

1 **CALL TO ORDER**

2 Chair Grinnell called the meeting to order at 6:00 p.m.

3 **ROLL CALL**

4
5 Members Present: Robert Harris, Dutch Dunkelberger, Karen Kalmar, Ann Grinnell, Mark
6 Alesse, Ronald Ledgett, Russell White

7
8 Staff Present: Kathy Connor, Interim Town Planner

9
10 **PLEDGE OF ALLEGIANCE**

11

12 **AGENDA**

13

14 **APPROVAL OF MINUTES - January 11, 2018**

15

16 Line 341 - add "completeness" after "plan"

17 Line 114 - change "dosen's" to "docent's"

18 Line 93 - should be 6-1-0 and also in Election of Officers

19 Line 108 - change end of sentence to "Maine Army National Guard"

20 Line 335 - change "has" to "have"

21

22 **Mr. Dunkelberger moved to approve the January 11, 2018 Minutes as amended.**

23 **Mr. Ledgett seconded the motion.**

24

25 **All in favor and the motion carried 7-0-0.**

26

27 **APPROVAL OF SITE WALK MINUTES - November 2, 2017 Shoreland Development**

28

29 **Vice Chair Kalmar moved to accept the November 2, 2017 Shoreland Development site
30 walk Minutes as presented.**

31 **Mr. Dunkelberger seconded the motion.**

32

33 **The motion carried 7-0-0.**

34

35 **PUBLIC COMMENT**

36

37 The Chair opened the public comment. There being none, the Chair closed the public
38 comment.

39

40 **OLD BUSINESS**

41

42 **ITEM 1 – 21 Bond Road – Shoreland Development Plan Review**

43 Action: Set a site walk date. Owner/Applicant, Victor Messier requests consideration of the
44 reconstruction of a “bait shed” located on Bond Road (Tax Map 25, Lot 8) in the Residential –
45 Kittery Point Village (R-KPV) and the Shoreland Overlay (OZ-SL) Zones. Agent is Brian
46 Rodonets, Coastal Architects.

47
48 **A site walk was scheduled for February 21, 2018 at 10:00 a.m.**

49
50 **ITEM 2 – 459 U.S. Route 1 – Site and Subdivision Preliminary Plan Review**

51 Action: Accept or deny application. Owner/Applicant, Landmark Hill LLC and DSS Land
52 Holdings LLC, requests consideration of a mixed-use development for a 20-+/- acre site located
53 on U.S. Route 1 (Tax Map 60, Lot 24) in the Mixed-Use (MU) and Rural Residential (R-RL)
54 Zones. Agent is Ken Wood, Attar Engineering.

55
56 The applicant clarified the address to be 459 U.S Route One. Landmark Hill LLC is the correct
57 name of the applicant and the owner is DSS Land holdings LLC.

58
59 Lou Chamberlain, Attar Engineering, filled in for Ken Wood. He explained a bulleted document
60 was submitted addressing the staff comments. There were no concerns about completeness
61 from staff or from the Board.

62
63 Mr. Chamberlain commented on the following staff comments:

- 64 • The requirement of the plans to be 1 inch equals 50 have been included;
- 65 • The surveyors stamp was added to the boundary survey;
- 66 • The amount of acreage, the amount of the right of way and land to be disturbed is done
67 and is plan Note 12;
- 68 • Abutters on Adams Road has been corrected;
- 69 • The 20 ft. wide road was added to the travel way plan;
- 70 • A better aerial map was submitted;
- 71 • The Water District’s letter of capacity is included in the package;
- 72 • There is no letter of endorsement for erosion control but the applicant will give to CMA
73 for review.

74
75 Mr. Chamberlain addressed the following additional review considerations:

- 76
77 1. The size of the units and square footage have been added to plans. They have removed
78 the sewer easements from net residential density calculations which changed the
79 number of units from 24 to 22 units;
- 80 2. Deduction of travel ways and parking - the applicant explained they have not completed
81 this because there is no right of way depicted on the plan. Vice Chair Kalmar explained
82 the Board needs to make this decision and it is not how the Board sees it. The right of
83 way, travel ways and parking need to be deducted regardless if it were done differently
84 in another case. The Board agreed. Mike Brigham commented it was done with his
85 other development, Landmark Hill, and he explained he was given a legal opinion of the
86 Code and if they included the parking lots and travel ways in a proposed right of way it
87 would affect the parking dramatically. After discussion of the language in Code 16.7.8.2
88 ensued, the Board determined the applicant needed to make the deductions. Vice Chair
89 Kalmar requested a chart for the next meeting showing the net residential acreage.
- 90 3. Ms. Connor explained the applicant has submitted a narrative regarding the senior
91 facility and the Board should decide if it is sufficient since they have approved the sketch

