

TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers

APPROVED
March 27, 2014

Meeting called to order at 6:06 p.m.

Board Members Present: Tom Emerson, Karen Kalmar, Bob Melanson, Mark Alesse, Deborah Driscoll Davis, Ann Grinnell

Members absent: Susan Tuveson

Staff: Gerald R. Mylroie, AICP, Town Planner; Chris DiMatteo, Assistant Town Planner

Pledge of Allegiance

Minutes:

Ms. Grinnell moved to approve the minutes of February 27, 2014 as amended

Ms. Driscoll seconded

Motion carried unanimously by all members present

Ms. Grinnell moved to approve the minutes of March 13, 2014 as amended

Mr. Alesse seconded

Motion carried unanimously by all members present

Public Comment:

Adam Pray, PLS, Eliot (working in Kittery), read a prepared presentation, provided to the Board (Attachment), re: Net Residential Acreage.

There was no further public comment.

Mr. Emerson noted that Mr. Pray did not reference the Comprehensive Plan implementation, which is part of the Planning Board's responsibility. Item 14 on page 24 of the Comprehensive Plan:

The Town's Land Use regulations should assure that residential development in the areas designated as rural retains a rural rather than a suburban landscape. This should include the retention of open space and natural features such as large trees and ledges. What may have been allowed a few years ago was not necessarily following the Comprehensive Plan. What the Town voted on in 1999 was to limit development in rural areas. The Board is now attempting to address this through its land use ordinance. There have been a number of revisions to the Code, though many have been administrative in nature. Language to enable an individual land owner who wishes to pass his land onto his heirs, without creating a subdivision, is what the Board is working on now.

PUBLIC HEARING

ITEM 1 – Town Code Amendment – Title 16.7.8 Land Not Suitable for Development. Action: review amendment and make recommendation to Town Council for adoption, An amendment to the Town Code to address the applicability of the Soil Suitability Guide for Land Use Planning in the State of Maine referenced in Title 16.7.8.1 Locations of Sewage, item 5, which pertains to soils related to septic sewage. The proposed amendment also includes changes to the net residential area calculations and associated definitions, Title 16.2.2.

Mr. Mylroie explained this has been reviewed and developed by the Code Subcommittee and has had a public hearing. Ms. Grinnell noted this should go to a workshop with Council prior to recommendation to Council. Ms. Kalmar suggested the Board continue discussion with professionals regarding the proposed elimination of Article VIII Land Not Suitable for Development, Title 16.7.8.1 Locations and Sewage. Following discussion and minor amendments to the proposed amendment,

Mr. Melanson moved to approve changes to line 22 of the amendment to Title 16.7.8.1 and forward to Council workshop.

Ms. Grinnell seconded

Motion carried by all members present

Mr. Mylroie suggested there be more specificity to easements as included in section E of the amendment and should be fine-tuned in Council workshop. Ms. Grinnell stated whatever goes to Council should be as complete as possible. Discussion to amend this section followed.

Ms. Driscoll Davis suggested the Board give consideration to Mr. Pray's testimony during Code Subcommittee review. Mr. Emerson concurred as the Council specifically asked how this amendment would impact individual property owners, and the Board needs to be able to address this. Ms. Driscoll noted she believed the ordinance allows an individual with 40,000 sf of property to build one house. Ms. Kalmar asked when the ordinance change impacted non-subdivision divisions.

Ms. Grinnell moved to send this amendment to the Code Subcommittee to prepare for Council workshop, with the following changes: line 22; line 30-32; exemption from subdivision review; consideration of the letter from Mr. Pray to the Code Subcommittee; and other changes the Code Subcommittee finds pertinent.

Mr. Melanson seconded

Mr. Melanson moved to reconsider his motion to send Title 16.7.8.1 to Council workshop

Ms. Grinnell seconded

Motion carried by all members present

Ms. Grinnell's motion carried by all members present

ITEM 2 – Town Code Amendment - Title 16.10.9.1.4. Approved Plan Expiration, Title 16.10.9.1.5 Requests for Extension and Title 16.9.3.8 Expiration of Wetlands Alteration Approval. Action: discuss proposed amendment and schedule a public hearing. Proposed amendment reduces the period of time in which extensions can be granted and modifies the process for extension requests. Following discussion and minor changes to the proposed amendment,

Ms. Grinnell moved to forward to public hearing the March 27, 2014 amendments to Title 16.10.9.1.4, Approved Plan Expirations and Title 16.9.3.8 Expiration of Wetlands Alteration Approval, as discussed.

