

**Town of Kittery  
 Planning Board Meeting  
 March 10, 2016**

**ITEM 6 – 9 Pocahontas Road – Wetland Alteration and Shoreland Development Plan Review**

Action: Accept or deny application; Approve or deny plan. Owner Brian Seaward and Applicant Gary Hall requests consideration of a 12-foot gravel driveway to cross 350 sq. ft. of a .26-acre wetland on a 6.47-acre lot located at 9 Pocahontas Road (Tax Map 52 Lot 3) in the Residential–Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250) Zones. Agent is Ken Markley, North Easterly Surveying.

**PROJECT TRACKING**

REQ'D	ACTION	COMMENTS	STATUS
NO	Sketch Plan	N/A	
NO	Site Visit	At the Board's discretion	
YES	Preliminary Plan Review Completeness/Acceptance		Scheduled for 3/10/2016
NO	Public Hearing	At the Board's discretion	
YES	Final Plan Review and Decision		Feasible for 3/10/2016
<p>Applicant: Prior to the signing of the approved Plan any <b>Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.</b> As per Section 16.4.4.13 - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.</p>			

**Background**

Planning Board review of this project is required by Title 16.10.3.2 *Other Development Review* and Title 16.9.3 *Conservation of Wetlands including Vernal Pools* because a portion of the proposed development is located in the Shoreland Overlay Zone and the proposed development is a new structure/activity within a wetland greater than 501 square feet in size. The existing property is an undeveloped, 6.47-acre conforming lot with 3 potential vernal pools and a wetland that crosses the lot from East to West. A flood zone crosses the rear end of the lot.

The proposed development is a 12-foot gravel driveway leading from Pocahontas road to the buildable area, located mid-lot. Approximately 110-feet of the lot is in the Shoreland Overlay Zone, therefore a portion of the driveway will be subject to the regulatory standards of the Shoreland Overlay Zone. No portion of the lot or driveway is within the 100-foot buffer. The proposed driveway will also cross a wetland, not within the Shoreland Overlay Zone, creating a disturbance of 350 square feet.

Applicant is a prospective buyer, and has submitted a purchase and sale agreement for the property with the application.

**Staff Review**

1. The intent of the driveway is to access a single-family dwelling, which is a permitted use in the R-RLC and OZ-SL-250 zone. Driveways are a permitted activity within regulated wetlands, pending Planning Board approval.
2. A portion of the proposed driveway is within 250-feet of Chauncey Creek and will be subject to the devegetated coverage limits of the Shoreland Overlay Zone. At the time of review, devegetated area calculations have not been submitted to staff for review, however, staff estimates the proposed devegetated area calculations to be well under the 20% limit.

3. The proposed development requires tree clearing, limited to what is necessary for development. No clearing is proposed within the 100-foot buffer. Shoreland Overlay Zone regulations permit clearing a maximum of 25% of the regulated lot area, or ten thousand square feet, whichever is greater. Exact clearing totals are missing from the plan, however staff estimates the proposed clearing to be approximately 2,200 square feet, 5.7% of the lot located in the Shoreland Overlay Zone. This conforms to zone standards.
4. Plan references “note #9” to the right of the wetland crossing, however plan note #9 does not exist.
5. The Plan depicts only the size of the wetland located within the lot. The total size of the wetland is missing from the plan. Joseph Noel informed staff the total size of the wetland is less than .5 acre.
  - a. The required setback for principal and accessory dwellings for a wetland greater than 501 square feet but less than 1 acre is 50-feet. The location of proposed principal dwelling is outside of the 50-foot buffer.
  - b. Per Title 16.9.3.2 *Wetland Boundaries*, Planning Board approval to alter a wetland area one acre or larger in size is contingent upon the submission of a wetlands delineation map and summary. The wetland does not meet the one-acre threshold. This requirement is not applicable
6. The three vernal pools are greater than 501 square feet and less than 1 acre in size and therefore require a 10-foot setback for a driveway 18-feet or less in width. The proposed development meets this standard.
7. Title 16.9.3.9 requires a mitigation plan to offset potential adverse environmental impact. A mitigation plan for development that impacts less than 501 square feet of regulated wetlands includes the preservation of an undisturbed upland buffer zone adjacent to the wetland boundary equal in size to the area of the wetland to be altered. The Board may consider the addition of an undisturbed upland buffer zone to the final plan as a condition of approval.
8. A wetland mitigation report is required for activities that, in total, affect or fill more than five hundred (500) square feet of wetlands. The proposed development creates a total impact less than 500 square feet to the wetland. Therefore, a wetland mitigation report is not required.

The Wetland Alteration and Shoreland Development application appear to meet the standards of Title 16 with the following minor adjustments.

