

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

**APPROVED
MARCH 10, 2016**

Meeting called to order: 6:00 pm

Pledge of Allegiance

Roll Call:

Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Robert Harris, Deborah Lynch, Mark Alesse, Dutch Dunkelberger

Board members absent: Secretary Debbie Driscoll-Davis

Staff present: Chris Di Matteo, Town Planner

Public Comment: Ms. Grinnell opened the floor for public comment.

Tom Emerson, 10 Ox Point Drive

Mr. Emerson's statement responded to the agenda item Memorial Circle and Related Improvement Plan at the 2/25/2016 Planning Board meeting. He recognized that none of the current Planning Board members were present at the time the plan was initially approved. This plan is one portion of a more overarching plan set forth by the State several years ago with the intent to improve safety on and around Route 1. The main purpose of the Memorial Circle and Related Improvement Plan was to increase safety and provide vehicle, pedestrian, and bicycle access. The direction of the project remains no different than what was originally approved. He stated his support for sidewalk access around the entire perimeter of Memorial Circle and all access points. Spending of infrastructure funds promotes only growth in the area.

Ms. Grinnell closed the floor for public comment.

Minutes: February 11, 2016

Ms. Kalmar moved to approve the February 11, 2016 minutes, as amended.

Mr. Alesse seconded.

Motion passed 4-0-2.

Minutes: February 25, 2016

Line 43 – to replace “Ms. Kalmar” with “Ms. Grinnell”

Ms. Kalmar moved to approve the February 25, 2016 minutes, as amended.

Mr. Dunkelberger seconded.

Motion passed 5-0-1.

ITEM 1 – Yankee Commons Mobile Home Park Expansion – Final Subdivision Plan Review

Action: Approve or deny plan. Owner/applicant Stephen A. Hynes Real Property Trust Agreement requests consideration of plans for a 78-lot expansion of the Yankee Commons Mobile Home Park for the property located at US Route 1, Tax Map 66, Lot 24 in the Mixed Use (MU) and Residential – Rural (R-RL) Zones. Agent is Thomas Harmon, Civil Consultants.

Jay Stevens, Civil Consultants

Mr. Stevens stated that all matters have been addressed and are incorporated in the plan after review with Town staff. He suggested the following revisions:

1. Condition of Approval Item 2 – should reference Town Code Title 16.10.8.2.2.
2. Condition of Approval Item 10 – rephrase to minimize ambiguity and ensure the Planning Board is aware of all changes.
3. Conditions of Approval Item 13j and 15 – should be combined into one item since it appears

redundant.

Mr. DiMatteo and Planning Board concurred with Mr. Stevens' revision to Condition of Approval Item 2.

Mr. DiMatteo and Planning Board reworded Mr. Stevens' revision to Condition of Approval Item 10 so to warrant recommendations required only by the Planning Board by removing the phrase "on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and as".

Mr. DiMatteo explained that Condition of Approval Item 13j and 15 refers to specifically the earth/rock removal versus the entire plan and, therefore, suggested no changes to be made. The Planning Board supported that reasoning.

Ms. Kalmar asked Mr. Stevens regarding Condition of Approval Item 13a that omits earth/rock removal hauling on weekends since it had been previously included in the plan. She asked if the intention is to prohibit on all weekends and if the phrasing was a deliberate omission. Mr. Stevens responded that removing weekends from the condition allows for more flexibility. Ms. Grinnell emphasized there would be no rock removal hauling during summer months. Mr. Stevens suggested including "weekends (unless approved by the Police Chief)" which was agreed upon by the Planning Board and Mr. DiMatteo.

The Conservation Commission confirmed to Ms. Grinnell that all necessary documentation was received.

Mr. Alesse asked if there are plans for monitoring air quality on any periodic schedule during time of construction. Mr. Stevens replied this concern is addressed in the monitoring section of the ERRP which states a log of idling vehicles would be maintained to evaluate characteristics of emissions and visual monitoring would be conducted to evaluate free dust. There would be no mechanical measurements taken.

Mr. Alesse asked if the neighboring residents were notified of the project. Mr. Stevens replied a meeting was conducted to review plans and facilitate discussion, however, there was zero attendance from those residents. The park manager is aware of the process and a central bulletin board in the park includes information regarding the project.

