

Town of Kittery Planning Board Meeting August 9, 2018

Miller Road – Major Subdivision Final Plan Review

Action: Accept application as complete; Approve or deny final plan Owners Paul E. and Peter J. McCloud and Applicant Joseph Falzone requests consideration of a 6-lot conventional subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones. Agent is Ken Wood, Attar Engineering.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Sketch Plan Completeness Review/Approval	Approved 5/10/18	APPROVED
YES	Site Visit	Held on 5/1/18	HELD
YES	Preliminary Plan Review Completeness/Acceptance	Accepted on 6/12/18	ACCEPTED
YES	Public Hearing	Held on 7/26/18	HELD
YES	Preliminary Plan Approval	Approved 7/26/18	APPROVED
YES	Final Plan Review and Decision	Possible for 8/9/18	PENDING

Applicant: Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Background

Miller Road lies between Bartlett Road and Norton Road. This lot lies closer to Norton Road and abuts Hutchins Creek. It is approximately 9.9 acres and 6 lots are proposed. Large portions of two lots lie within the Resource Protection Zone and FEMA Flood Zone A as shown on FEMA maps. The Applicant sought and received a Letter of Map Amendment (LOMA) from FEMA to remove the lots from the floodplain.

The Applicant requested that the Town agree to adjust the Resource Protection Overlay boundary (OZ-RP) to align with the LOMA boundary. DEP advises that the Town pursue a formal shoreland zoning map change because the boundary adjustment concerns a difference of greater than 100 feet. The Applicant is therefore requesting a special exception permit for Lots 1 and 6 which both lie partially within the Resource Protection Overlay which the Board will consider along with this final subdivision plan approval.

Public Hearing on July 26, 2018

The Planning Board took public comments – discussion on the language describing the no-cut, no-disturb buffers and leaving the duff (layer of organic material such as leaves, twigs and pine needles which carpet a woodland) as well as ensuring the understory remained and wasn't mowed were central.

The Board voted to approve the waivers, the special exception request for a conventional subdivision and the preliminary plan.

Staff Review

1. Submission: Staff has the following comments on the final subdivision plan submission.
 - a. The map number (of the map and lot) is incorrect – should be Map 59 not 56.
 - b. Notes 10 and 11 should state that no cutting of dead, dying, or hazardous trees or invasive species within the no-cut no-disturb buffers may occur without a permit from the Shoreland Resource Officer for the Town. The HOA document should also state this in identical language. Please see Note 8 for additional comments.
 - c. All notes that reference sections from Title 16 must match the new online formatted Title 16 as follows:
 - i. Note 17 should reference 16.10.7.2.O
 - ii. Under Waivers, Note 1 should reference 16.10.5.B(2).
 - iii. Also under Waivers, Note 2 should reference 16.8 Table 1 (Attachment 1). The note should also spell “the” correctly.
 - d. Should a sample log sheet be included for routine maintenance of the stormwater management systems in the HOA document?
 - e. Because the public hearing was held a week after the submission deadline for the August 9th meeting, the Applicant received feedback from the Board for final plan that couldn’t have been accounted for. The Board approved the preliminary plan with the following conditions:
 - i. *All CMA comments must be addressed*
 - ii. *Impervious surface calculations must be added to the plans*
 - iii. *The HOA document and plans must be updated to reflect the no-cut, no-disturb buffer requirements including that any cutting of dead, dying or hazardous trees which while allowed, must receive a permit through the Town – language to be approved by the Shoreland Resource Officer. See additional comments in Note 8.*

Other Reviews or Permits:

- f. The final plans will be reviewed by CMA and their report will be included in the packet.
 - g. The HOA document will be reviewed by the Town Attorney with any necessary changes made by the Applicant prior to the Chair signing the final mylar for recording.
 - h. Has the Applicant received any necessary DEP permits? If so, any permits should be provided to the Planning office prior to the Chair signing the final mylar.
2. Floodplain, Resource Protection Overlay and Wetlands. The lot proposed for subdivision is roughly shaped like an “L” as it lies along Miller Road. Current floodplain maps (actually both the FEMA maps in effect and the 2013 FEMA draft maps) show that the longest/deepest portion of the lot from Miller Road to the end of the lot as it runs along Hutchins Creek has a band of varying width located within the flood zone. The FEMA floodplain boundary and Kittery’s Resource Protection Overlay boundaries appear to correlate. FEMA has granted the Applicant’s LOMA request to revise the floodplain, shrinking the floodplain area considerably.
 - a. As mentioned earlier, the Applicant is requesting a special exception request per 16.3.2.19 because DEP advises that any Resource Protection boundary adjustment greater than 100 feet should go through a formal shoreland zoning map change. The Town will pursue this shoreland zoning map amendment as a separate process.
3. Calculations for Net Residential Acreage. Per Title 16.7.8 *Net Residential Acreage* has been calculated and is shown as note 6 on Sheet 1 of the plans.

4. Dimensional standards. All lots meet the 40,000 sf requirement in the R-RL Zone. Building envelopes are shown. 50-foot no-cut, no-disturb buffers are shown along Miller Road. Setbacks (side yards) are shown. The 150-foot frontage requirements are met. There are 40-foot setbacks shown for the three lots that abut the ROW per front yard requirements. The ROW is itself, 40 feet, and curves slightly per the Board's preference from the last meeting. The ROW is separate from the lots it serves, meaning they do not derive any area from the ROW. There is a hammerhead to allow for turnaround.
5. Stormwater. Two stormwater ponds and their associated easements are shown along Miller Road in front of Lots 1 and 2. Two significant trees are noted on Sheet 2 to remain.
6. Scenic Road/No-Cut Buffers. Miller Road is listed as a Scenic Road in the Comprehensive Plan (scenic roads are also addressed in the Comp Plan update that is being considered for adoption). 50-foot no-cut, no-disturb buffers are provided along Miller Road, along the wetland setback and along the southwestern edge of Lot 5. A 40-foot no-cut, no-disturb buffer of 40 feet is also provided along the back of Lots 3-5. These buffers are described by Notes 10 and 11 but additional language is needed. Please see Note 8.
7. Road and Shared Driveway. The plan submitted shows a 40-foot ROW with an 18-foot gravel travel way to be shared with Lots 1, 2 and 6. No shoulders, sidewalks or pedestrian ways are being proposed.
 - a. Note 12 states that the ROW shall be and must remain a private road, with the property owners, HOA or other such entity bearing all responsibility for maintenance including but not limited to, snowplowing, paving and stormwater system operation and repair.
 - b. The driveway easement width and the travel way width for Lots 4 and 5 are shown on the plans.
 - c. A significant tree ("existing oak 30 DBH to remain") is noted on Sheet 2 near the shared driveway location with the driveway placed to avoid it.
8. HOA Document. The HOA document submitted includes all six lots.
 - a. Any removal of vegetation in the OZ-RP zone or no-cut zones will require a permit from the Shoreland Resource Officer and the HOA document should clearly state this. This includes hazard/dead/dying trees and invasive species. The Town will issue a permit to remove hazard/dead/dying trees and invasive species but requires a permit to monitor cutting and to determine whether or not replanting needs to occur in the Resource Protection zone. The HOA document on page 8, numbers 3.28 and 3.30, should be updated to reflect the language above and in Note 8b below. Notes 10 and 11 on Sheet 1 should share the same language.
 - b. No-disturb means that the organic layer known as duff that carpets woodlands must remain and no mowing will be allowed. This definition should be included in both the plans and the HOA document. The applicant should work with the Shoreland Resource Officer to ensure the HOA document and the plans are the same per discussion at the 7/26/18 meeting. Because the revised HOA document was received after the submittal deadline staff has not had a chance to fully review and provide comment on amendments. This will need to be completed prior to review by the Town's attorney for compliance.
9. Peer Review. CMA reviewed the plans and submitted a report for this meeting.
 - a. The applicant needs to provide information as requested in the report and work with staff on amending the stormwater inspection and maintenance log
 - b. A waiver request was submitted for small increases in stormwater flows at two analysis points with justification. The wooded treatment buffers are not modeled in the quantity analysis upstream of the existing culverts though serve to slow runoff from the developed lots and promote sheet flow prior to discharge to the existing culverts. The existing culverts are

properly sized to accommodate the slight additional runoff from the developed lots and the small increase in discharge is considered negligible and not expected to have adverse impacts. Staff finds the justification sufficient.

Recommendations

Final Plan review completes the formal permitting process for a subdivision. The Board is charged with giving the Applicant any additional guidance in regards to the plan prior to final vote. In addition, the Board will need to consider the special exception requests for single-family residences on Lots 1 and 6 in the Resource Protection Overlay and the waiver request for minor stormwater increases at two analysis points.

CMA's comments were minor in nature, therefore Staff recommends that the Board approve the final plan with conditions.

Because the Applicant submitted final plan for the August 9th meeting (because the deadline was July 19th) before the public hearing was held on July 26th, the motion below reflects the same conditions as were suggested for the preliminary plan approval with any additional conditions the Board may wish to add.

Action

If the Board agrees with Staff recommendations, the Board may use the following motions:

Move to approve the special exception request for plans dated July 19, 2018 from owners Paul E. and Peter J. McCloud and applicant Joseph Falzone which include two lots designated for single-family residences, known as Lot 1 and Lot 6 within a 6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) which lie within the Resource Protection Overlay (OZ-RP).

Move to approve the waiver requested from Section 16.8.8.1 to allow for minor increases in stormwater flow at two analysis points for the final subdivision plan application dated July 19, 2018 from owners Paul E. and Peter J. McCloud and applicant Joseph Falzone for a 6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones.

Move to approve the final subdivision plan dated July 19, 2018 from owners Paul E. and Peter J. McCloud and applicant Joseph Falzone for a 6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones with the conditions that all CMA comments must be addressed, impervious surface calculations added and that the HOA document be updated to reflect the no-cut, no-disturb buffer requirements including that any cutting of dead, dying or hazardous trees which while allowed, must receive a permit through the Shoreland Resource Officer [and any additional conditions the Board wishes].

**KITTERY PLANNING BOARD
FINDINGS OF FACT -
for
Miller Road
Major Subdivision Plan**

Unapproved

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: Owners Paul E. and Peter J. McCloud and Applicant Joseph Falzone requests consideration of a 6-lot conventional subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones. Agent is Ken Wood, Attar Engineering.

Hereinafter the "Development".

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 08/09/2018;

Sketch Plan Review	Held	5/10/2018
Site Visit	Held	5/01/2018
Preliminary Plan Completeness Review	Held, accepted	6/14/2018
Public Hearing	Held	7/26/2018
Preliminary Plan Approval	Granted (conditional)	7/26/2018
Final Plan Approval	Granted (conditional)	08/09/2018

and pursuant to the Project Application and Plan and other documents considered to be a part of the approval by the Planning Board in this finding consist of the following and as noted in the Plan Review Notes dated 08/09/2018 (Hereinafter the "Plan").

1. Final Subdivision Plan, Attar Engineering, Inc. dated 7/19/2018
2. Grading and Utility Plan, Attar Engineering, Inc. dated 7/19/2018
3. Site Details, Attar Engineering, Inc., dated 7/19/2018
4. Class A High-Intensity Soil Survey, Longview Partners, dated 1/17/2018
5. Boundary & Topographic Survey, dated 3/21/2018

NOW THEREFORE, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by Section **16.10.8.3.4. and as recorded below:**

FINDINGS OF FACT

Action by the Board shall be based upon findings of fact which certify or waive compliance with all the required standards of this title, and which certify that the development satisfies the following requirements:

A. Development Conforms to Local Ordinances.

The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.

Finding: The subdivision meets the requirements for a subdivision as laid out in Title 16.

Conclusion: This standard appears to be met.

Vote of ___ in favor __ against __ 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: The wetlands associated with Hutchins Creek have been delineated and are depicted on the final plan.

Conclusion: This standard is appears to be met.

Vote of ___ in favor __ against __ 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: Hutchins Creek has been identified on the site as it serves as the western boundary of the property. The centerline of the creek is depicted on the final plan.

Conclusion: This standard appears to be met.

Vote of ___ in favor __ against __ abstaining

D. Water Supply Sufficient. {and}

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

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 subdivision will use private wells.

Conclusion: This standard is not applicable.

Vote of ___ in favor __ against __ abstaining

F. Sewage Disposal Adequate.

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

Finding: The proposed development will not connect with Town Sewer. The proposed development will use individual septic systems.

Conclusion: This standard appears to be met.
Vote of ___ in favor __ against __ 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 proposed development will not burden the Town Resource Recovery Facility.
Conclusion: This standard appears to be met.
Vote of ___ in favor __ against __ 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: The proposed development is partially located within the Resource Protection Overlay Zone. All proposed development in the regulated zone is outside of the required 100-foot setback and will not adversely affect the water quality of the regulated wetland.
Conclusion: This standard appears to be met.
Vote of ___ in favor __ against __ 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 proposed development will not adversely affect the quality or quantity of groundwater.
Conclusion: This standard appears to be met.
Vote of ___ in favor __ against __ 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 property is located within a flood zone according to FEMA maps. A LOMA was requested and granted to the applicant. There is no proposed construction within a flood prone area based on

<p>the floodplain boundary adjustment provided by the LOMA.</p>
<p>Conclusion: This standard appears to be met.</p>
<p style="text-align: right;">Vote of ___ in favor ___ against ___ abstaining</p>
<p>K. Stormwater Managed.</p>
<p><i>Stormwater Managed. The proposed development will provide for adequate stormwater management</i></p>
<p>CMA, town peer-review engineer, reports that the applicant has prepared a complete stormwater design and associated analysis and the proposed development meets the requirements of the LUDC. The design was prepared by Attar Engineering and reviewed by CMA Engineers.</p>
<p>Finding: The proposed development conforms to Title 16.8.8 Surface Drainage and will provide for adequate stormwater management.</p>
<p>Conclusion: This standard appears to be met.</p>
<p style="text-align: right;">Vote of ___ in favor ___ against ___ abstaining</p>
<p>L. Erosion Controlled.</p>
<p><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></p>
<p>The Contractor shall follow MDEP best management practices for erosion and sediment control (silt fencing, silt sacks, etc.), and CMA engineers will be notified to observe application during construction (see conditions of approval #2).</p>
<p>Finding: The proposed development conforms to Title 16.8.8 Surface Drainage and will provide for adequate erosion and sediment control measures on site.</p>
<p>Conclusion: This standard appears to be met.</p>
<p style="text-align: right;">Vote of ___ in favor ___ against ___ abstaining</p>
<p>M. Traffic Managed.</p>
<p><i>The proposed development will:</i></p> <ol style="list-style-type: none"><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>
<p>The proposed development does not require a traffic movement permit as it does not create an additional 100 vehicle trips during peak traffic hours. CMA engineers have reviewed the on-site traffic circulation and found it to be adequate.</p>
<p>Finding: With consideration of the waivers granted below, the proposed development conforms to Title 16.8.9 Parking, Loading and Traffic and will provide for adequate traffic circulation.</p>
<p>Conclusion: This standard appears to be met.</p>
<p style="text-align: right;">Vote of ___ in favor ___ against ___ abstaining</p>

<p>N. Water and Air Pollution Minimized.</p> <p><i>The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:</i></p> <ol style="list-style-type: none"> 1. 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. <p>1. The development is located outside of a Flood Hazard Area per the LOMA obtained from FEMA. 2 thru 6. Not applicable to the proposed development.</p> <p>Finding: It does not appear the proposed development will result in undue water or air pollution</p> <p>Conclusion: This standard appears to be met.</p> <p style="text-align: right;">Vote of ___ in favor __ against __ abstaining</p>
<p>O. Aesthetic, Cultural and Natural Values Protected.</p> <p><i>The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.</i></p> <p>Finding: Miller Road has been identified as a scenic road – a no-cut, no-disturb buffer along Miller Road is provided.</p> <p>Conclusion: This standard appears to be met.</p> <p style="text-align: right;">Vote of ___ in favor __ against __ abstaining</p>
<p>P. Developer Financially and Technically Capable.</p> <p><i>Developer is financially and technically capable to meet the standards of this section.</i></p> <p>Finding: The developer will provide an inspection escrow in an amount suitable to cover the costs of on-site inspection by the Peer Review Engineer to ensure the proposed development is constructed according to the approved plan.</p> <p>Conclusion: This standard appears to be met.</p> <p style="text-align: right;">Vote of ___ in favor __ against __ abstaining</p>
<p>Chapter 16.6 DECISION APPEAL, VARIANCE and OTHER REQUESTS</p> <p>16.6.4.4 Special Exception Use Request.</p> <p>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.</p> <p>Finding: The proposed use of the Development as a conventional residential major subdivision located in the Residential- Rural zone appears to have no adverse impact with consideration of the conditions and factors</p>

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 ___ in favor __ against __ abstaining

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 Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers:

- 1) Plan scale per 16.10.5.2.B.2 from 1 inch=30 feet to 1 inch = 50 feet.
- 2) Sidewalks: the applicant proposes no sidewalks on the private road since there no sidewalks on Miller Road to connect them to.

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

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. All Notices to Applicant contained in the Findings of Fact (dated: 08/09/2018).

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

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

Notices to Applicant: (not to be included 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. The owner and/or developer, 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.
5. 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 Chair, or Vice Chair, to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of ___ in favor ___ against ___ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON August 9, 2018

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.



August 2, 2018

Mr. Jamie Steffen, Town Planner
Town of Kittery
200 Rogers Road
Kittery, Maine 03904

**RE: Town of Kittery, Planning Board Services
Final Subdivision Plan Review-Miller Road Subdivision
CMA #591.119**

Dear Mr. Steffen:

CMA Engineers received the following information for Assignment #119, review of the subdivision for the property on Miller Road:

- 1) "Final Subdivision Plan, Miller Road Subdivision, Miller Road, Kittery, Maine", prepared for Joseph Falzone, 7B Emery lane, Stratham, NH, by Attar Engineering, Inc., 1284 State Road, Eliot, ME 03903, dated July 19, 2018.
- 2) Stormwater Management Plan by Attar Engineering, Inc. dated May 23, 2018 and revised June 20, 2018.
- 3) Final plan application by Attar Engineering, Inc. dated July 19, 2018

We have reviewed the information submitted for conformance with the Kittery Land Use and Development Code Zoning Ordinance and general engineering practices and offer the comments below that correspond directly to the Town's Ordinances. The project is in the Residential-Rural Zone (R-RL) and Resource Protection Overlay Zone (OZ-RP).

16.7 General Development Requirements

Article VIII. Net Residential Acreage

16.7.8.2. Kit isn't clear that the applicant has deducted all areas according to:

- K) 50% of all land characterized as drainage class of "somewhat poorly drained".

16.8 Design and Performance Standards-Built Environment

Article VII.: Sewage Disposal

16.8.7.2 The applicant is proposing individual septic systems. Applicant should provide the test pit information.

Article VIII. Surface Drainage

16.8.8.1 There are small increases for all three storms modeled (the 2, 10 and 25-year storms) at two of the analysis points. The applicant should revise stormwater treatment to reduce the flows or apply for a waiver indicating mitigating factors (exclusion of wooded buffers from the model).

- 16.8.8.2 The applicant should include a discussion of post-construction stormwater operations and maintenance that conforms to the Ordinances. The inspection and maintenance log should be specific to the project and list each item to be inspected and the inspection frequency.

16.9 Design and Performance Standards – Natural Environment

Article 1: General

- 16.9.1.3.A.1 The applicant should provide the name and certification number of the person responsible for erosion and sediment control management.
- 16.9.1.4.C The applicant should provide the required information from the High Intensity Soil Survey (“Accompanying Soil Narrative Report” dated January 2018).