1. Submit a Shoreland Development Application and fee
2. Add Shoreland Overlay Zone standards, including existing and proposed devegetated area calculations, to final plan
3. Include a plan note addressing proposed tree clearing in the Shoreland Overlay Zone
4. Update plan to indicate “driveway” instead of “drive”
5. Either include the intended Note #9 with the plan notes, or remove reference from the building envelope.
6. Depict the size of wetland, in its entirety, on final plan
7. Designate an undisturbed buffer zone to equal in size the area of the wetland to be altered.

### **Action**

The proposed development appears to meet the requirements of Title 16, as described with the conditions included in draft Findings of Fact. After accepting the application, the Board should determine if a public hearing is warranted or necessary.

The Board may first accept the plan application.

***Move to accept the Wetlands Alteration and Shoreland Development Plan application dated February 17, 2016 from Gary Hall for 9 Pocahontas Road (Tax Map 52 Lot 3) in the Residential-Rural Conservation and Shoreland Overlay Zones...***

If it is determined a public hearing is not warranted or necessary, the Board may move to approve the application with conditions (suggestions provided below) and proceed to reading and voting on the Findings of Fact.

***Move to grant approval with conditions for the Wetland Alteration and Shoreland Development Plan application dated February 17, 2016 from Gay Hall for 9 Pocahontas Road (Tax Map 52 Lot 3 in the Residential-Rural Conservation and Shoreland Overlay Zones upon reading and voting, in the affirmative, on the Findings of Fact***

*<After an affirmative vote, proceed to reading and voting on Findings of Fact>*

Kittery Planning Board

**UNAPPROVED**

**Findings of Fact  
For 9 Pocahontas Road  
Wetland Alteration Plan Review  
Shoreland Development Plan Review**

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**WHEREAS:** Owner Brian Seaward and Applicant Gary Hall requests consideration of a 12-foot gravel driveway to cross 350 sq. ft. of a .26-acre wetland on a 6.47-acre lot located at 9 Pocahontas Road (Tax Map 52 Lot 3) in the Residential–Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250) Zones, hereinafter the “Development” and

Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted {in the plan review notes prepared for 3/10/2016}

Wetland Alteration and Shoreland Development Plan Review	3/10/2016
Approval	3/10/2016

And pursuant to the application and plan and other documents considered to be a part of a plan review decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the “Plan”): {as noted in the plan review notes prepared for 3/10/2016}

1. Wetland Alteration Application, received 2/17/2016
2. Shoreland Development Review Application, received TBD
2. Shoreland Development and Wetland Alteration Plan, North Easterly Surveying, Inc., received 2/16/2016
3. Purchase and Sale Agreement, received 2/17/2016

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

**FINDINGS OF FACT**

**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...*

**Findings:** Maximum devegetated area in the Shoreland Overlay Zone is 20%. The proposed development does not exceed devegetated coverage amounts

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

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

## Chapter 9 DESIGN AND PERFORMANCE STANDARDS – NATURAL ENVIRONMENT

### Article III Conservation of Wetlands Including Vernal Pools

#### 16.9.3.7 Wetlands Alteration Approval Criteria

**A. In making the final determination as to whether a wetland application should be approved, the Planning Board will consider existing wetland destruction and the cumulative effect of reasonably anticipated future uses similar to the one proposed.** Preference will be given to activities that meet wetland setbacks, have a reasonable stormwater management plan (subject to Planning Board review and approval), and that dedicate easements for the purposes of maintaining the wetland and the associated drainage system. Approval to alter a wetland will not be granted for dredging or ditching solely for the purpose of draining wetlands and creating dry buildable land areas. An application for a wetlands alteration will not be approved for the purpose of creating a sedimentation or retention basin in the wetland. Increased peak runoff rates resulting from an increase in impermeable surfaces from development activities are not allowed.

Findings: The 350 square foot wetland impact does not appear to have an adverse impact on the remaining wetland.

Conclusion: This requirement appears to be met.

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

**B. It is the responsibility and burden of the applicant to show that the proposed use meets the purposes of this Code and the specific standards listed below to gain Planning Board approval to alter a wetland.** The Planning Board will not approve a wetlands alteration unless the applicant provides clear and convincing evidence of compliance with the Code.

Findings: The intent of the driveway is to access a single-family dwelling, which is a permitted use in the R-RLC and OZ-SL-250 zones. Driveways are a permitted activity within regulated wetlands.

Conclusion: This requirement appears to be met

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

**C. In evaluating the proposed activity, the Planning Board may need to acquire expert advisory opinions.** The applicant must be notified in writing, by the Town Planner at the Planning Board's request, that the applicant will bear the expenses incurred for the expert persons or agencies. The Planning Board will consider the advisory opinion, including any recommendations and conditions, provided by the Conservation Commission.

Findings: The proposed development has a total wetland impact of less than 500 square feet and does not require a wetland mitigation report.

Conclusion: This requirement is not applicable.

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

**D. When the Planning Board finds the demonstrated public benefits of the project as proposed, or modified, clearly outweigh the detrimental environmental impacts, the Planning Board may approve such development, but not prior to granting approval of a reasonable and practicable mitigation plan,** (see Section 16.9.3.9) and not prior to the completion of all performance guaranties for the project, (see Section 16.10.8.2.2).