Ms. Kalmar made a motion to grant approval for the Final Subdivision Plan for the 78-lot expansion of the Yankee Commons Mobile Home Park located at Idlewood Lane and US Route 1 for owner/applicant Stephen A. Hynes Real Property Trust Tax Map 66, Lot 24 upon the review and voting in the affirmative on the findings of fact.

Ms. Lynch seconded.

Mr. Dunkelberger noted due to his limited time on the Planning Board, he did not make a definitive decision on the suitability of the project and he would abstain from voting.

Ms. Grinnell reminded the Board that each finding of fact requires at least four affirmative votes to approve the final plan.

Mr. DiMatteo added that the finding of Item H should begin as "neither the site nor the development".

Motion passed 5-0-1.

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 proposed mobile home park development is an expansion to the existing Yankee Common Mobile Home Park. The use is not a permitted or special exception in the Mixed-Use zone where the development is predominantly located, however, the superior court ruled that the Town's ordinance prohibiting mobile home parks from the Mixed-Use Zone is invalid under 30-A M.R.S. § 4358(3)(M).

The proposed development does not meet the town's 6,000 s.f. minimum lot size per 16.8.12.3.C.1. In the same manner as the use is permitted in the Mixed-Use Zone through the state's mobile home statute, Title 16.8.12.3.C.1 is invalidated by 30-A M.R.S. § 4358(3)(A)(1)(b). The project includes filling of 900 sf of wetlands that will not have an adverse effect on the remaining wetland. A wetland alteration application has been submitted in accordance with 16.9.3.

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 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: All wetlands have been delineated and mapped in accordance with applicable standards. A stream has been identified on the site and depicted on the plans

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 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: A stream has been identified on the site and depicted on the plans

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 abstaining

D. Water Supply Sufficient.

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

Finding: The site is serviced by public water. The Kittery Water District has indicated ability to serve project.

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 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: The site is serviced by public water and applicant has received confirmation from the Kittery Water District as to sufficient supply for the proposed development.

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 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 site is serviced by town sewer and has received confirmation from the Town that the system is sufficient to support the proposed development Conclusion: The standard appears to have been met.
Vote of <u>5</u> in favor <u>0</u> against <u>1</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: The applicant has expressed and provided information on plans to manage solid waste in the mobile home park in a manner that will support the proposed development Conclusion: The standard appears to have been met.
Vote of <u>5</u> in favor <u>0</u> against <u>1</u> abstaining
H. Water Body Quality and Shoreline Protected.
<i>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.</i>
Finding: Neither the site nor the development is located in the Shoreland or Resource Protection Overlay Zones. The stormwater management plan includes features to treat stormwater in accordance with MEDEP requirements, and best management practices. Conclusion: The standard appears to have been met.
Vote of <u>5</u> in favor <u>0</u> against <u>1</u> abstaining
I. Groundwater Protected.
<i>The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.</i>
Finding: The site is serviced by town sewer and it does not appear the proposed development will adversely affect the groundwater. The applicant has provided analyses of the pre- and post-development stormwater management, and described that post-construction conditions will mimic pre-construction conditions relative to interaction of stormwater and groundwater. The general pattern and spatial distribution of stormwater discharge is similar pre and post. Further, most of the stormwater discharges are designed to flow through infiltration or bioretention BMPs, which will encourage infiltration of runoff to groundwater, further causing conditions post construction to mimic pre-construction conditions. The applicant's environmental consultant made an additional presentation of these and related findings to the planning board and the conservation commission and peer review engineer concurs. Conclusion: The standard appears to have been met.
Vote of <u>5</u> in favor <u>0</u> against <u>1</u> abstaining
J. Flood Areas Identified and Development Conditioned.
<i>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.</i>

Finding: A portion of the site is located in the flood zone, however, no buildings or structures will be constructed within these zones.

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 abstaining

K. Stormwater Managed.

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

Finding: The proposed development has received state permits and has been reviewed by the town's peer-review engineer. The designs meet applicable best management practices for management of flow and stormwater treatment.

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 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 development has received state permits and has been reviewed by the town's peer-review engineer. The applicant has prepared a Earth/Rock Removal Operations Plan reviewed by town staff and Peer-review engineer. Designs meet applicable management requirements for control of erosion.

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 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 development is not subject to a state traffic movement permit. Vehicular and pedestrian circulation has been reviewed by the town's staff and peer-review engineer, a one-way circulation that accommodates pedestrian access has been provided. The applicant's Earth/Rock Removal Operations Plan includes reasonable strategies for limiting the impacts of construction-period impacts of trucking of excavated materials from the site.