General Comments:

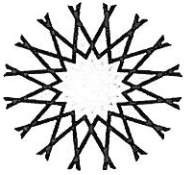
1. The plans should have a cover page.
2. All plans should have revision dates.
3. There is a spelling error in Waivers Granted 2.)

Should you have any questions, please do not hesitate to call.

Very truly yours,
CMA ENGINEERS, INC.



Jodie Bray Strickland, P.E.
Project Engineer



ATTAR

ENGINEERING, INC

CIVIL STRUCTURAL MARINE

Mr. Jamie Steffen, Town Planner
Town of Kittery
P.O. Box 808
Kittery, Maine 03904

August 2, 2018
Project No.: C142-18

**Re: Miller Road Subdivision
Final Plan Application – Waiver Request
Tax Map 56, Lot 20**

Dear Mr. Steffen:

The purpose of this letter is to address a waiver request in reference to the proposed Miller Road subdivision located on Miller Road.

The applicant respectfully requests a waiver from the Kittery Land Use and Development Code Section 16.8.8.1.D(1). The waiver would allow minor increases in stormwater peak flow from the project site.

The justification for the waiver request can be found in the previously submitted Stormwater Management Plan report, dated 6/20/18.

I have also attached revised homeowner's association documents and revised plan sheets 1 and 3.

We look forward to discussing this project with the Planning Board at the 8/9/18 meeting. Please contact me for any additional information or clarifications required.

Sincerely,

Kenneth A. Wood, P.E.
President

cc: Joseph Falzone

C142-18 Kittery Final_waiver.doc

DECLARATION OF COVENANTS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS
FOR
HUTCHINS CREEK HOMEOWNERS ASSOCIATION
A SIX-LOT SUBDIVISION
MILLER ROAD, KITTERY, MAINE

This Declaration of Covenants, Restrictions, Easements, Charges and Liens for Hutchins Creek Homeowners Association (hereinafter "Declaration") is made this ____ day of _____, 2018, by Joseph Falzone, the owner and developer, having a mailing address of 7B Emery Lane, Stratham New Hampshire 03885 (hereinafter the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of a certain parcel of land located in the Town of Kittery, State of Maine (hereinafter the "Subdivision"), as shown on the Subdivision Plan identified below, and

WHEREAS, Declarant desires to make the Subdivision subject to this Declaration in order to: (a) provide for the operation, maintenance, repair and replacement of certain common facilities and amenities located on the Subdivision Property; and (b) preserve the environment of the Subdivision and, to this end, desires to subject the Subdivision to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said Subdivision and each owner of a Lot therein; and

WHEREAS, Declarant has deemed it desirable to create a private, non-profit corporation to which should be delegated and assigned the authority to: (a) carry out certain responsibilities relating to the common facilities and amenities described herein and (b) administer and enforce the covenants, restrictions, easements, charges and liens set forth herein; and

WHEREAS, Declarant has established under the laws of the State of Maine a private, non-profit corporation, Hutchins Creek Homeowners Association, for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, the Declarant declares that the Subdivision is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE 1

DEFINITIONS

The following words, when used in this Declaration or any Amendment thereto (unless the context shall prohibit), shall have the following meanings:

- 1.01 "Articles" shall mean and refer to the Articles of Incorporation which are or shall be filed in the Office of the Maine Secretary of State and which establish the Association.
- 1.02 "Assessment" shall mean a share of the funds required and which are to be assessed against an Owner and Lot for the payment of costs incurred by the Association for and including, but not limited to
- (a) Costs of maintaining roadway, common land, drainage and other similar facilities to the extent these facilities are not accepted for maintenance by governmental jurisdictions,
 - (b) Costs for goods and services determined by the Board to benefit the members,
 - (c) Reserves as determined by the Board,
 - (d) The maintenance and landscaping of roads and common areas in the Subdivision, and
 - (e) Incidental costs related to administration and enforcement of the covenants and restrictions described herein.
- 1.03 "Association" shall mean and refer to the HUTCHINS CREEK HOMEOWNERS ASSOCIATION, a private, non-profit, mutual benefit corporation organized and existing under the laws of the State of Maine.
- 1.04 "Board" shall mean and refer to the Board of Directors of the Association.
- 1.05 "Bylaws" shall mean and refer to the Bylaws of the Association and any amendments thereto.
- 1.06 "Common Expenses" shall mean the expenses for which each such owner is liable, which shall include, but not be limited to
- (a) Costs of maintaining roadways, streetlights, sewer, water, drainage, snow storage area and other similar facilities to the extent these facilities are not accepted for maintenance by governmental jurisdictions,

- (b) Costs for goods or services determined by the Board to benefit the members,
 - (c) Reserves as determined by the Board,
 - (d) The maintenance and landscaping of roads and common areas in the Subdivision, and
 - (e) Incidental costs related to administration and enforcement of the covenants and restrictions described herein.
- 1.07 "Common Properties" shall mean the certain real and personal property designated for ownership by the Association and dedicated to the common use of Owners, including, but not limited to, the road and hammer-head servicing the Subdivision and shown on the Subdivision Plan, the snow storage area shown on the Subdivision Plan, drainage easement areas shown on the Subdivision Plan and utility facilities, if any, not dedicated to governmental entities.
- 1.08 "Declarant" shall mean and refer to Joseph Falzone, and its successors and assigns, who may own or acquire all or a portion of the Subdivision for development purposes, or a mortgagee who acquires title to any portion of the Subdivision by foreclosure against a Declarant.
- 1.09 "Lot" shall mean and refer to an improved or unimproved residential lot, as shown upon one or more Subdivision Plans, together with any dwelling unit(s) and other improvements located thereon.
- 1.10 "Member" shall mean and refer to all Lot Owners who shall be members of the Association in accordance with the provisions of Article 6 hereof.
- 1.11 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot but notwithstanding any applicable theory of title; the term Owner shall not include any mortgagee of a Lot until the mortgagee has acquired the fee simple title pursuant to foreclosure or any proceedings in lieu of foreclosure.
- 1.12 "Subdivision Plan" shall mean and refer to the plan of land entitled, "Subdivision, Miller Road, Kittery, Maine", prepared by Attar Engineering Inc., recorded in the York County Registry of Deeds in Plan Book _____, Pages _____, together with such other plans and amended plans as may be hereafter recorded.

ARTICLE 2

TERM OF DECLARATION

- 2.01 Term. This Declaration shall run with, apply to, and bind the Subdivision in perpetuity and shall inure to the benefit of, and be enforceable by the Declarant and Owners, as appropriate, and their respective legal representative, heirs, successors and assigns, except that the covenants and restrictions in Article 3 shall have an initial term of fifteen (15) years from the date this Declaration is recorded in the York County Registry of Deeds, at the end of which such covenants and restrictions shall be automatically extended for successive periods of five (5) years, unless at least five-sevenths of all of the Lot Owners vote to terminate any or all of said covenants and restrictions at a duly noticed and held meeting in compliance with the provisions of the Bylaws of the Association.
- 2.02 Persons Bound. Unless otherwise indicated, all covenants, restrictions, easements, charges and liens herein are imposed on, charged on, and run with the land and bind the Lot Owners, their assigns, grantees, legal representatives, heirs and mortgagees. Failure to specifically refer to and include or incorporate this Declaration in deeds to Lots in the Subdivision shall not in any manner affect the validity and effectiveness of this Declaration upon any Lot made subject thereto.

ARTICLE 3

GENERAL COVENANTS AND RESTRICTIONS ON SUBDIVISION LOTS

- 3.01 No Lot intended as an individual residential lot as shown on the Subdivision Plan shall be further divided without prior written approval of Declarant and the Town of Kittery Planning Board.
- 3.02 Only single-family dwellings are allowed on each Lot. All single-family dwellings must have at least a two-car garage. All dwellings must have a turning area on the Lot to prevent vehicles from backing into street.
- 3.03 Lot grades shall not be changed in such a way as to divert the natural flow of water onto adjoining Lots.
- 3.04 No building or structure shall be erected, except in conformity with the setback and other land use requirements of the Town of Kittery. Exceptions to the setback requirements set forth above may be granted within the sole discretion of the Declarant, but only to the extent permitted by the Town of Kittery ordinances.
- 3.06 Each dwelling erected or constructed on any Lot shall contain a minimum

- of one thousand seven hundred (1,700) square feet floor area. The method for determining the area of proposed buildings and structures shall be to multiply the outside horizontal dimensions of the building or structure at each floor level, excluding garages, breezeways, basements, decks, porches, patios and terraces in the calculation of the minimum square foot area. Exceptions to this restriction may be granted within the sole discretion of the Declarant upon written application by an Owner or prospective owner.
- 3.07 Each Lot shall be served by an on-site wastewater disposal system and water service (drilled well). The Owner of the Lot is responsible for maintaining and promptly repairing or replacing the wastewater disposal system in the event of malfunction; the septic tank should be pumped at least every two years.
 - 3.08 Once construction is commenced upon a Lot, completion of all construction shall be accomplished as soon as is reasonable and in no event shall it be longer than one year from the time of commencement to complete construction. Completion shall include, but shall not be limited to exterior finishing, exterior landscaping, decorating and driveways. Driveways shall be finished with asphalt, concrete or other hard, dustless finished surface approved by the Declarant.
 - 3.09 No temporary building, trailer, vehicle or structure shall be erected or placed on a Lot, except during the active phase of constructing a dwelling. For purposes of interpreting this clause, the "active phase of constructing" shall be limited to the period of one calendar year from the day work is commenced in clearing for the foundation of the dwelling. Sheds and fences are permitted subject to the provisions of Article 9.
 - 3.10 No earth, stone or gravel removed from the site of a foundation shall be allowed to remain on a Lot in an unsightly manner.
 - 3.11 No structure on a Lot shall be left with an unfinished exterior. The exterior of all structures shall be kept in a proper state of repair and maintenance.
 - 3.12 All propane fuel tanks shall be installed in the ground. All oil fuel tanks shall be installed on a concrete slab in either the garage or basement, or constructed within a permitted wall or structure so that they shall not be visible from adjoining properties, or the right of way shown on the Subdivision Plan. If above-ground or outside the home or garage, the structure or wall must also be reasonably landscaped.
 - 3.13 No incinerator shall be erected or maintained on any Lot.
 - 3.14 All garbage and trash containers must be placed in an adjoining attractive and suitable walled or screened area so that they shall not be visible from

other Lots or the right of way.

- 3.15 No outdoor clothes drying areas shall be allowed except in the rear yard and shall be situated so as not to be visible from the adjoining Lots or the right of way.
- 3.16 No trash, waste, filth, tools, or garden equipment shall be allowed to accumulate on a Lot or the exterior of any structure in such a manner as to give an unsightly appearance, to create a nuisance, or depreciate the Subdivision.
- 3.17 No private swimming pools, tennis courts, or similar areas for outdoor physical activities or games, shall be erected or constructed on a Lot without the written approval of the Declarant. Above ground swimming pools will not be permitted.
- 3.18 The Subdivision shall be used for private residential purposes only, and no commercial, manufacturing, or industrial use shall be permitted at any time, except for a professional home office; provided that
 - (a) In no instance shall the permitted professional home office occupy a space greater than fifteen percent (15%) of the entire floor area of the home in which it is contained;
 - (b) No noise, odor, or disorderly appearance shall be created that is unreasonably offensive to the surrounding Lots; and such use is not prohibited by zoning.
- 3.19 An Owner, however, may, in his absence, rent his dwelling subject to the restrictions herein no more than twice in each calendar year. In such events, the Owner, his tenant and their families are subject to the restrictions herein.
- 3.20 An Owner shall be entitled to rent or lease his dwelling if
 - (a) There is a written rental or lease agreement specifying that
 - (i) The tenant shall be subject to all provisions of this Declaration, the Bylaws and Rules and Regulations adopted by the Board; and
 - (ii) A failure to comply with any provision of such Declaration, Bylaws and Rules and Regulations shall constitute a default under the agreement, permitting the commencement of eviction proceedings in accordance with Maine law;
 - (b) The Owner gives each tenant a copy of the Declaration, Bylaws and Rules and Regulations; and

(c) The Owner provides the Board with a copy of the lease agreement, together with written authorization to the Board to order the eviction of the tenant for violation of the terms of said lease or the Declaration, Bylaws or Rules and Regulations at the reasonable expense of the Owner.

- 3.21 No mobile home, trailer, or other similar, temporary or movable product or structure used as a living area shall be erected, placed, or caused to remain upon any Lot herein. Unregistered vehicles are prohibited unless stored in the garage. Small boats (less than 20 feet in length) and RV's are permitted on Lots but shall be stored in a tidy manner.
- 3.22 No vehicles shall be parked in driveways unless the length of the driveway is sufficient to hold the entire vehicle, and in no event shall vehicles be parked in such a manner as to inhibit or block access to Right of way. All driveways shall be used solely for the parking and storage of motor vehicles used for personal transportation, small boats and RV's. Garage doors shall remain closed except when the garage is in use. No part of the right of way or snow storage area shall be used for repair, construction or reconstruction of any vehicle, boat, RV or any other item or thing except in an emergency. As long as applicable ordinances and laws are observed, the Board may cause the removal of any vehicle, boat or RV that is in violation of this Declaration.
- 3.23 No obstruction of traffic in the Right-Of-Way and no blocking of entries to the various Lots by reason of the parking of vehicles and trailers are allowed. Lot Owners shall be responsible for any such obstruction by members of their households, their lessees, invitees, and guests.
- 3.24 No snow, ice, gravel, loam, compost, leaves, fertilizers, other mineral waste products or commodities shall be piled or stored within ten (10) feet of lines of adjoining Lots.
- 3.25 No noise or disturbance shall be made, suffered, or permitted on any Lot so as to constitute a nuisance to adjoining or neighboring Lots in the Subdivision.
- 3.26 Any purchaser of a Lot in the Subdivision shall be allowed to keep on his premises common domestic household animals. In interpreting this clause, domestic animals shall be dogs, cats, birds, and related animals. Any and all other animals shall be considered non-domestic. Under no circumstances shall commercial dog kennels or veterinary facilities be allowed. The Board may adopt rules and regulations to govern the keeping of pets so as to insure that no pets of an Owner interfere with the rights of other Owners to quiet enjoyment of the Subdivision Property. Owners shall be responsible for the cleanup of all waste matter of their pets. The Board may issue fines or order the removal of pets from the Subdivision for repeated violations of these restrictions.

- 3.27 Only one "For Sale" sign, not larger than six (6) square feet per side of a freestanding sign may be erected or displayed on any Lot or on any structure in the Subdivision. No other signs or displays, including, but not limited to commercial signs, shall be erected or displayed on the Lots or structures, except with the written permission of the Homeowners Association.
- 3.28 Lot No's 1, 2, 3, 4, 5 and 6 are subject to wooded buffers as depicted on the plan, wherein cutting of vegetation is restricted in accordance with guidelines noted in General Notes 10 and 16 of the Final Subdivision Plan (Sheet 1).
- 3.29 Fences. All fencing shall be wood, vinyl or natural stone. No chain link fencing is permitted except to enclose swimming pools. No fence exceeding six (6) feet in height shall be permitted on any lot, except as part of an approved tennis court layout. All fences shall be constructed with finished side facing away from the dwelling.
- 3.30 Tree Removal. Within the wooded buffer areas and within 100' of the Freshwater Wetland associated with Hutchins Creek, as depicted on the plan, cutting of vegetation is restricted in accordance with guidelines noted in General Notes 11 and 16 of the Final Subdivision Plan. Invasive species such as Barberry, Russian Olive, Multi-Flora Rose and Bittersweet may be removed from wooded buffer areas.
- 3.33 Prohibited Building Type and Vehicle Use and Storage Activities
No metal buildings are permitted. No all-terrain vehicles, off road vehicles or snowmobiles shall be used on the premises nor shall any such vehicles nor any commercial vehicles, pleasure or commercial boats, motor homes, campers, trailers, powered or non-powered, be kept on the premises except out of sight of the roadway or stored in a garage or outbuilding conforming to these covenants. Unregistered or uninspected automobiles or automobiles being repaired or refinished over a period in excess of fourteen (14) consecutive days shall be stored in a garage or other enclosed structure.
- 3.34 Time for construction. The construction of any building shall be completed within nine (9) months from the time construction is begun. Completion is defined to include, but not limited to, exterior finishing, landscaping, paving and painting.
- 3.35 Building and site maintenance. During construction, no unsightly condition shall be permitted to exist on the property. Materials shall be neatly stacked on site or placed within the incomplete structure. Stockpiling of materials and parking of construction vehicles and equipment when not in use shall be no closer than 50 feet from the roadway. Construction debris

shall be kept in a dumpster. Any disturbance to the land area within the subdivision roadway right of way shall be repaired to include pavement grading, loam and speed, and replacement of any shrubs or plantings which have been damaged or destroyed.

- 3.36 Animals and pets.
A) No livestock or poultry of any kind shall be kept on any lots. Domestic dogs and cats are permitted provided that no kenneling or breeding for commercial purposes shall be allowed.
B) No domestic dogs, chained, tethered, roped, or otherwise secured outside of any dwelling causing any nuisance by reason of constant or continual barking shall be allowed in the subdivision.
- 3.37 Yard Maintenance. All lot owners shall maintain lawns and landscaping in an attractive manner.
- 3.38 Signs. No signs or billboards shall be erected or displayed on any lot or building thereon except a size not exceeding four (4) square feet as may pertain to the lease or sale of a lot or home.
- 3.39 Rubbish Disposal. No dumping, burning, or burying of rubbish, waste, trash, garbage or other refuse shall be permitted. Garbage, trash and other refuse shall be kept in closed containers which shall be screened from sight or located within a building, and removed at regular intervals.
- 3.40 Fuel Storage. No external tank for fuel storage shall be maintained unless buried, screened from sight or located within a building.

ARTICLE 4

COMMON PROPERTIES; EASEMENTS

- 4.01 Members' Easement of Enjoyment. Subject to the provisions of this Declaration and the Bylaws and Rules and Regulations of the Association, every Owner of a Lot shall have a right and easement of use and enjoyment in and to use the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.
- 4.02 Title to Common Properties. The title to the Common Properties other than the "Drainage Easement" areas shall be conveyed in fee simple to the Association by the Declarant no later than XXXX. The Association is hereby granted a perpetual easement over, through and under the "Drainage Easement" areas, including those located on the Lots, as shown on the Subdivision Plan for the purpose of cleaning, replanting, cutting, landscaping and otherwise maintaining the drainage swales, and

associated drainage facilities as required by the Kittery Planning Board.

4.03 Easements. The Subdivision and the rights and easements of enjoyment created hereby shall be subject to the following easements:

(a) Every Owner shall have an easement in the Common Properties to use the roads, walks and other common improvements located thereon, subject to the right of the Association to promulgate rules and regulations for the protection, use and enjoyment of the Common Properties or to suspend the voting rights of any Owner for any period during which any Assessment remains unpaid or violations of these covenants exist, but access to the Owner's Lot shall not be denied.

(b) The right of the Association to dedicate or transfer any part of the Common Properties to any municipal, county, state, federal, or other public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by majority vote of the Owners at a duly noticed and held meeting in accordance with the Bylaws.

(c) The Declarant reserves a perpetual, non-exclusive, transferable easement, without limitation or restriction, to facilitate development of Subdivision.

(d) A blanket non-exclusive easement is reserved for the Declarant, its successors and assigns, in, upon, over, under, across, and through the Subdivision for the purpose of installation, maintenance, repair, and replacement of all utility lines and any other equipment and machinery necessary or incidental for the proper function of any utility systems serving the Subdivision or any other development on adjacent or nearby land, which easements may be specifically conveyed to a public utility or municipality supplying the service. The easements created by this section 4.03(d) shall include, without limitation, rights of the Declarant or the appropriate utility or service company or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, drainage ditches and pump stations, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits, equipment, ducts and vents over, under, through, along and on the Lots and Common Properties. Notwithstanding the foregoing, any such easement shall not be exercised as to materially interfere with the use or occupancy of any dwelling on a Lot.

