

**TOWN OF KITTERY, Maine
PLANNING BOARD MEETING
Council Chambers**

**APPROVED
SEPTEMBER 8, 2016**

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

ROLL CALL

Board members present: Brett Costa, Dutch Dunkelberger, Debbie Driscoll-Davis, Mark Alesse, Vice Chair Karen Kalmar, Chair Ann Grinnell

Board members absent: Robert Harris.

Staff present: Chris Di Matteo, Town Planner

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES FROM AUGUST 25, 2016

Line 26 – Replace “mother with “mother-in-law”

Line 42 – Take out “has”

Line 44 – Add “of” after repair and before damage

Line 44 – Replace “either road” with “Highpoint Circle or Kittree Lane”

Line 119 – Add “Jessa”

**Mr. Dunkelberger moved to accept the August 25, 2016 Minutes as amended.
Vice Chair Kalmar seconded.**

The motion carried 6-0-0.

PUBLIC COMMENTS

Chair Grinnell opened the floor for public comment. There being no comments, the Chair closed the public comment section.

OLD BUSINESS

ITEM 1 – Seward Farm Lane – Major Subdivision Preliminary Plan Review – Completeness Review

Action: Accept or deny application. Schedule a public hearing. Owner/Applicant Gary Seward, Gregg Seward and Patti Parsons request consideration of a 15-lot conventional subdivision on remaining land along a previously approved private Right-of-Way (Seward Farm Lane) located at Picott Road (Tax Map 46 Lot 4) in the Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250) Zones. Agent is Ken Markley, North Easterly Surveying.

Peter Agrodnia was in attendance from North Easterly Surveying. He stated the subdivision will be 14 lots not 15. The open space will be 30% of the property. The plan was reviewed in March and in April a site walk was completed and was received well. The soil analysis for the septic is completed. Two of the lots will need further test bits. Mr. Agrodnia stated the road is in great shape, will be public and will enable public access to the open space.

Staff Notes:

- Item 3 - Standard Boundary Survey and Existing Conditions Plan - Mr. Agrodnia explained this has not been completed and the information is available and needs to be formalized. The survey includes the wetlands along the border property next to Kelsey Lane. Mr. Di Matteo requested they review Parcel 9 because there may be wetlands. Mr. Agrodnia replied it is depicted on the sketch plan.

- Item 5 – Net Residential Acreage Calculation - Per Mr. Agrodnia's calculation, the property is 17.73 acres. Staff recommends staying within code for consistency and include the dedicated lands to the Town. Mr. Di Matteo also recommended the applicant provide two plan options because of the street. Mr. Di Matteo also suggested Parcel 13 be included in the calculation of the whole parcel. Mr. Agrodnia agreed.
- Item 1 – Abutter Notice – Mr. Agrodnia stated this item has been taken care of and has provided documentation.
- Item 8 - Erosion & Sediment Control Plan – Staff recommends the stormwater plan be included in the development plan.
- Stormwater Analysis –Mr. Agrodnia stated the analysis was done by Oak Point Associates and showed no expected impact on the downstream properties. The applicant requested to waive the peer review with CMA because Oak Point Associates is the same engineer that performed the original analysis. The Board did not agree to waive the CMA review because the road may belong to the Town. The Town Council will make this decision to or not to accept the road in an executive session at the upcoming meeting on Monday.
- Mr. Costa suggested installing sewer hookups at this time for the possibility of sewer in the future. This item will be discussed during the public hearing.
- Earledean Wells, from the Conservation Commission, stated a snow removal plan was not in the current plan.
- Mr. Agrodnia stated he is in agreement with the check list from the Code Office.

Mr. Dunkelberger moved to accept the plan application for Owner/Applicant Gary Seward, Gregg Seward and Patti Parsons request consideration of a 14-lot conventional subdivision along a previously approved private Right-of-Way located on Picott Road (Tax Map 46 Lot 4) in the Residential-Rural and Shoreland Overlay Zones.
Vice Chair Kalmar seconded the motion.

The motion carried 6-0-0.

Mr. Dunkelberger moved to schedule a public hearing for Owner/Applicant Gary Seward, Gregg Seward and Patti Parsons request consideration of a 14-lot conventional subdivision along a previously approved private Right-of-Way located on Picott Road (Tax Map 46 Lot 4) in the Residential-Rural and Shoreland Overlay Zones.
Vice Chair Kalmar seconded the motion.

Hearing will be scheduled hearing for October 13, 2016.