**Findings:** The final plan depicts the preservation of an undisturbed upland buffer zone adjacent to the wetland boundary equal in size to the wetland alteration. A wetland mitigation fee is also required.

**Conclusion:** This requirement appears to be met

Vote of      in favor      against      abstaining

**E. The applicant must submit applicable documentation that demonstrates there is no practicable alternative to the proposed alteration of the wetland.** In determining if no practicable alternative exists, the Board will consider the following:

The proposed use:

1. Uses, manages or expands one or more other areas of the site that will avoid or reduce the wetland impact;
2. Reduces the size, scope, configuration or density of the project as proposed, thereby avoiding or reducing the wetland impact;
3. Provides alternative project designs, such as cluster development, roof gardens, bridges, etc., that avoid or lessen the wetland impact; and
4. Demonstrates that the proposed development meets or exceeds best management practices for stormwater management in the wetland areas.

**Finding:** The proposed development crosses at the wetland's narrowest point so as to minimize the impact, to the greatest possible extent.

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

Vote of      in favor      against      abstaining

**F. In determining if the proposed development plan affects no more wetland than is necessary the Planning Board will consider if the alternatives discussed above in subsection A of this section accomplish the following project objectives {described in 16.9.3.7.F}:**

The proposed use will not:

1. Unreasonably impair or diminish the wetland's existing capacity to absorb, store, and slowly release stormwater and surface water runoff;
2. Unreasonably increase the flow of surface waters through the wetland;
3. Result in a measurable increase in the discharge of surface waters from the wetland;
4. Unreasonably impair or diminish the wetland's capacity for retention and absorption of silt, organic matter, and nutrients;
5. Result in an unreasonable loss of important feeding, nesting, breeding or wintering habitat for wildlife or aquatic life; all crossings must be designed to provide a moist soil bed in culvert inverts and to not significantly impede the natural migration of wildlife across the filled area;
6. Result in a measurable increase of the existing seasonal temperature of surface waters in the wetland or surface waters discharged from the wetlands.
7. Result in a measurable alteration or destruction of a vernal pool.

**Findings:** The 350 square foot wetland impact does not appear to have an adverse impact on the remaining wetland.

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

Vote of      in favor      against      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;*

Finding: The proposed development does not appear to have an adverse impact.

*2. Not result in water pollution, erosion or sedimentation to surface waters;*

Finding: Maine DEP Best Management Practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters.

*3. Adequately provide for the disposal of all wastewater;*

Finding: The proposed development does not require a connection to an existing septic system.

Conclusion: Requirements 1 & 2 appear to be met. Requirement 3 is not applicable.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

*4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*

Finding: Maine DEP Best Management Practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters. These conditions should be added to the plan.

Conclusion: The proposed development does not appear to have an adverse impact. With the suggested conditions #2 and #3, this standard appears to be met.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

*5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;*

Finding: Shore cover is not adversely impacted

*6. Protect archaeological and historic resources;*

Finding: There does not appear to be any resources impacted.

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

Finding: The proposed development is not in the Commercial Fisheries / Maritime Uses Zone

8. *Avoid problems associated with floodplain development and use;*

Finding: The proposed development is not located in a flood zone.

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

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

Conclusion: Requirements 5, 6 and 9 appear to be met. Requirements 7 and 8 are not applicable.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

10. *Be recorded with the York county Registry of Deeds.*

Finding: A plan suitable for recording has been prepared.

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

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ 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 and Wetland Alteration Plan for owner Brian Seaward and applicant Gary Hall for a 12-foot gravel driveway to cross 350 sq. ft. of a wetland on a 6.47-acre lot located at 9 Pocahontas Road (Tax Map 52 Lot 3) in the Residential–Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250) Zones subject to any conditions or waivers, as follows:

**Waivers:** None

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

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. An upland buffer zone adjacent to the wetland boundary equal in size to the wetland alteration must remain preserved and undisturbed.
4. 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.

5. No trees are to be removed without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer. Efforts to protect existing trees must be in place prior to construction.

6. All Notices to Applicant contained herein (Findings of Fact dated 3/10/2016).

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

7. Incorporate any plan revisions on the final plan as recommended by Planning Board, Peer Review Engineer or in Staff notes dated 3/10/2016, and submit for Staff review prior to presentation on final Mylar.

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

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

APPROVED BY THE KITTERY PLANNING BOARD ON March 10, 2016

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Ann Grinnell, Planning Board Chair

**Notices to Applicant:**

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

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.

North  
W  EASTERLY  
SURVEYING, Inc.