- 92 plan. The applicant explained the narrative is in the January 17th letter. The Board has
93 accepted the letter.
- 94 4. Setbacks to the wetland - the applicant explained there was a concern of grading in their
95 previous plan because of a wetland of special significance. Mr. Chamberlain added they
96 are not proposing to fill the wetlands and he explained they have had discussions with
97 the DEP who told them some buffering is needed. The applicant explained they plan to
98 grade with 50 ft. and 25 ft. of buffer. Vice Chair Kalmar explained structures cannot be
99 within 100 ft. of a wetland of special significance. Mr. Chamberlain replied his
100 interpretation is that the development cannot be within 100 feet but a treatment pond is
101 not a structure and they have worked with the DEP. Vice Chair Kalmar replied the Town
102 Code is more restrictive than the State and more restrictive applies. Discussion of the
103 definition of a structure and how it relates to the applicant's plan ensued. The Board
104 requested the applicant find another place where it resides. The applicant agreed to
105 look at this again.
- 106 5. Size of the elderly single-family units - Mr. Brigham explained the reason the units have
107 three bedrooms is because it is a plan he has used many times. The design is for
108 Capes with smaller second floors which will give the owners the option to add two
109 bedrooms.

110
111 **Mr. White moved to find the preliminary plans dated 1/18/2018 and accompanying**
112 **application complete subject to the boards requirements discussed tonight, as prepared**
113 **by Attar Engineering, Inc and presented by agent, Ken Wood, Attar Engineering, for 459**
114 **U.S. Route 1 (Tax Map 60 Lot 24) in the Mixed Use Zone.**

115
116 **Vice Chair Kalmar seconded the motion.**

117
118 Earledean Wells asked of an unmarked area on the plan. Mr. Brigham explained the area is for a
119 passive recreation and is also planning to have a walking trail.

120
121 **The motion carried 6-1-0. (Mr. Harris opposed)**

122
123 A site walk was scheduled for March 20th at 10:30. The applicant will have the property staked
124 as requested by the Board.

125
126 **NEW BUSINESS**

127
128 **ITEM 3 – Landmark Hill Lane - Street Naming**

129 Action: Accept or deny application. Grant or deny approval of street name. Owner/applicant
130 Landmark Hill LLC requests consideration of naming a new private drive Landmark Hill Lane
131 (Tax Map 67 Lot 2).

132
133 **Vice Chair Kalmar moved to grant approval for street name Landmark Hill Lane for**
134 **property located at 518 U.S. Route 1, Tax Map 67 Lot 2.**

135 **Mr. Dunkelberger seconded the motion.**

136
137 **The motion carried 6-0-1. Mr. Harris abstained.**

138
139 **ITEM 4 – 412 Haley Road – Major Amendment to an Approved Subdivision Plan**

140 Action: Accept or deny application, Approve or deny plan. Owner Norwich Investments, LLC,
141 and applicant, Green & Company, request consideration of a major modification to a subdivision

142 approved on October 12, 2017 and located at 412 Haley Road (Tax Map 34, Lot 3) in the
143 Residential-Rural (R-RL) and Shoreland Overlay (SH-OZ-250') Zones. Agent is Joseph
144 Coronati, Jones and Beach Engineers, Inc.

145
146 Mr. Coronati explained they are requesting to make a modification to the approved plan. The lot
147 with the existing house, was to have water access to a common dock with easements. The
148 house owner did not want the easements on the land. The applicant is proposing adjusting the
149 lot line by 1 acre for open space that consists of 255-ft. of shoreland frontage. This will bring the
150 lot size with the existing house to 3.38 acres. Minimum frontage will remain, and the lot is
151 conforming.

152
153 Mr. Ledgett asked if it is a new lot. The applicant explained it is not a new lot and they would be
154 creating an open space lot which is not developable because it is encumbered by a 100-ft
155 wetland buffer. Mr. Ledgett asked the Board if there are any limitations on creating a lot that
156 cannot be developed. Ms. Connor explained it is considered as open space and the
157 documentation of being held in common and not being developed is outlined in the Home
158 Owner's documents. She added it is undevelopable as well. Mr. Coronati suggested adding a
159 plan note and add "nonbuilding lot".

160
161 Mr. Ledgett pointed out the following incorrect wording in Note 19 on A-5 drawing: "The
162 Homeowner's Association reserves the right to construct a community dock along the
163 shoreline". Mr. Coronati agreed to reword the note to: "The Homeowner's Association reserves
164 the right to apply to the Port Authority for a community dock along the shoreline". Mr. Ledgett
165 expressed his concern of the hammerhead could be used for parking. The applicant agreed to
166 post a no parking sign. Mr. Ledgett advised the applicant to have a plan for kayak storage,
167 which will be required on their permit application for the dock.