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 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:

1. No filling or development is proposed within the 100 year floodplain.
2. Development will utilize town sewer.

3. Development will utilize town sewer.
4. Development will utilize town sewer.
5. The applicant has received the MDEP Stormwater License and ACOE Permit
6. There will be no handling of hazardous materials.

The applicant has completed an independent analysis of specific air quality impacts during construction activities, which concludes that emissions from planned construction activities will meet National Ambient Air Quality Standards recognized by the USEPA.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 1 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 proposed development does not have any adverse effects to any known aesthetic, cultural and natural values that require protection. A 25-foot no disturb setback is required around the Wilson family cemetery located on the site and parking is also provided to accommodate visitors.

Conclusion: The standard appears to have been met.

Vote of 5 in favor 0 against 1 abstaining

P. Developer Financially and Technically Capable.

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

Finding: 16.10.7.2.P. Performance Guaranty and Town Acceptance to secure completion of all improvements required by the Planning Board and written evidence the Town manager is satisfied with the sufficiency of such guaranty. This is required as a condition of final approval, and will include restoration of off-site roadway impacts, as necessary. See draft conditions of approval #2 and #14.

Conclusion: This standard appears to be met.

Vote of 5 in favor 0 against 1 abstaining

WETLAND ALTERATION FINDINGS OF FACT: *The project includes 900 sf of wetlands filling associated with roadway construction. An application for wetlands alteration needs to be prepared and submitted per 16.9.3. Note that the MEDEP has issues a Permit by Rule for the filling.*

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.*

Finding: The 900sf impacted was determined by the MDEP to be "low value". Construction in the area will result in better subsurface and stormwater drainage into the emergent wetland area. Peak runoff rates are not

increased.
Conclusion: This standard appears to be met.
Vote of <u>5</u> in favor <u>0</u> against <u>1</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>
Finding: Information supporting this standard is shown in the application and detailed in these notes. Conclusion: The standard appears to have been met.
Vote of <u>5</u> in favor <u>0</u> against <u>1</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>
Finding: This has not been requested or appears to be warranted. Conclusion: This standard is not applicable.
Vote of <u>5</u> in favor <u>0</u> against <u>1</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>
Finding: The project includes a reasonable and practicable mitigation plan through compensation and preserved open space and buffers which includes protection of approximately 36 acres planning board approved as 13 acres of open space, 11 acres of non-disturbed wetlands and 12 acres of no disturbance buffers. Conclusion: The standard appears to have been met.
Vote of <u>5</u> in favor <u>0</u> against <u>1</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:</i> <i>The proposed use:</i> <i>1. Uses, manages or expands one or more other areas of the site that will avoid or reduce the wetland impact;</i> <i>2. Reduces the size, scope, configuration or density of the project as proposed, thereby avoiding or reducing the wetland impact;</i> <i>3. Provides alternative project designs, such as cluster development, roof gardens, bridges, etc., that avoid or lessen the wetland impact; and</i> <i>4. Demonstrates that the proposed development meets or exceeds best management practices for stormwater management in the wetland areas.</i>
Finding: 1. Approved plan utilizes buffering and restrictions to enhance existing remaining 10.7 acres of wetlands 2. Net residential density allowance of 135 lots reduced to 78 and access street reroute avoids all but 900sf required to construct street. 3. The 50.1 acre site clustered to allow development on only 14.4 acres (roadways and lots);The stormwater management plan includes bio-retention areas and other enhancements to the wetlands

