tax Map 60, Lot 24) in the Mixed-Use Zone (MU) for a period not to exceed 90 days.**

**Mr. White seconded the motion.**

**The motion carried 6-0-0.**

**ITEM 3 – Route 1 – Site Plan/Subdivision Sketch Plan** Action: Accept or deny application. Approve or deny sketch plan. Owner/applicant Michael Estes requests consideration of plans to develop a mixed-use facility, consisting of businesses, elderly housing and residential uses, located south of 506 US Route 1 (Tax Map 67 Lot 4) in the Mixed Use (MU), Residential – Rural (R-RL), Shoreland Overlay (OZ-SL-250') and Resource Protection Overlay (OZ-RP) Zones. Agent is Brian Neilson, Attar Engineering, Inc.

Brian Neilson, representing Attar Engineering gave an overview of the changes to the proposal since the last meeting. He discussed the ten (10) professional offices/construction services with single family apartment units above. He stated there will be eight (8) elderly housing units below and sixteen (16) single family units in the other building. He further stated that they proposing to have a passive recreation area near elderly housing complex and there are already some cleared trails to the pond that exist. He stated that the applicant is willing to take one of the ten mixed use units and adjust that to become community space.

Vice Chair Kalmar discussed her concerns with the compatibility of the uses and the definition of construction services. Mr. Dunkelberger discussed his concern with community facilities and how the project complies with the elderly housing definition. Ms. Kellogg addressed his concern by referring the wording in the definition and recommended that the applicant look at the items included in the definition and work with that in adjusting their plans for the uses.

Mr. Steffen reiterated what she said and further discussed trying to create more of a sense of community with this proposal. He suggested they look at other permitted uses such as a small café / coffee bar, yoga studio, beauty salon, etc.

Mr. Ledgett discussed his concern with compatibility of the proposed use and how it meets the intent of the Code. There was further discussion amongst the Board about this. List would help guide the project some having the elderly housing being an essential element in this project.

There was concerned expressed about the location of this project and the mix of uses. The project seems isolated in the location so there is a need of key factors to sustain the community.

Mr. White discussed the need to have a substantial response regarding the Conservation Commission's concerns about the wetlands impacts. The Board discussed with Mr. Neilson the construction cost of the doing the bridge over the wetlands crossing and cost estimate for the next review. Mr. Dunkelberger discussed the location of vernal pools and investigating one that may lie just outside the lot line. Mr. Neilsen discussed the wetlands investigation on site and the permits they have from the Army Corps of Engineers and MDEP. He explained that the applicant does not have the right or title to that side of the lot. Mr. Dunkelberger would still like them to ask for permission to make a survey and if the answer is no at least we are addressing the Conservation Commission's concerns. The Board and Mr. Neilson discussed making a determination on the location of the vernal pools and the proper time of year to do that – April is really the time of year to do that. Mr. White mentioned that there might be on an old plan that would show the location on abutting property.

**Mr. Dunkelberger moved to continue the sketch plan present by owner/ applicant Michael Estes for a mixed-use development located at Tax Map 67 Lot 4 in the Mixed-Use (MU), Shoreland Overlay (OZ-SL-250') and Resource Protection Overlay Zones (OZ-RP) Zones.**

**Vice Chair Kalmar seconded the motion.**

**The motion carried 6-0-0.**

**ITEM 4 – Bartlett Road/Shaydon Lane – ROW Plan Review** Action: Accept or deny application. Approve or deny plan. Owner and applicant, Rebecca DeNunzio requests consideration of a right-of-way plan for a 1.42 +/- acre parcel known as Tax Map 62 Lot 24B located behind 76 Bartlett Road (Tax Map 62 Lot 24) in the Rural Residential Zone (R-RL) and the Resource Protection Zone (OZ-RP). Agent is David Ballou, Ballou and Bedell PA.