168
169 **Vice Chair Kalmar moved to find the application for a major modification to a subdivision**
170 **plan dated January 16, 2018 from owner, Norwich Investments, and applicant, Green &**
171 **Company for a previously approved subdivision located at 412 Haley Road (Tax Map 34**
172 **Lot 3) in the Residential-Rural and Shoreland Overlay Zones complete.**
173 **Mr. Alesse seconded the motion.**

174
175 **The motion carried 6-1-0. Mr. Harris opposed.**

176
177 **Vice Chair Kalmar moved to approve subject to conditions the major modification to a**
178 **subdivision plan dated January 16, 2018 from owner, Norwich Investments, and**
179 **applicant, Green & Company for a previously approved subdivision located at 412 Haley**
180 **Road (Tax Map 34 Lot 3) in the Residential-Rural and Shoreland Overlay Zones upon the**
181 **review and voting, in the affirmative on the Findings of Fact.**
182 **Mr. Dunkelberger seconded the motion.**

183
184 **The motion carried 6-1-0. (Mr. Harris opposed)**

185
186

187 **KITTERY PLANNING BOARD**

APPROVED

188 **FINDINGS OF FACT**

189 **412 Haley Road**

190 **Major Modification to an Approved Subdivision Plan**

191

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

195 **WHEREAS:** Owner Norwich Investments LLC, and applicant, Jones & Beach, request consideration of a
196 lot line adjustment to Lot 34-3-13 to create an additional 43,569 square feet of waterfront open space
197 for a subdivision previously approved for 412 Haley Road (Tax Map 34 Lot 3) in the Residential-Rural (R-
198 RL) zone and a portion in the Shoreland Overlay (OZ-SL-250') Zone.

Hereinafter the "Development".

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review
Notes dated 2/8/2018;

199

Major Modification Site Plan Application Completeness Review	Found complete by a vote of 6 in favor, 1 opposed, 0 abstaining.	2/8/2018
Major Modification to Subdivision Plan Approval	Approved by a vote of 6 in favor, 1 opposed, 0 abstaining.	2/8/2018

200

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 2/8/2018 (Hereinafter the "Plan").

1. Application and associated and subsequent submittal information dated 1/18/2018
2. Site Plan Amendment, Jones & Beach Engineers, Inc. dated 1/16/2018

201

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:

202

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 modification pertains to an approved residential development in a residential zone. The modification will increase the open space within the subdivision and provide all lots in the subdivision with waterfront access.

Conclusion: This standard appears to be met.

Vote of 6 in favor 1 against 0 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: There is one area of wetlands identified within the proposed open space.

Conclusion: This standard appears to be met.

Vote of 6 in favor 1 against 0 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: No rivers, streams, or brooks have been identified on site.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

D. Water Supply Sufficient.

The proposed development has sufficient water available for the reasonably foreseeable needs of the development.

Finding: Because this modification proposed is a lot line adjustment to create open space, there is no impact to water supply.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

E. Municipal Water Supply Available.

The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.

Finding: Because this modification proposed is a lot line adjustment to create open space, there is no impact to water supply.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

F. Sewage Disposal Adequate.

The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

Finding: Because this modification is a lot line adjustment resulting in increased open space, there is no impact to the sewage waste disposal.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

G. Municipal Solid Waste Disposal Available.

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.

Finding: Because this modification is a lot line adjustment resulting in increased open space, there is no impact to solid waste.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

H. Water Body Quality and Shoreline Protected.

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 lot line adjustment creates additional open space by removing approximately 1 acre of land along the shore from Lot 34-3-13. Lot 34-3-13's building envelope remains the same as previously approved (outside of the required 100-foot setback) and will not adversely affect the water quality or disturb the shoreline.

Conclusion: This standard appears to be met.

Vote of 6 in favor 1 against 0 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 lot line adjustment, creating additional open space, will not affect the previously approved development's use of individual septic systems designed by a Licensed Professional.

Conclusion: This standard appears to be met.

Vote of 6 in favor 1 against 0 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: There is no construction proposed by this lot line adjustment within a flood prone area.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

K. Stormwater Managed.

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

Finding: The proposed lot line adjustment, creating additional open space will not affect stormwater.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

L. Erosion Controlled.

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.

Finding: The proposed lot line adjustment, creating additional open space, will not affect soil erosion.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

M. Traffic Managed.

The proposed development will:

- 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*
- 2. Provide adequate traffic circulation, both on-site and off-site.*

Finding: The proposed lot line adjustment will create additional open space with no impact on traffic.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

N. Water and Air Pollution Minimized.

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

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

Finding: Because the modification consists of a lot line adjustment to create additional open space, with no development involved, there is no impact on the factors listed above.

Conclusion: This standard is not applicable.

Vote of 6 in favor 1 against 0 abstaining

O. Aesthetic, Cultural and Natural Values Protected.

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.

Finding: The property does not include any significant aesthetic, cultural or natural values that require protection so the lot line adjustment will have no impact.

Conclusion: This standard appears to be met.

Vote of 6 in favor 1 against 0 abstaining

P. Developer Financially and Technically Capable.

Developer is financially and technically capable to meet the standards of this section.

Finding: The previous subdivision approval required that the developer provide a performance guarantee and an inspection escrow in an amount suitable to cover the costs of required infrastructure including on-site inspection by the Peer Review Engineer to ensure the proposed development is constructed according to the approved plan. The proposed lot line adjustment will have no effect on these transactions.

Conclusion: This standard appears to be met.

Vote of 6 in favor 1 against 0 abstaining

Chapter 16.3 LAND USE ZONE REGULATIONS

16.3.2.17.D Shoreland Overlay Zone

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

Finding: Maximum devegetated area in the Shoreland Overlay Zone is 20%. The previously approved development does not exceed the devegetated coverage amounts and this proposed lot line adjustment will have no effect.