<p>on site.</p> <p>4. MDEP and Town Peer Review Engineer have approved storm water management plan.</p> <p>Conclusion: The standard appears to have been met.</p>
<p style="text-align: right;">Vote of <u>5</u> in favor <u>0</u> against <u>1</u> abstaining</p>
<p><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[as described in 16.9.3.7.F]:</i></p> <p><i>The proposed use will not:</i></p> <ol style="list-style-type: none"> <i>1. Unreasonably impair or diminish the wetland's existing capacity to absorb, store, and slowly release stormwater and surface water runoff;</i> <i>2. Unreasonably increase the flow of surface waters through the wetland;</i> <i>3. Result in a measurable increase in the discharge of surface waters from the wetland;</i> <i>4. Unreasonably impair or diminish the wetland's capacity for retention and absorption of silt, organic matter, and nutrients;</i> <i>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;</i> <i>6. Result in a measurable increase of the existing seasonal temperature of surface waters in the wetland or surface waters discharged from the wetlands.</i> <i>7. Result in a measurable alteration or destruction of a vernal pool.</i>
<p>Finding:</p> <ol style="list-style-type: none"> 1. Minimum filling proposed is de minimis compared to the remaining wetlands on site and will have no impact. 2. No apparent variation in stormwater flow 3. Unchanged 4. Minimal change 5. Minimum filling proposed is de minimis compared to the remaining wetlands on site and will have no impact. 6. Minimal impact on ambient area temperatures. 7. Not applicable <p>Conclusion: The standard appears to have been met.</p>
<p style="text-align: right;">Vote of <u>5</u> in favor <u>0</u> against <u>1</u> abstaining</p>

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

Waivers: *[as presented on the Findings of Fact dated 3/10/2016].*

1. Scale of drawings. Section 16.10.5.2.A.2.

Waiver for scale on overall site plan page (all other sheets conform to scale requirements).
Larger scale allows the entire site to be viewed on one sheet.

2. Prevention of Erosion. Section 16.10.5.2.C.6, Subsection C.

Since this ordinance was put in place much emphasis has been put on erosion control and prevention. Engineers Civil Consultants are Certified Professionals in Erosion and Sedimentation Control (CPESC) and are responsible for preparation of erosion control plans. In addition, the plans were reviewed and approved by town's peer-review engineer and MDEP during the course of SLoD regulatory review.

3. Review of storm drainage by YCSWC. Section 16.8.12.3.S.

A storm drainage plan has been prepared and reviewed by the town's peer reviewer engineer. In addition, this portion of the project was also approved by MDEP during the course of SLoD regulatory review.

4. Minimum turnaround radius. Section 16.8.12.3.I.4.

Waiver request to reduce cul-de-sac turn around radius from 50' to 30'. The turnaround only services 2 sites and a 30' radius is adequate. Fire Chief concurs.

Conditions of Approval (to be depicted on 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. Prior to any earthwork a performance guarantee must be filed with the town in accordance with Town Code Title 16.10.8.2.2, Performance Guaranty Conditions. Site inspection shall be performed by the town's peer-review engineer.
3. A copy of the Earth/Rock Removal Operations Plan (ERRP), as contractually agreed by the Developer and selected General Contractor, must be submitted to the Town prior to the start of construction. See Conditions of Approval in Findings of Fact dated 3/10/2016 for restrictions on hauling.
4. Prior to any earthwork and in coordination with ERRP, a preconstruction meeting must be held on site and include: the general contractor; all selected subcontractors; the owner/applicant representative; the third-party engineer per Maine DEP requirements; project design engineer; representative(s) from Maine DEP; town's peer-review engineer; code enforcement officer; police chief; and fire chief.
5. 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.
6. Applicant/developer/contractor must follow the *Maine Erosion & and Sediment Control Practices Field Guide for Contractors, March 2015* for all work associated with earthwork and site construction to ensure adequate erosion control and slope stabilization.
7. A Street Naming application must be submitted to the Town for Planning Board review and approval per 16.8.3.1 prior to the issuance of any building/regulating activity permit.
8. Residency in the expanded Yankee Commons mobile home park section is age-restricted to 55 years of age, or older. At least one of the tenant owners must be 55 years of age or older and all other approved occupants to be at least 40 years of age.
9. All Notices/Instructions to Applicant and Conditions of Approval not depicted on the final plan contained herein, Findings of Fact dated March 10, 2016.

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

10. Incorporate any plan revisions required by the Planning Board on the final plan and submit for Staff review prior to presentation on final Mylar.
11. Prior to start of any site development/construction, applicant shall pay a wetland mitigation fee of \$3,600.00.
12. Drafts of all easements must be provided for staff review prior to signing of final plan.