191 State Road, Suite #1 • Kittery, Maine 03904 • (207) 439-6333 • Fax (207) 439-1354

February 17, 2016

Kittery Planning Board  
c/o Chris DeMatteo - Town Planner  
200 Rogers Road  
Kittery, ME 03904

RECEIVED  
BY: \_\_\_\_\_

Planning Board Review – Wetland Alteration Application – Gary Hall – 9 Pocahontas Road,  
Kittery Point, ME - Tax Map 52 Lot 3 - Job# 14789

Dear Planner and Planning Board Members,

Gary Hall the buyer of this property would like his wetland alteration application reviewed at the March planning board meeting. The parcel of land is located on Gerrish Island south of Pocahontas Road. This is an older lot and the buildable area is located approximately in the middle of the lot. The front of the lot is located within the shoreland overlay zone and has 3 potential vernal pools. The activities within the vernal pool habitat and the wetland crossing are being reviewed by the Maine DEP. The proposed drive to access the buildable area has to cross a wetland that crosses the lot from east to west. We have proposed the driveway crossing location to be at the narrowest section of the wetland only disturbing 205 square feet using a 12 inch diameter cmp. We have shown silt fencing alongside the construction in the wetland area and the Maine DEP will probably require silt fencing through the potential vernal pool habitat. Attached you will find:

- 1.) A copy of the wetland alteration application.
- 2.) The front page of the purchase and sales agreement showing the applicant's interest in the property.
- 3.) An aerial photo of the lot showing it's proximity to Chauncey Creek.
- 4.) Photos of the wetland crossing area
- 5.) A copy of the wetland alteration plan showing the crossing and wetlands.

As you can see the objectives of the code are being met by the applicant and would like the planning board to approve this plan or provide them with the guidance they need to proceed.

Please feel free to contact me should you have any questions.

Sincerely:

  
Kenneth D. Markley R.L.S.  
President – North Easterly Surveying, Inc.



# TOWN OF KITTERY, MAINE

## TOWN PLANNING DEPARTMENT

200 Rogers Road, Kittery, Maine 03904  
 PHONE: (207) 475-1323  
 Fax: (207) 439-6806  
[www.kittery.org](http://www.kittery.org)

### APPLICATION: WETLAND ALTERATION PLAN REVIEW

<b>MITIGATION FEE TO BE DETERMINED BY THE PLANNING BOARD DURING THE REVIEW PROCESS AND PAID WITH PERFORMANCE GUARANTY.</b>	<b>Application Fee Paid:</b> \$ _____ <b>Date:</b> _____ <b>Escrow Fee Paid:</b> \$ _____ <b>Date:</b> _____
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<b>PROPERTY DESCRIPTION</b>	Parcel ID	Map	52	Lot	3	Zone(s): Base	R-RC	Total Land Area	6.47 AC
	Overlay	02-SL-250'	MS4	YES NO					
Physical Address: 9 POCAHONTAS ROAD KITTERY POINT.									

<b>PROPERTY OWNER'S INFORMATION</b>	Name	GARY HALL c/o BRIAN SEAWARD	Mailing Address	PO BOX 511 PORTSMOUTH, NH 03802
	Phone			
	Fax			
	Email	rgaryhall@VERIZON.NET		

<b>APPLICANT'S AGENT INFORMATION</b>	Name	KEN MARKLEY	Mailing Address	NORTHEASTERLYSURVEYING.COM 191 STATE ROAD KITTERY ME 03904
	Phone	439-6333		
	Fax			
	Email	KEN@EASTKILLYSURVEYING.COM		

<b>PROJECT DESCRIPTION</b>	<b>Existing parcel and wetlands:</b>	THIS IS AN OLDER 6.47 ACRE LOT WITH POTENTIAL VERNAL POOLS AND WETLANDS. THERE IS A FLOOD ZONE A AT THE REAR OF THE LOT.
	<b>Project Name</b>	
	<b>Provide a brief summary of the proposed development, its impact on the existing wetlands and the proposed mitigation plan:</b>	
	PROPOSED DRIVEWAY TO THE BUILDABLE AREA CROSSING A WETLAND AT IT'S NARROWEST POINT.	

I certify, to the best of my knowledge, the information provided in this application is true and correct and will not deviate from the plans submitted without notifying the Kittery Planning Department of any changes.

Applicant's Signature:	_____ Date: 2/12/16	Owner's Signature:	_____ Date: _____
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# Minimum Application Submission Requirements

- 15 COPIES OF THIS APPLICATION
- 1 PDF OF THE SITE PLAN SHOWING GPS COORDINATES

- 15 COPIES OF THE PLAN – 5 OF WHICH MUST BE 24"X 36"

**IT IS THE RESPONSIBILITY OF THE APPLICANT TO PRESENT A CLEAR UNDERSTANDING OF THE PROJECT.**

16.28.500 Submission requirements for a Request to Alter a Wetland.

Unless specifically waived by the planning board, all applications must contain the following information:

- A copy of the official documents showing legal interest of the applicant in the property to be affected;

**A narrative describing:**

- The purpose of the project,
- The type of alteration to the wetland (fill, culvert, dredge, etc.),
- Why there is no practicable alternative to impacting the wetland, and
- How the proposed activity has been designed to minimize the impact on the wetland