(e) A blanket and non-exclusive easement is reserved for the Declarant, its successors and assigns, in, upon, over, under, through and across the Subdivision as long as the Declarant, its successors and assigns shall be engaged in the construction, development, and sale of lots within the Subdivision.

- 4.04 Use and Maintenance of Subdivision Road. Lot's 1, 2 and 6 shall be benefited with a non-exclusive right and easement to use the private right of way and cul-de-sac to be named "Hutchins Creek" which provides access to and from Miller Road, a public way. The Common Expenses shall include the Owners' proportionate share of the costs (the "Road Costs") of maintenance, repair, and replacement of right-of-way. Lot's 4 and 5 shall have similar use and responsibilities to the shared driveway located on their common sideline.
- 4.05 Stormwater/Erosion Control. The Association shall maintain all stormwater drainage swales, culverts, storage areas and related improvements located within the Subdivision, which includes all Common Properties and the Lots. Alteration or disturbance of stormwater improvements constructed by Declarant or the Association in accordance with the drainage plan approved by the Town of Kittery is strictly prohibited, the breach of which shall provide the Declarant and the Association, with all available legal and equitable remedies, together with the right to recover attorneys fees and cost from the party in breach in connection with any enforcement action. Maintenance of Other Drainage Facilities and Erosion Control Practices during Construction.

The Miller Road Subdivision located on Miller Road, Kittery, Maine contains specific Best Management Practices (BMP's) for the conveyance, storage, and treatment of stormwater and the prevention of erosion. These BMP's consist of a stormwater treatment area, swales and culverts for stormwater and a stabilized construction entrance, siltation fences and seeding/fertilizing and mulching controls for erosion control. All Stormwater Treatment, Drainage and Permanent and Temporary Erosion Control Practices shall be inspected during construction, annually after construction or after a storm event which produces 1" of rainfall or greater within a 24-hour period. As these BMP's have been required of Declarant during the construction phase, Declarant reserves to itself, its successors and assigns, all rights of entry in and to any Lot for any purpose consistent with the BMP's. In particular, but without limitation, Declarant reserves such rights for the following purposes:

Stormwater Treatment Areas

The Stormwater Treatment area to ensure that there is no channeling of stormwater and that no debris accumulates within the detention areas. The vegetative cover conditions shall be maintained. The inlets and outlets shall be inspected for erosion and any evidence of debris that could clog the culverts. Emergency spillways and level spreaders shall be inspected for any evidence of drilling and channeling and shall be maintained to promote a level, sheet-flow discharge.

Swales

All swales should be inspected for accumulation of debris, which could adversely affect the function of this BMP. These areas should also be maintained to have gradual slopes, which prevents channeling of stormwater and erosion of the bottom and sides of the swales.

Culverts

Culvert inlets and outlets should be inspected for debris, which could clog the BMP. Additionally, the placement of rip-rap should be inspected to ensure that all areas remain smooth and no areas exhibit erosion in the form of rills or gullies.

Snow Removal

Snow shall never be plowed into wetland areas. Additionally, a mostly sand mix (reduced salt) shall be applied during winter months to prevent excessive salt from leaching to the wetland areas. Excess sand shall be removed from the storage areas, all paved surfaces and adjacent areas each spring.

Stabilized Construction Entrance

The stabilized construction entrance shall be inspected to ensure that all stone materials remain in place and that the entrance is not clogged with silt and mud. This BMP must remain effective in removing silt from construction vehicles prior to travel on the public way, Miller Road.

Siltation Fence

All silt fences must be installed, inspected and repaired in accordance with the plan details and notes. Excess silt must be removed from the up-gradient side of the fence and all fences must remain in a vertical position.

Seeding, Fertilizing and Mulching

All exposed soil materials and stockpiles must be either temporarily or permanently seeded, fertilized and mulched in accordance with plan specifications. This is one of the most important features of the Erosion Control Plan, which will provide both temporary and permanent stabilization. Areas must be repaired until a 75% effective growth of vegetation is established.

ARTICLE 5

ASSESSMENTS

- 5.01 General. The making and collecting of Assessments against Members for Common Expenses shall be pursuant to the Bylaws of the Association.

- 5.02 Share of the Common Expenses. Each Member shall be liable for an equal share of the common expenses except that the Declarant shall pay all direct costs necessary to operate the Association and maintain its property until XXXX.
- 5.03 Annual Assessment. The annual common expense incurred for operation, maintenance, improvement, and repair of the Common Properties shall be estimated in accordance with the Bylaws of the Association. The Annual Assessment will be payable in semi-annual installments based on the projected annual common expense.
- 5.04 Non-Waiver. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Properties or by the abandoning of a Lot for which assessments are made.
- 5.05 Interest, Application of Payment. Owners paying assessments and installments of such assessments more than thirty (30) days after date when due shall be assessed a late fee and/or additional interest established by the Board of Directors. All payments on accounts shall be first applied to interest and then to the assessment first due.
- 5.06 Lien for Assessments. The Association shall have a lien on each Lot for any unpaid assessments, together with interest thereon against the Owner of such Lot, together with a lien on all real property, improvements and tangible personal property located upon said Lot, except that such lien upon the aforesaid tangible personal property shall be subordinated to prior bona fide liens of record. Reasonable attorneys' fees incurred by the Association, to the extent allowable by law, incident to the collection of such assessments or the enforcement of such lien, together with all sums advanced, shall be payable by owner and secured by such lien. The Association's lien shall also include those sums advanced on behalf of each Owner in payment of his obligation for use.
- 5.07 Subordination of the Lien to Mortgages. The lien for assessments as hereinabove provided for shall be inferior to the lien of any institutional mortgage or mortgages. Sale or transfer shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to the mortgage of any institutional lender, pursuant to foreclosure proceedings under such mortgage or any proceeding or deed in lieu of foreclose thereof, shall extinguish the lien of such assessments as to payments thereof, which became due prior to such sale or transfer.
- 5.08 Collection and Foreclosures. The Board of Directors may take such actions as they deem necessary to collect assessments of the Association by personal action or by enforcing the foreclosing interests of the Association.

ARTICLE 6

HUTCHINS CREEK HOMEOWNERS ASSOCIATION

- 6.01 Association. In order to provide for the proficient and effective administration of the Subdivision by the Lot Owners, a non-profit, mutual benefit corporation known and designated as Hutchins Creek Homeowners Association has been or shall be organized under the laws of the State of Maine, and said corporation shall administer the operation and management of the Subdivision and undertake and perform all actions and duties incident thereto and in accordance with the terms, provisions, and conditions of this Declaration and in accordance with the terms of the Articles of Incorporation, its Bylaws, and Rules and Regulations promulgated by the Association from time to time.
- 6.02 Articles of Incorporation. The Articles of Incorporation for the Association will be filed with the Maine Secretary of State.
- 6.03 Limitation upon Liability of Association. Notwithstanding the duty of the Association to maintain or repair portions of the Subdivision, the Association shall not be liable to any Owner for injury or damage, other than the costs of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.
- 6.04 Restraint upon Assignment of Shares and Assets. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to his Lot.
- 6.05 Approval or Disapproval of Matters. Whenever a decision of the Association is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed in accordance with the Bylaws of the Association.
- 6.06 Membership. The Record Owners of Lots in the Subdivision shall be Members of the Association and no other persons or entities, except that Declarant shall be entitled to membership. Membership shall be established by acquisition of ownership of fee title or other interest in a Lot whether by conveyance, devise, judicial decree, foreclosure or otherwise, subject to the provision of this Declaration and by the recordation in the York County Registry of Deeds of the deed or other instrument establishing the acquisition and designating the Lot affected thereby and by the delivery to the Association of a true copy of such recorded deed or other instrument. The new Owner designated in such deed or other instrument shall thereupon become a Member of the Association, and the

membership of the prior Owner as to the Lot designated shall be irrevocably and automatically terminated.

- 6.07 Voting. Except as otherwise set forth in the Articles of Incorporation or Bylaws regarding Declarant's voting rights, on all matters to which the members shall be entitled to vote, there shall be only one vote for each Lot.
- 6.08 Controls by Declarant. Notwithstanding the foregoing or anything contained in this Declaration to the contrary, Declarant shall have the sole and exclusive right to appoint officers and directors of the Association until the earliest to occur of the following:
- (a) XXXX; or
 - (b) Declarant's written notice to the Association of its election to transfer control to the Association.

During the period of control as set forth herein, Members of the Association, otherwise qualified hereunder, shall have non-voting membership, unless the provisions of this sentence expressly are waived relative to a particular issue by a writing signed by the Declarant. Upon Declarant turning control of the Association over to the Members as provided herein, it shall file appropriate documents in the York County Registry of Deeds. Thereafter, for so long as Declarant has any ownership interest in Subdivision property, it shall continue to have the right to appoint one Member of the Board of Directors as provided in the Bylaws.

ARTICLE 7

NOTICES TO ASSOCIATION

- 7.01 Notice of Lien. An Owner shall give notice to the Association of every lien upon his Lot other than for permitted mortgages, taxes, and special assessments within five (5) days after the attaching of the lien.
- 7.02 Notice of Suit. An Owner shall give notice to the Association of every suit or other proceeding which may affect the title to his Lot, such notice to be given within five (5) days after the Owner receives knowledge thereof.
- 7.03 Failure to Comply. Failure to comply with this Article 7 will not affect the validity of any judicial sale or foreclosure proceedings or deed in lieu of foreclosure.

ARTICLE 8

AMENDMENTS

- 8.01 General. The covenants, restrictions, easements, charges, and liens of this Declaration may be amended from time to time, but only by an instrument signed by not less than five-sevenths of all of the Lot Owners (including Declarant) or accompanied by a certificate of the Secretary of the Association that such a vote was cast at a duly called and held meeting of the Owners. However, until the Declarant has completed all of the contemplated improvements and closed the sales of all Lots within the Subdivision, or XXXX, whichever occurs earlier, no amendment(s) to this Declaration shall be effective, unless joined by the Declarant. It is further provided that in order to be effective any amendment to the Declaration must be recorded in the York County Registry of Deeds.
- 8.02 Declarant's Rights. Notwithstanding anything herein to the contrary, the Declarant reserves the right to alter and amend this Declaration, as it deems necessary and /or appropriate for the protection and enhancement of the Subdivision or of any adjacent or contiguous land owned by the Declarant, and the Declarant shall not require or need the joinder of any Lot Owners, prior to such time as the Declarant conveys the last Lot of the Subdivision, elects to terminate its control over the Association or XXXX, whichever shall first occur, provided, however, that all such amendments shall be in compliance with the applicable laws of the State of Maine.
- 8.03 Restricted Amendments. No amendment and no rule or regulation shall discriminate against any Owner or against any Lot unless the Owner so affected and his institutional mortgagee shall consent; and no amendment or rule or regulation may change the method by which the Owner shares the Common Expenses unless the Owner and his institutional mortgagees join in the execution of the amendment, except as otherwise provided herein.

ARTICLE 9

GENERAL

- 9.01 Severability. The invalidation in whole or in part of any section, subsection, sentence, clause, phrase, word or other provision of this Declaration shall not affect the validity of the remaining portions that shall remain in full force and effect.
- 9.02 Rule against Perpetuities. In the event any court shall hereafter determine that any provisions as originally drafted herein shall violate the rule against perpetuities, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of the law.

- 9.03 Arbitration. Any dispute hereunder shall be submitted to binding arbitration under the Maine Uniform Arbitration Act, as may be amended. Any decision in arbitration may be filed in the Office of the Clerk, York County Superior Court, as a judgment, and shall be exclusive, final, and binding on the parties to the arbitration.

ARTICLE 10

RIGHTS AFFORDED LOT OWNERS AND INSTITUTIONAL LENDERS

- 10.01 Availability of Documents. The Association shall be required to make available to Owners and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration, Articles, Bylaws, or other rules concerning the Subdivision and the books, records, and financial statements of the Association. "Available" means available for inspection, upon request, during normal hours or under other reasonable circumstances.

Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of

(a) Any condemnation loss or any casualty loss which affects a material portion of the project or any Lot on which there is a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days; or

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Homeowners Association.

- 10.02 Rights of Mortgagees. A first mortgagee, upon request, is entitled to written notification from the Association of any default in the performance by the Individual Owner of any obligation under the Declaration which is not cured within sixty (60) days. In addition, first mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may be or have become a charge against any Common Property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Property, and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein,
has hereunto set its hand and seal this _____ day of _____ 2018.

WITNESS:

Joseph Falzone

By: _____
Joseph Falzone

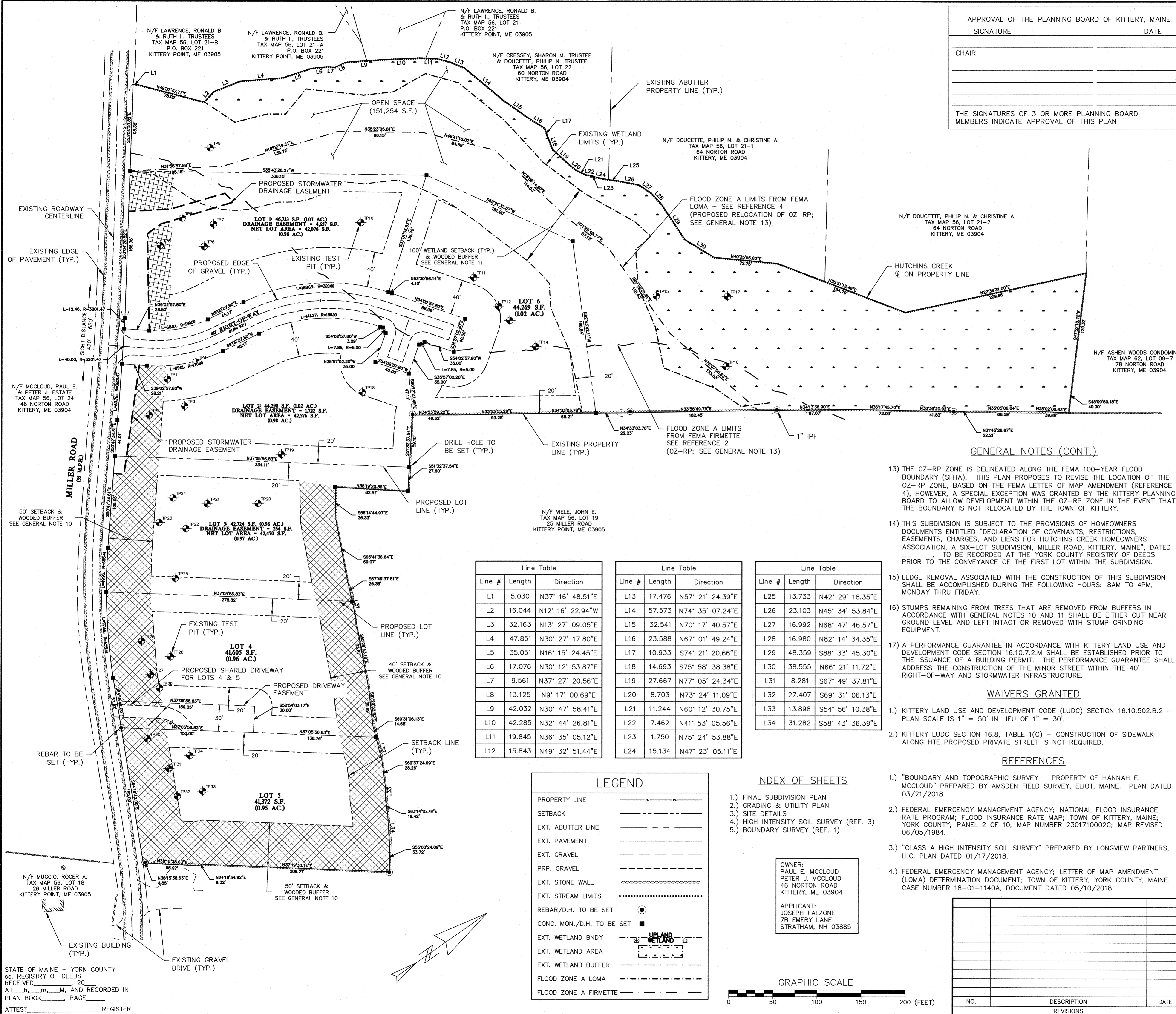
STATE OF MAINE
COUNTY OF YORK

Date:

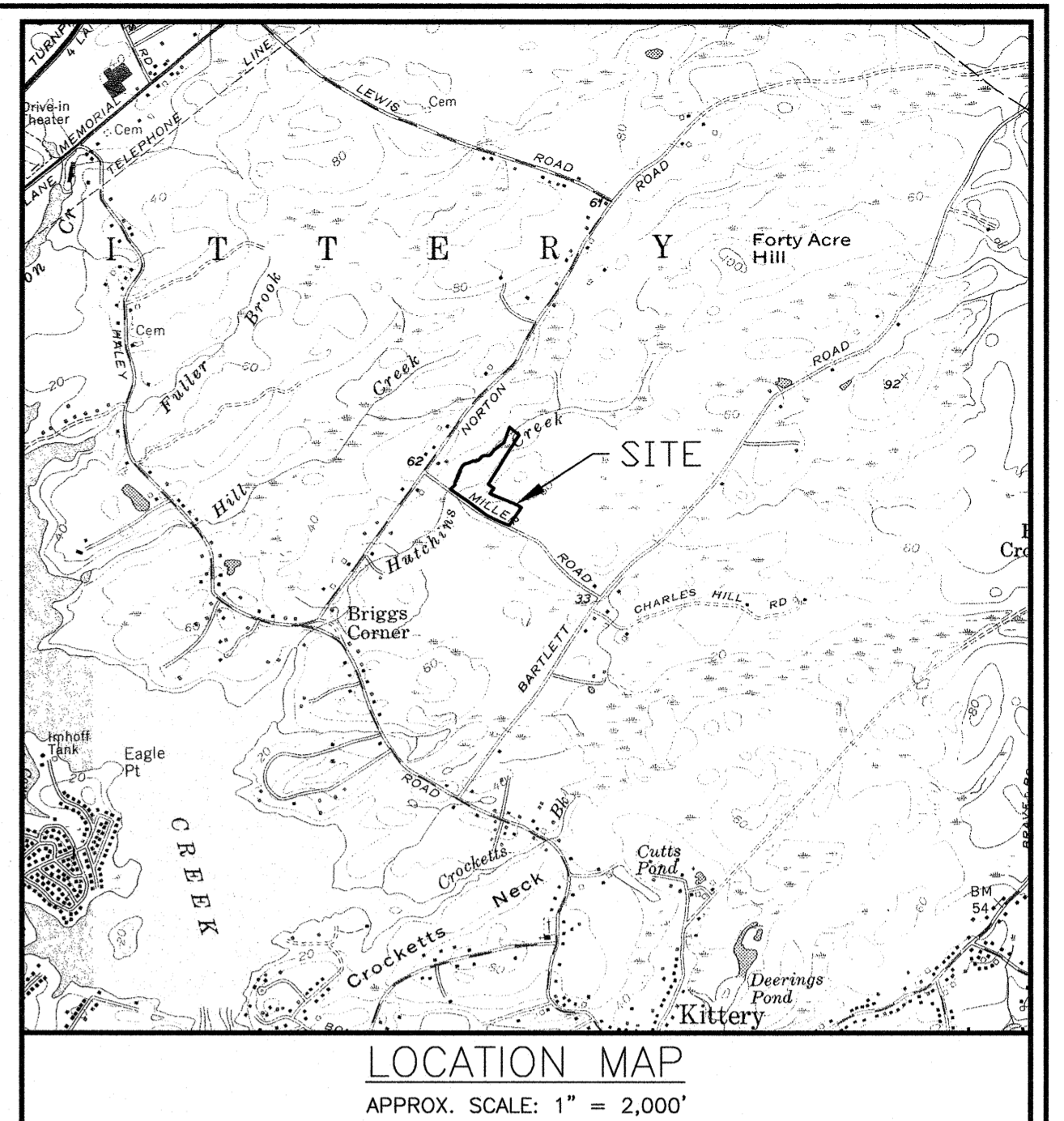
Then personally appeared the above named Joseph Falzone, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed.