13. During the earth/rock removal period:

- a) Hauling must be suspended on weekends (except when approved by Police Chief), and on Federal holidays and between June 30th and Labor Day.
- b) Loaded vehicles must be suitably covered to prevent dust and contents from spilling or blowing from the load. Trucking routes and methods are subject to approval by the Chief of Police.
- c) Additionally, unless prior approval by the Chief of Police is granted, the hauling routes are as follows:
 - 1) All loaded trucks to proceed from site East on Idlewood Lane to Route 1
 - 2) No other use of town-owned roads permitted. All access to be via I-95 or State highways
 - 3) Northbound hauling trips:
 - Northbound trucks to proceed south on Route 1 to I-95 *Maine Welcome Center* entrance, proceed through center and proceed on I-95 North, or turn left off Idlewood to North on Route 1.
 - 4) Southbound hauling trips:
 - All southbound trucks to proceed south on Route 1 directly to I-95 or Route 236.
 - 5) Unloaded and Returning to Site:
 - Proceed north on I-95 to the *Maine Welcome Center* entrance (mile marker 3) and continue to Route 1 north
 - Proceed north on Route 1 to the intersection of Idlewood Lane
 - Enter site off Idlewood Lane
- d) Topsoil and subsoil suitable for purposes of revegetation may be stockpiled for use in restoring the location after extraction operations have ceased.
- e) Access roads from extraction site to public ways must be treated with stone, calcium or other suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet from such public ways to reduce dust and mud on such public ways.
- f) No equipment, debris, junk or other material shall be stored at site except those directly relating to active extraction operations.
- g) Temporary shelters or buildings erected for operations and equipment used removed within thirty (30) days following completion of excavation operations.
- h) Debris, stumps, boulders and similar materials removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of two feet of soil.
- i) Revegetated and properly restored to a stable condition adequate to meet the provisions of the Maine Erosion & Sediment Control Practices Field Guide for Contractors, March 2015.
- j) Applicant will provide the Town copies of all permitting applications, inspection results and reports required by State or Federal approvals from all involved regulatory agencies; third-party inspection results; and, those reports required for blasting monitoring in timely fashion.

14. The Developer is responsible for the repair or reconstruction of Idlewood Lane if damaged as part of the site's construction as determined by and to the satisfaction of the Commissioner of

the Public Works. Prior to construction a surety acceptable to the Town of Kittery must be established in the amount to cover all costs for the reconstruction of 400 linear feet of Idlewood Lane (use of entire surety may not be required if full reconstruction is not required).

15. The Developer will provide copies of all project applications, permits, licenses, and related documentation, including any revision to the operations plans to the Town (to include all future construction correspondence with MDEP).
16. The Developer will engage in "Outreach" activities to the community (i.e. Yankee Commons Park residents; occupants of other residences on Idlewood Lane; and employees at Landmark Hill) during the project which will include neighborhood meetings, public notices, a project website, property inspections, and signs.

Notices/Instructions to Applicant:

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 two (2) paper copies 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.

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

Vote of 5 in favor 0 against 1 abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON _____

Ann Grinnell, Planning Board Chair

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

ITEM 2 – Spruce Creek Ventures II - Cluster Subdivision Sketch Plan Review

Action: approve or deny sketch plan. Owner/applicant Spruce Creek Ventures II requests consideration of a

multi-family cluster subdivision of 3.02 acres located at 9 Cook Street and Old Post Road (Tax Map 3, Lot 77-A) in the Residential – Urban (R-U) Zone. Agent is Chris Wilber, Chris Wilber Consulting.

Chris Wilber, Chris Wilber Consulting

Mr. Wilber's presentation of the sketch plan included the following statements:

- The sketch plan is a culmination of discussions from site walk.
- The narrowing of the road width by 2 feet from 20 feet to 18 feet resulted in a 10% grade.
- Mike Waters determined that a water line meter could be placed at the end of the private road. The plan has been able to progress with the ability to service town water to the units.
- The cluster development would consist of 3 free-standing duplexes for a total of 6 individual units.

Mr. Wilber clarified to Ms. Kalmar that only pedestrian access to Bridge Street is planned.

Ms. Grinnell did not recommend placing a sidewalk along the drive toward Old Post Road. Mr. DiMatteo suggested that is a question for the preliminary design plan. Mr. Wilber added that pedestrians will most likely walk across the front of the property toward Bridge Street. Ms. Kalmar agreed that there should not be a sidewalk.

Mr. Harris made a motion to accept the application.

Mr. Alesse seconded.

Motion passed 6-0-0.

Mr. Dunkelberger made a motion to approve the sketch plan dated 2/1/2016 for owner/applicant Spruce Creek Ventures II for cluster subdivision of 3.02 acres located at 9 Cook Street and Old Post Road (Tax Map 3, Lot 77-A) in the Residential – Urban (R-U) Zone.