**The block must contain:**

- The name(s) and address(es) of the applicant or owner,
- The name and address of the preparer of the plan, with professional seal,
- name of plan,  date of plan preparation,
- a revision number and date, if applicable, /
- map and lot number(s) according to Kittery tax maps shown in the lower right-hand corner in bold lettering and 1/4 inches high;

**Site plan:**

- minimum scale is 1" = 100'  indicate the proposed activity
- location and size of all existing and proposed, structures, roads, parking areas, and sewage treatment facilities
- existing and proposed rights-of way, easements and parcels
- 2-foot contours  wetland boundaries  proposed buffers
- protective measures such as sediment control methods
- proposed boundaries and characteristics of the mitigation site, including elevation, sources of water, and proposed vegetation

Show the location (tied by measurement to identifiable structures or boundary points) of all proposed:

- property boundaries  on site wetland boundaries
- offsite wetland areas significantly impacted by the project
- Sq Ft of Wetland areas (onsite area and offsite area, if applicable)
- shorelines  flood plains  vegetation removal
- drainage structures  filling  grading  dredging,
- include specification for quantity of materials to be added or removed and procedures to be used

Show the direction of natural overland flow in the wetland, and in the proposed alteration area

- 100-year FEMA flood plain boundaries
- number of CY, and type of material to be used as fill
- method of handling, and the location of fill and spoil disposal area, if dredge material is involved
- all owners of property within 150 feet of the proposed alteration together with their mailing addresses and map and lot designations from the assessor's records.
- a vicinity map utilizing a topographic map at a scale no smaller than one inch equals 600 feet showing the boundary of the proposed activity;

**Submit:**

- one set of photographs, taken during the growing season if possible, showing the wetland, adjacent water bodies if applicable, and the alteration area before development begins.

**Drainage:**

- Submit a hydrologic analysis in accordance with the requirements of Article IX of Chapter 16.32

**Wetlands mitigation plan and report.** A wetlands mitigation plan and report is required for activities which, in total, affect or fill more than 500 square feet of wetlands. Wetland Mitigation Plan And Report must contain the following:

- a plan at a scale of 1" = 100' with 2-foot contour intervals, existing wetland boundaries, the area of wetland to be altered, project dimensions and all offsite wetlands, being extensions of the wetland to be altered
- existing wetland characteristics including water depth, vegetation and fauna
- a functional Assessment conducted and prepared by a qualified wetlands scientist or a Maine Certified Soils Scientists

**Maintenance Agreement:**

- The agreement must be approved by the board and recorded in the York County Registry of deeds and must meet, or exceed, the criteria listed in subsection 16.28.500.C.3. parts d through i.

**Conservation Easement:**

- (for projects involving preservation of wetlands or adjacent uplands) a conservation easement must be conveyed or deed restriction imposed so that the parcel will remain undeveloped in perpetuity.

Material not submitted in accordance with the above MUST acquire planning board approval of a Request for Waiver of the material per Section 16.28.180.

**Other materials the board may require are:**

- cross-section drawings showing the nature of the construction, the depth of excavation or height of fill, if applicable, and surface water and groundwater elevations

**The board may require a narrative describing:**

- the specific goals in terms of particular wetland functions and values. These goals must be related to those of the original wetland;
- the available literature or experience to date (if any) for carrying out the mitigation work;
- the proposed implementation and management procedures for the wetlands work;
- the short-term and long-term sources of water for this wetland, including the water quality of these sources;
- plans for re-planting, including a description of plant species, sizes and sources of plant material, as well as how, when and where seeding or planting will take place;
- plans for monitoring the wetlands work, showing capability for mid-course corrections
- plans, if applicable, for control of non-indigenous plant species.
- wetlands work involving creation, restoration and or enhancement of degraded wetlands,

**Section 16.28.440-E. Abutter Notice.** Owners of property within one hundred and fifty (150) feet, horizontal distance, of the proposed alteration must be notified by first class U.S. mail of any public hearing on the Request for Wetland Alteration.

The applicant must provide 2 sets of mailing labels with the submission of this request.

**APPLICATION SUBMITTALS SUFFICIENTLY LACKING IN CONTENT WILL NOT BE FORWARDED TO THE PLANNING BOARD.**

HALL

**PURCHASE AND SALE AGREEMENT - LAND ONLY**  
("days" means business days unless otherwise noted, see paragraph 20)

Offer Date November 4, 2015

Effective Date  
Effective Date is defined in Paragraph 20 of this Agreement.

1. PARTIES: This Agreement is made between R. Gary Hall ("Buyer") and Brian L. Seaward ("Seller").

2. DESCRIPTION: Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy ( all  part of; If "part of" see para. 22 for explanation) the property situated in municipality of Kittery, County of York, State of Maine, located at 9 Pocahontas Road and described in deed(s) recorded at said County's Registry of Deeds Book(s) 14931, Page(s) 0690 0691.