The motion carried 6-0-0.

ITEM 2 – 412 Haley Road – Sketch Plan Review

Action: Review application. Approve or deny sketch plan. Owner Marilyn Mann & James Smith and Applicant, Green & Company, requests consideration of a 12-lot subdivision located at 412 Haley Road (Tax Map 34 Lot 3) in the Residential – Rural (R-RL) and Shoreland Overlay (SH-OZ-250') Zones. Agent is Joseph Coronati, Jones and Beach Engineers, Inc.

Joe Coronati addressed the planning staff's concerns from the last meeting and comments from the recent site walk. He explained the roadway was reconfigured in order to reshape two lots. He further explained the sketch plan shows an additional lot added in order to change the two flagged-shaped lots. He stated the be name of the road will be changed to Goose Point Drive on the plan.

Mr. Alesse stated the concern abutters had with the road to three of the lots. Mr. Coronati explained the roadway will need to be widened and they want to reuse the existing road as much as possible. They will provide frontage to homes that already exist.

Mr. Coronati stated the stormwater management plan has not been completed at this time.

Mr. Alesse questioned why Lot 2 is not accessible from the cul de sac. Mr. Coronati explained it is not feasible because the cul de sac is on a hill and the driveway would be very steep. Mr. Di Matteo suggested using topography to provide clarification.

Ms. Driscoll-Davis asked if the title search has been completed. Greg Orso, representing Green and Company replied they have completed the search and there are no are covenants, conditions or restrictions. He also explained there are other properties that have been deeded out to protect the main parcel. Mr. Costa mentioned he is concerned with the 2001 amendment that states no more than seven dwelling units can use the right of way. Mr. Orso will review and will follow up.

Chair Grinnell expressed her concern with Items 7 and 8 and read the plan note from an amendment in 2001 regarding the right of way. She asked if the map was registered with the Registrar of Deeds. Mr. Orso did not believe it was registered and he will follow up before the preliminary review. Discussion ensued regarding the notes being binding or not. Chair Grinnell stated the Board needs to know if the map was recorded and if it has standing. The Board was in consensus to have Mr. Orso refer to the Town's attorney to review this issue.

Mr. Dunkelberger moved to approve the Sketch Plan for owner/applicant Marilyn Mann and James Smith for a 12-lot subdivision located at 412 Haley road (Tax Map 34, Lot 3) in the Residential – Rural (R-RL) and Shoreland Overlay Zones.
Vice Chair Kalmar seconded the motion.

Discussion

Ms. Driscoll-Davis read a letter dated September 4, 2016 signed by the abutters requesting six weeks before final approval in order to have the opportunity to assemble materials. After discussing the schedule, it is anticipated the approval meeting will be held at the first meeting in November, which is more than the requested six weeks.

Resident Vern Gardner requested to speak. The Board agreed. Mr. Gardner expressed his concern of having enough time to assemble the information they need. Chair Grinnell explained it will be at least eight weeks and residents can always contact the applicant if there are any questions.

Chair Grinnell stated they have received many letters from abutters and one did not have an author. She explained with no author, this letter will not be part of the legal file.

Earldean Wells requested the wetlands be shown in their entirety on the plan. She stated there is an area of ponds and a stream. Ms. Wells also requested a wetlands assessment and a wild life assessment. Ms. Wells stated she is concerned for the mature trees and will need to know which trees will be taken down and which will remain. Mr. Coronati is willing to have the assessments done but will need the abutters' permission to have the flags placed on their land. Chair Grinnell asked the abutters present for permission. They responded they would like to think about it. Mr. Orso stated if there is consent, it will need to be in writing.

The motion carried 6-0-0.

Vice Chair Kalmar moved to approve the site walk minutes of 412 Haley Road from September 1, 2016, as presented with the following changes: Change Seward Farm. Line 8 change “Lonett” to “Lovett”, Line 11 change “Paul to Paula.

Mr. Alesse seconded the motion.

Planning Board members present at the site walk were Ann Grinnell, Karen Kalmar, Debbie Driscoll-Davis, Mark Alesse, Bob Harris. Those members that were unable to attend the site walk abstained.

The motion carried 4-2-0.

ITEM 3 – Quiet Pine Lane (formerly “Beatrice Lane”) –Major Subdivision; Final Plan Review

Action: Review application. Approve or deny plan. Owner Operation Blessing LP, and applicant Richard Sparkowich, propose a five-lot subdivision on remaining land from the previously approved 3-lot subdivision located between Highpoint Circle and Kittree Lane (Tax Map 61 Lot 8), in the Residential-rural (R-RL) Zone.