Before me,

Notary Public:
Printed Name:
Commission Expires:



APPROVAL OF THE PLANNING BOARD OF KITTERY, MAINE	
SIGNATURE	DATE
CHAIR	
THE SIGNATURES OF 3 OR MORE PLANNING BOARD MEMBERS INDICATE APPROVAL OF THIS PLAN	



GENERAL NOTES

- THIS PLAN PROVIDES FOR A 6-LOT RESIDENTIAL SUBDIVISION AT MILLER ROAD KITTERY, MAINE.
- THE EXISTING PARCEL IS 9.97 ACRES, LOCATED IN THE RESIDENTIAL-RURAL (R-RL) ZONING DISTRICT AND RESOURCE PROTECTION (OZ-RP), TAX MAP 56 LOT 20.
- EXISTING CONDITIONS AND TOPOGRAPHY (DATUM NGVD 1929) WERE PERFORMED BY AMSDEN FIELD SURVEY, ELIOT, MAINE (SEE REFERENCE 1). TEST PITS, WETLANDS AND HIGH INTENSITY SOIL SURVEY WERE PROVIDED BY REF. 3.
- THE PROPOSED LOTS SHALL BE SERVICED BY INDIVIDUAL, PRIVATE, SUBSURFACE WASTEWATER DISPOSAL SYSTEMS (SSWDS) AND INDIVIDUAL, PRIVATE, DRILLED WATER SUPPLY WELLS. WELL SEPARATION 100' FROM EXISTING/PROPOSED SSWDS.
- SPACE AND BULK REQUIREMENTS FOR THE R-RL ZONING DISTRICT ARE AS FOLLOWS:

ZONING DISTRICT R-RL	
MIN. LAND AREA	40,000 SF
MIN. LOT AREA	40,000 SF
MIN. STREET FRONTAGE	150'
MIN. FRONT SETBACK	40'
MIN. SIDE SETBACK	20'
MIN. REAR SETBACK	20'
MAX. BLDG. HEIGHT	35'

SEE PLAN FOR SETBACK INCREASES ON SPECIFIC LOTS

- NET RESIDENTIAL AREA CALCULATIONS:
 TOTAL PARCEL AREA = 434,288 S.F. = 9.97 AC.
 LESS 50% OF WETLANDS SETBACK = 4,874 S.F. = 0.11 AC.
 LESS UNSUITABLE SOILS* = 159,245 S.F. = 3.66 AC.
 LESS RIGHTS OF WAY/EASEMENTS = 28,722 S.F. = 0.65 AC.
 EXPOSED BEDROCK = 1,358 S.F. = 0.03 AC.
 NET RESIDENTIAL AREA => 240,089 S.F. = 5.51 AC.
- NET RESIDENTIAL DENSITY = 240,089 / 40,000 = 6.01 LOTS > 6 => OK
- NET RESIDENTIAL DENSITY = 240,089 / 40,000 = 6.01 LOTS > 6 => OK
- MIN. OPEN SPACE CALCULATIONS:
 MIN. OPEN SPACE (15% OF 9.97 AC) = 65,143 S.F. = 1.50 AC.
 OPEN SPACE PROVIDED (APPROX.) = 151,254 S.F. = 3.47 AC.
- A SHARED DRIVEWAY IS PROPOSED FOR LOTS 4 AND 5.
- THE PROJECT SITE IS ENTIRELY WOODED IN EXISTING CONDITION.
- A WOODED BUFFER SHALL BE MAINTAINED WITH CERTAIN PROPERTY LINE SETBACKS AS DEPICTED ON THE PLAN. EXISTING VEGETATION SHALL BE PRESERVED WITHIN THE BUFFER WITH THE FOLLOWING EXCEPTIONS: DEAD, DYING, OR DISEASED VEGETATION; UNDERBRUSH (STEM DIAMETER 1" OR LESS); LARGE TREES THAT PRESENT A HAZARD TO STRUCTURES OR UTILITIES; CLEARING NECESSARY TO CONSTRUCT THE GRADING AND DRIVEWAYS DEPICTED ON THE PLANS; CLEARING/TRIMMING DEEMED NECESSARY BY CENTRAL MAINE POWER COMPANY TO EXTEND UTILITIES ALONG MILLER ROAD. LAWN AREAS SHALL NOT BE ESTABLISHED OR MAINTAINED WITHIN THESE BUFFERS. SEE GENERAL NOTE 16.
- A 100' WOODED BUFFER SHALL BE MAINTAINED ALONG ALL WETLAND BOUNDARIES AS DEPICTED ON THE PLAN. THIS BUFFER SHALL BE MAINTAINED WITH RESTRICTIONS FOR "FORESTED BUFFER, NO DISTURBANCE" FROM THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION PUBLICATION CHAPTER 500 (STORMWATER MANAGEMENT), APPENDIX G.2.1. SEE GENERAL NOTE 16.
- THE 40' RIGHT-OF-WAY SHALL BE AND MUST REMAIN A PRIVATE ROAD, WITH THE PROPERTY OWNERS, HOMEOWNER'S ASSOCIATION, OR OTHER SUCH ENTITY BEARING ALL RESPONSIBILITY FOR MAINTENANCE, INCLUDING BUT NOT LIMITED TO: SNOWPLOWING, PAVING, AND STORMWATER SYSTEM OPERATION AND REPAIR.

GENERAL NOTES (CONT.)

- THE OZ-RP ZONE IS DELINEATED ALONG THE FEMA 100-YEAR FLOOD BOUNDARY (SFHA). THIS PLAN PROPOSES TO REVISE THE LOCATION OF THE OZ-RP ZONE, BASED ON THE FEMA LETTER OF MAP AMENDMENT (REFERENCE 4). HOWEVER, A SPECIAL EXCEPTION WAS GRANTED BY THE KITTERY PLANNING BOARD TO ALLOW DEVELOPMENT WITHIN THE OZ-RP ZONE IN THE EVENT THAT THE BOUNDARY IS NOT RELOCATED BY THE TOWN OF KITTERY.
- THIS SUBDIVISION IS SUBJECT TO THE PROVISIONS OF HOMEOWNERS DOCUMENTS ENTITLED "DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES, AND LIENS FOR HUTCHINS CREEK HOMEOWNERS ASSOCIATION, A SIX-LOT SUBDIVISION, MILLER ROAD, KITTERY, MAINE", DATED _____ TO BE RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS PRIOR TO THE CONVEYANCE OF THE FIRST LOT WITHIN THE SUBDIVISION.
- LEDGE REMOVAL ASSOCIATED WITH THE CONSTRUCTION OF THIS SUBDIVISION SHALL BE ACCOMPLISHED DURING THE FOLLOWING HOURS: 8AM TO 4PM, MONDAY THRU FRIDAY.
- STUMPS REMAINING FROM TREES THAT ARE REMOVED FROM BUFFERS IN ACCORDANCE WITH GENERAL NOTES 10 AND 11 SHALL BE EITHER CUT NEAR GROUND LEVEL AND LEFT INTACT OR REMOVED WITH STUMP GRINDING EQUIPMENT.
- A PERFORMANCE GUARANTEE IN ACCORDANCE WITH KITTERY LAND USE AND DEVELOPMENT CODE SECTION 16.10.7.2.M SHALL BE ESTABLISHED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT. THE PERFORMANCE GUARANTEE SHALL ADDRESS THE CONSTRUCTION OF THE MINOR STREET WITHIN THE 40' RIGHT-OF-WAY AND STORMWATER INFRASTRUCTURE.

WAIVERS GRANTED

- KITTERY LAND USE AND DEVELOPMENT CODE (LUDC) SECTION 16.10.502.B.2 - PLAN SCALE IS 1" = 50' IN LIEU OF 1" = 30'.
- KITTERY LUDC SECTION 16.8, TABLE 1(C) - CONSTRUCTION OF SIDEWALK ALONG THE PROPOSED PRIVATE STREET IS NOT REQUIRED.

REFERENCES

- "BOUNDARY AND TOPOGRAPHIC SURVEY - PROPERTY OF HANNAH E. MCCLLOUD" PREPARED BY AMSDEN FIELD SURVEY, ELIOT, MAINE. PLAN DATED 03/21/2018.
- FEDERAL EMERGENCY MANAGEMENT AGENCY; NATIONAL FLOOD INSURANCE RATE PROGRAM; FLOOD INSURANCE RATE MAP; TOWN OF KITTERY, MAINE; YORK COUNTY; PANEL 2 OF 10; MAP NUMBER 2301710002C; MAP REVISED 06/05/1984.
- "CLASS A HIGH INTENSITY SOIL SURVEY" PREPARED BY LONGVIEW PARTNERS, LLC. PLAN DATED 01/17/2018.
- FEDERAL EMERGENCY MANAGEMENT AGENCY; LETTER OF MAP AMENDMENT (LOMA) DETERMINATION DOCUMENT; TOWN OF KITTERY, YORK COUNTY, MAINE. CASE NUMBER 18-01-1140A, DOCUMENT DATED 05/10/2018.

Line #	Length	Direction
L1	5.030	N37° 16' 48.51"E
L2	16.044	N12° 16' 22.94"W
L3	32.163	N13° 27' 09.05"E
L4	47.851	N30° 27' 17.80"E
L5	35.051	N16° 15' 24.45"E
L6	17.076	N30° 12' 53.87"E
L7	9.561	N37° 27' 20.56"E
L8	13.125	N09° 17' 00.69"E
L9	42.032	N30° 47' 58.41"E
L10	42.285	N32° 44' 26.81"E
L11	19.845	N36° 35' 05.12"E
L12	15.843	N49° 32' 51.44"E

Line #	Length	Direction
L13	17.476	N57° 21' 24.39"E
L14	57.573	N74° 35' 07.24"E
L15	32.541	N70° 17' 40.57"E
L16	23.588	N67° 01' 49.24"E
L17	10.933	S74° 21' 20.66"E
L18	14.693	S75° 58' 38.38"E
L19	27.667	N77° 05' 24.34"E
L20	8.703	N73° 24' 11.09"E
L21	11.244	N60° 12' 30.75"E
L22	7.462	N41° 53' 05.56"E
L23	1.750	N75° 24' 53.88"E
L24	15.134	N47° 23' 05.11"E

Line #	Length	Direction
L25	13.733	N42° 29' 18.35"E
L26	23.103	N45° 34' 53.84"E
L27	16.992	N68° 47' 46.57"E
L28	16.980	N82° 14' 34.35"E
L29	48.359	S88° 33' 45.30"E
L30	38.555	N66° 21' 11.72"E
L31	8.281	S67° 49' 37.81"E
L32	27.407	S69° 31' 06.13"E
L33	13.898	S54° 56' 10.38"E
L34	31.282	S58° 43' 36.39"E

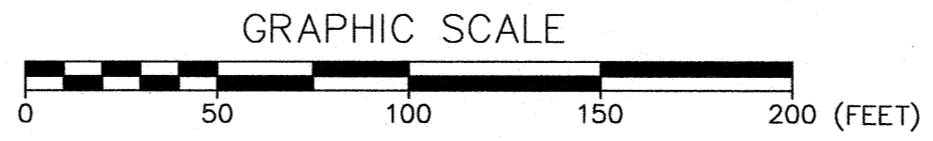
LEGEND

PROPERTY LINE	---
SETBACK	----
EXT. ABUTTER LINE	---
EXT. PAVEMENT	----
EXT. GRAVEL	----
PRP. GRAVEL	----
EXT. STONE WALL	----
EXT. STREAM LIMITS	----
REBAR/D.H. TO BE SET	●
CONC. MON./D.H. TO BE SET	■
EXT. WETLAND BNDY	----
EXT. WETLAND AREA	----
EXT. WETLAND BUFFER	----
FLOOD ZONE A LOMA	----
FLOOD ZONE A FIRMETTE	----

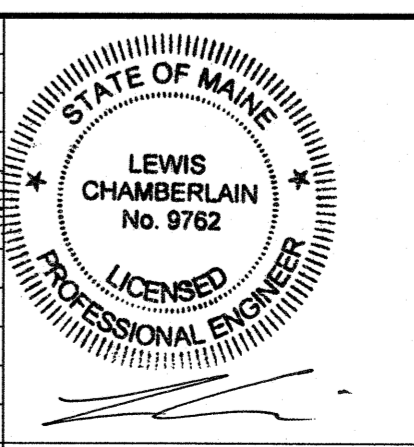
- INDEX OF SHEETS**
- FINAL SUBDIVISION PLAN
 - GRADING & UTILITY PLAN
 - SITE DETAILS
 - HIGH INTENSITY SOIL SURVEY (REF. 3)
 - BOUNDARY SURVEY (REF. 1)

OWNER:
PAUL E. MCCLLOUD
PETER J. MCCLLOUD
46 NORTON ROAD
KITTERY, ME 03904

APPLICANT:
JOSEPH FALZONE
7B EMERY LANE
STRATHAM, NH 03885



NO.	DESCRIPTION	DATE



FINAL SUBDIVISION PLAN
MILLER ROAD SUBDIVISION
MILLER ROAD, KITTERY, MAINE

FOR: JOSEPH FALZONE
7B EMERY LANE
STRATHAM, NH 03885

ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 50'
DATE: 07/19/18
JOB NO: C142-18

APPROVED BY: [Signature]
DRAWN BY: MJS
REVISION DATE: -
SHEET: 1

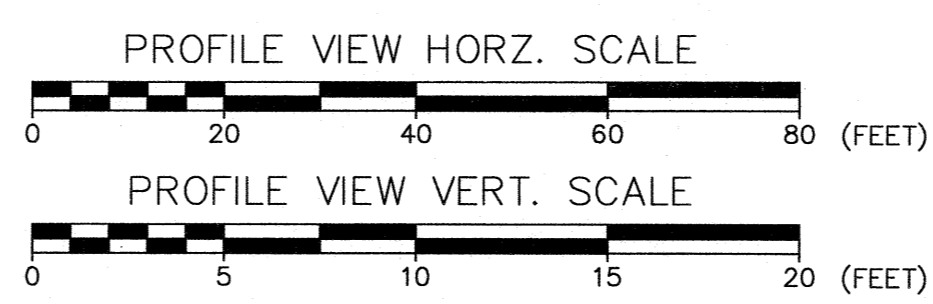
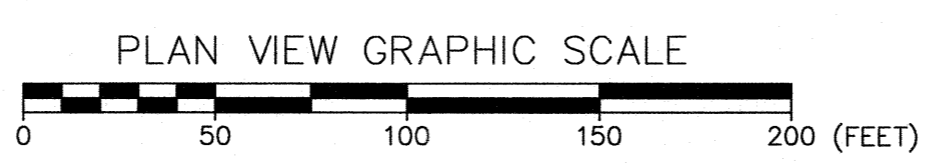
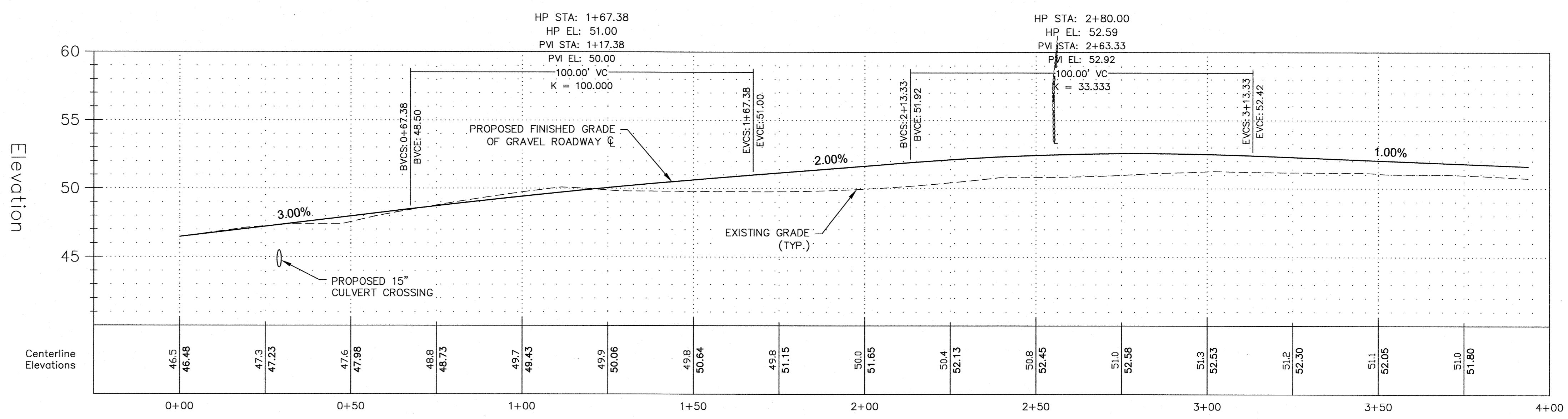
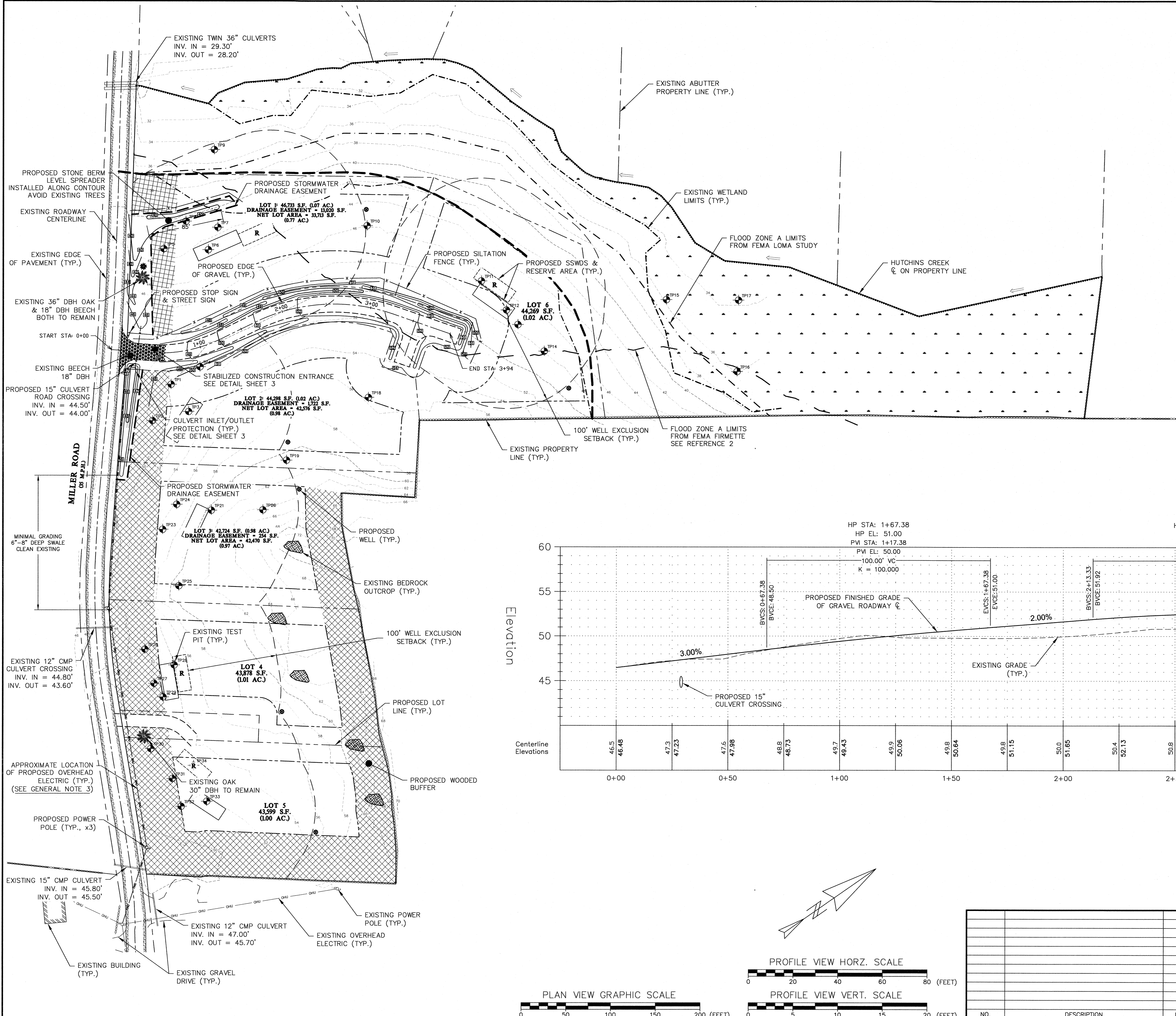
TAX MAP 56, LOT 20