Mr. Alesse seconded.

Motion passed 6-0-0.

ITEM 3 – 93 Picott Road – Right of Way Plan Review

Action: Accept or deny application; Approve or deny plan. Owner Herbert and Carolynn Marsh and Applicant Graystone Builders, Inc. propose a Right-Of-Way to access two new lots located at 93 Picott Road (Tax Map 49 Lot 7) in the Residential-Rural (R-RL) Zone. Agent is Bill Anderson, Anderson Livingston Engineers.

Walter Woods, Graystone Builders

Bill Anderson, Anderson Livingston Engineers

Mr. Anderson's presentation included the following statements:

- The purpose of the project is to create a private Right-Of-Way across the existing field. There will be no new entrances onto Picott Road.
- The area consists of mostly fields and trees and the plan requires a minimal amount of tree removal.
- The existing water main line runs diagonal and directly through the property. The Kittery Water District agreed that service connections would be added and additional extension of the main lines is unnecessary.
- The proposed road requires minor construction. The grade falls 1% away from Picott Road and the steepest grade is 4%. All drainage would travel to the rear of the property instead of to the road or abutting property. The proposed name is Appletree Lane.
- Construction and Right-of-Way would be located 31 and 20 feet, respectively, from a cemetery on the property. A note was added that there will be no excavation or disturbance within 25 feet of the cemetery.
- Set back in the rear property from the principle structure is 100 feet to a large wetland and 25 feet to a smaller wetland.
- The most prevalent issue is the interpretation of the corner lot ordinance which states a corner lot is defined as "Such corner lots, located at the intersection of two streets, are deemed to have a side rather than a front yard between the principal building and the side street. Such side yard may not be less than the front yard requirements of uses located on the side street." Mr. Anderson understood

the ordinance to conclude that the two front lots would have 40-foot setbacks from Picott Road and 20-foot setbacks from the proposed Appletree Lane.

Mr. DiMatteo noted that the public hearing is discretionary for a Right-of-Way application. The Board determined the public hearing is necessary.

Mr. Harris asked to clarify where the existing dwellings are located along Picott Road. Mr. Woods confirmed there is one dwelling, a barn, and a garage.

Mr. Dunkelberger asked to clarify the justification for the 20-foot setback at the corner lot. Mr. Anderson questioned the wording of the ordinance and in what situation a corner lot would require a 20-foot setback along the road. Ms. Kalmar noted that one area is designated the front yard and the other the side yard yet both are equal in size. Mr. Anderson noted that the ordinance refers to front and side yard versus setback. Also, the ordinance does not define a front and side yard. Mr. Dunkelberger recited that "Such side yard may not be less than the front yard" and the front yard has a 40-foot requirement. Mr. DiMatteo suggested that the street frontage definition speaks to this matter. Mr. Dunkelberger recommended to find a way to conform to a 40-foot setback on both sides since the existing lot is already non-conforming. The Board concurred with Mr. Dunkelberger. Mr. Anderson suggested that the corner lot ordinance be revised.

Mr. Anderson proposed two alternatives (1) move the road further which only results in a sharper curve and less building area, or (2) remove the garage.

Mr. Woods affirmed that the garage could be removed to meet the 40-foot setback.

Mr. Woods clarified to Ms. Lynch that there are 3 proposed subdivision lots.

Ms. Grinnell appreciated seeing the entire layout of the picture.

Ms. Kalmar asked to clarify the lay of the land. Mr. Woods explained the different ownership amongst the lots and his ownership dictates he could have a home built and that could only be rented and not sold for 5 years. Mr. DiMatteo suggested that as long as the owner conveys the other two lots prior to his homestead property than the owner has the exemption.

Ms. Kalmar made a motion to accept the Right-of-Way application dated 2/18/2016 from owner Herbert and Carolynn Marsh and Applicant Graystone Builders, Inc. to propose a Right-Of-Way for access two new lots located at 93 Picott Road (Tax Map 49 Lot 7) in the Residential-Rural (R-RL) Zone.

Ms. Lynch seconded.

Motion passed 6-0-0.

Ms. Lynch made a motion to schedule a public hearing for the Right-of-Way application dated 2/18/2016 from owner Herbert and Carolynn Marsh and Applicant Graystone Builders, Inc. to propose a Right-Of-Way for access two new lots located at 93 Picott Road (Tax Map 49 Lot 7) in the Residential-Rural (R-RL) Zone.