Conclusion: This standard appears to be met.

Vote of 6 in favor 1 against 0 abstaining

Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW

Article 10 Shoreland Development Review

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:

- 1. Maintain safe and healthful conditions;*
- 2. Not result in water pollution, erosion or sedimentation to surface waters;*
- 3. Adequately provide for the disposal of all wastewater;*
- 4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*
- 5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;*
- 6. Protect archaeological and historic resources;*

7. *Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;*
8. *Avoid problems associated with floodplain development and use;*
9. *Is in conformance with the provisions of this code;*
10. *Be recorded with the York county Registry of Deeds.*

Findings: The proposed modification consisting of a lot line adjustment to create an additional acre of open space with waterfront access will not have an adverse impact on the factors above.

Conclusion: This standard appears to be met.

Vote of 6 in favor 1 against 0 abstaining

203

204 Conditions of Approval (to be included on the final plan):

205

- 206 1. No changes, erasures, modifications or revisions may be made to any Planning Board approved
207 final plan. (Title 16.10.9.1.2)
- 208 2. This approval is limited to the specific modification referenced herein and is considered a
209 modification to a subdivision plan approved by the Planning Board on October 12, 2017.
- 210 3. Revise Note 19 as follows: "The Homeowners Association reserves the right to apply to construct
211 a community dock along the shoreline within the open space."
- 212 4. Label the new created open space lot "Open Space – To Remain Undeveloped".
- 213 5. Add a note, to be labeled as 21, as follows: "A "no parking" sign shall be placed at the hammerhead
214 turnaround" and re-number the rest of the notes accordingly.
- 215 6. All Notices to Applicant contained in the Findings of Fact (dated: 2/8/2018).
- 216

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

218

- 219 7. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer
220 Review Engineer, and submit for Staff review prior to presentation of final Mylar.

221

222

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

- 224 1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with
225 review, including, but not limited to, wetland mitigation fee, Town Attorney fees, peer review,
226 newspaper advertisements and abutter notification.
- 227 2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers
228 or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
- 229 3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and
230 all related state/federal permits or legal documents that may be required, must be submitted to the
231 Town Planning Department. Date of Planning Board approval shall be included on the final plan in the
232 Signature Block.
- 233 4. Copies of all applicable state and federal permits submitted to the Town prior to the issuance of a
234 building permit.
- 235 5. This approval by the Town Planning Board constitutes an agreement between the Town and the
236 Developer, incorporating the Plan and supporting documentation, the Findings of Fact, and any
237 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.

238 **Vote of 6 in favor 1 against 0 abstaining**

239

240 APPROVED BY THE KITTERY PLANNING BOARD ON _____

241

242

243 _____
Ann Grinnell, Planning Board Chair

244

245 Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the
246 York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45)
247 days

248

249 **ITEM 5 – Debra Lane – Major Amendment to an Approved Subdivision Plan**
250 Action: Accept or deny application, Approve or deny plan. Owner/Applicant, Ronald L.
251 Dalrymple requests consideration of a major modification to a subdivision last approved on
252 October 10, 2002 and located on Debra Lane (Tax Map 15, Lots 11-1 through 11-12) in the
253 Residential – Urban (R-U) Zone.

254

255 Joe Mulledy, Ambit Engineering, explained the 11-lot subdivision that was approved and
256 constructed 20 years ago had a drainage design that included a V-notch weir. This was
257 intended to be constructed to balance the drainage flow so the subdivision could be built out

258 with no impacts to stormwater. The V-notch weir was never built. Mr. Mulledy passed out his
259 analysis. He explained he reviewed the original analysis and the design from 20 years ago and
260 pointed out he wasn't the engineer at the time. Mr. Mulledy noted the engineer at the time
261 properly analyzed the area and explained the CN value for the trees. The new drainage analysis
262 shows more trees and less grass. He explained the table in his analysis is a tabulation of all the
263 perimeters in the drainage model and compares the 1998 CN values with today's CN values.
264 The results have allowed them to propose the V-notch weir is no longer needed.

265
266 Ronald Dalrymple explained this was discovered during a discussion with the buyer of his house
267 as they were walking the property lines. Mr. Dalrymple explained the reason the V-notch weir
268 was not constructed was due to the subdivision being an "as built" development and they did
269 extra work for the drainage. Mr. Ledgett questioned the impact of not having a weir on the
270 current vegetation. Mr. Mulledy replied whenever a lot owner make changes there could be
271 impacts. There was no enforcement action involved and the buyer was released.