STATE OF MAINE - YORK COUNTY
REGISTRY OF DEEDS
RECEIVED
AT _____ M, AND RECORDED IN
PLAN BOOK _____ PAGE _____
ATTEST _____ REGISTER

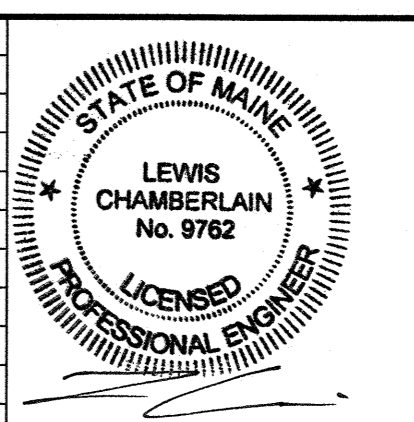
GENERAL NOTES

- EXISTING TOPOGRAPHY WAS TAKEN FROM REFERENCE 1.
- ALL STORM DRAINS SHALL BE ADS N-12 OR APPROVED EQUAL.
- PROPOSED UTILITIES ARE APPROXIMATELY LOCATED. CENTRAL MAINE POWER WILL PREPARE FINAL ELECTRICAL PLAN FOR CONSTRUCTION, INCLUDING OVERHEAD MAIN LINE EXTENSION ALONG MILLER ROAD. INDIVIDUAL UTILITY SERVICES TO LOTS IN THE SUBDIVISION SHALL BE UNDERGROUND. GENERAL CONTRACTOR COORDINATION WITH CMP PRIOR TO CONSTRUCTION IS REQUIRED.
- DRIVEWAY CULVERTS SHALL BE INSTALLED IN LOCATIONS WHERE PROPOSED DRIVEWAYS CROSS SWALES OR DRAINAGE PATHS. UNLESS NOTED OTHERWISE, DRIVEWAY CULVERTS SHALL BE 12" IN DIAMETER AND HAVE A MINIMUM OF 12" OF SOIL COVER OVER THE TOP OF THE PIPE.

LEGEND	
PROPERTY LINE	---
SETBACK	---
EXT. ABUTTER LINE	---
EXT. PAVEMENT	---
EXT. GRAVEL	---
PRP. GRAVEL	---
EXT. STREAM LIMITS	---
EXT. WETLAND BNDY	---
EXT. WETLAND AREA	---
EXT. WETLAND BUFFER	---
FLOOD ZONE A LOMA	---
FLOOD ZONE A FIRMETTE	---
EXT. POWER POLE	---
EXT. OVERHEAD ELEC	OHU
PRP. SILTATION FENCE	---
EXT. STORM LINE	D
PRP. STORM LINE	D
EXT. MAJOR CONTOUR	XXX
EXT. MINOR CONTOUR	XXX
PRP. MAJOR CONTOUR	XXX
PRP. MINOR CONTOUR	XXX



NO.	DESCRIPTION	DATE



GRADING & UTILITY PLAN
MILLER ROAD SUBDIVISION
MILLER ROAD, KITTERY, MAINE

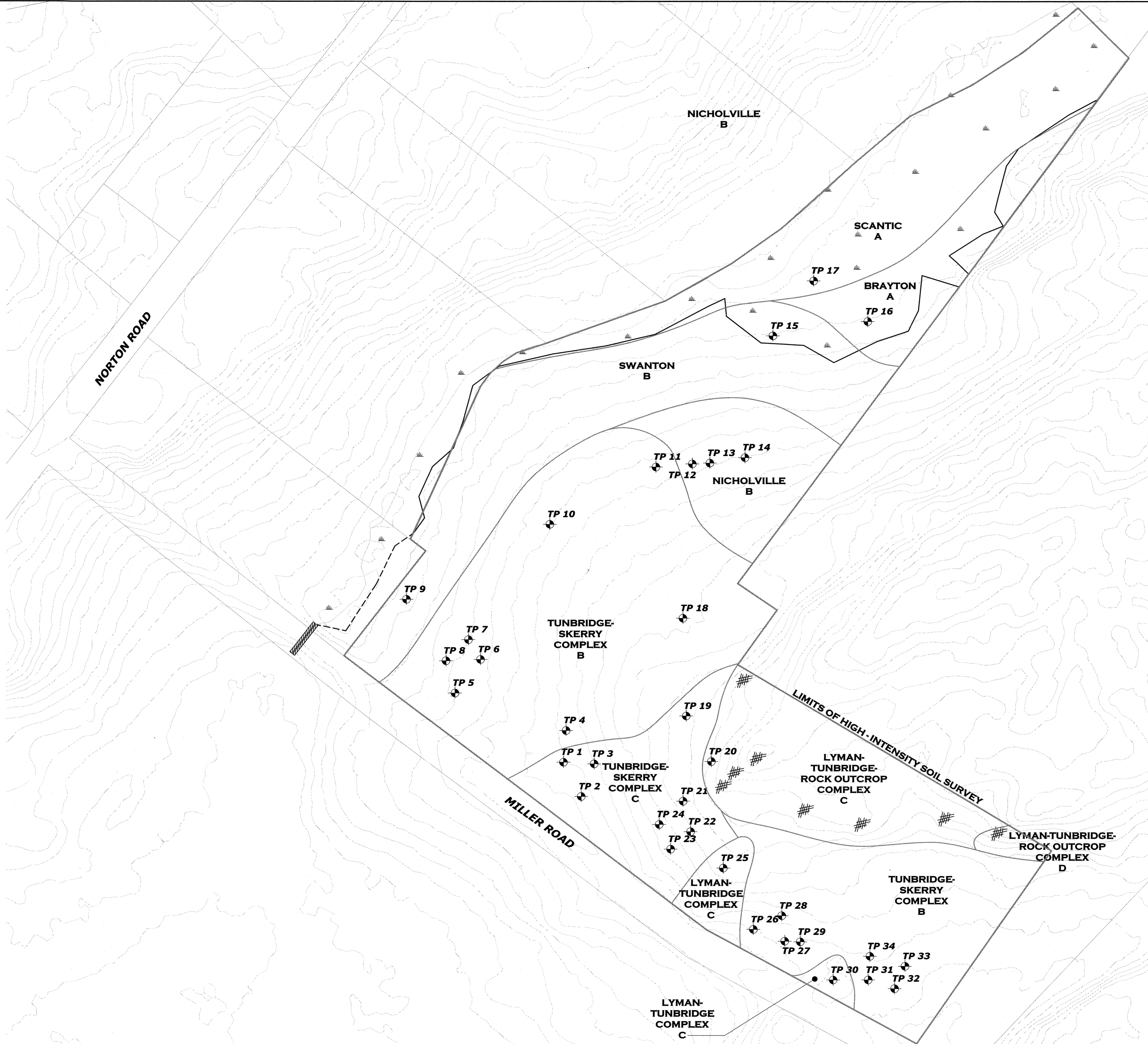
FOR: JOSEPH FALZONE
7B EMERY LANE
STRATHAM, NH 03885

ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 50'
DATE: 07/19/18
JOB NO: C142-18

APPROVED BY: [Signature]
7/19/18

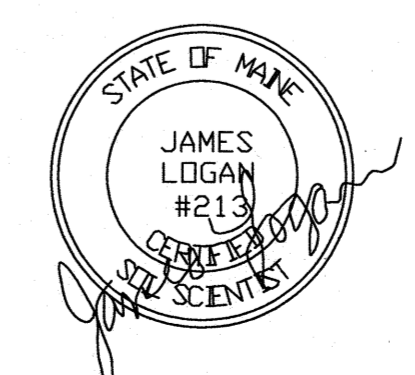
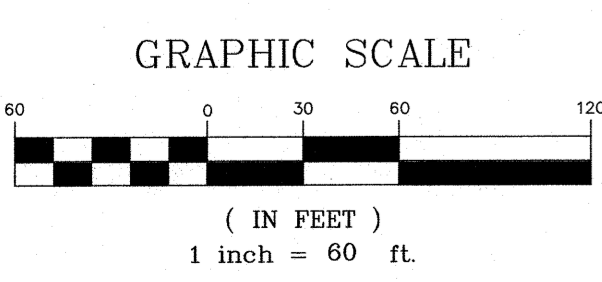
DRAWN BY: MJS
REVISION DATE: - - -
SHEET: 2



- SOILS MAP LEGEND:**
- SOIL TEST PIT (LOCATED BY SUBMETER GPS)
 - SOIL BOUNDARY LINE
 - LIMITS OF INVESTIGATION
 - WETLAND AREA
 - STREAM
 - BEDROCK OUTCROPPING (LOCATED BY SUBMETER GPS)
- SLOPE DESIGNATION**
- A 0 - 3%
 - B 3 - 8%
 - C 8 - 20%
 - D 20%+

NOTE: SEE ACCOMPANYING SOIL NARRATIVE REPORT, DATED JANUARY 2018

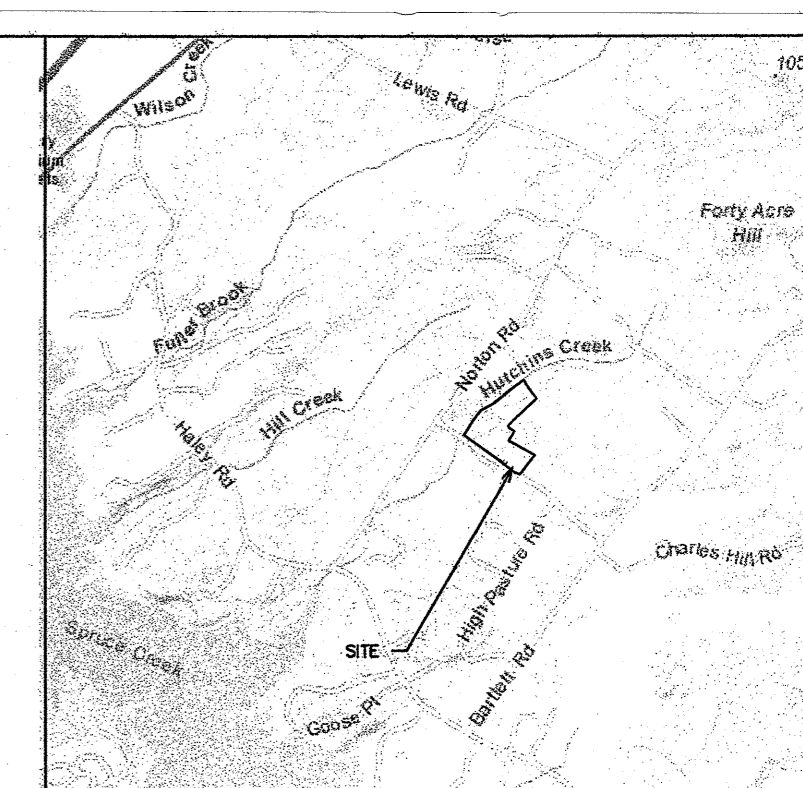
THE ACCOMPANYING SOILS SURVEY WAS DONE IN ACCORDANCE WITH THE STANDARDS ADOPTED BY THE MAINE ASSOCIATION OF PROFESSIONAL SOIL SCIENTISTS, FEBRUARY 1995, AS AMENDED.



CLASS A HIGH-INTENSITY SOIL SURVEY
 PREPARED FOR
ATTAR ENGINEERING
 MILLER ROAD
 (MAP 56, LOT 20)
 KITTERY, MAINE

LONGVIEW PARTNERS, LLC
 ENVIRONMENTAL PERMITTING SPECIALISTS

DRAFT: BO
 SCALE: 1" = 60'
 CHECKED: JL
 PLAN DATE: 1-17-18



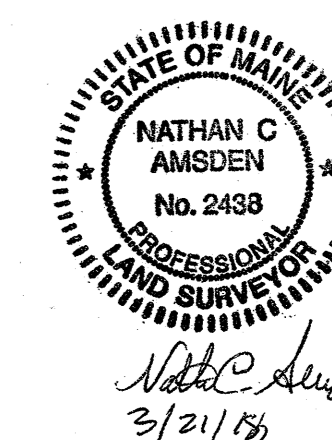
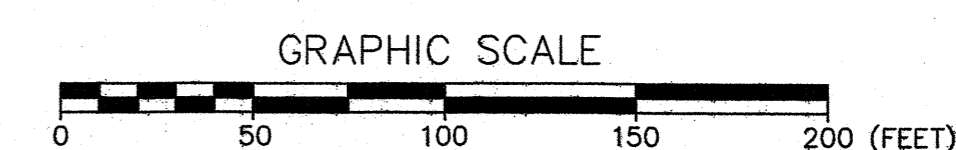
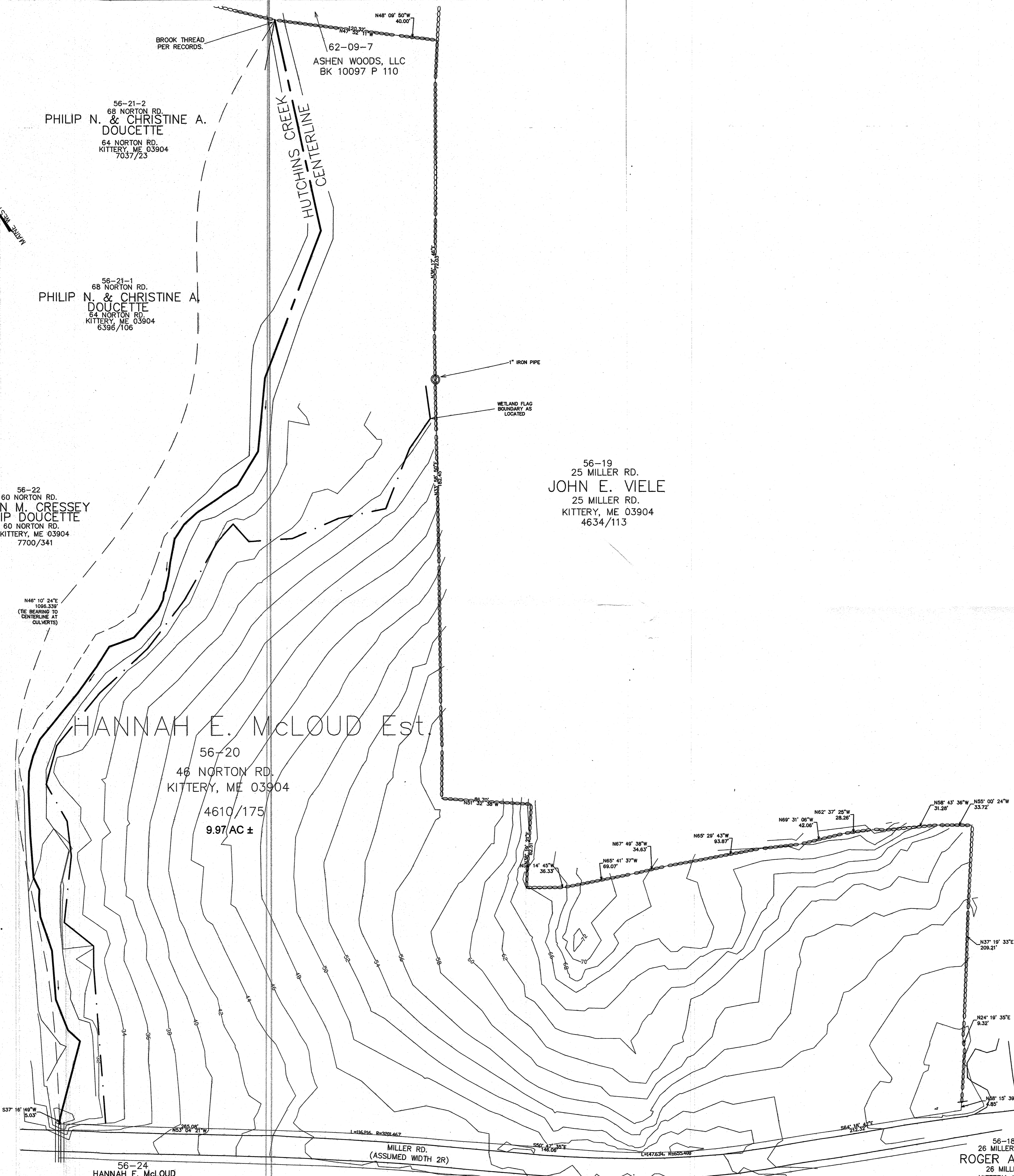
LOCATION MAP

PLAN REFERENCES

- "ASHEN WOODS PHASE II" DATED AUGUST, 1987, BY ANDERSON ASSOCIATES, RECORDED AT YCRD BK 166 P 30.
- "PLAN OF LAND MILLER ROAD, KITTELY, MAINE, FOR KIMBERLY F. CLARKE & JOHN E. VIELE" BY ANDERSON ASSOCIATES, RECORDED AT YCRD BK 166 P 1.
- "SUBDIVISION PLAN OF CARTER HILL, MILLER ROAD" DATED FEBRUARY 1988, BY ANDERSON ASSOCIATES, RECORDED AT YCRD BK 175 P 13.
- "LOT LINE ADJUSTMENT AND DIVISION OF LAND OWNED BY RUTH I. LAWRENCE & RONALD B. LAWRENCE" BY EASTERLY SURVEYING, RECORDED AT YCRD BK 267 P 47.

