

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

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

7

8 Absent: Drew Fitch, Member

9

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

12

13 Advisory: Earldean Wells, Conservation Commission

14

15 **PLEDGE OF ALLEGIANCE**

16

17 **APPROVAL OF MINUTES – January 24, 2019**

18

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

21

22 **APPROVAL OF SITE WALK MINUTES – February 28, 2019**

23

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

28

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

30

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

33

34 **PUBLIC HEARING**

35

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

37 Action: Accept or deny application. Approve or deny plan. Owners and applicants,

38 Thomas and Michele Jordan request consideration to reconstruct and expand a

39 nonconforming single family dwelling on a 7,800 +/- square foot parcel located at 50

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

43

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

46

47 No members of the public spoke to the application.

48

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

56

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

64

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

70

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

72

## 73 **FINDINGS OF FACT**

74

75 The Planning Board made the following factual findings and conclusions:

76

### 77 **Section 16.3.2.17.D Shoreland Overlay Zone**

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

81

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

85 **Conclusion:** This standard appears to be met.

86

87 **Vote of 6 in favor 0 against 0 abstaining**

88

89 **Section 16.7.3.1 Prohibitions and Allowances**

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

92

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

96 The proposed development does not increase the nonconformity as permitted in  
97 16.7.3.3.B Nonconforming structure repair and/or expansion.

98

99 The proposed development does not increase the nonconformity as permitted in  
100 16.7.3.3.B. Nonconforming structure repair and/or expansion.

101 **Conclusion:** This standard appears to be met.

102

103 **Vote of 6 in favor 0 against 0 abstaining**

104

105 **Section 16.7.3.3 Nonconforming Structures**

106 **16.7.3.3.B Nonconforming structure repair and/or expansion**

107 In cases where the structure is located in the Shoreland or Resource Protection Overlay  
108 Zone, the repair and/or expansion must be approved by the Planning Board. See  
109 16.6.6.A.2 reference below.

110

111 **Finding:** The proposed development increases the nonconformity as permitted in  
112 16.7.3.3.B. (1) [4] [a] Nonconforming structure repair and/or expansion. The expansion  
113 of the footprint of the structure will not exceed 1,000 square feet in size. The height of  
114 the structure will not be greater than the height of the existing structure.

115 **Conclusion:** This standard appears to be met.

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**Vote of 6 in favor 0 against 0 abstaining**

**Section 16.6.6. Basis for Decision**

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

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

**Finding:** The proposed development does not pose a concern.

**Conclusion:** The requirement appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**Section 16.10.10.2 Procedure for Administering Permits**

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

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

**Vote of 6 in favor 0 against 0 abstaining**

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

**Waivers:** None

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

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

173  
174 The Planning Board authorizes the Planning Board Chair or Vice Chair to sign the Final  
175 Plan and the Findings of Fact upon confirmation of compliance with any conditions of  
176 approval.

177  
178 **Vote of 6 in favor 0 against 0 abstaining**

179  
180 Per Title 16.6.2.A – An aggrieved party with legal standing may appeal a final decision  
181 of the Planning Board to the York County Superior Court in accordance with Maine  
182 Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the  
183 decision by the Planning Board was rendered.

184  
185 **OLD BUSINESS**

186  
187 **ITEM 2 - 230 U.S. Route 1 – Preliminary Site Plan Review**

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

192  
193 Barbara Jenny, owner/applicant, gave a brief overview of the final plan changes from  
194 the previous reviews by the Board. She discussed the proposed landscaping additions

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

200  
201 The Board and the Planner discussed MDOT's position and how to handle the approval  
202 of the traffic movement plan. The Board expressed its support of the plan as presented  
203 by the applicant and expressed concerns with the changes called for by MDOT. Mr.  
204 Causey informed the Board that he would be meeting with MDOT on another project  
205 involving Route 1 and he would seek clarity on the letter regarding the traffic flow  
206 changes. He advised that the Board should approve the plan they are comfortable with  
207 and if MDOT objects then the applicant may need to come back for an amended  
208 approval.

209  
210 Ms. Wells stated that she would like to see the note landscaping addendum which calls  
211 for additional pines to be planted behind the porta-potties, if necessary, to fill out the  
212 existing screening added as a plan condition.

213  
214 **Mr. White moved to approve the final site plan application dated 9/25/18, revised**  
215 **2/15/19 from owner / applicant Green Brook, LLC to develop a food truck pod on a**  
216 **1.04 acre lot located at 230 U.S. Route 1 (Tax Map 22 Lot 14) in the Commercial**  
217 **(C-1) Zone. Mr. Ledgett seconded the motion.**

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

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

220

## 221 **FINDINGS OF FACT**

222

223 The Planning Board made the following factual findings and conclusions:

224

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

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

230

231 **Conclusion:** This standard appears to be met.

232

233 **Vote of 6 in favor 0 against 0 abstaining**

234

235 **B. Freshwater Wetlands Identified.**

236 **Finding:** There are no wetlands present.

237

238 **Conclusion:** This standard appears to be met.