David Ballou, representing the applicant gave a overview of the project to date. He discussed that they met with staff on July 17, 2018 and have tried to address the issues the Board wanted revisions to specifically the wetlands mitigation, shared driveway, hammerhead turnaround and the question if Shaydon Lane could be used as access to the lot. He stated he would like the Board to consider the completeness of their application and consider a site walk.

The Board stated that it would like to have a site walk and think about the potential waivers. Mr. Dunkelberger asked for a list of those from staff.

The Board discussed dates for the site walk. Last week of Aug or first week of September. The Board discussed with Mr. Steffen and the applicant the completeness question. Mr. Steffen explained that the application and plans may change after the site walk and if they go with Shaydon Lane as the access. He recommended that the Board continue the application.

**Vice Chair Kalmar moved to continue the Right-of-Way Plan application for a 1.42 +/- acre parcel known as Tax Map 62 Lot 24B located behind 76 Bartlett Road (Tax Map 62 Lot 24) in the Rural Residential Zone (R-RL) and the Resource Protection Zone (OZ-RP). The motion was seconded by Mr. Dunkelberger.**

**The motion carried 6-0-0.**

**A site walk for Tuesday, August 28<sup>th</sup> at 10:45am was scheduled by the Board with notice to be provided. The site walk will convene at Shaydon Lane.**

## **NEW BUSINESS**

**ITEM 5 – Deer Ridge Lane - Andrews Cluster Subdivision Sketch Plan** Action: Accept or deny application, Approve or deny sketch plan. Owner and applicant, Arthur W. Andrews Rev. Trust request consideration of an 11-lot cluster subdivision on 106.82 acres located off Deer Ridge Lane (Tax Map 60, Lot 10) in the Residential-Rural (R-RL), Shoreland Overlay (OZ-SL 250') and Resource Protection Zones (OZ-RP). Agent is Jeff Clifford, P.E., Altus Engineering.

Jeff Clifford of Altus Engineering, representing the applicant gave an overview of the project. It is a cluster subdivision 106.8 acres to create eleven (11) new lots. It will involve construction of a new road off of Deer Ridge Lane which will serve seven of the lots. He discussed the open space land with the Board and mentioned the land trust being involved. He discussed the upland and the wetlands involved with the project. He discussed the soils survey and the aquifer.

He further discussed the residential acreage and setbacks. They are proposing smaller cluster lots and it's in a rural residential zone. There is also the overlay district setbacks and buffers. The 250 ft setback requires a special exception for some of the lots. He discussed the roadway issues. He explained that upgrades would be necessary to Deer Ridge Lane. He stated they

would like to construct the new road with an eighteen (18) foot width. The length of the Deer Ridge Lane doesn't not exceed the 1200 feet limit. He discussed the length of the new road and measuring the distance taking into account the proposed hammerhead turnaround.

He concluded his presentation by noting some other design considerations involving the wetlands impacts and lot shapes.

The Board discussed possible dates for a site walk.

**Mr. White moved to accept the sketch plan application dated July 19, 2018 from owners/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), Shoreland Overlay (OZ-SL 250') and Resource Protection Zones (OZ-RP). Vice Chair Kalmar seconded the motion.**

**The motion carried 6-0-0.**

**Mr. White moved to approve the sketch plan application dated July 19, 2018 from owners/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), Shoreland Overlay (OZ-SL 250') and Resource Protection Zones (OZ-RP). Ms. Kalmar seconded the motion.**

**The motion carried 6-0-0.**

**Mr. White moved to hold a site walk at the property on Tuesday, September 11<sup>th</sup> at 10:30 am. Vice Chair Kalmar seconded the motion.**

**The motion carried 6-0-0.**

#### **ITEM 6 - Adjournment**

**Mr. Dunkelberger moved to adjourn. Vice Chair Kalmar seconded the motion.**

**The motion carried 6-0-0.**



Board meeting of Aug 9, 2018 adjourned at 8:00 p.m.

Submitted by Jordan Williams, Minute Recorder, on September 4, 2018.

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