272
273 **Mr. White moved that the application for a major modification to a subdivision plan dated**
274 **January 18, 2018 from owner and applicant, Ronald L. Dalrymple for a previously**
275 **approved subdivision located on Debra Lane (Tax Map 15, Lots 11-1 through 11-12) in the**
276 **Residential-Urban Zone is complete.**
277 **Vice Chair Kalmar seconded the motion.**

278
279 **The motion carried 7-0-0.**

280
281 **Vice Chair Kalmar moved to approve with conditions the major modification to a**
282 **subdivision plan dated January 18, 2018 from owner and applicant, Ronald L. Dalrymple,**
283 **for a previously approved subdivision located on Debra Lane (Tax Map 15, Lots 11-1**
284 **through 11-12) in the Residential-Urban Zone upon the review and voting, in the**
285 **affirmative on the Findings of Fact.**

286 **Mr. Dunkelberger seconded the motion.**

287
288 **The motion carried 7-0-0.**

289
290
291
292 **KITTERY PLANNING BOARD**
293 **FINDINGS OF FACT**
294 **for**
295 **Debra Lane**
296 **Major Modification to an Approved Subdivision Plan**

APPROVED

297
298 Note: This approval by the Planning Board constitutes an agreement between the Town and the Developer incorporating the
299 Development plan and supporting documentation, the Findings of Fact, and all waivers and/or conditions approved and required
300 by the Planning Board.

301
302 **WHEREAS:** Owner and applicant, Ronald L. Dalrymple, requests consideration of the removal of a
303 requirement to construct a "V-shaped" weir designed to limit flow through an inlet into an existing pond
304 located within a previously approved subdivision located on Debra Lane (Tax Map 15, Lots 11-1 through
305 11-12) in the Residential-Urban Zone.

306
307

Hereinafter the “Development”.

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 2/8/2018;

308

Major Modification Plan Application Completeness Review	Found complete by a vote of 7-0-0	2/8/2018
Major Modification to Subdivision Plan Approval	Approved by a vote of 7-0-0	2/8/2018

309

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 2/8/2018 (Hereinafter the “Plan”).

1. Application and associated and subsequent submittal information dated 1/18/2018
2. Revised Drainage Analysis and Subcatchment Plans, Ambit Engineering, Inc. dated 1/16/2018

310

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 modification pertains to an approved and existing residential development in a residential zone. The modification will remove the requirement for a weir originally designed to control stormwater runoff but never built. A revised drainage analysis, signed and stamped by Joseph L. Mully, P.E., supports the idea that the weir is not necessary.

Conclusion: This standard appears to be met.

Vote of 7 in favor 0 against 0 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: No revisions to the existing subdivision except for removal of a requirement for a stormwater-related weir that was never constructed are proposed so no site plan showing wetlands is required.

Conclusion: This standard is not applicable.
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
C. River, Stream or Brook Identified.
<i>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.</i>
Finding: The modification proposed will simply remove the requirement for a stormwater-related weir that was never constructed.
Conclusion: This standard is not applicable.
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
D. Water Supply Sufficient.
<i>The proposed development has sufficient water available for the reasonably foreseeable needs of the development.</i>
Finding: Because this modification proposes the removal of the requirement for stormwater-related weir, there is no impact to water supply.
Conclusion: This standard is not applicable.
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
E. Municipal Water Supply Available.
<i>The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.</i>
Finding: Because this modification proposes the removal of the requirement for stormwater-related weir, there is no impact to water supply.
Conclusion: This standard is not applicable.
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
F. Sewage Disposal Adequate.
<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 modification concerns the removal of a requirement for a stormwater-related weir, with no impact on sewage disposal.

Conclusion: This standard is not applicable.

Vote of 7 in favor 0 against 0 abstaining

G. Municipal Solid Waste Disposal Available.

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.

Finding: Because this modification proposes the removal of the requirement for a stormwater-related weir, there is no impact to solid waste.

Conclusion: This standard is not applicable.

Vote of 7 in favor 0 against 0 abstaining

H. Water Body Quality and Shoreline Protected.

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: Because this modification proposes the removal of the requirement for a stormwater-related weir which was never constructed, there no impact to a wetland or water body.

Conclusion: This standard appears to be met.

Vote of 7 in favor 0 against 0 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: Because this modification proposes the removal of the requirement for stormwater-related weir, there is no impact to groundwater.

Conclusion: This standard appears to be met.

Vote of 7 in favor 0 against 0 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: There is no construction proposed by the removal of the requirement of a stormwater-related weir.

Conclusion: This standard is not applicable.

Vote of 7 in favor 0 against 0 abstaining

K. Stormwater Managed.

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

Finding: The modification pertains to an approved and existing residential development in a residential zone. The modification will remove the requirement for a weir originally designed to control stormwater runoff but never built. A revised drainage analysis, signed and stamped by Joseph L. Mulledy, P.E., supports the idea that the weir is not necessary.

Conclusion: This standard has been met.

Vote of 7 in favor 0 against 0 abstaining

L. Erosion Controlled.

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.

Finding: The revised drainage analysis supports the idea that under current conditions (without the weir), no significant runoff occurred through hydrologic modeling of 2, 10, 15, 50 and 100-year, 24-hour storm events which in turn would mean soil erosion is not also not significant.

Conclusion: This standard has been met.