NOTES

- TOPOGRAPHIC DATA DEPICTED IS BASED ON THE NGVD29 DATUM.
- BOUNDARY DATA IS BASED ON MAINE STATE PLANE COORDINATES MAINE WEST.
- NO PHYSICAL EVIDENCE OF THE RIGHT OF WAY OF MILLER ROAD WAS RECOVERED. NO RECORD EVIDENCE OF THE RIGHT OF WAY OF MILLER ROAD WAS RECOVERED. WIDTH IS BASED ON THE HISTORICAL ACCEPTANCE OF 2 RODS.
- NO SOIL DATA OR TEST PITS ARE MAPPED AS A RESULT OF THIS SURVEY.
- ADDITIONAL MONUMENTS IN HUTCHINS BROOK ARE CALLED FOR IN ABUTTING PLANS AND DEEDS. PRESENT CONDITIONS HAVE PRECLUDED IDENTIFYING AND LOCATING THESE MONUMENTS. THE DESIGNATION OF THE CENTERLINE OF THE BROOK IS ALSO SUBJECT TO REVISION PER CLIMATE CONDITIONS.
- THE NORTHERLY BOUNDARY OF THE SUBJECT PROPERTY IS MAPPED AND RECONSTRUCTED PER ABUTTING RECORDS. THE ACTUAL CENTER OF THE BROOK MAY BE REVISED BASED ON FURTHER TOPOGRAPHIC AND/OR VISUAL INSPECTION OF THE TRUE THREAD.
- THE WETLAND BOUNDARY WAS ESTABLISHED BY JAMES LOGAN CWS, LONGVIEW PARTNERS LLC, AND LOCATED BY THIS OFFICE.



BOUNDARY AND TOPOGRAPHIC SURVEY
PROPERTY OF HANNAH E. MCLOUD
 TAX MAP 56 LOT 20
 MILLER RD.
 KITTELY, ME 03904

YCRD 4610/175
 9.97 AC ±

SURVEY PERFORMED DECEMBER 2018 WITH A TOPCON DS AND ZENITH PRO GPS. SURVEY CLOSURE GREATER THAN 1/44,000.

BY
 AMSDEN FIELD SURVEY
 799 MAIN ST.
 ELIOT, ME 03903
 207-451-0444

SCALE 1"=50'

DATE 2/21/18

SHEET 5

C42-18

TAXMAP 56, LOT 20

56-21-2
 68 NORTON RD.
 PHILIP N. & CHRISTINE A. DOUCETTE
 64 NORTON RD.
 KITTELY, ME 03904
 7037/23

56-21-1
 68 NORTON RD.
 PHILIP N. & CHRISTINE A. DOUCETTE
 64 NORTON RD.
 KITTELY, ME 03904
 6396/106

56-22
 60 NORTON RD.
 SHARON M. CRESSEY
 PHILIP DOUCETTE
 60 NORTON RD.
 KITTELY, ME 03904
 7700/341

56-19
 25 MILLER RD.
 JOHN E. VIELE
 25 MILLER RD.
 KITTELY, ME 03904
 4634/113

56-20
 46 NORTON RD.
 KITTELY, ME 03904
 4610/175
 9.97 AC ±

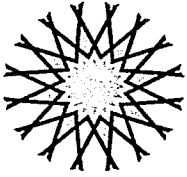
56-21
 56 NORTON RD.
 RONALD B. & RUTH I. LAWRENCE
 PO BOX 221
 KITTELY POINT, ME 03904
 11638/108

56-21-A
 52 NORTON RD.
 RONALD B. & RUTH I. LAWRENCE
 PO BOX 221
 KITTELY POINT, ME 03904
 11638/108

60-01-F
 TROY & JULIE PERRAULT
 8 KELSEY WAY
 KITTELY, ME 03904
 14434/940

56-24
 HANNAH E. MCLOUD
 remaining land

56-18
 26 MILLER RD.
 ROGER A. MUCCIO
 26 MILLER RD.
 KITTELY, ME 03904
 5896/277



ATTAR

ENGINEERING, INC

CIVIL · STRUCTURAL · MARINE

Ms. Kathy Connor, Interim Town Planner
Town of Kittery
P.O. Box 808
Kittery, Maine 03904

July 19, 2018
Project No.: C142-18

**Re: Miller Road Subdivision
Final Plan Application
Tax Map 56, Lot 20**

Dear Ms. Connor:

On behalf of Joseph Falzone, I have enclosed a Final Plan set and supporting material for your review and consideration. The site is located on Miller Road, contains approximately 9.9 acres and is located in the Residential-Rural (R-RL) zoning district and Resource Protection (OZ-RP) overlay zoning district.

The applicant is proposing to divide the lot into 6 residential lots. The lots will be served by individual subsurface wastewater disposal systems and individual drilled wells. Lots 1, 2 and 6 will be accessed by a private street within a 40' wide right of way, which will provide lot frontage for these lots. Lots 3-5 have frontage along Miller Road and will be accessed by driveways connected to Miller Road. A shared driveway is proposed for Lots 5 and 6. Open space is proposed along Hutchins Creek.

The Final Plan includes the following changes from the Preliminary Plan due to Planning Board and Abutter input:

- General Notes 13-17 have been added/revise.
- Wastewater Disposal Fields have been revised to accommodate the proposed wooded buffers. Additional test pits are in progress and will be provided prior to final plan approval.
- The Homeowner's Association Documents have been revised.
- A response to the Town Engineer's 7/5/18 review memo is in progress and will be provided under separate cover.

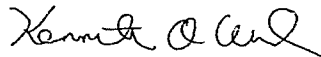
The following "Impact Statements" are provided for the municipal impact analysis:

- The single family residences may have school-aged children which will utilize the municipal bus transportation service currently provided to residences on Miller Road. However, a significant impact is not anticipated considering the relatively small (up to 6 families) addition to the surrounding residential uses.
- Road maintenance will be the responsibility of the Homeowners Association; as noted on the plan the road will remain private.
- Solid waster disposal will either be by contracted curb-side pick up or residents may elect to use the municipal Transfer Station.
- Wastewater disposal shall be by individual site wastewater fields. Sufficient Test Pits have been excavated demonstrating adequate and acceptable soils for all wastewater disposal system locations.

- Domestic water supply will be supplied for the six residential dwellings by on-site drilled wells.
- Police, Fire, and Ambulance services will be required to in the event of any medical emergencies or residential fires.
- Stormwater Management will be accomplished with various stormwater quality and quantity control Best Management Practices. Maintenance will be provided by the Homeowners Association.
- No active recreation is proposed; passive recreation is allowed in the large Open Space area adjacent to Hutchins Creek.
- The anticipate tax revenue of approximately \$36,000/Year will exceed the cost of any municipal services.

We look forward to discussing this project with the Planning Board at the 7/26/18 public hearing. If preliminary approval is granted at the 7/26/18 meeting, the applicant respectfully requests that the project be placed on the 8/9/18 Planning Board meeting agenda for final plan review. Please contact me for any additional information or clarifications required.

Sincerely,



Kenneth A. Wood, P.E.
President

cc: Joseph Falzone

C142-18 Kittery Final Cover.doc

**LAND USE AND DEVELOPMENT CODE
TOWN OF KITTEERY, MAINE
Section 16.10.7.2**

Final Plan Application Submittal Content

(This document contains responses to the stated requirements of the referenced section – see the LUDC for text of stated requirements)

- A. The Final plans contain all the information depicted on the Preliminary Plans including revisions noted in the Final Plan Application cover letter.
- B. The required information is depicted on the plans. No pedestrian ways or public use areas are proposed.
- C. The required information regarding streets is included on the plans.
- D. Lots are numbered as they were on the preliminary plan.
- E. Proposed lot monumentation is depicted on the plans.
- F. Specific structure locations are not depicted, however, appropriate structure setbacks are depicted.
- G. Proposed outdoor lighting is residential in nature and therefore not depicted on the plans. No street lights are proposed. A proposed stop/street sign is depicted.
- H. No permanently installed machinery is proposed.
- I. No material storage areas are proposed.
- J. No fences or retaining walls are depicted, however, such items may be installed as lots are developed.
- K. The project does not include a landscaping plan, however, the plans depict buffer areas, where existing vegetation is to be preserved.
- L. A Municipal Impact Analysis is included with the application materials.
- M. No public open space is proposed, therefore, no open space land cession offers are included.
- N. No public open space is proposed, therefore, no open space land cession acknowledgements are included.
- O. A note has been added to Sheet 1 to address the performance guaranty.
- P. A maintenance plan for the 40' right of way, shared driveway and stormwater infrastructure is included in the Homeowner's Association Documents.
- Q. A Stormwater Management Plan was provided with the preliminary plan submittal. The locations of stormwater infrastructure improvements are depicted on the plans. The Stormwater Management Plan includes an Operation and Management (O&M) Plan for the stormwater infrastructure. The O&M plan is addressed in the Homeowner's Association Documents.
- R. The project is not proposed to be phased, therefore, no phasing plan is included.
- S. A right of way plan for the proposed 40' right of way is included (Sheet 1).

DECLARATION OF COVENANTS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS
FOR
HUTCHINS CREEK HOMEOWNERS ASSOCIATION
A SIX-LOT SUBDIVISION
MILLER ROAD, KITTERY, MAINE

This Declaration of Covenants, Restrictions, Easements, Charges and Liens for Hutchins Creek Homeowners Association (hereinafter "Declaration") is made this ____ day of _____, 2018, by Joseph Falzone, the owner and developer, having a mailing address of 7B Emery Lane, Stratham New Hampshire 03885 (hereinafter the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of a certain parcel of land located in the Town of Kittery, State of Maine (hereinafter the "Subdivision"), as shown on the Subdivision Plan identified below, and

WHEREAS, Declarant desires to make the Subdivision subject to this Declaration in order to: (a) provide for the operation, maintenance, repair and replacement of certain common facilities and amenities located on the Subdivision Property; and (b) preserve the environment of the Subdivision and, to this end, desires to subject the Subdivision to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said Subdivision and each owner of a Lot therein; and

WHEREAS, Declarant has deemed it desirable to create a private, non-profit corporation to which should be delegated and assigned the authority to: (a) carry out certain responsibilities relating to the common facilities and amenities described herein and (b) administer and enforce the covenants, restrictions, easements, charges and liens set forth herein; and

WHEREAS, Declarant has established under the laws of the State of Maine a private, non-profit corporation, Hutchins Creek Homeowners Association, for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, the Declarant declares that the Subdivision is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE 1

DEFINITIONS

The following words, when used in this Declaration or any Amendment thereto (unless the context shall prohibit), shall have the following meanings:

- 1.01 "Articles" shall mean and refer to the Articles of Incorporation which are or shall be filed in the Office of the Maine Secretary of State and which establish the Association.
- 1.02 "Assessment" shall mean a share of the funds required and which are to be assessed against an Owner and Lot for the payment of costs incurred by the Association for and including, but not limited to
- (a) Costs of maintaining roadway, common land, drainage and other similar facilities to the extent these facilities are not accepted for maintenance by governmental jurisdictions,
 - (b) Costs for goods and services determined by the Board to benefit the members,
 - (c) Reserves as determined by the Board,
 - (d) The maintenance and landscaping of roads and common areas in the Subdivision, and
 - (e) Incidental costs related to administration and enforcement of the covenants and restrictions described herein.
- 1.03 "Association" shall mean and refer to the HUTCHINS CREEK HOMEOWNERS ASSOCIATION, a private, non-profit, mutual benefit corporation organized and existing under the laws of the State of Maine.
- 1.04 "Board" shall mean and refer to the Board of Directors of the Association.
- 1.05 "Bylaws" shall mean and refer to the Bylaws of the Association and any amendments thereto.
- 1.06 "Common Expenses" shall mean the expenses for which each such owner is liable, which shall include, but not be limited to
- (a) Costs of maintaining roadways, streetlights, sewer, water, drainage, snow storage area and other similar facilities to the extent these facilities are not accepted for maintenance by governmental jurisdictions,

- (b) Costs for goods or services determined by the Board to benefit the members,
- (c) Reserves as determined by the Board,
- (d) The maintenance and landscaping of roads and common areas in the Subdivision, and
- (e) Incidental costs related to administration and enforcement of the covenants and restrictions described herein.

- 1.07 "Common Properties" shall mean the certain real and personal property designated for ownership by the Association and dedicated to the common use of Owners, including, but not limited to, the road and hammer-head servicing the Subdivision and shown on the Subdivision Plan, the snow storage area shown on the Subdivision Plan, drainage easement areas shown on the Subdivision Plan and utility facilities, if any, not dedicated to governmental entities.
- 1.08 "Declarant" shall mean and refer to Joseph Falzone, and its successors and assigns, who may own or acquire all or a portion of the Subdivision for development purposes, or a mortgagee who acquires title to any portion of the Subdivision by foreclosure against a Declarant.
- 1.09 "Lot" shall mean and refer to an improved or unimproved residential lot, as shown upon one or more Subdivision Plans, together with any dwelling unit(s) and other improvements located thereon.
- 1.10 "Member" shall mean and refer to all Lot Owners who shall be members of the Association in accordance with the provisions of Article 6 hereof.
- 1.11 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot but notwithstanding any applicable theory of title; the term Owner shall not include any mortgagee of a Lot until the mortgagee has acquired the fee simple title pursuant to foreclosure or any proceedings in lieu of foreclosure.
- 1.12 "Subdivision Plan" shall mean and refer to the plan of land entitled, "Subdivision, Miller Road, Kittery, Maine", prepared by Attar Engineering Inc., recorded in the York County Registry of Deeds in Plan Book _____, Pages _____, together with such other plans and amended plans as may be hereafter recorded.

ARTICLE 2

TERM OF DECLARATION

2.01 Term. This Declaration shall run with, apply to, and bind the Subdivision in perpetuity and shall inure to the benefit of, and be enforceable by the Declarant and Owners, as appropriate, and their respective legal representative, heirs, successors and assigns, except that the covenants and restrictions in Article 3 shall have an initial term of fifteen (15) years from the date this Declaration is recorded in the York County Registry of Deeds, at the end of which such covenants and restrictions shall be automatically extended for successive periods of five (5) years, unless at least five-sevenths of all of the Lot Owners vote to terminate any or all of said covenants and restrictions at a duly noticed and held meeting in compliance with the provisions of the Bylaws of the Association.

2.02 Persons Bound. Unless otherwise indicated, all covenants, restrictions, easements, charges and liens herein are imposed on, charged on, and run with the land and bind the Lot Owners, their assigns, grantees, legal representatives, heirs and mortgagees. Failure to specifically refer to and include or incorporate this Declaration in deeds to Lots in the Subdivision shall not in any manner affect the validity and effectiveness of this Declaration upon any Lot made subject thereto.

ARTICLE 3

GENERAL COVENANTS AND RESTRICTIONS ON SUBDIVISION LOTS

3.01 No Lot intended as an individual residential lot as shown on the Subdivision Plan shall be further divided without prior written approval of Declarant and the Town of Kittery Planning Board.

3.02 Only single-family dwellings are allowed on each Lot. All single-family dwellings must have at least a two-car garage. All dwellings must have a turning area on the Lot to prevent vehicles from backing into street.

3.03 Lot grades shall not be changed in such a way as to divert the natural flow of water onto adjoining Lots.

3.04 No building or structure shall be erected, except in conformity with the setback and other land use requirements of the Town of Kittery. Exceptions to the setback requirements set forth above may be granted within the sole discretion of the Declarant, but only to the extent permitted by the Town of Kittery ordinances.

3.06 Each dwelling erected or constructed on any Lot shall contain a minimum of

one thousand seven hundred (1,700) square feet floor area. The method for determining the area of proposed buildings and structures shall be to multiply the outside horizontal dimensions of the building or structure at each floor level, excluding garages, breezeways, basements, decks, porches, patios and terraces in the calculation of the minimum square foot area. Exceptions to this restriction may be granted within the sole discretion of the Declarant upon written application by an Owner or prospective owner.

- 3.07 Each Lot shall be served by an on-site wastewater disposal system and water service (drilled well). The Owner of the Lot is responsible for maintaining and promptly repairing or replacing the wastewater disposal system in the event of malfunction; the septic tank should be pumped at least every two years.
- 3.08 Once construction is commenced upon a Lot, completion of all construction shall be accomplished as soon as is reasonable and in no event shall it be longer than one year from the time of commencement to complete construction. Completion shall include, but shall not be limited to exterior finishing, exterior landscaping, decorating and driveways. Driveways shall be finished with asphalt, concrete or other hard, dustless finished surface approved by the Declarant.
- 3.09 No temporary building, trailer, vehicle or structure shall be erected or placed on a Lot, except during the active phase of constructing a dwelling. For purposes of interpreting this clause, the "active phase of constructing" shall be limited to the period of one calendar year from the day work is commenced in clearing for the foundation of the dwelling. Sheds and fences are permitted subject to the provisions of Article 9.
- 3.10 No earth, stone or gravel removed from the site of a foundation shall be allowed to remain on a Lot in an unsightly manner.
- 3.11 No structure on a Lot shall be left with an unfinished exterior. The exterior of all structures shall be kept in a proper state of repair and maintenance.
- 3.12 All propane fuel tanks shall be installed in the ground. All oil fuel tanks shall be installed on a concrete slab in either the garage or basement, or constructed within a permitted wall or structure so that they shall not be visible from adjoining properties, or the right of way shown on the Subdivision Plan. If above-ground or outside the home or garage, the structure or wall must also be reasonably landscaped.
- 3.13 No incinerator shall be erected or maintained on any Lot.
- 3.14 All garbage and trash containers must be placed in an adjoining attractive and suitable walled or screened area so that they shall not be visible from other Lots or the right of way.

- 3.15 No outdoor clothes drying areas shall be allowed except in the rear yard and shall be situated so as not to be visible from the adjoining Lots or the right of way.
- 3.16 No trash, waste, filth, tools, or garden equipment shall be allowed to accumulate on a Lot or the exterior of any structure in such a manner as to give an unsightly appearance, to create a nuisance, or depreciate the Subdivision.
- 3.17 No private swimming pools, tennis courts, or similar areas for outdoor physical activities or games, shall be erected or constructed on a Lot without the written approval of the Declarant. Above ground swimming pools will not be permitted.
- 3.18 The Subdivision shall be used for private residential purposes only, and no commercial, manufacturing, or industrial use shall be permitted at any time, except for a professional home office; provided that
- (a) In no instance shall the permitted professional home office occupy a space greater than fifteen percent (15%) of the entire floor area of the home in which it is contained;
 - (b) No noise, odor, or disorderly appearance shall be created that is unreasonably offensive to the surrounding Lots; and such use is not prohibited by zoning.
- 3.19 An Owner, however, may, in his absence, rent his dwelling subject to the restrictions herein no more than twice in each calendar year. In such events, the Owner, his tenant and their families are subject to the restrictions herein.
- 3.20 An Owner shall be entitled to rent or lease his dwelling if
- (a) There is a written rental or lease agreement specifying that
 - (i) The tenant shall be subject to all provisions of this Declaration, the Bylaws and Rules and Regulations adopted by the Board; and
 - (ii) A failure to comply with any provision of such Declaration, Bylaws and Rules and Regulations shall constitute a default under the agreement, permitting the commencement of eviction proceedings in accordance with Maine law;
 - (b) The Owner gives each tenant a copy of the Declaration, Bylaws and Rules and Regulations; and
 - (c) The Owner provides the Board with a copy of the lease agreement,

together with written authorization to the Board to order the eviction of the tenant for violation of the terms of said lease or the Declaration, Bylaws or Rules and Regulations at the reasonable expense of the Owner.