Mr. Melanson seconded

Motion carried by all members present

ITEM 3 – Board Member Items / Discussion

A. Town Planning and Development Program Briefing Book

Mr. Mylroie summarized the intent of preparing the Briefing Book for the Board. Following discussion, Mr. Emerson suggested the Board become familiar with the Briefing Book, and noted it will be shared with the Council and other Boards and Committees.

Break

B. Town Council/ Planning Board Workshop results;

Mr. Emerson stated the workshops have been productive; quarterly get-togethers will be scheduled to keep all parties informed.

C. Action List; Briefing Book Amendments:

- Following discussion, the Board requested the 2015 code amendment items 3i (i-viii), page 18, be included on the Board's Action List to be addressed.
- Historic designation of structures to aid in gaining federal funds.
- FEMA FIRMs - A informational workshop has been scheduled on April 7 at 6:15 p.m. with Council for property owners impacted by the new FEMA Federal Insurance Rate Maps.

D. Review By-Law changes:

Numerous administrative and grammatical changes were suggested by the Board. It was suggested that language regarding Board Subcommittees be included in the By-Laws. Mr. Melanson requested inclusion of KPA Rules and Regulations requiring a member of the Planning Board serve on the KPA. Requested changes will be forwarded to Susan Tuveson to be incorporated in the By-Laws for final review.

E. Other:

- Title 16.7.3.5.12 ordinance revision was referenced. This was an amendment request by a member of the public. Mr. DiMatteo explained the process to submit to Council. Mr. Alesse offered to simplify the RTC and submit to the Code Subcommittee. Mr. Melanson noted Enactment language is also needed.
- BIG project. Mr. Melanson explained the need for a Code amendment allowing for the placement of a new holding tank in the Shoreland zone. This will allow for a pump-out system at the new pier. The DEP is in support of this amendment change for water dependent uses. Mr. DiMatteo explained he believed the CEOs decision was based on the definition of 'septic system', which includes holding tanks, that are not allowed within 100 feet of a water resource. Ms. Kalmar suggested the definition needs to be changed, or allow placement in the Shoreland zone only for commercial/water dependent uses. Mr. Melanson noted this pump-out system will provide \$2,000-\$4,000 in revenue to the Port Authority, which the Council has charged to become more self-sustaining.

ITEM 4 – Town Planner Items:

A. Destination Marketing Program- Kittery Gateway recommendation

Mr. Mylroie summarized the group's decision to brand the area as the "Gateway".

Ms. Grinnell noted that Phase 2 Destination Marketing includes the Gateway proposal, and the Council has not approved Phase 2 as yet. She noted there was a limited number of businesses represented, and does not support sending the recommendation to Council.

Ms. Driscoll- Davis suggested the name of the area needs to be unique. The name 'Gateway' is being considered in Portsmouth, and the I-95 bridge is referenced as the gateway to Maine. It is too confusing.

Mr. Emerson stated, in deference to the group that selected the name, he would support moving this forward to Council, without a recommendation one way or the other. No action was taken

B. Quality Improvement Overlay Zone - No discussion.

C. Quality Improvement Plans for Kittery Shore and Harbors - No discussion.

D. Town Council Joint Workshop is scheduled for April 7, 2014, 7:15-8:15 with the Town Planning Board, Economic Development Committee, and Comp Plan Update Committee. This will be followed by the FEMA/FIRM public workshop.

E. Other town code amendments

NEW BUSINESS

ITEM 5 – Town Code Amendment – Chapter 2, Definitions, Chapter 3, Article 2, Section 17 Shoreland Overlay Zone and Chapter 7, Article 3 Nonconformance in Title 16 Land Use Development Code.

Action: review amendment and schedule a public hearing. An Amendment includes changes to the town's Shoreland zoning to comply with the Maine Department of Environmental Protection 2000 and 2010 conditional approvals.

Mr. Mylroie explained the amendments would bring the Code into compliance with state guidelines. Mr. DiMatteo explained these changes were added directly from the 1999 and 2010 DEP conditions of approval.

Mr. Melanson moved to accept amendments to Title 16.2; Title 16.3.2.17; Title 16.7.3; and Title 16.8.28, as presented on March 27, 2014, and schedule a public hearing.

Ms. Kalmar seconded

Motion carried by all members present

Mr. Emerson moved to adjourn

Ms. Grinnell seconded

Motion carried by all members present

The Kittery Planning Board meeting of March 27, 2014 adjourned at 9:52 p.m.