3. PURCHASE PRICE/EARNEST MONEY: For such Deed and conveyance Buyer agrees to pay the total purchase price of \$                     . Buyer  has delivered; or  will deliver to the Agency within 7 days of the Effective Date, a deposit of earnest money in the amount \$                     . Buyer agrees that an additional deposit of earnest money in the amount of \$ \*\*\*\*\* will be delivered \*\*\*\*\*. If Buyer fails to deliver the initial or deliver the initial or additional deposit in compliance with the above terms Seller may terminate this Agreement. This right to terminate ends once Buyer has delivered said deposit (s). The remainder of the purchase price shall be paid by wire, certified, cashier's or trust account check upon delivery of the Deed.

This Purchase and Sale Agreement is subject to the following conditions:

4. ESCROW AGENT/ACCEPTANCE: The Bean Group ("Agency") shall hold said earnest money and act as escrow agent until closing; this offer shall be valid until \*\*\*\*\* (date) \*\*\*\*\*  AM  PM; and, in the event of non-acceptance, this earnest money shall be returned promptly to Buyer.

5. TITLE AND CLOSING: A deed, conveying good and merchantable title in accordance with the Standards of Title adopted by the Maine Bar Association shall be delivered to Buyer and this transaction shall be closed and Buyer shall pay the balance due and execute all necessary papers on January 29, 2016 (closing date) or before, if agreed in writing by both parties. If Seller is unable to convey in accordance with the provisions of this paragraph, then Seller shall have a reasonable time period, not to exceed 30 calendar days, from the time Seller is notified of the defect, unless otherwise agreed to in writing by both Buyer and Seller, to remedy the title. Seller hereby agrees to make a good-faith effort to cure any title defect during such period. If, at the later of the closing date set forth above or the expiration of such reasonable time period, Seller is unable to remedy the title, Buyer may close and accept the deed with the title defect or this Agreement shall become null and void in which case the parties shall be relieved of any further obligations hereunder and any earnest money shall be returned to the Buyer.

6. DEED: The property shall be conveyed by a warranty deed, and shall be free and clear of all encumbrances except covenants, conditions, easements and restrictions of record which do not materially and adversely affect the continued current use of the property.

7. POSSESSION: Possession of premises shall be given to Buyer immediately at closing unless otherwise agreed in writing.

8. RISK OF LOSS: Until the closing, the risk of loss or damage to said premises by fire or otherwise, is assumed by Seller. Buyer shall have the right to view the property within 24 hours prior to closing for the purpose of determining that the premises are in substantially the same condition as on the date of this Agreement.