Vote of 7 in favor 0 against 0 abstaining

M. Traffic Managed.

The proposed development will:

- 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*

<p>2. <i>Provide adequate traffic circulation, both on-site and off-site.</i></p>
<p>Finding: The proposed removal of a stormwater-related weir requirement has no impact on traffic. Conclusion: This standard is not applicable.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>N. Water and Air Pollution Minimized.</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"> 1. <i>Elevation of the land above sea level and its relation to the floodplains;</i> 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>Finding: Because this modification proposes the removal of the requirement for stormwater-related weir that was never constructed, there is no impact on the factors listed above. Conclusion: This standard is not applicable.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>O. Aesthetic, Cultural and Natural Values Protected.</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: Removing a requirement for a stormwater-related weir will have no impact on aesthetic, cultural or natural values since the subdivision already exists. Conclusion: This standard appears to be met.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>P. Developer Financially and Technically Capable.</p>
<p><i>Developer is financially and technically capable to meet the standards of this section.</i></p>
<p>Finding: The subdivision for which this modification is proposed already exists. The proposed modification proposes to remove a requirement and does not involve construction. Conclusion: This standard appears to be met.</p>

Vote of 7 in favor 0 against 0 abstaining

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

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. This approval is limited to the specific modification referenced herein and is considered a modification to a subdivision plan last approved by the Planning Board on October 2, 2002.
3. All Notices to Applicant contained in the Findings of Fact (dated: 2/8/2018).

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

4. 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.

311 Notices to Applicant: (not to be included on the final plan – not all may be applicable)

312

313 1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with
314 review, including, but not limited to, wetland mitigation fee, Town Attorney fees, peer review,
315 newspaper advertisements and abutter notification.

316 2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or
317 variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.

318 3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and
319 all related state/federal permits or legal documents that may be required, must be submitted to the Town
320 Planning Department. Date of Planning Board approval shall be included on the final plan in the
321 Signature Block.

322 4. Copies of all applicable state and federal permits submitted to the Town prior to the issuance of a
323 building permit.

324 5. This approval by the Town Planning Board constitutes an agreement between the Town and the
325 Developer, incorporating the Plan and supporting documentation, the Findings of Fact, and any
326 Conditions of Approval.

327

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.

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Vote of 7 in favor 0 against 0 abstaining

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APPROVED BY THE KITTERY PLANNING BOARD ON _____

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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.

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Item 6 - 88 Pepperrell Road - Shoreland Development Plan Review

Action: Accept or deny application. Approve or deny plan. Owner/Applicant, 1828 Pepperrell Cove LLC requests consideration of the removal of a vestibule and two overhangs and the addition of a new overhang on a building located on 58 Pepperrell road (Tax Map 27, Lot 49) in the Business - Local (B-L) and the Shoreland Overlay (OZ-SL) Zones. Agent is Carla Goodknight, CJ Architects.

Carla Goodknight explained the changes requested exist partially within the 100-ft. offset line from the highest annual tide. She referred to Page 3 of the submittal picturing the overhangs and vestibule that are proposed to be removed. She added on Page 2 the square footages have been quantified and the proposed new overhang represented shows a 9-sq. ft. reduction overall to the impact. The area within the 100 ft. zone is reduced to 35 sq. ft.

The Board was in consensus this item does not need to go to a public hearing.

**Mr. White moved the application for Shoreland Development Plan dated January 18, 2018 from owner Street LLC and applicant 1828 Pepperrell Cove LLC (Tax Map 27 Lot 49) in the Business – Local and Shoreland Overlay Zones, is complete.
Mr. Ledgett seconded the motion.**

The motion carried 7-0-0.

**Vice Chair Kalmar moved to approve with conditions the Shoreland Development Plan dated January 18, 2018 from owner Street LLC and applicant 1828 Pepperrell Cove LLC (Tax Map 27 Lot 49) in the Business – Local and Shoreland Overlay Zones, upon the review and voting in the affirmative on the Findings of Fact.
Mr. Dunkelberger seconded the motion.**

The motion carried 7-0-0.

KITTERY PLANNING BOARD

APPROVED

FINDINGS OF FACT

88 Pepperrell Road

Shoreland Development Plan Review

WHEREAS: Owner, Chatham Street LLC, and Applicant, 1828 Pepperrell Cove LLC requests consideration of a plan to remove existing overhangs and entry vestibule and construct a new porch overhang at 88 Pepperrell Road, Tax Map 27 Lot 49, in the Business - Local (B-L) and the Shoreland Overlay (OZ-SL-250') Zones, hereinafter the “Development” and Pursuant to the Plan Review meetings conducted by the Planning Board as noted in the plan review notes prepared for 2/8/2018.