Submitted by Jan Fisk, Recorder, April 1, 2014

ATTACHMENT

March 19, 2014

To: Tom Emerson, Chairman, Kittery Planning Board
Kittery Planning Board Members

Cc: Nancy Colbert Puff, Town Manager
Gerry Mylroie, Town Planner
Chris DiMatteo, Asst. Town Planner
Heather Ross, Town Code Enforcement Officer

From: Adam Pray, PLS
PO Box 714
Kittery, ME 03904

Re: Town Code Amendment Title 16.7.8 Net Residential Acreage

Dear Mr. Chairman and members of the Planning Board,

I respectfully request that this letter be considered in connection with the proposed Town Code Amendment to Title 16.7.8 regarding Residential Acreage Calculations. Furthermore, I ask that this letter be read aloud by a member of the Planning Board or Planning Department during the next scheduled workshop and the 3/27/14 Planning Board Meeting so that it may be considered and entered into the public record before a draft is presented to the Town Council.

This letter is in regards to amendments to Title 16.7.8.1 as proposed on pages 3 and 4 of the 3/13/14 review notes as submitted for the 3/13/14 Planning Board Meeting under "ITEM 2 - Town Code Amendment - Title 16.7.8 Land Not Suitable for Development."

I am unable to attend Planning board meetings on Thursdays but often review the video recordings as linked on the Town of Kittery website. What a useful resource! I had a chance to watch the 3/13/14 meeting and was surprised that only one member of the public provided comments to the proposed rule-changes. This is surprising considering what the recent amendments to the development code and current proposed amendments will mean for Kittery land owners and how they will be able to use their land. I think more public comments would be provided if Kittery land owners understood how these recent code amendments and proposed amendments impact their land value and ability to develop or divide their property. Recent amendments have either greatly restricted or prevented a land owner's ability to divide their land or add additional dwelling units. Proposed amendments will further restrict Kittery land owners.

Part 1 below offers a brief discussion and example of how the recent amendment has affected one land owner; Part 2 is a copy of the currently proposed amendment; and Part 3 offers a few conclusions and recommendations about how to improve the amendment.

Part 1

As I understand it, prior to recent and proposed code amendments, a land owner in Kittery had the ability to divide their land or add additional dwelling units in at least two ways:

1) through subdivision review requiring Planning Board approval and subject to subdivision review requirements (3 or more lots in a five year period);

or,

2) if exempt from subdivision as defined by statute, by division of land which does not require Planning Board approval and not subject to subdivision review requirements.

In either case, a proposed lot would have to meet the minimum lot size, and in the case of additional dwelling units, the minimum land area per dwelling unit. The following hypothetical scenario illustrates the negative impact the recent amendment has had on one land owner who has carefully planned on dividing his lot:

Joe owned a 3 acre parcel of land in the Rural Residential district (which is what the majority of Kittery is Zoned). Joe bought his parcel in 1986 and planned on dividing a portion of it to acquire some funds to help pay off some bills at retirement. Joe also has a daughter who got married and wanted to build a house. Joe, as a good father, planned to give as a gift a portion of his property so his daughter and her husband could build their home. It would be the ideal spot to have their daughter. She would be close, and, if Joe and his wife ever needed care, they would be right there to help. So in 2009 Joe began implementing his plan.

In 2009 Joe hired a land surveyor to help him with his planning. The surveyor confirmed that their parcel of land was actually 3.5 acres, not 3 acres as shown on the Town GIS. Portions of the lot were wetlands. These were delineated and shown on the survey. It was also discovered during the research process that a utility easement had been reserved across Joe's property for a neighboring parcel. No width was given and the location could not be determined in the field. This was noted on the plan. Also shown was a reserved 30' access easement that was conveyed to the neighbor along the westerly side of the property, which was actually never constructed.

In 2010, the circumstances are right and Joe decides to go ahead with dividing his land.

Proposed boundary lines were drawn and the proposed lots met all of the dimensional requirements and were well above the 40,000 s.f. minimum area. The minimum lot area for the Rural Residential zone in 2010 was 40,000 square feet.

In 2010 Lot area was defined as, "...the area of land enclosed within the boundary lines of a lot, minus: (1) land below the normal high-water line of a water body or upland edge of a coastal wetland; (2) areas beneath Planning Board-approved right-of-way; and (3) land within public street rights-of-way.

Setback distances from the back wetland were easily met for the proposed buildings. In 2011, an attorney drafted the deeds and the lots were conveyed - one to a new resident and the other to his daughter. Later that same year, building permits were given, both lots were built on and taxes levied.

Let's now assume Joe waited a little longer to execute the deeds. Joe was told that the economy was still picking up and that if he waited a little longer he would get a better return on the one lot. Besides, he was taking care of his mother and was living in Florida at the time. His daughter was still a student

at the University of Maine in Orono and would be graduating in 2014.