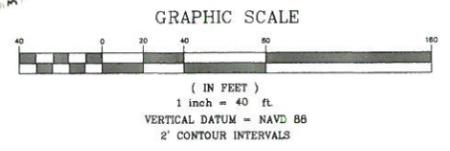
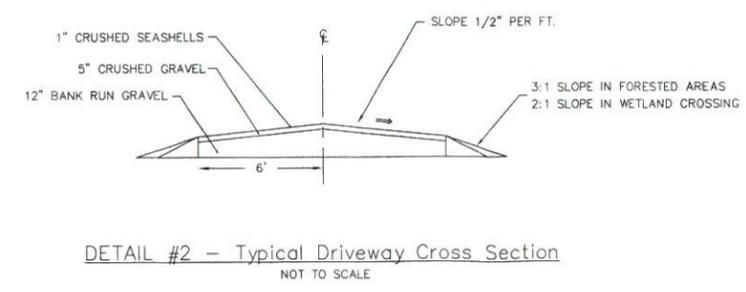
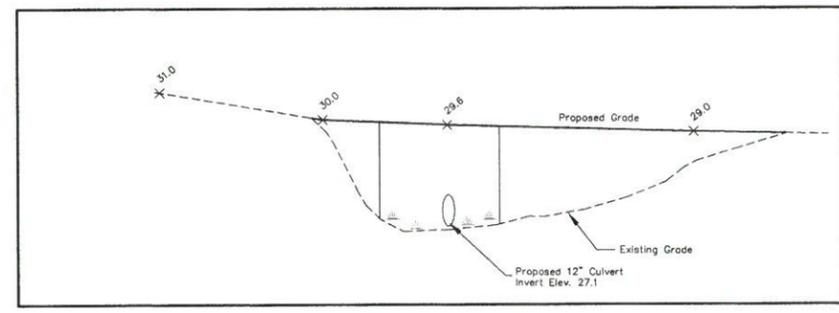
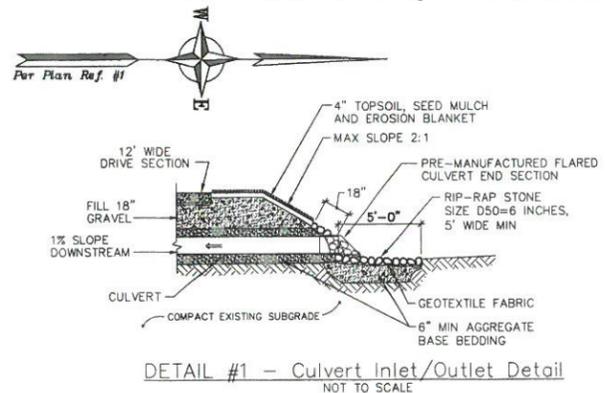
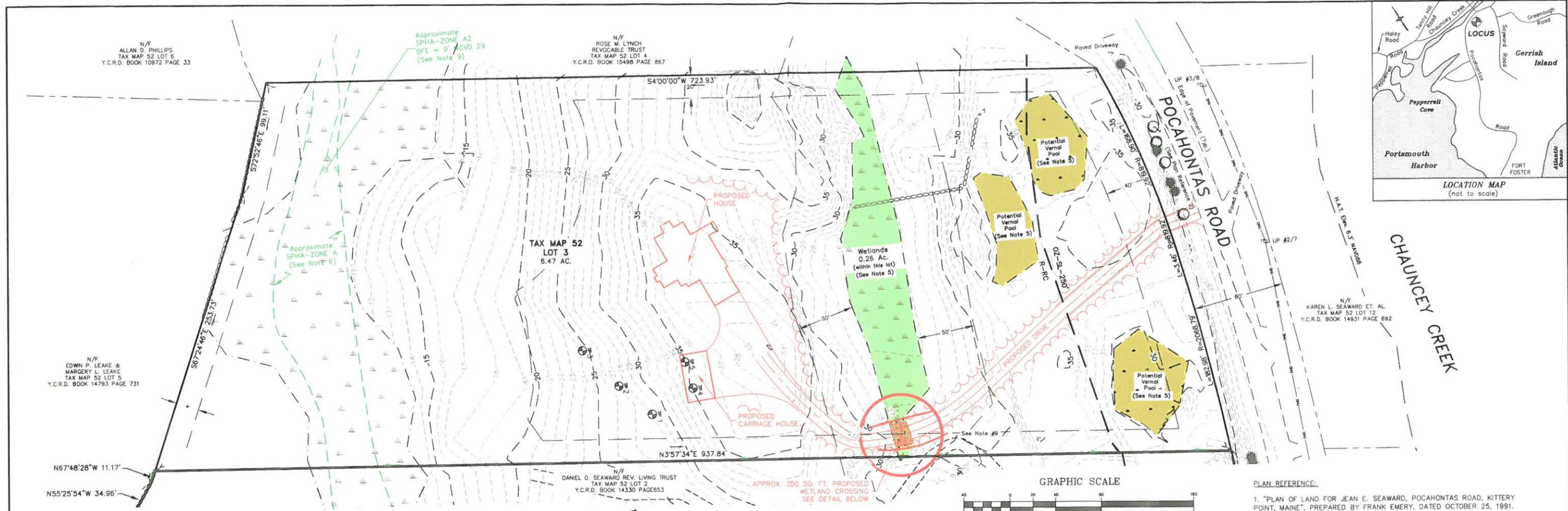
9. PRORATIONS: The following items, where applicable, shall be prorated as of the date of closing: rent, association fees, (other) \*\*\*\*\*. Real estate taxes shall be prorated as of the date of closing (based on municipality's fiscal year). Seller is responsible for any unpaid taxes for prior years. If the amount of said taxes is not known at the time of closing, they shall be apportioned on the basis of the taxes assessed for the preceding year with a reapportionment as soon as the new tax rate and valuation can be ascertained, which latter provision shall survive closing. Buyer and Seller will each pay their transfer tax as required by State of Maine.

10. DUE DILIGENCE: Buyer is encouraged to seek information from professionals regarding any specific issue or concern. Neither Seller nor Licensee makes any warranties regarding the condition, permitted use or value of Sellers' real property. This Agreement is subject to the following contingencies, with results being satisfactory to Buyer:

Revised September 2015 Page 1 of 4 - P&S-LO Buyer(s) Initials [Signature] Seller(s) Initials [Signature]







**ZONING DATA PER KITTERY ZONING ORDINANCE (LAST AMENDED 1/28/15):**

BASE ZONE: Residential-Rural Conservation (R-RC)  
 OVERLAY ZONE: Shoreland (OZ-SL-250')

**REQUIREMENTS:**

MINIMUM LAND AREA PER DWELLING UNIT:	80,000 Sq Ft
MINIMUM LOT SIZE:	80,000 Sq Ft
MINIMUM STREET FRONTAGE:	200 Ft
MINIMUM FRONT YARD:	40 Ft
MINIMUM BUILDING COVERAGE:	5%
MINIMUM REAR AND SIDE YARDS:	20 Ft*
MAXIMUM BUILDING HEIGHT:	35 Ft*

Per Town of Kittery Code Title 16 (Sec. 16.3.2.6)  
 (See Sec 16.3.2.6, D.2)