Peter Agrodnia, from Easterly Surveying, stated the applicant is requesting a waiver for two houses to be serviced by one 12 ft. wide road. He explained the buyer of the back lot understands if he divides his lot he will need to upgrade the road to be 18 ft. wide.

Discussion of a proposed protective covenant for monitoring the open space ensued. Staff recommends the covenant be reviewed by the Town attorney who will decide what is in the best interest of the Town. Discussion of who should pay for the monitoring ensued. Mr. Costa mentioned he lives on a private road with a homeowner’s association and explained how beneficial it has been.

It was the consensus of the Board that the applicant’s proposed protected covenant be reviewed by the Town’s attorney as a condition of approval and the Board will be notified of his decision.

Mr. Dunkelberger expressed his concerned with the financial guarantee and stated he would like to see some kind of commitment regarding Item 16 added. Mr. Di Matteo explained Item 16 was revised requesting a performance guarantee be established before earthwork begins. Mr. Di Matteo stated he received a letter on behalf of one of the lot owners, Brett Taylor, from the Vice President of People’s United Bank, Kevin Raymond. This letter stated Mr. Raymond is financially capable and willing to cover the performance guarantee. Chair Grinnell read the letter from People’s United Bank.

The applicant has agreed to pay the wetland impact fee they agree once approved.

Right of way - 1.4 acres were incorrectly stated on and the plan will be changed to 1.5 acres.

Attar Engineering added the stationing to the plan.

Roadway section for Class 1 roadway will be added after the waiver request for a 12-foot wide road is decided by the Board.

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Earldean Wells stated a condition of approval should be added stating the woods road running between a vernal pool should remain gravel and unpaved forever. She added there should be a snow removal or storage plan as a condition to the plan.

Addition of Condition 20 will state “prior to construction, Kittree Lane and High Point Circle will be documented photographically and the developer shall be responsible for all repair needed to bring roads back to predevelopment state”.

**Vice Chair Kalmar moved to approve with conditions the Quiet Pine Lane (formerly Beatrice Lane) final subdivision plan dated 8/25/2016 prepared for owner and applicant Operation Blessing, LP, located on Tax Map 61, Lot 8, in the Residential Rural Zone, upon the review and voting, in the affirmative, on the Findings of Fact.
Mr. Dunkelberger seconded the motion.**

The Board was in consensus to approve the applicant’s waiver request. Condition 9 will be revised to read “with the exception of the street width, where the required 18-foot width is reduced to 12 feet for the first two dwellings only, thereafter an 18-foot width is required for the third dwelling and any future dwellings, if approved by the Planning Board”.

The motion carried 6-0-0.

FINDINGS OF FACT

APPROVED

For

“Quiet Pine Lane” Major Residential Subdivision Plan Review

NOTE: PROPERTY FORMERLY REVIEWED AND REFERENCED AS ‘BEATRICE LANE/WAY’

{As presented in the plan review notes dated 9/8/2016 and amended by the Board}

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

WHEREAS: Owner Operation Blessing LP, and applicant Richard Sparkowich, propose a five-lot subdivision on remaining land from the previously approved 2008 3-lot subdivision located between Highpoint Circle and Kittree Lane (Tax Map 61 Lot 8), in the Residential-rural (R-RL) Zone.

Hereinafter the “Development,”

And pursuant to the Plan Review meetings conducted by the Planning Board as noted ;*{in the Plan Review Notes prepared for 9/8/2016}*

Sketch Plan Review	Approved	6/12/2014
Site Visit	Held	12/22/2014
Preliminary Plan Completeness	Held/Accepted Application	12/11/2014
Public Hearing	Held	2/12/2015
Preliminary Plan Review	Held, Continued, and	2/12/2015;

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	Approved with conditions...	3/12/2016
Final Plan Review	Held, Continued and Approved with conditions	6/9/2016; 9/8/2016

And pursuant to the application, plans and other documents considered to be a part of the plan approval by the Planning Board in this finding consist of the following;{ *as noted in the Plan Review Notes prepared for 9/8/2016*} (hereinafter the “Plan”):