- 3.21 No mobile home, trailer, or other similar, temporary or movable product or structure used as a living area shall be erected, placed, or caused to remain upon any Lot herein. Unregistered vehicles are prohibited unless stored in the garage. Small boats (less than 20 feet in length) and RV's are permitted on Lots but shall be stored in a tidy manner.
- 3.22 No vehicles shall be parked in driveways unless the length of the driveway is sufficient to hold the entire vehicle, and in no event shall vehicles be parked in such a manner as to inhibit or block access to Right of way. All driveways shall be used solely for the parking and storage of motor vehicles used for personal transportation, small boats and RV's. Garage doors shall remain closed except when the garage is in use. No part of the right of way or snow storage area shall be used for repair, construction or reconstruction of any vehicle, boat, RV or any other item or thing except in an emergency. As long as applicable ordinances and laws are observed, the Board may cause the removal of any vehicle, boat or RV that is in violation of this Declaration.
- 3.23 No obstruction of traffic in the Right-Of-Way and no blocking of entries to the various Lots by reason of the parking of vehicles and trailers are allowed. Lot Owners shall be responsible for any such obstruction by members of their households, their lessees, invitees, and guests.
- 3.24 No snow, ice, gravel, loam, compost, leaves, fertilizers, other mineral waste products or commodities shall be piled or stored within ten (10) feet of lines of adjoining Lots.
- 3.25 No noise or disturbance shall be made, suffered, or permitted on any Lot so as to constitute a nuisance to adjoining or neighboring Lots in the Subdivision.
- 3.26 Any purchaser of a Lot in the Subdivision shall be allowed to keep on his premises common domestic household animals. In interpreting this clause, domestic animals shall be dogs, cats, birds, and related animals. Any and all other animals shall be considered non-domestic. Under no circumstances shall commercial dog kennels or veterinary facilities be allowed. The Board may adopt rules and regulations to govern the keeping of pets so as to insure that no pets of an Owner interfere with the rights of other Owners to quiet enjoyment of the Subdivision Property. Owners shall be responsible for the cleanup of all waste matter of their pets. The Board may issue fines or order the removal of pets from the Subdivision for repeated violations of these restrictions.

3.27 Only one "For Sale" sign, not larger than six (6) square feet per side of a freestanding sign may be erected or displayed on any Lot or on any structure in the Subdivision. No other signs or displays, including, but not limited to commercial signs, shall be erected or displayed on the Lots or structures, except with the written permission of the Homeowners Association.

3.28 Lot No's 1, 2, 3, 4, 5 and 6 are subject to wooded buffers as shown on the plan, wherein cutting of vegetation is restricted in accordance with guidelines noted on the plan.

3.29 Fences. All fencing shall be wood, vinyl or natural stone. No chain link fencing is permitted except to enclose swimming pools. No fence exceeding six (6) feet in height shall be permitted on any lot, except as part of an approved tennis court layout. All fences shall be constructed with finished side facing away from the dwelling.

3.30 Tree Removal. Within the wooded buffer areas and within 100' of the Freshwater Wetland associated with Hutchins Creek, as shown on the plan, cutting of vegetation is restricted in accordance with guidelines noted on the plan. Invasive species such as Barberry, Russian Olive, Multi-Flora Rose and Bittersweet may be removed from wooded buffer areas.

3.33 ~~Prohibited Building Type and Vehicle Use and Storage Activities~~
No metal buildings are permitted. No all-terrain vehicles, off road vehicles or snowmobiles shall be used on the premises nor shall any such vehicles nor any commercial vehicles, pleasure or commercial boats, motor homes, campers, trailers, powered or non-powered, be kept on the premises except out of sight of the roadway or stored in a garage or outbuilding conforming to these covenants. Unregistered or uninspected automobiles or automobiles being repaired or refinished over a period in excess of fourteen (14) consecutive days shall be stored in a garage or other enclosed structure.

3.34 Time for construction. The construction of any building shall be completed within nine (9) months from the time construction is begun. Completion is defined to include, but not limited to, exterior finishing, landscaping, paving and painting.

3.35 Building and site maintenance. During construction, no unsightly condition shall be permitted to exist on the property. Materials shall be neatly stacked on site or placed within the incomplete structure. Stockpiling of materials and parking of construction vehicles and

equipment when not in use shall be no closer than 50 feet from the roadway. Construction debris shall be kept in a dumpster. Any disturbance to the land area within the subdivision roadway right of way shall be repaired to include pavement grading, loam and speed, and replacement of any shrubs or plantings which have been damaged or destroyed.

3.36 Animals and pets.

A) No livestock or poultry of any kind shall be kept on any lots. Domestic dogs and cats are permitted provided that no kenneling or breeding for commercial purposes shall be allowed.

B) No domestic dogs, chained, tethered, roped, or otherwise secured outside of any dwelling causing any nuisance by reason of constant or continual barking shall be allowed in the subdivision.

3.37 Yard Maintenance. All lot owners shall maintain lawns and landscaping in an attractive manner.

3.38 Signs. No signs or billboards shall be erected or displayed on any lot or building thereon except a size not exceeding four (4) square feet as may pertain to the lease or sale of a lot or home.

3.39 Rubbish Disposal. No dumping, burning, or burying of rubbish, waste, trash, garbage or other refuse shall be permitted. Garbage, trash and other refuse shall be kept in closed containers which shall be screened from sight or located within a building, and removed at regular intervals.

3.40 Fuel Storage. No external tank for fuel storage shall be maintained unless buried, screened from sight or located within a building.

ARTICLE 4

COMMON PROPERTIES; EASEMENTS

4.01 Members' Easement of Enjoyment. Subject to the provisions of this Declaration and the Bylaws and Rules and Regulations of the Association, every Owner of a Lot shall have a right and easement of use and enjoyment in and to use the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

4.02 Title to Common Properties. The title to the Common Properties other than the "Drainage Easement" areas shall be conveyed in fee simple to the Association by the Declarant no later than XXXX. The Association is hereby granted a perpetual easement over, through and under the "Drainage Easement" areas, including those located on the Lots, as shown on the Subdivision Plan for the purpose of cleaning, replanting, cutting,

landscaping and otherwise maintaining the drainage swales, and associated drainage facilities as required by the Kittery Planning Board.

4.03 Easements. The Subdivision and the rights and easements of enjoyment created hereby shall be subject to the following easements:

(a) Every Owner shall have an easement in the Common Properties to use the roads, walks and other common improvements located thereon, subject to the right of the Association to promulgate rules and regulations for the protection, use and enjoyment of the Common Properties or to suspend the voting rights of any Owner for any period during which any Assessment remains unpaid or violations of these covenants exist, but access to the Owner's Lot shall not be denied.

(b) The right of the Association to dedicate or transfer any part of the Common Properties to any municipal, county, state, federal, or other public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by majority vote of the Owners at a duly noticed and held meeting in accordance with the Bylaws.

(c) The Declarant reserves a perpetual, non-exclusive, transferable easement, without limitation or restriction, to facilitate development of Subdivision.

(d) A blanket non-exclusive easement is reserved for the Declarant, its successors and assigns, in, upon, over, under, across, and through the Subdivision for the purpose of installation, maintenance, repair, and replacement of all utility lines and any other equipment and machinery necessary or incidental for the proper function of any utility systems serving the Subdivision or any other development on adjacent or nearby land, which easements may be specifically conveyed to a public utility or municipality supplying the service. The easements created by this section 4.03(d) shall include, without limitation, rights of the Declarant or the appropriate utility or service company or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, drainage ditches and pump stations, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits, equipment, ducts and vents over, under, through, along and on the Lots and Common Properties. Notwithstanding the foregoing, any such easement shall not be exercised as to materially interfere with the use or occupancy of any dwelling on a Lot.

(e) A blanket and non-exclusive easement is reserved for the Declarant, its successors and assigns, in, upon, over, under, through and across the Subdivision as long as the Declarant, its successors and assigns shall be engaged in the construction, development, and sale of lots within the Subdivision.

- 4.04 Use and Maintenance of Subdivision Road. Lot's 1, 2 and 6 shall be benefited with a non-exclusive right and easement to use the private right of way and cul-de-sac to be named "Hutchins Creek" which provides access to and from Miller Road, a public way. The Common Expenses shall include the Owners' proportionate share of the costs (the "Road Costs") of maintenance, repair, and replacement of right-of-way. Lot's 4 and 5 shall have similar use and responsibilities to the shared driveway located on their common sideline.
- 4.05 Stormwater/Erosion Control. The Association shall maintain all stormwater drainage swales, culverts, storage areas and related improvements located within the Subdivision, which includes all Common Properties and the Lots. Alteration or disturbance of stormwater improvements constructed by Declarant or the Association in accordance with the drainage plan approved by the Town of Kittery is strictly prohibited, the breach of which shall provide the Declarant and the Association, with all available legal and equitable remedies, together with the right to recover attorneys fees and cost from the party in breach in connection with any enforcement action. Maintenance of Other Drainage Facilities and Erosion Control Practices during Construction.

The Miller Road Subdivision located on Miller Road, Kittery, Maine contains specific Best Management Practices (BMP's) for the conveyance, storage, and treatment of stormwater and the prevention of erosion. These BMP's consist of a stormwater treatment area, swales and culverts for stormwater and a stabilized construction entrance, siltation fences and seeding/fertilizing and mulching controls for erosion control. All Stormwater Treatment, Drainage and Permanent and Temporary Erosion Control Practices shall be inspected during construction, annually after construction or after a storm event which produces 1" of rainfall or greater within a 24-hour period. As these BMP's have been required of Declarant during the construction phase, Declarant reserves to itself, its successors and assigns, all rights of entry in and to any Lot for any purpose consistent with the BMP's. In particular, but without limitation, Declarant reserves such rights for the following purposes:

Stormwater Treatment Areas

The Stormwater Treatment area to ensure that there is no channeling of stormwater and that no debris accumulates within the detention areas. The vegetative cover conditions shall be maintained. The inlets and outlets shall be inspected for erosion and any evidence of debris that could clog the culverts. Emergency spillways and level spreaders shall be inspected for any evidence of drilling and channeling and shall be maintained to promote a level, sheet-flow discharge.

Swales

All swales should be inspected for accumulation of debris, which could adversely affect the function of this BMP. These areas should also be maintained to have gradual slopes, which prevents channeling of stormwater and erosion of the bottom and sides of the swales.

Culverts

Culvert inlets and outlets should be inspected for debris, which could clog the BMP. Additionally, the placement of rip-rap should be inspected to ensure that all areas remain smooth and no areas exhibit erosion in the form of rills or gullies.

Snow Removal

Snow shall never be plowed into wetland areas. Additionally, a mostly sand mix (reduced salt) shall be applied during winter months to prevent excessive salt from leaching to the wetland areas. Excess sand shall be removed from the storage areas, all paved surfaces and adjacent areas each spring.

Stabilized Construction Entrance

The stabilized construction entrance shall be inspected to ensure that all stone materials remain in place and that the entrance is not clogged with silt and mud. This BMP must remain effective in removing silt from construction vehicles prior to travel on the public way, Miller Road.

Siltation Fence

All silt fences must be installed, inspected and repaired in accordance with the plan details and notes. Excess silt must be removed from the up-gradient side of the fence and all fences must remain in a vertical position.

Seeding, Fertilizing and Mulching

All exposed soil materials and stockpiles must be either temporarily or permanently seeded, fertilized and mulched in accordance with plan specifications. This is one of the most important features of the Erosion Control Plan, which will provide both temporary and permanent stabilization. Areas must be repaired until a 75% effective growth of vegetation is established.

ARTICLE 5

ASSESSMENTS

5.01 General. The making and collecting of Assessments against Members for Common Expenses shall be pursuant to the Bylaws of the Association.

5.02 Share of the Common Expenses. Each Member shall be liable for an equal

share of the common expenses except that the Declarant shall pay all direct costs necessary to operate the Association and maintain its property until XXXX.

- 5.03 Annual Assessment. The annual common expense incurred for operation, maintenance, improvement, and repair of the Common Properties shall be estimated in accordance with the Bylaws of the Association. The Annual Assessment will be payable in semi-annual installments based on the projected annual common expense.
- 5.04 Non-Waiver. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Properties or by the abandoning of a Lot for which assessments are made.
- 5.05 Interest, Application of Payment. Owners paying assessments and installments of such assessments more than thirty (30) days after date when due shall be assessed a late fee and/or additional interest established by the Board of Directors. All payments on accounts shall be first applied to interest and then to the assessment first due.
- 5.06 Lien for Assessments. The Association shall have a lien on each Lot for any unpaid assessments, together with interest thereon against the Owner of such Lot, together with a lien on all real property, improvements and tangible personal property located upon said Lot, except that such lien upon the aforesaid tangible personal property shall be subordinated to prior bona fide liens of record. Reasonable attorneys' fees incurred by the Association, to the extent allowable by law, incident to the collection of such assessments or the enforcement of such lien, together with all sums advanced, shall be payable by owner and secured by such lien. The Association's lien shall also include those sums advanced on behalf of each Owner in payment of his obligation for use.
- 5.07 Subordination of the Lien to Mortgages. The lien for assessments as hereinabove provided for shall be inferior to the lien of any institutional mortgage or mortgages. Sale or transfer shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to the mortgage of any institutional lender, pursuant to foreclosure proceedings under such mortgage or any proceeding or deed in lieu of foreclose thereof, shall extinguish the lien of such assessments as to payments thereof, which became due prior to such sale or transfer.
- 5.08 Collection and Foreclosures. The Board of Directors may take such actions as they deem necessary to collect assessments of the Association by personal action or by enforcing the foreclosing interests of the Association.

ARTICLE 6

HUTCHINS CREEK HOMEOWNERS ASSOCIATION

- 6.01 Association. In order to provide for the proficient and effective administration of the Subdivision by the Lot Owners, a non-profit, mutual benefit corporation known and designated as Hutchins Creek Homeowners Association has been or shall be organized under the laws of the State of Maine, and said corporation shall administer the operation and management of the Subdivision and undertake and perform all actions and duties incident thereto and in accordance with the terms, provisions, and conditions of this Declaration and in accordance with the terms of the Articles of Incorporation, its Bylaws, and Rules and Regulations promulgated by the Association from time to time.
- 6.02 Articles of Incorporation. The Articles of Incorporation for the Association will be filed with the Maine Secretary of State.
- 6.03 Limitation upon Liability of Association. Notwithstanding the duty of the Association to maintain or repair portions of the Subdivision, the Association shall not be liable to any Owner for injury or damage, other than the costs of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.
- 6.04 Restraint upon Assignment of Shares and Assets. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to his Lot.
- 6.05 Approval or Disapproval of Matters. Whenever a decision of the Association is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed in accordance with the Bylaws of the Association.
- 6.06 Membership. The Record Owners of Lots in the Subdivision shall be Members of the Association and no other persons or entities, except that Declarant shall be entitled to membership. Membership shall be established by acquisition of ownership of fee title or other interest in a Lot whether by conveyance, devise, judicial decree, foreclosure or otherwise, subject to the provision of this Declaration and by the recordation in the York County Registry of Deeds of the deed or other instrument establishing the acquisition and designating the Lot affected thereby and by the delivery to the Association of a true copy of such recorded deed or other instrument. The new Owner designated in such deed or other instrument shall thereupon become a Member of the Association, and the membership of the prior Owner as to the Lot designated shall be irrevocably and automatically terminated.

6.07 Voting. Except as otherwise set forth in the Articles of Incorporation or Bylaws regarding Declarant's voting rights, on all matters to which the members shall be entitled to vote, there shall be only one vote for each Lot.

6.08 Controls by Declarant. Notwithstanding the foregoing or anything contained in this Declaration to the contrary, Declarant shall have the sole and exclusive right to appoint officers and directors of the Association until the earliest to occur of the following:

(a) XXXX; or

(b) Declarant's written notice to the Association of its election to transfer control to the Association.

During the period of control as set forth herein, Members of the Association, otherwise qualified hereunder, shall have non-voting membership, unless the provisions of this sentence expressly are waived relative to a particular issue by a writing signed by the Declarant. Upon Declarant turning control of the Association over to the Members as provided herein, it shall file appropriate documents in the York County Registry of Deeds. Thereafter, for so long as Declarant has any ownership interest in Subdivision property, it shall continue to have the right to appoint one Member of the Board of Directors as provided in the Bylaws.

ARTICLE 7

NOTICES TO ASSOCIATION

7.01 Notice of Lien. An Owner shall give notice to the Association of every lien upon his Lot other than for permitted mortgages, taxes, and special assessments within five (5) days after the attaching of the lien.

7.02 Notice of Suit. An Owner shall give notice to the Association of every suit or other proceeding which may affect the title to his Lot, such notice to be given within five (5) days after the Owner receives knowledge thereof.

7.03 Failure to Comply. Failure to comply with this Article 7 will not affect the validity of any judicial sale or foreclosure proceedings or deed in lieu of foreclosure.

ARTICLE 8

AMENDMENTS

8.01 General. The covenants, restrictions, easements, charges, and liens of this Declaration may be amended from time to time, but only by an instrument

signed by not less than five-sevenths of all of the Lot Owners (including Declarant) or accompanied by a certificate of the Secretary of the Association that such a vote was cast at a duly called and held meeting of the Owners. However, until the Declarant has completed all of the contemplated improvements and closed the sales of all Lots within the Subdivision, or XXXX, whichever occurs earlier, no amendment(s) to this Declaration shall be effective, unless joined by the Declarant. It is further provided that in order to be effective any amendment to the Declaration must be recorded in the York County Registry of Deeds.

8.02 Declarant's Rights. Notwithstanding anything herein to the contrary, the Declarant reserves the right to alter and amend this Declaration, as it deems necessary and /or appropriate for the protection and enhancement of the Subdivision or of any adjacent or contiguous land owned by the Declarant, and the Declarant shall not require or need the joinder of any Lot Owners, prior to such time as the Declarant conveys the last Lot of the Subdivision, elects to terminate its control over the Association or XXXX, whichever shall first occur, provided, however, that all such amendments shall be in compliance with the applicable laws of the State of Maine.

8.03 Restricted Amendments. No amendment and no rule or regulation shall discriminate against any Owner or against any Lot unless the Owner so affected and his institutional mortgagee shall consent; and no amendment or rule or regulation may change the method by which the Owner shares the Common Expenses unless the Owner and his institutional mortgagees join in the execution of the amendment, except as otherwise provided herein.

ARTICLE 9

GENERAL

9.01 Severability. The invalidation in whole or in part of any section, subsection, sentence, clause, phrase, word or other provision of this Declaration shall not affect the validity of the remaining portions that shall remain in full force and effect.

9.02 Rule against Perpetuities. In the event any court shall hereafter determine that any provisions as originally drafted herein shall violate the rule against perpetuities, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of the law.

9.03 Arbitration. Any dispute hereunder shall be submitted to binding arbitration under the Maine Uniform Arbitration Act, as may be amended. Any decision in arbitration may be filed in the Office of the Clerk, York County Superior Court, as a judgment, and shall be exclusive, final, and binding on the parties to the arbitration.

ARTICLE 10

RIGHTS AFFORDED LOT OWNERS AND INSTITUTIONAL LENDERS

10.01 Availability of Documents. The Association shall be required to make available to Owners and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration, Articles, Bylaws, or other rules concerning the Subdivision and the books, records, and financial statements of the Association. "Available" means available for inspection, upon request, during normal hours or under other reasonable circumstances.

Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of

(a) Any condemnation loss or any casualty loss which affects a material portion of the project or any Lot on which there is a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days; or

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Homeowners Association.

10.02 Rights of Mortgagees. A first mortgagee, upon request, is entitled to written notification from the Association of any default in the performance by the Individual Owner of any obligation under the Declaration which is not cured within sixty (60) days. In addition, first mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may be or have become a charge against any Common Property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Property, and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein,
has hereunto set its hand and seal this _____ day of _____ 2018.