Ms. Kalmar seconded.

Motion passed 6-0-0.

Site walk is scheduled for April 12, 2016 at 10:30 AM.

Public hearing is scheduled for April 14, 2016 Planning Board Meeting.

Mr. Wood's added that the street naming application is in process with the Tax Assessor.

ITEM 4 – Seward Farm Lane – Major Subdivision Sketch Plan Review

Action: Accept or deny application; Approve or deny sketch plan. Owner/Applicant Gary Seward et al requests 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.

Ken Markley, North Easterly Surveying

Mr. Markley's presentation included the following statements:

- The farm on Picott Road has been owned since 1962 by the Seward Family. In 1994, the Right-of-Way was approved to divide the back portion of the property into five lots. Ten years later the road was relocated to improve access and safety.
- The Seward Family proposes 12 residential house lots plus 4 open space areas along the existing road. Three of the proposed open space areas are sized approximately 14 acres, 22 acres, and 7.9 acres. Lot 9 would remain an open space with soccer fields and a parking lot along Picott Road.
- The road upgrade is not expected to widen the width of the road or generate any adverse impact on the wetland.
- High tide causes a salt water vegetation in the pond area resulting in a limitation for a 250-foot Shoreland setback requirement. The wetlands will require some additional work which has not been written in depth in the plan.
- Mr. Markley raised two questions for the Planning Board:
 - Whether the Right-of-Way construction could be performed the existing 50-foot wide road. The reasons being: 1) previous construction has been performed at 50 feet, 2) the natural vegetated buffer and expanding outward would require reconfiguration, 3) surrounding mitigation areas, and 4) the houses on this lot would need an update to their deed.
 - Whether conventional subdivision is feasible. Each lot will have 1 acre on an existing road, thus, the road only requires updating to a serviceable level. The Seward Family does not intend building expansion beyond this plan or a cluster subdivision.

Ms. Kalmar accepted a conventional subdivision. It would not change the existing character of this neighborhood. Mr. Dunkelberger agreed and expressed no issues in granting a special exemption. Ms. Lynch concurred and noted a conventional subdivision plan preserves more of what exists today compared to a cluster development.

Ms. Kalmar voiced the existing road is a required improvement and digging up the road is unnecessary. Ms. Lynch asked the responsibility of paving. Mr. Norman Albert, Commissioner of Public Works, stated the Seward Family is currently negotiating with the Town for the Swards to provide necessary changes for draining and utility sleeves prior to Town providing paving. He confirmed the road would meet the 20-foot Town standards and the Right-of-Way would not be increased.

Ms. Lynch asked the estimated cost of paving the road. Mr. Albert stated estimated costs are \$75,000 - \$80,000. Mr. Harris asked about underground service. The five houses use wells and a water line installation is required, if the project continued. Fire Chief David O'Brien informed Mr. Albert that the 2,000-foot length of the road would require at least one fire hydrant. The Town would absorb the expense to extend the water line from Kelsey Lane to the road.

If the project was denied, the Town and Swards would not entertain the tradeoff for the sports field and engage in selling the property. The family wants to keep the farm and be good stewards for Town athletics.

Mr. Dunkelberger and Ms. Grinnell reminded these are topics separate from the Planning Board such as negotiations with the Town Council and should not be part of Planning Board consideration.

Ms. Kalmar asked where the 15% open space requirement has been met. Mr. Markley noted in Lot 9

and east of the powerlines would meet the 15% minimum requirement.

Ms. Earledean Wells, Conservation Commission asked if paving would interrupt wetland area and collars. Mr. Markley responded in the negative.

Mr. Dunkelberger made a motion to accept the sketch plan dated 2/17/2016 for owner/applicant Gary Seward et al for a 15-lot conventional subdivision on remaining land along a previously approved private Right-of-Way (Seward Farm Lane) located at 39 Picott Road (Tax Map 46 Lot 4) in the Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250) Zones.

Ms. Kalmar seconded.

Motion passed 6-0-0.

Mr. Dunkelberger made a motion to schedule a site walk and continue the sketch plan owner/applicant Gary Seward et al for a 15-lot conventional subdivision on remaining land along a previously approved private Right-of-Way (Seward Farm Lane) located at 39 Picott Road (Tax Map 46 Lot 4) in the Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250) Zones not to exceed 90 days.