1. Subdivision Plan Review Application, March 26, 2015
2. Wetland Alteration Application, May 16, 2016
3. Stormwater Management Plan, XXXX
4. Standard Boundary Survey, January 26, 2016, rev XXXX
5. Final Subdivision Plan, August 25, 2016, rev XXXX
6. Plan and Profile, October 20, 2014 rev 8/24/16 (Sheets C1/C2)
7. Erosion Control Plan, October 20, 2014 rev 8/24/16 (Sheets C3)
8. Erosion and Sedimentation Details Plan, October 20, 2014 rev 8/24/16 (Sheets C4)
9. Site Details Plan, October 20, 2014 rev 8/24/16 (Sheets C5)
10. Wetland Alterations Plan, August 24, 2016 (Sheet 1 of 1)

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 Planning Board must be based upon findings of fact which certify or waive compliance with all the required standards of this Code, and which certify the development meets 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 proposed development as a conventional versus a cluster subdivision requires approval as a special exception use. With the approval of the proposed waivers and modifications, the major subdivision proposed conforms to Title 16, including preserving 15% open space and standards for a Class III and Class I street A Street Naming Application was submitted for ‘Quiet Pine Lane’.

Conclusion: The requirement appears to be met.

Vote of 6 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.

<u>Finding:</u> Wetlands have been identified and shown on all applicable plans. <u>Conclusion:</u> The requirement appears to be met
Vote of <u>6</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>
<u>Finding:</u> A stream has been identified and shown on all applicable plans. <u>Conclusion:</u> The requirement appears to be met
Vote of <u>6</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>
<u>Findings:</u> There are existing wells adjacent to and on site and it is anticipated additional wells are feasible. <u>Conclusion:</u> The requirement appears to be met
Vote of <u>6</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>
<u>Finding:</u> The site is not serviced by public water <u>Conclusion:</u> The requirement appears to be not applicable
Vote of <u>6</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>
<u>Finding:</u> Test pits have been identified on the Subdivision Plan and associated reports prepared by soil scientists Michael Cuomo and Joe Noel that support the proposed subsurface wastewater disposal systems and lot sizes are in conformance with Maine Plumbing Code. <u>Conclusion:</u> The requirement appears to be met
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
G. Municipal Solid Waste Disposal Available.
<i>The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.</i>

Finding:

As with other residential communities in Town the residents will transport their solid waste to the transfer station since there is no municipal solid waste pick-up. It is unlikely that the number of dwelling units proposed will have an adverse impact on the town's *Resource Recovery Facility*.

Conclusion:

The requirement appears to be met.

Vote of 6 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:

A wetland alteration application for the proposed development has been submitted for a small wetland crossing. Vernal pools and some associated uplands and wetlands are conserved in the required open space.

Conclusion:

The requirement appears to be met

Vote of 6 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:

The proposed development adheres to the state plumbing code and MDEP BMPs for erosion control that pertain to sewage disposal and stormwater management.

Conclusion:

The requirement appears to be met

Vote of 6 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:

A portion of the site is located within the 100-year flood plain, however, the proposed development and existing buildings are located outside the floodplain.

Conclusion:

The requirement appears to be met

Vote of 6 in favor 0 against 0 abstaining

K. Stormwater Managed.
<i>The proposed development will provide for adequate stormwater management.</i>
<u>Finding:</u> The applicant has provided a stormwater management plan resulting in adequate stormwater management.
<u>Conclusion:</u> The requirement appears to be met.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
L. Erosion Controlled.
<i>The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.</i>
<u>Finding:</u> The site is stabilized both during and after construction using MDEP best management practices.
<u>Conclusion:</u> The requirement appears to be met.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
M. Traffic Managed.
<i>The proposed development will:</i> <i>1. Not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; and</i> <i>2. Provide adequate traffic circulation, both on-site and off-site.</i>
<u>Finding:</u> It is not anticipated that the two existing duplexes and the four proposed lots yielding a total of 8 dwelling units will have an adverse effect on the existing public street Highpoint Circle and the proposed Class III street (Quiet Pine Lane) is adequate to support the expected traffic.
<u>Conclusion:</u> The requirement appears to be met
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
N. Water and Air Pollution Minimized.
<i>The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:</i> <i>1. Elevation of the land above sea level and its relation to the floodplains;</i> <i>2. Nature of soils and sub-soils and their ability to adequately support waste disposal;</i> <i>3. Slope of the land and its effect on effluents;</i> <i>4. Availability of streams for disposal of effluents;</i> <i>5. Applicable state and local health and water resource rules and regulations; and</i> <i>6. Safe transportation, disposal and storage of hazardous materials.</i>
<u>Finding:</u> The proposed development adheres to the state plumbing code and MDEP BMPs for erosion control that pertain to sewage disposal and stormwater management. Hazardous materials do not pertain to the proposed development.
<u>Conclusion:</u>

The requirement appears to be met

Vote of 6 in favor 0 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:

Maine Historic Preservation Commission (reviewed Easterly Survey letter dated 2/5/2015 on 2/18/2015) and the Maine Department of Inland Fish and Wildlife (letter dated 8/25/2016) has no objection to the proposed development nor is the site designated as a scenic resource. There is no evidence of any regulated “essential or significant” wildlife habitats or documented occurrences of “rare, threatened or endangered species.”