Shoreland Development Plan Application Completeness Review	2/8/2018	HELD
Site Walk		TBD
Public Hearing		TBD
Shoreland Development Plan Approval	2/8/2018	APPROVED

379

380 And pursuant to the application and plan and other documents considered to be a part of a plan review
381 decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the “Plan”):

382 1. Shoreland Development Plan Application dated 1/18/18

383 2. Shoreland Development Plan

384 **NOW THEREFORE**, based on the entire record before the Planning Board and pursuant to the applicable
385 standards in the Land Use and Development Code, the Planning Board makes the following factual
386 findings and conclusions:

387 **FINDINGS OF FACT**

388 **Chapter 16.3 LAND USE ZONE REGULATIONS**

16.3.2.17.D Shoreland Overlay Zone
<i>1.d The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...</i>
Finding: This property is fully developed with previously existing structures, travel ways and parking areas.
Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining

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Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS
Article III Nonconformance

16.7.3.1 Prohibitions and Allowances

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

Finding: The plan as proposed makes one of the existing buildings less non-conforming by removing 35 sf of structure from within the 100-foot setback.

Conclusion: This standard appears to be met.

Vote: 7 in favor 0 against 0 abstaining

16.7.3.3.2 Nonconforming Structure Repair and/or Expansion

E. In addition to the standards in the above subsections 16.7.3.3.2.A-D, the expansion of nonconforming structures located in the Shoreland or Resource Protection Overlay Zone must meet the following:

1. *Wherever a new, enlarged, or replacement foundation is constructed under a nonconforming structure the structure and new foundation must be placed such that setback requirements are met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Title 16.7.3.3.1.B, Nonconforming Structure Relocation.*
2. *Expansion of any portion of a structure that is located within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland is prohibited.*
3. *Notwithstanding Title 16.7.3.3.2.E.2 above, if a legally existing nonconforming principal structure is entirely located less than 25-feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland, that structure may be expanded as follows,*
 - a. the maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.*
4. *Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or coastal or freshwater wetland setback requirement. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or coastal or freshwater wetland setback requirements may be expanded or altered as follows:*

a. For structures located less than 100 feet from the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland, the maximum combined total footprint for

all structures may not be expanded to a size greater than 1,000 square feet, or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet, or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.

b. For structures that are located within the Resource Protection Overlay Zone, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet, or 30% larger than the footprint that existed at the time the Resource Protection Overlay Zone was established, whichever is greater. The maximum height of any structure may not be greater than 25 feet, or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 100 feet from the normal high water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland must meet the footprint, roof pitch and height limits in 16.7.3.3.2.E.4.a, above.

Finding: The proposed removal of the vestibule and two overhangs together with the addition of a new overhang results in a decrease in the square footage of the structure within the Shoreland Overlay Zone.

Conclusion: This standard appears to be met.

Vote: 7 in favor 0 against 0 abstaining

16.7.3.3.3 Nonconforming structure reconstruction

A. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and which is removed, damaged or destroyed, by any cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or coastal or freshwater wetland setback requirement to the greatest practical extent as determined by the Planning Board. In determining whether the structure reconstruction meets the setback to the greatest practical extent the Planning Board must consider, in addition to the criteria in Section 16.7.3.3.1,B Nonconforming Structure Relocation, the physical condition and type of foundation present, if any.

B. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and removed, damaged or destroyed by any cause by 50% or less of the market value of the structure before such damage, destruction or removal, may be reconstructed in-place if a permit is obtained from the Code Enforcement Officer within twelve (12) months of the established date of damage or destruction.

C. Outside of the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is removed, damaged or destroyed by any cause may be restored or reconstructed in-place if a

permit is obtained from the Code Enforcement Officer within eighteen (18) months of the date of said removal, damage or destruction. Such restoration or reconstruction must not make the structure more nonconforming than the prior nonconforming structure.

D. Nothing in this section prevents the demolition of the remains of any structure damaged or destroyed. Application for a demolition permit for any structure that has been partially damaged or destroyed must be made to the Code Enforcement Officer.

E. In the Shoreland or Resource Protection Overlay Zone(s), if the total footprint of the original structure can be reconstructed beyond the required setback area, no portion of the reconstructed structure may be reconstructed at less than the setback requirement for a new structure. If the reconstructed or replacement structure is less than the required setback, it may not be any larger than the original structure, except as allowed in Title 16.7.3.3.2, Nonconforming Structure Repair and Expansion.

F. When it is necessary to remove vegetation to reconstruct a structure, vegetation will be replanted in accordance with Section 16.7.3.3.1.C, Nonconforming Structure Relocation.

G. Except where expressly permitted in this code, in no case may a structure be reconstructed or replaced so as to increase its non-conformity.

Finding: The building is being renovated with small portions proposed for removal and a new overhang proposed to be added which will decrease the square footage within the Shoreland Overlay Zone.

Conclusion: This standard appears to be met.

Vote: 7 in favor 0 against 0 abstaining

393

394 **Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW**

395 **Article 10 Shoreland Development Review**

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:

1. Maintain safe and healthful conditions;

Finding: The proposed development as represented in the plans and application does not appear to have an adverse impact.

Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining
<i>2. Not result in water pollution, erosion or sedimentation to surface waters;</i>
Finding: The proposed development will have little impact on surface waters.
Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining
<i>3. Adequately provide for the disposal of all wastewater;</i>
Finding: The proposed development will not affect the existing wastewater disposal system.
Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining
<i>4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;</i>
Finding: The proposed development does not appear to have an adverse impact.
Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining
<i>5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;</i>
Finding: Because the property is already fully developed, shore cover is not adversely impacted
Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining
<i>6. Protect archaeological and historic resources;</i>

Finding: The building under consideration is part of the historical fabric of Kittery Point.