WITNESS:

Joseph Falzone

By: _____
Joseph Falzone

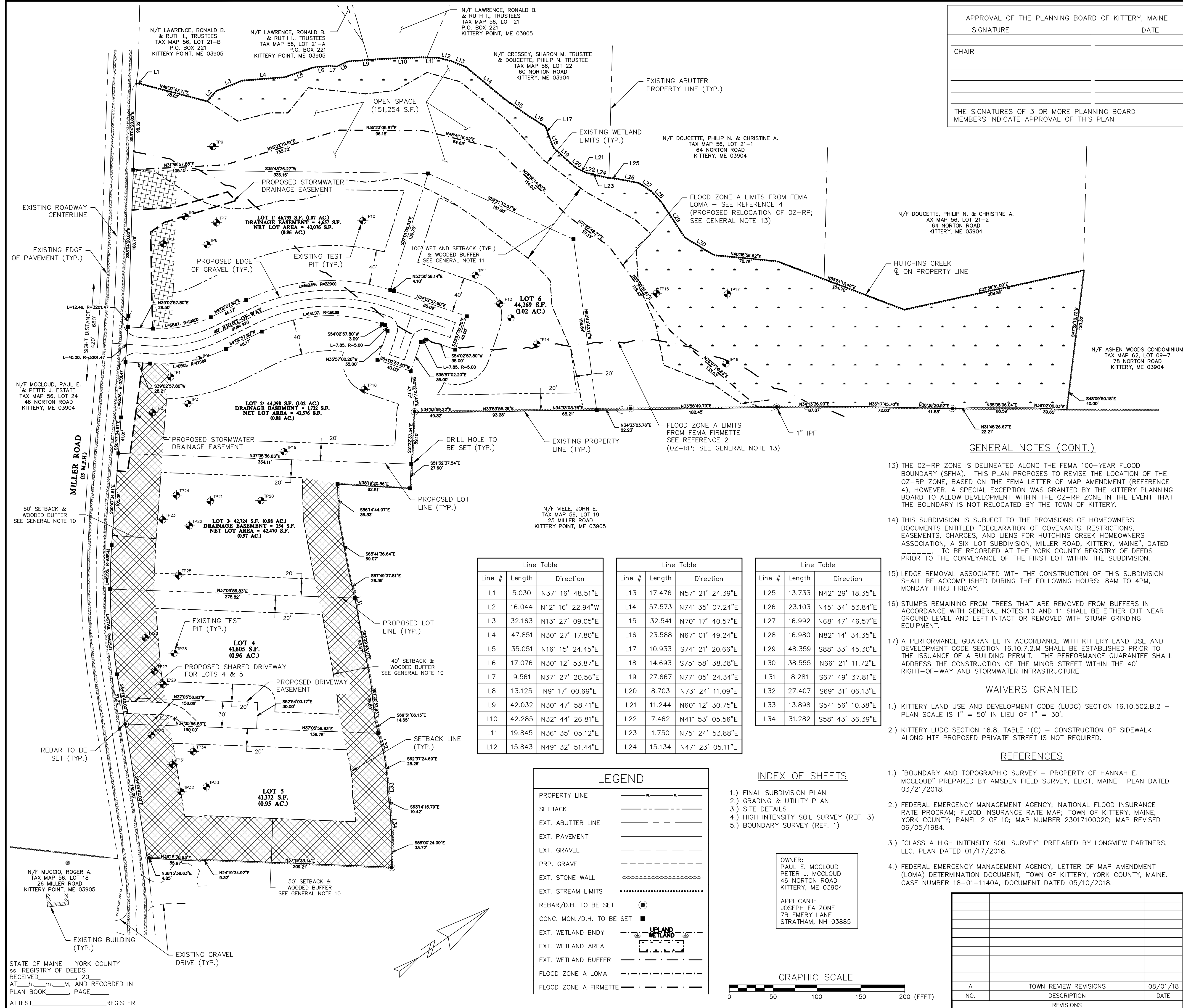
STATE OF MAINE
COUNTY OF YORK

Date:

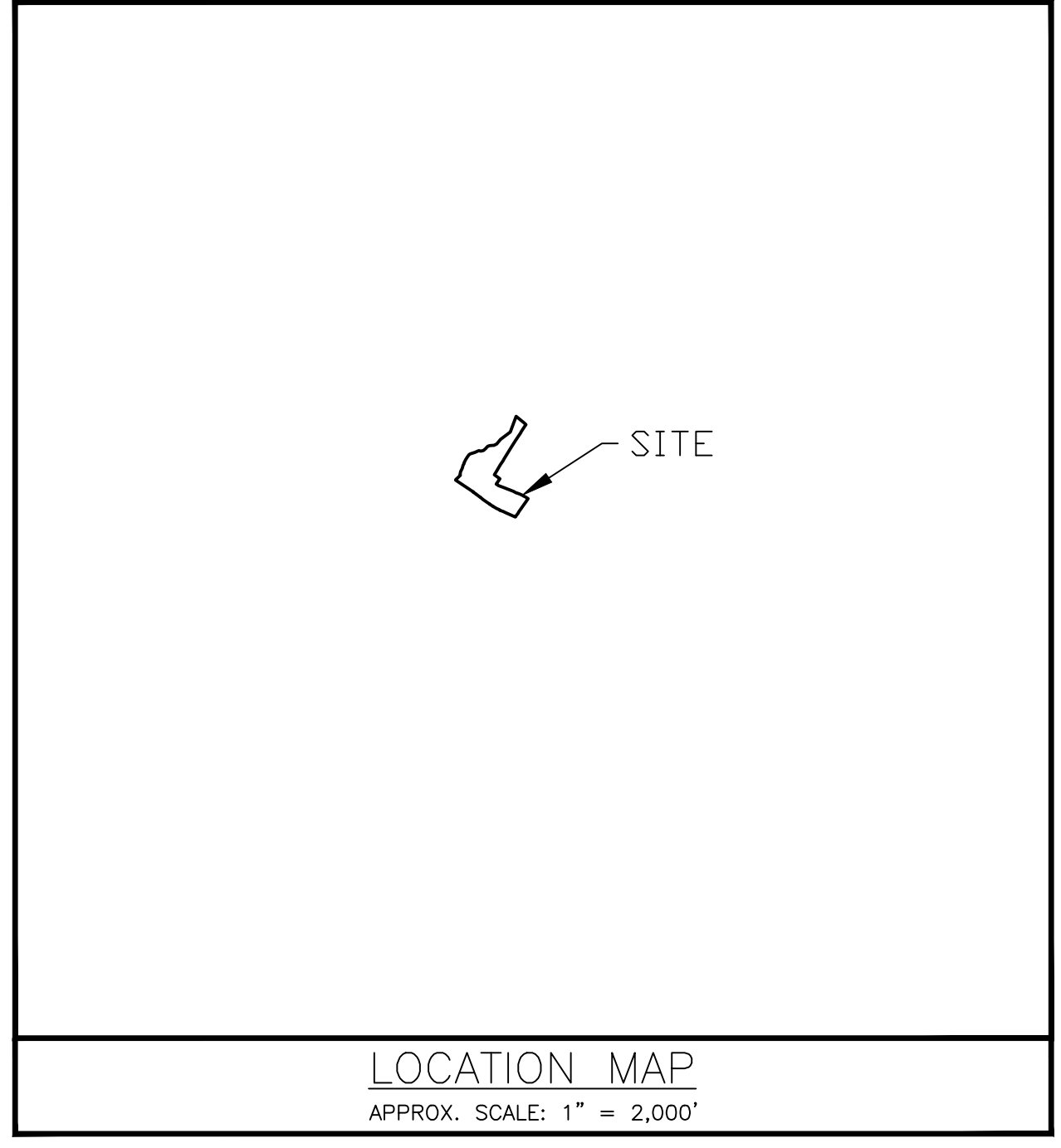
Then personally appeared the above named Joseph Falzone, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed.

Before me,

Notary Public:
Printed Name:
Commission Expires:



APPROVAL OF THE PLANNING BOARD OF KITTERY, MAINE	
SIGNATURE	DATE
CHAIR	
THE SIGNATURES OF 3 OR MORE PLANNING BOARD MEMBERS INDICATE APPROVAL OF THIS PLAN	



- GENERAL NOTES**
- THIS PLAN PROVIDES FOR A 6-LOT RESIDENTIAL SUBDIVISION AT MILLER ROAD KITTERY, MAINE.
 - THE EXISTING PARCEL IS 9.97 ACRES, LOCATED IN THE RESIDENTIAL-RURAL (R-RL) ZONING DISTRICT AND RESOURCE PROTECTION (OZ-RP), TAX MAP 56 LOT 20.
 - EXISTING CONDITIONS AND TOPOGRAPHY (DATUM NGVD 1929) WERE PERFORMED BY AMSDEN FIELD SURVEY, ELIOT, MAINE (SEE REFERENCE 1). TEST PITS, WETLANDS AND HIGH INTENSITY SOIL SURVEY WERE PROVIDED BY REF. 3.
 - THE PROPOSED LOTS SHALL BE SERVICED BY INDIVIDUAL, PRIVATE, SUBSURFACE WASTEWATER DISPOSAL SYSTEMS (SSWDS) AND INDIVIDUAL, PRIVATE, DRILLED WATER SUPPLY WELLS. WELL SEPARATION 100' FROM EXISTING/PROPOSED SSWDS
 - SPACE AND BULK REQUIREMENTS FOR THE R-RL ZONING DISTRICT ARE AS FOLLOWS:

ZONING DISTRICT R-RL	
MIN. LAND AREA	40,000 SF
MIN. LOT AREA	40,000 SF
MIN. STREET FRONTAGE	150'
MIN. FRONT SETBACK	40'
MIN. SIDE SETBACK	20'
MIN. REAR SETBACK	20'
MAX. BLDG. HEIGHT	35'

SEE PLAN FOR SETBACK INCREASES ON SPECIFIC LOTS

- NET RESIDENTIAL AREA CALCULATIONS:
- | | | | | |
|------------------------------|---|--------------|---|----------|
| TOTAL PARCEL AREA | = | 434,288 S.F. | = | 9.97 AC. |
| LESS 50% OF WETLANDS SETBACK | = | 4,874 S.F. | = | 0.11 AC. |
| LESS UNSUITABLE SOILS* | = | 159,245 S.F. | = | 3.66 AC. |
| LESS RIGHTS OF WAY/EASEMENTS | = | 28,722 S.F. | = | 0.65 AC. |
| EXPOSED BEDROCK | = | 1,358 | = | 0.03 AC. |
- NET RESIDENTIAL AREA => 240,089 S.F. = 5.51 AC.
- *UNSATURATED SOILS ARE WETLANDS, POORLY DRAINED AND VERY POORLY DRAINED SOILS.
- NET RESIDENTIAL DENSITY = 240,089 / 40,000 = 6.01 LOTS > 6 => OK
 - OPEN SPACE CALCULATIONS:

MIN. OPEN SPACE (15% OF 9.97 AC)	=	65,143 S.F.	=	1.50 AC.
OPEN SPACE PROVIDED (APPROX.)	=	151,254 S.F.	=	3.47 AC.

 - A SHARED DRIVEWAY IS PROPOSED FOR LOTS 4 AND 5.
 - THE PROJECT SITE IS ENTIRELY WOODED IN EXISTING CONDITION.
 - A WOODED BUFFER SHALL BE MAINTAINED WITHIN CERTAIN PROPERTY LINE SETBACKS AS DEPICTED ON THE PLAN. EXISTING VEGETATION SHALL BE PRESERVED WITHIN THE BUFFER WITH THE FOLLOWING EXCEPTIONS: DEAD, DYING, OR DISEASED VEGETATION; LARGE TREES THAT PRESENT A HAZARD TO STRUCTURES OR UTILITIES; CLEARING NECESSARY TO CONSTRUCT THE GRADING AND DRIVEWAYS DEPICTED ON THE PLANS; CLEARING/TRIMMING DEEMED NECESSARY BY CENTRAL MAINE POWER COMPANY TO EXTEND UTILITIES ALONG MILLER ROAD. LAWN AREAS SHALL NOT BE ESTABLISHED OR MAINTAINED WITHIN THESE BUFFERS. ANY VEGETATIVE REMOVAL FROM THE WOODED BUFFER SHALL BE PERMITTED THROUGH THE TOWN OF KITTERY NATURAL RESOURCE OFFICER. SEE GENERAL NOTE 16.

- GENERAL NOTES (CONT.)**
- THE OZ-RP ZONE IS DELINEATED ALONG THE FEMA 100-YEAR FLOOD BOUNDARY (SFHA). THIS PLAN PROPOSES TO REVISE THE LOCATION OF THE OZ-RP ZONE, BASED ON THE FEMA LETTER OF MAP AMENDMENT (REFERENCE 4), HOWEVER, A SPECIAL EXCEPTION WAS GRANTED BY THE KITTERY PLANNING BOARD TO ALLOW DEVELOPMENT WITHIN THE OZ-RP ZONE IN THE EVENT THAT THE BOUNDARY IS NOT RELOCATED BY THE TOWN OF KITTERY.
 - THIS SUBDIVISION IS SUBJECT TO THE PROVISIONS OF HOMEOWNERS DOCUMENTS ENTITLED "DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES, AND LIENS FOR HUTCHINS CREEK HOMEOWNERS ASSOCIATION, A SIX-LOT SUBDIVISION, MILLER ROAD, KITTERY, MAINE", DATED _____ TO BE RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS PRIOR TO THE CONVEYANCE OF THE FIRST LOT WITHIN THE SUBDIVISION.
 - LEDGE REMOVAL ASSOCIATED WITH THE CONSTRUCTION OF THIS SUBDIVISION SHALL BE ACCOMPLISHED DURING THE FOLLOWING HOURS: 8AM TO 4PM, MONDAY THRU FRIDAY.
 - STUMPS REMAINING FROM TREES THAT ARE REMOVED FROM BUFFERS IN ACCORDANCE WITH GENERAL NOTES 10 AND 11 SHALL BE EITHER CUT NEAR GROUND LEVEL AND LEFT INTACT OR REMOVED WITH STUMP GRINDING EQUIPMENT.
 - A PERFORMANCE GUARANTEE IN ACCORDANCE WITH KITTERY LAND USE AND DEVELOPMENT CODE SECTION 16.10.7.2.M SHALL BE ESTABLISHED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT. THE PERFORMANCE GUARANTEE SHALL ADDRESS THE CONSTRUCTION OF THE MINOR STREET WITHIN THE 40' RIGHT-OF-WAY AND STORMWATER INFRASTRUCTURE.

WAIVERS GRANTED

- KITTERY LAND USE AND DEVELOPMENT CODE (LUDC) SECTION 16.10.502.B.2 - PLAN SCALE IS 1" = 50' IN LIEU OF 1" = 30'.
- KITTERY LUDC SECTION 16.8, TABLE 1(C) - CONSTRUCTION OF SIDEWALK ALONG THE PROPOSED PRIVATE STREET IS NOT REQUIRED.

REFERENCES

- "BOUNDARY AND TOPOGRAPHIC SURVEY - PROPERTY OF HANNAH E. MCLOUD" PREPARED BY AMSDEN FIELD SURVEY, ELIOT, MAINE. PLAN DATED 03/21/2018.
- FEDERAL EMERGENCY MANAGEMENT AGENCY; NATIONAL FLOOD INSURANCE RATE PROGRAM; FLOOD INSURANCE RATE MAP; TOWN OF KITTERY, MAINE, YORK COUNTY; PANEL 2 OF 10; MAP NUMBER 2301710002C; MAP REVISED 06/05/1984.
- "CLASS A HIGH INTENSITY SOIL SURVEY" PREPARED BY LONGVIEW PARTNERS, LLC. PLAN DATED 01/17/2018.
- FEDERAL EMERGENCY MANAGEMENT AGENCY; LETTER OF MAP AMENDMENT (LOMA) DETERMINATION DOCUMENT; TOWN OF KITTERY, YORK COUNTY, MAINE. CASE NUMBER 18-01-1140A, DOCUMENT DATED 05/10/2018.

Line Table			Line Table			Line Table		
Line #	Length	Direction	Line #	Length	Direction	Line #	Length	Direction
L1	5.030	N37° 16' 48.51"E	L13	17.476	N57° 21' 24.39"E	L25	13.733	N42° 29' 18.35"E
L2	16.044	N12° 16' 22.94"W	L14	57.573	N74° 35' 07.24"E	L26	23.103	N45° 34' 53.84"E
L3	32.163	N13° 27' 09.05"E	L15	32.541	N70° 17' 40.57"E	L27	16.992	N68° 47' 46.57"E
L4	47.851	N30° 27' 17.80"E	L16	23.588	N67° 01' 49.24"E	L28	16.980	N82° 14' 34.35"E
L5	35.051	N16° 15' 24.45"E	L17	10.933	S74° 21' 20.66"E	L29	48.359	S88° 33' 45.30"E
L6	17.076	N30° 12' 53.87"E	L18	14.693	S75° 58' 38.38"E	L30	38.555	N66° 21' 11.72"E
L7	9.561	N37° 27' 20.56"E	L19	27.667	N77° 05' 24.34"E	L31	8.281	S67° 49' 37.81"E
L8	13.125	N9° 17' 00.69"E	L20	8.703	N73° 24' 11.09"E	L32	27.407	S69° 31' 06.13"E
L9	42.032	N30° 47' 58.41"E	L21	11.244	N60° 12' 30.75"E	L33	13.898	S54° 56' 10.38"E
L10	42.285	N32° 44' 26.81"E	L22	7.462	N41° 53' 05.56"E	L34	31.282	S58° 43' 36.39"E
L11	19.845	N36° 35' 05.12"E	L23	1.750	N75° 24' 53.88"E			
L12	15.843	N49° 32' 51.44"E	L24	15.134	N47° 23' 05.11"E			

LEGEND

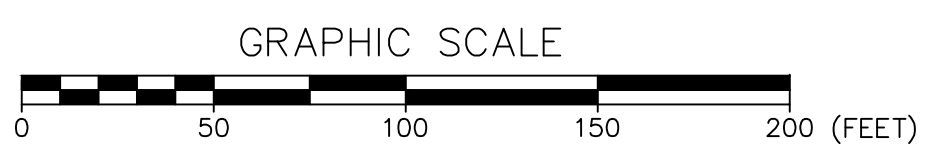
PROPERTY LINE	---
SETBACK	---
EXT. ABUTTER LINE	---
EXT. PAVEMENT	---
EXT. GRAVEL	---
PRP. GRAVEL	---
EXT. STONE WALL	---
EXT. STREAM LIMITS
REBAR/D.H. TO BE SET	⊙
CONC. MON./D.H. TO BE SET	■
EXT. WETLAND BNDY	---
EXT. WETLAND AREA	---
EXT. WETLAND BUFFER	---
FLOOD ZONE A LOMA	---
FLOOD ZONE A FIRMETTE	---

INDEX OF SHEETS

- FINAL SUBDIVISION PLAN
- GRADING & UTILITY PLAN
- SITE DETAILS
- HIGH INTENSITY SOIL SURVEY (REF. 3)
- BOUNDARY SURVEY (REF. 1)

OWNER:
PAUL E. MCLOUD
PETER J. MCLOUD
46 NORTON ROAD
KITTERY, ME 03904

APPLICANT:
JOSEPH FALZONE
78 EMERY LANE
STRATHAM, NH 03885



STATE OF MAINE - YORK COUNTY
ss. REGISTRY OF DEEDS
RECEIVED _____ 20____
AT _____ M., AND RECORDED IN
PLAN BOOK _____ PAGE _____
ATTEST _____ REGISTER

A	TOWN REVIEW REVISIONS	08/01/18
NO.	DESCRIPTION	DATE
REVISIONS		

FINAL SUBDIVISION PLAN
MILLER ROAD SUBDIVISION
MILLER ROAD, KITTERY, MAINE

FOR: JOSEPH FALZONE
78 EMERY LANE
STRATHAM, NH 03885

ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 50'
DATE: 07/19/18
JOB NO: C142-18 FILE: MILLER RD SDV BASE.DWG SHEET: 1

APPROVED BY: _____
DRAWN BY: MJS
REVISION DATE: A : 08/01/18