Conclusion:

The requirement appears to be met

Vote of 6 in favor 0 against 0 abstaining

P. Developer Financially and Technically Capable.

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

Finding:

Per 16.8.11.8 Pre-Development Requirements and 16.10.8.2.2 Performance Guaranty Conditions, the applicant is required to file with the Town a performance guaranty and inspection escrow for improvements that will be utilized in common use or by the general public. See condition of approval #16

Conclusion:

The requirement appears to be met

Vote of 5 in favor 1 against 0 abstaining
Mr. Dunkelberger against (1:39:15)

16.6.4.4 Special Exception Use Request.

B. The Planning Board will review, decide and may approve an applicant’s Special Exception Use request where the proposed project requires Planning Board review as defined in Section 16.10.3.2 or is located in a Shoreland or Resource Protection Overlay Zone. The Planning Board must find the proposed project and use meets the criteria set forth in Section 16.10.8.3.4 and 16.6.6.

Finding:

The proposed use of a “major subdivision” (conventional vs. cluster) appears to have no adverse impact with consideration of the conditions and factors outlined in 16.6.6, including:

1. Proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;

2. Use will not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located, or of permitted or legally established uses in adjacent use zones;

3. Safety, the health, and the welfare of the Town will not be adversely affected by the proposed use or its location; and

4. Use will be in harmony with and promote the general purposes and intent of this Code.

Conclusion:

The requirement appears to be met

Vote of 6 in favor 0 against 0 abstaining

Title 16, Chapter 8, Article III. Street Signage

16.8.3.1 Names.

Streets which join or are in alignment with streets of abutting or neighboring properties must bear the same name. Names of new streets may not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and are subject to the approval of the Planning Board.

Finding:

The proposed street name *Quiet Pine Lane* is not duplicative, nor bears phonetic resemblance to the names of existing streets within Kittery and has been accepted by Town Departments including Police, Fire, and Assessing.

Conclusion:

The requirement appears to be met

Vote of 6 in favor 0 against 0 abstaining

Title 16, Chapter 9, 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 3,116 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 <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
<i>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.</i>
Findings: The intent of the Class I street is to access two single-family dwellings, which is a permitted use in the R-RL
Conclusion: This requirement appears to be met.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
<i>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.</i>
Findings: Considering the existing impact of the old woods road, a wetland report does not appear to be warranted
Conclusion: This requirement is not applicable.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
<i>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).</i>
Findings: The preservation of an undisturbed upland buffer zone adjacent to the wetland boundary equal in size to the wetland alteration (3,116 sf or .0715 ac) is accommodated in the proposed open space (8.7 ac. In size, where 8.637 ac is required). A wetland mitigation fee in the amount of \$12,464.00 (3,116 sf x \$4/sf) is required.
Conclusion: This requirement appears to be met with condition #7
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
<i>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:</i>
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

<i>4. Demonstrates that the proposed development meets or exceeds best management practices for stormwater management in the wetland areas.</i>
<u>Finding:</u> The proposed development crosses at the wetland's narrowest point and an existing old woods road crossing so as to minimize the impact, to the greatest possible extent. <u>Conclusion:</u> This requirement appears to be met.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
<i>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.</i>
<u>Findings:</u> The 3,116 square foot wetland impact does not appear to have an adverse impact on the remaining wetlands or the vernal pools located on the property. <u>Conclusion:</u> This requirement appears to be met.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and, based on these Findings, determines that the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants Final Subdivision Approval, including approval for a Special Exception Use Request for a major subdivision in the R-RL zone, Street Naming Application for *Quiet Pine Lane*, and Wetland Alteration Application for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers:

1. 16.10.5.2.B.2 Plan Scale (s)
2. 16.8.4 Table 1 *Design and Construction Standards for Streets*...where a portion of the Class III street is being designated and constructed as a Class I street; and the Class I portion of the street's travel-way width is reduced to 12 feet from 18 feet, as conditioned in condition of approval #9.