239

240 **Vote of 6 in favor 0 against 0 abstaining**

241

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

243 **Finding:** None present.

244

245 **Conclusion:** This standard appears to be met.

246

247 **Vote of 6 in favor 0 against 0 abstaining**

248

249 **D. Water Supply Sufficient.**

250 **E. Municipal Water Supply Available**

251 **Finding:** The food trucks will utilize private water supplies.

252

253

254 **Conclusion:** This standard appears to be met.

255

256 **Vote of 6 in favor 0 against 0 abstaining**

257

258 **F. Sewage Disposal Adequate.**

259 **Finding:** The food trucks will utilize private sewage disposal.

260

261 **Conclusion:** This standard appears to be met.

262

263 **Vote of 6 in favor 0 against 0 abstaining**

264

265 **G. Municipal Solid Waste Disposal Available**

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

268

269 **Conclusion:** This standard appears to be met.

270

271 **Vote of 6 in favor 0 against 0 abstaining**

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**H. Water Body Quality and Shoreline Protected.**

**Finding:** This standard is not applicable.

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**I. Groundwater Protected.**

**Finding:** This standard is not applicable.

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

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

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

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**K. Stormwater Managed.**

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

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**L. Erosion Controlled.**

**Finding:** This standard is not applicable.

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**M. Traffic Managed.**

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



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

317

318 **Conclusion:** This standard appears to be met.

319

320 **Vote of 6 in favor 0 against 0 abstaining**

321

322 **N. Water and Air Pollution Minimized.**

323 **Finding:**

324 1. The proposed development is located outside of a floodplain.

325 2-4. The proposed development will be serviced by Town sewer.

326 5. The proposed development will adhere to all applicable State regulations.

327 6. Not applicable to the proposed development.

328

329 **Conclusion:** This standard appears to be met.

330

331 **Vote of 6 in favor 0 against 0 abstaining**

332

333 **O. Aesthetic, Cultural and Natural Values Protected.**

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

336

337 **Conclusion:** This standard appears to be met.

338

339 **Vote of 6 in favor 0 against 0 abstaining**

340

341 **P. Developer Financially and Technically Capable.**

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

344

345 **Conclusion:** This standard appears to be met.

346

347 **Vote of 6 in favor 0 against 0 abstaining**

348

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

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

354

355 **Waivers:**

356 1) None.

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

358

- 359 1. Planter troughs to be placed in the MDOT ROW between the island and the  
360 pedestrian area to the right of the exit lane.
- 361 2. No changes, erasures, modifications, or revisions may be made to the approved  
362 plan, and no further land division or additional dwelling units may be established  
363 without Planning Board-approval.
- 364 3. All Notices to Applicant contained in the Findings of Fact (dated: March 14,  
365 2019).
- 366 4. Additional pines will be planted, if necessary, behind the porta-potties to fill out  
367 the existing screen of three (3) pines between the neighboring senior housing.

368

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

370

- 371 5. Incorporate any plan revisions on the final plan as recommended by Staff,  
372 Planning Board, or Peer Review Engineer, and submit for Staff review prior to  
373 presentation of final Mylar. The amended subdivision plan must be submitted to  
374 Staff for review prior to recording with the York County Registry of Deeds within  
375 90-days of approval.

376

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

380

381 **Vote of 6 in favor 0 against 0 abstaining**

382

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

387

388 **ITEM 3 - Huntington Run - Cluster Subdivision Final Plan Review**

389 Action: Accept and deny application. Approve, approve with conditions, disapprove,  
390 postpone action or continue plan. Owner, Landmark Properties, LTD and Kingsbury and  
391 Veronica Bragdon, and applicant, Chinburg Builders, Inc., request consideration of a 20-  
392 lot cluster subdivision on 86.6 +/- acres located on Betty Welch Road (Tax Map 66 Lots  
393 2A, 8 & 8A) in the Residential Rural Zone (R-RL) and a portion located in the Shoreland  
394 Overlay (SH-250'-OZ) Zone. Agent is Jeff Clifford, P.E., Altus Engineering.

395

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

397

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

402

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

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

411

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

417

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

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

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

432  
433 Vice Chair Kalmar further expressed her concerns with granting a waiver from this  
434 standard without more detail provided relative to the harm issue and how much  
435 difference to the wetlands a reduction in pavement width would make. Mr. Clifford  
436 responded in general terms. Mr. White asked the Conservation Commission for their  
437 input on the matter. Ms. Wells responded that they had a number of problems with the  
438 proposed development. The wetlands impact being one of them. She commented  
439 though that they hadn't looked specifically at the road standards and what a reduction in  
440 pavement would do for their concerns.

441  
442 Chair Dunkelberger shared his concerns about pedestrian safety, specifically school  
443 kids walking to and from the bus stop, with a reduction in pavement.