Ms. Kalmar seconded.

Motion passed 6-0-0.

Site walk is scheduled for April 12, 2016 at 11:15 AM.

ITEM 5 – 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.

Mr. Markey's presentation included the following statements:

- The lot was divided in 1948 and since then has not been developed. There is an isolated wetland that spans to both boundaries plus three relatively high value, smaller wetlands which could possibly be vernal pools.
- The 12-foot driveway would be placed at an even distance between two vernal pools with a 12" collar with 18" overlay of gravel and seashells. It will cover 205 sq. ft. which requires a wetland alteration application.
- After discussion and site walk with Maine DEP, it was determined there is minimal potential impact on the land. Maine DEP determined it is a Tier 1 review.

Ms. Wells expressed no concerns for the plan and Mr. Dunkelberger noted that the overall impact appears to be minimized.

Mr. DiMatteo suggested to add an approval from Maine DEP and Army Corps of Engineers under the Conditions of Approval.

Ms. Kalmar made a motion to accept the Wetland Alteration and Shoreland Development application dated 2/17/2016 from applicant Gary Hall for 9 Pocahontas Road (Tax Map 52 Lot 3) in the Residential–Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250) Zones.

Mr. Dunkelberger seconded.

Motion passed 6-0-0.

Ms. Kalmar made a motion to grant approval for the Wetland Alteration and Shoreland Development Plan application dated 2/17/2016 from applicant Gary Hall for 9 Pocahontas Road

(Tax Map 52 Lot 3) in the Residential–Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250) Zones upon reading and voting in the affirmative of the findings of fact.

Ms. Dunkelberger seconded.

Motion passed 6-0-0.

Findings of Fact

For 9 Pocahontas Road

Wetland Alteration Plan Review

Shoreland Development Plan Review

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: 6 in favor 0 against 0 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 6 in favor 0 against 0 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 6 in favor 0 against 0 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 6 in favor 0 against 0 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.

<u>Conclusion:</u> This requirement appears to be met
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
<p><i>E. The applicant must submit applicable documentation that demonstrates there is no practicable alternative to the proposed alteration of the wetland.</i> In determining if no practicable alternative exists, the Board will consider the following:</p> <p>The proposed use:</p> <ol style="list-style-type: none"> 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.
<p><u>Finding:</u> The proposed development crosses at the wetland's narrowest point so as to minimize the impact, to the greatest possible extent.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
<p><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}:</i></p> <p>The proposed use will not:</p> <ol style="list-style-type: none"> 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.
<p><u>Findings:</u> The 350 square foot wetland impact does not appear to have an adverse impact on the remaining wetland.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> 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 of 6 in favor 0 against 0 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 of 6 in favor 0 against 0 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 of 6 in favor 0 against 0 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 of 6 in favor 0 against 0 abstaining

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board approves the Shoreland Development 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. Approval by the Maine DEP and Army Corps of Engineers.
7. All Notices to Applicant contained herein (Findings of Fact dated 3/10/2016).

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

8. 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 6 in favor 0 against 0 abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON March 10, 2016

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.

ITEM 6 – Board Member Items / Discussion

Ms. Grinnell encouraged all residents to attend and participate in the Comprehensive Planning Committee's Public Forum on Saturday, March 12, 2016 from 10:00 – 12:30 PM held at the Kittery Community Theater, 120 Rogers Road, Kittery, ME.

Operation Blessing project is still finalizing details and has requested an extension.

Ms. Kalmar made a motion to grant a 3-month extension for Operation Blessing to expire on June 12, 2016.

Mr. Alesse seconded.

Motion passed 6-0-0.

ITEM 7– Town Planner Items:

The Economic Development Committee (EDC) would like to share the progress of their projects with the Planning Board.

E2 Tech is hosting a forum on preserving scenic views called Don't Make a Scene, Man! Scenic Impacts of Development on Thursday, March 24, 2016 from 7:15 – 10:00 at the Congregation Bet Ha'am, 81 Westbrook Street, South Portland, ME. Fee is \$15 for members.

Mr. Alesse made a move to adjourn.

Mr. Dunkelberger seconded.

Motion carried 6-0-0.

The Kittery Planning Board meeting of March 10, 2016 adjourned at 8:15 p.m.

Submitted by Marissa Day, Minutes Recorder, on March 17, 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>.