3. 16.10.7.2.M Municipal Impact Analysis
4. 16.8.4.13 Sidewalks. The Planning Board does not require sidewalks for approved subdivision

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

1. No changes, erasures, modifications, or revisions may be made to the approved plan, including no further land division or additional dwelling units established prior to Planning Board-approval.
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is complete and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. Under no circumstances will Kittree Lane be closed to through-traffic by public safety/emergency vehicles since the proposed private street's approval as a dead-end, Street Length to Radius distance, is based on this through access.
5. Stonewalls as indicated on plan adjacent to Proposed Parcel H to be installed prior to the issuance of any building permits and former woods road in this vicinity is not to be used, including by motor vehicles during and after construction.
6. No more than eight (8) dwelling units are allowed to use the approved private street without prior review and approval by the Planning Board. Old Farm Road cannot be used to deviate from this restriction.
7. A wetland Preservation Fee per 16.9.3.9 Mitigation Plan to be paid to the Town prior to the start of construction or any earthmoving activities or clearing of vegetation related to the Class I street construction.
8. The private street depicted herein and approved as part of the subdivision cannot be accepted by the Town as a public street, unless the Class I portion of the street is constructed as a Class III street subject to Planning Board approval.
9. Prior to the issuance of a building permit for either lot associated with the Class I portion of the street (Parcel A or I), the street must be constructed to town standards, including a hammer-head terminus, with the exception of the street width, where the required 18-foot width is reduced to 12 feet for the first two dwellings only, thereafter an 18-foot width is required for the third dwelling and any future dwellings, if approved by the Planning Board.
10. Prior to the issuance of a building permit for either lot associated with the Class I portion of the street, a sign must be installed at the end of the Class III portion of the street with the house #/addresses indicated along with "no parking".
11. All Notices to Applicant contained in the Findings of Fact (dated: September 8, 2016).

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

12. Final subdivision plan is subject to Tax Assessors review of lot designations to be depicted on the final mylar.
13. Prior to any earthwork and clearing all required US Army Corps of Engineers and the Maine Department of Environmental Protection permits must be approved.
14. Prior to the commencement earthwork or clearing of vegetation the open space depicted on the plan must be permanently demarcated in the field with suitable fence posts along with a “vernal pool” placard permanently affixed to each post. Placards must be approved by the Town or purchased from the Town at \$2.00 each.
15. Prior to the release of the approved subdivision plan mylar for recording, the Town Attorney must review and approve all legal documents necessary to establish a common roadway agreement, and to protect the proposed open space in perpetuity, to ensure associated requirements are clear and enforceable, all fees paid by the applicant.
16. Prior to any earthwork, the owner and/or developer, or designee, in an amount and form acceptable to the Town Manager, must file with the municipal treasurer an instrument to cover the cost of all infrastructure and right-of-way improvements and site erosion and stormwater stabilization, including inspection fees for same.
17. The area between the two open spaces shall be maintained as a gravel surface.
18. All further divisions and additional dwellings in the future will require net residential calculations re-calculated based on the current code, 16.7.8. Net Residential Acreage or subsequent revisions.
19. Incorporate any plan revisions on the final plan as recommended by Staff and peer-review engineer and Planning Board, and outlined in 9/8/16 Plan Review Notes, and submit for Staff review prior to presentation on final Mylar.
20. Prior to construction, Kittree Lane and Highpoint Circle will be photographically documented for current conditions and the developer will be responsible for any damages to those roadways.
21. Snow removal or storage will be addressed on the plan.

Notices to Applicant (NOT to be depicted on the final plan):

1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with review, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department. Date of Planning Board approval shall be included on the final plan in the Signature Block.
4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating the Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

5. Where required the applicant must provide to the Town a performance guaranty and an inspection escrow to cover the construction of all improvements that will be utilized in common use or by the general public.

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

Vote of 6 in favor 0 against 0 abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON September 8, 2016

Ann H. Grinnell, Planning Board Chair

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

BOARD MEMBER ITEMS / DISCUSSION

- The Board wished Mr. Harris well.
- Ms. Driscoll-Davis announced there will be a Comprehensive Planning meeting on Wednesday at 6:00 P.M.

TOWN PLANNER ITEMS – None.

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

The motion carried 6-0-0.

The Kittery Planning Board meeting of September 8, 2016 adjourned at 8:53 p.m.

Submitted by Mary Mancini, Minute Recorder, on September 18, 2016.

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