Conclusion: This standard appears to be met.

Vote: _7_ in favor _0_ against _0_ abstaining

7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;

Finding: The proposed development does not adversely impact existing commercial fishing or maritime activities.

Conclusion: This standard appears to be met.

Vote: _7_ in favor _0_ against _0_ abstaining

8. Avoid problems associated with floodplain development and use;

Finding: The property is already fully developed. The proposed changes do not appear to have an impact on a floodplain or flood-prone area.

Conclusion: This standard appears to be met.

Vote: _7_ in favor _0_ against _0_ abstaining

9. Is in conformance with the provisions of this code;

Finding: The proposed development complies with the applicable standards of Title 16.

Conclusion: This standard appears to be met.

Vote: _7_ in favor _0_ against _0_ abstaining

10. Be recorded with the York County Registry of Deeds.

Finding: A plan suitable for recording will be prepared.

Conclusion: As stated in the Notices to Applicant contained herein, Shoreland Development plans must be recorded with the York County Registry of Deeds within 90 days of approval prior to the issuance of a building permit.

Vote: 7 in favor 0 against 0 abstaining

396

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

401 **Waivers:** None

402 **Conditions of Approval** (to be depicted on final plan notes to be recorded):

403 1. No changes, erasures, modifications or revisions may be made to any Planning Board approved
404 final plan. (Title 16.10.9.1.2)

405 2. All Notices to Applicant contained herein (Findings of Fact dated 02/8/2018).

406

407 **Conditions of Approval** (not to be depicted on final plan notes):

408 3. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer
409 Review Engineer, and submit for Staff review prior to presentation on final Mylar.

410 a. Change title of plan from "Shoreline" to "Shoreland".

411

412 The Planning Board authorizes the Planning Board Chair, or Vice Chair, to sign the Final Plan and the
413 Findings of Fact upon confirmation of required plan changes.

414 **Vote: 7 in favor 0 against 0 abstaining**

415

416 APPROVED BY THE KITTERY PLANNING BOARD ON _____

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419

Ann Grinnell, Planning Board Chair

420

421 **Notices to Applicant:**

- 422 1. Incorporate any plan revisions on the final plan as required by Planning Board and submit for
423 Staff review prior to presentation of final mylar.
- 424 2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with
425 the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper
426 advertisements and abutter notification.
427
- 428 3. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents
429 that may be required, must be submitted to the Town Planning Department for signing. Date of
430 Planning Board approval shall be included on the final plan in the Signature Block. After the signed
431 plan is recorded with the York County Registry of Deeds, a mylar copy and a paper copy of the
432 signed original must be submitted to the Town Planning Department.
433
- 434 4. This approval by the Town Planning Board constitutes an agreement between the Town and the
435 Developer, incorporating as elements the Development Plan and supporting documentation, the
436 Findings of Fact, and any Conditions of Approval.

437 Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning
438 Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section
439 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

440
441 **ITEM 7 - BOARD MEMBER ITEMS/DISCUSSION**

442
443 Chair Grinnell requested the Board review their “to do list” once staff is in place.

444
445 Vice Chair Kalmar explained the requirement in their Bylaws of members attending MMA
446 training. Board members will find out when the next training occurs.

447
448 The Board was in consensus to have Mr. White as the representative on the Comprehensive
449 Planning Committee. Mr. White informed the Board they have shrunk down the executive
450 summary from feedback of the workshops. They will have a public hearing and it will be sent to
451 the State for another review.

452
453 **ITEM 8 -TOWN PLANNER ITEMS**

454
455 Ms. Connor has spoken with Jeff Clifford from Altus Engineering regarding extending the Betty
456 Welch Road subdivision. Vice Chair Kalmar acknowledged that the time since August 24, 2017
457 should not be counted as the six-month deadline because another agency was stalling them.

458
459 **Vice Chair Kalmar moved that the Board formally acknowledge the time for the**
460 **Huntington Run Subdivision since August 24, 2017 has not counted towards the six-**
461 **month deadline of the Huntington Run Subdivision application in accordance with**
462 **16.10.7.1.3.A**

463 **Mr. Dunkelberger seconded the motion.**

464
465 **The motion carried 7-0-0.**

466
467 **ITEM 9 - ADJOURNMENT**

468 **Mr. Alesse moved to adjourn the meeting.**
469 **Mr. Dunkelberger seconded the motion.**

470
471
472 **The motion carried 7-0-0.**

473
474 The Kittery Planning Board meeting of February 8, 2018 adjourned at 7:58 p.m.

475
476 Submitted by Mary Mancini, Minute Recorder, on February 23, 2018.

477
478 Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst
479 every effort has been made to ensure the accuracy of the information, the minutes are not
480 intended as a verbatim transcript of comments at the meeting, but a summary of the discussion
481 and actions that took place. For complete details, please refer to the video of the meeting on
482 the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>