444  
445 **The motion was defeated 1-4-1. Waiver was denied.**

446  
447 **Mr. White moved to approve a waiver from Section 16.8.4.4 and Table 1 Class III**  
448 **Private Streets Standard. Street Gradients: b. Side Slope (horiz. to vert.). To**  
449 **minimize wetland impact, the applicant proposes to construct 2:1 road side**  
450 **slopes in lieu of 3:1 standard. Seconded by Vice Chair Kalmar.**

451  
452 The Board and Mr. Clifford discussed the details of this request. It was determined that  
453 the waiver was justified based upon the minimizing the wetlands impact.

454  
455 **The motion carried 6-0-0.**

456  
457 Ms. Wells shared her other concerns with the proposed maintenance of the wastewater  
458 systems and the community wastewater disposal fields. She indicated that the  
459 Conservation Commission would like to see more frequent inspections of the  
460 wastewater systems. She suggested monthly inspections with revisions to the HOA  
461 documents and subdivision plan to reflect that. Vice Chair Kalmar suggest two  
462 inspections per year by a professional inspector – beginning of May and the end of  
463 September and monthly checks by the Homeowners Association heads. The applicant  
464 agreed to the requests and would revise the documents and plans accordingly.

465

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

468  
469 **Mr. White moved to approve the final cluster subdivision plan dated January 24,**  
470 **2019 and wetlands alteration application dated June 22, 2017, as revised on**  
471 **February 14, 2019 from owner / applicant Chinburg Development, LLC for a 20-lot**  
472 **cluster subdivision located on Betty Welch Road (Tax Map 66 Lots 2A, 8 & 8A) in**  
473 **the Residential Rural and Shoreland Overlay Zones without the waiver for the**  
474 **Street Width Design: d. Paved Shoulder. Seconded by Vice Chair Kalmar.**  
475

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

478

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

480

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

485

486 **FINDINGS OF FACT**

487

488 The Planning Board made the following factual findings and conclusions:

489

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

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

493

494 **Conclusion:** This standard appears to be met.

495

496 **Vote of 6 in favor 0 against 0 abstaining**

497

498 **B. Freshwater Wetlands Identified.**

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

501

502 **Conclusion:** This standard appears to be met.

503

504 **Vote of 6 in favor 0 against 0 abstaining**

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

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

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**D. Water Supply Sufficient.**

**E. Municipal Water Supply Available**

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

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**F. Sewage Disposal Adequate.**

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

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**G. Municipal Solid Waste Disposal Available**

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

**Conclusion:** This standard appears to be met.

544 **Vote of 6 in favor 0 against 0 abstaining**

545

546 **H. Water Body Quality and Shoreline Protected.**

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

551

552 **Conclusion:** This standard appears to be met.

553

554 **Vote of 6 in favor 0 against 0 abstaining**

555

556 **I. Groundwater Protected.**

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

560

561 **Conclusion:** This standard appears to be met.

562

563 **Vote of 6 in favor 0 against 0 abstaining**

564

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

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

569

570 **Conclusion:** This standard appears to be met.

571

572 **Vote of 6 in favor 0 against 0 abstaining**

573

574 **K. Stormwater Managed.**

575 **Finding:** MDEP has found that the applicant has made adequate provision to ensure  
576 that the proposed project will meet the following: Basic Standards contained in Chapter  
577 500 (4) (B); General Standards contained in Chapter 500 (4) (C), and the Flooding  
578 Standard contained in Chapter 500 (4) (F).

579

580 **Conclusion:** This standard appears to be met.

581

582 **Vote of 6 in favor 0 against 0 abstaining**

583 **L. Erosion Controlled.**

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

590

591 **Conclusion:** This standard appears to be met.

592

593 **Vote of 6 in favor 0 against 0 abstaining**

594

595 **M. Traffic Managed.**

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

600

601 **Conclusion:** This standard appears to be met.

602

603 **Vote of 6 in favor 0 against 0 abstaining**

604

605 **N. Water and Air Pollution Minimized.**

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

608

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

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

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**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**O. Aesthetic, Cultural and Natural Values Protected.**

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

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

**P. Developer Financially and Technically Capable.**

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

**Conclusion:** This standard appears to be met.

**Vote of 6 in favor 0 against 0 abstaining**

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

**Waivers:**

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

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

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

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

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

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

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

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

656

657 **Vote of 6 in favor 0 against 0 abstaining**

658

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

663

664 **ITEM 4 – Board Member Items/Discussion**

665 A. Kittery Climate Adaptation Committee Representation

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

667

668 **ITEM 9 - Town Planner Items**

669 None

670

671 **Adjournment**

672

673 **Mr. Alesse moved to adjourn the meeting.**

674 **Mr. Ledgett seconded the motion.**

675

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

677

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

679

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

681

682 Disclaimer: The following minutes constitute the author's understanding of the meeting.

683 Whilst every effort has been made to ensure the accuracy of the information, the

684 minutes are not intended as a verbatim transcript of comments at the meeting, but a

685 summary of the discussion and actions that took place. For complete details, please

686 refer to the video of the meeting on the Town of Kittery website at

687 <http://www.townhallstreams.com/locations/kittery-maine>.

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