- PLAN REFERENCE:**
- "PLAN OF LAND FOR JEAN E. SEAWARD, POCAHONTAS ROAD, KITTERY POINT, MAINE", PREPARED BY FRANK EMERY, DATED OCTOBER 25, 1991.
- NOTES:**
- OWNERS OF RECORD: TAX MAP 52 LOT 3 BRIAN L. SEAWARD Y.C.R.D. BOOK 14931 PAGE 690 DATED JULY 24, 2006
  - BASIS OF BEARING IS PER PLAN REFERENCE #1.
  - APPROXIMATE ABUTTER'S LINES SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
  - ZONING INFORMATION SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE TOWN OF KITTERY PRIOR TO DESIGN OR CONSTRUCTION.
  - WETLANDS WERE DETERMINED BY JOE NOEL, SOIL SCIENTIST, JANUARY 13, 2015. POTENTIAL VERNAL POOLS SHOULD BE VERIFIED BY A SOIL SCIENTIST IN THE SPRING.
  - A PORTION OF THIS PROPERTY IS WITHIN SPECIAL FLOOD HAZARD AREA (SFHA) ZONE A AND ZONE A2 OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) FLOOD INSURANCE RATE MAP (FIRM) TOWN OF KITTERY, MAINE YORK COUNTY, PANEL 6 OF 10, COMMUNITY-PANEL 230171 0006 C, EFFECTIVE DATE: JULY 5, 1984.
  - 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.

**FOR REVIEW**

Kittery, Maine - Planning Board Approval

Date of Approval \_\_\_\_\_

Chair \_\_\_\_\_ Date \_\_\_\_\_

**SHORELAND DEVELOPMENT & WETLAND ALTERATION PLAN**

FOR PROPERTY AT  
 9 Pocahontas Road  
 Kittery, York County, Maine

OWNED BY  
**Brian Seaward**  
 475 Tolend Road, Dover, NH 03820

PREPARED FOR  
**Gary Hall**  
 P.O. Box 511, Portsmouth, NH 03802

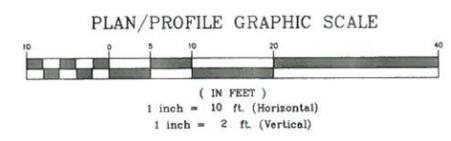
**EASTERLY SURVEYING, Inc.**

SURVEYORS IN N.H. & MAINE 191 STATE ROAD, SUITE #1  
 (207) 439-6333 KITTERY, MAINE 03904

SCALE: 1" = 40'	PROJECT NO: 14789	DATE: 2/16/16	SHEET: 1 OF 1	DRAWN BY: A.M.P.	CHECKED BY: K.D.M.
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DRAWING No: 14789 SITE PLAN  
 FIELD BOOK No: "Kittery #11"

**Tax Map 52 Lot 3**



REV.	DATE	STATUS	BY	CHKD	APPD.

## Rebecca Spitko

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**From:** Joseph Noel <jwnoel@aol.com>  
**Sent:** Thursday, February 25, 2016 5:18 PM  
**To:** Rebecca Spitko  
**Cc:** pete@easterlysurveying.com  
**Subject:** Re: Wetland delineation

Hi Rebecca,

I have recently worked on both 9 and 7 Pocahontas with North Easterly Surveying, Inc. On 9 Pocahontas, the .26 acre wetland essentially does not extent off-site to the west (Map 52 Lot 4) very much at all. I walked the westerly property boundary where the wetlands are with Peter Agrodnia. The wetlands stops at an obvious man-made ditch. To the east on Bud Swards (7 Pocahontas), there is a narrow natural upland and woods road that cuts off the wetland on that side. So it is definitely less than 1/2 acre in size. I hope this helps. I have cc'd Pete at North Easterly Surveying in case you need additional information.

I will be out of the office on Friday and Monday but please feel free to call if you have any questions.

Joe Noel  
207-384-5587

-----Original Message-----

**From:** Rebecca Spitko <RSpitko@kitteryme.org>  
**To:** jwnoel <jwnoel@aol.com>  
**Sent:** Wed, Feb 24, 2016 2:14 pm  
**Subject:** Wetland delineation

Hi Joe,

I'm reviewing a wetland alteration plan for 9 Pocahontas Rd. in Kittery (Tax Map 52 Lot 3). The lot shows a wetland, as was delineated by you on January 13, 2015. The wetland is listed as 0.26 acres within the lot, and appears to have boundaries along both the easterly and westerly property lines, however after looking at the westerly abutter's file it appears the wetland continues across their lot as well. I'm trying to pin down the wetland's boundaries and total size. Do you have any further information you can provide me?

Attached, for your review, is a copy of the plan submitted to the town. Thank you for your assistance.

### Rebecca Spitko

Assistant Town Planner  
Town of Kittery  
200 Rogers Road  
Kittery, ME 03904  
Direct Line: (207) 475-1323  
Fax: (207) 439-6806  
[www.kitteryme.gov](http://www.kitteryme.gov)