So, in 2014, after returning from Florida, Joe tries to execute his plan. He submits his proposed plan to the Planning Department and after much review and back and forth with the department, is told that his plan doesn't meet the code and that he can't divide his property. What Joe thought was his 3.5 acre parcel has now effectively been reduced to a little over an acre by the new code and cannot be divided. Utterly disappointed and trying to understand what has happened, Joe sees that the code has been amended on 9/26/11, 1/23/12, 5/30/12, 9/24/12, 3/25/13, 6/10/13 and finally on 1/27/14. Joe looks at the newly revised code (1/27/14) and sees that what used to be shown under the residential zone as "Minimum Land Area per Dwelling Unit - 40,000 sq. ft.", and could easily be calculated, is now replaced with "Minimum Land Area per Dwelling Unit* - 40,000 sq. ft." **As per Chapter 16.2 definition of net residential density except to exempt properties which are unable to meet the square feet required for a single family dwelling unit, provided the lot was conforming prior to the date of this enactment.*

Joe looks up the Chapter 16.2 definition of net residential density:

Net Residential Density: means the number of dwelling units per net residential acre.

Joe, frustrated and confused, looks up the definition of Net residential acreage:

Net Residential Acreage: means the gross available acreage less the area required for streets or access and less the areas of any portions of the site which are unsuitable for development as outlined in Article VIII of Chapter 16.7

Joe, still frustrated and confused, looks up Article VIII of Chapter 16.7.

Article VIII. Land Not Suitable for Development.

16.7.8.1 Locations and Sewage

The planning Board may not approve portions of any proposed development that:

- 1. Are situated below sea level;*
- 2. Are located within the one hundred (100) year frequency floodplain as found in the definition;*
- 3. Are located on land which must be filled or drained, or on land created by diverting a watercourse, except The Planning Board may grant approval if central sewage collection and disposal system is provided.*
- 4. Has any part of the development located on filled tidal wetlands.*
- 5. Employs septic sewage disposal and is located on soils rated poor or very poor by the Soil Suitability Guide for Land in the State of Maine.*

At this point Joe is extremely confused. It doesn't make sense to him that, what he could have done just a few years ago, is completely out of reach now. He understands that uncontrolled development isn't good, but his situation was different. He wasn't a large developer - he wasn't even proposing a subdivision, just two lots and that would be exempt from subdivision. He doesn't understand that his neighbor was able to do the same thing only a few years earlier. He had done all of this planning, really for nothing. The code had changed so fast that he really didn't understand how it would affect him so much and really what it meant for his security and his ability to plan for the future.

The only comfort Joe has is that he knows the Planning Board has been working on amending the code.

Part 2

The following is a copy of the proposed amendment as proposed on pages 3 and 4 of the 3/13/14 review notes as submitted for the 3/13/14 Planning Board Meeting under “ITEM 2”.

~~*Proposed Amendment – EDITS THROUGH 2/18/14 PBCS MEETING & 2/27/14 PB MEETING*~~
~~*Article VIII. Land Not Suitable for Development*~~

~~*16.7.8.1 Locations and Sewage.*~~

~~*The Planning Board may not approve portions of any proposed development that:*~~

- ~~*1. Are situated below sea level;*~~
- ~~*2. Are located within the one hundred (100) year frequency floodplain as found in the definition;*~~
- ~~*3. Are located on land which must be filled or drained, or on land created by diverting a watercourse, except the Planning Board may grant approval if central sewage collection and disposal system is provided.*~~
- ~~*4. Has any part of the development located on filled tidal wetlands.*~~
- ~~*5. Employs septic sewage disposal and is located on soils rated poor or very poor by the Soil Suitability Guide for Land Use Planning in the State of Maine.*~~

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS 6

Article VIII. Net Residential Acreage

16.7.8.1 Net Residential Acreage Calculations

The Net Residential Acreage determines the maximum number of dwelling units allowed on a parcel. To calculate the Net Residential Acreage the following land area must be subtracted from a parcel's gross area:

- A. All land located below the Highest Annual Tide elevation as published in the Maine DEP Highest Annual Tide (HAT) levels for the most current year.*
- B. All land located within the floodplain as defined in Title 16.2, Flood, One Hundred (100) Year.*
- C. All wetlands as defined in Title 16.2 Wetland, as well as vernal pools, ponds, lakes, streams and other water bodies.*
- D. All land located on filled tidal lands, per Title 16.2 Tidal Land, Filled.*
- E. All land located within existing easements, excluding view easements, and rights-of-way, as well as proposed rights-of-way, parking and associated travel ways, including driveways that service two (2) or more dwelling units.*
- F. All land isolated from the primary portion of the parcel by a road/street, existing land uses, or any physical feature, natural or manmade, such that it creates a barrier to the central development of the site and no means of access is proposed nor likely to be provided in the future. However, to demonstrate that identified isolated land may be considered developable for the purpose of this calculation, the applicant must submit a plan and supporting documentation for the Board's consideration.*
- G. All land zoned commercial.*
- H. All land one (1) acre or more contiguous area with sustained slopes of 20% or greater.*
- I. All land identified as exposed bedrock, or soils with a drainage class of poorly drained, and/or very poorly drained as defined in Title 16.2 Soils.*
- J. Fifty (50) percent of all land that is characterized with a drainage class of somewhat poorly drained, unless public sewer is utilized, in which case no land area is subtracted.*
- K. All land area within a cemetery/burying ground as defined in Title 16.2, including associated setback per MRS Title 13 §1371-A Limitations on construction and excavation near burial sites.*
- L. All land within a Commercial Fisheries/Maritime Uses Overlay Zone or Resource Protection Overlay Zone not included in 16.7.8.1.A -K.*

16.7.8.2 Documentation

The Net Residential Acreage calculation must be supported by verifiable information and accurate data and shown on the subdivision plan or other plan when applicable.

Title 16.2 Definitions

Tidal Land, Filled: means portions of the submerged and intertidal lands that have been rendered by human activity to be no longer subject to tidal action or below the natural low-water mark after October 1, 1975.

Soils

- 1. "Poorly drained soils" means soils where water is removed so slowly that the water table is at or within twelve (12) inches of the ground surface for six to nine months of the year.*
- 2. "Very poorly drained soils" means soils in an area where water is removed so slowly that the water table is at or within twelve (12) inches of the ground surface for nine to ten (10) months of the year. A soil's drainage class must be determined by a Maine Certified Soil Scientist and based on the NRCS Supplemental Key for the Identification of Soil Drainage Class based on the Maine Association of Professional Soil Scientists, Key to Drainage Classes, March 5, 2002 or subsequent revisions.*

Cemetery and Burying Ground: A private or public place set apart for the interment of the dead. In the absence of an apparent boundary, i.e., fence, stone wall, survey markers, survey plan, or information from the Kittery Historical and Naval Society or other reliable historic sources, the perimeter of the interment area is determined by starting with a 10-foot distance from existing tombstones and expanded, where necessary, to form a final rectilinear area.

Net residential acreage means the land area identified for regulatory purposes as developable and is means the gross available acreage less the area required for streets or access and less the areas of any portions of the site which are unsuitable for development land area identified as outlined in Article VIII of Chapter 16.7 Net Residential Acreage. The Net Residential Acreage is used to determine the maximum number of dwelling units allowed on a parcel.

Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT

16.8.11.5 Application Procedure.

All development reviewed under this Article is subject to the application procedures in Chapter 16.10, Development Plan Application and Review, and the following:

A. In addition to the requirements of Chapter 16.10, the following are required at submittal of the Sketch Plan:

1. Calculations and maps to illustrate:

- a. proposed dimensional modifications and the dimensional standards required in the zone in which the development will be located;*
- b. non-buildable area (land not suitable for development area as defined in Article VIII of Chapter Title 16.7.8.1);*
- c. net residential acreage and net residential density; and*
- d. open space as defined in Section 16.8.11.6.D.2 of this Article.*

Part 3

Conclusions and Recommendations

It can be agreed that an amendment to the current Land Use Ordinance is necessary. However, it must be admitted that the proposed amendment muddles an already disorientating and confusing development code.

First, the current code erroneously links Net Residential Area to lot area requirements in divisions that are exempt from subdivision review. (See the example of Joe above). The current definition of “Lot Area” is more appropriate. It is straight forward and understandable:

“Lot Area means the area of land enclosed within the boundary lines of a lot, minus: (1) land below the normal-high-water line of a water body or upland edge of a coastal wetland; (2) areas beneath Planning Board-approved right-of-way; and (3) land within public street rights of way.”

Furthermore, the proposed amendment does not address this error. It says, *“The Net Residential Acreage determines the maximum number of dwelling units allowed on a parcel.”*

This is not only too broad, but erroneous because it would include one or two lot divisions, which do not meet the statutory definition of a subdivision and which are exempt from subdivision review requirements.

The proposed amendment should clearly limit the Net Residential Acreage and density calculations to subdivisions and cluster developments. It should positively exempt non-subdivisions from the Net Residential Acreage calculation where “Lot Area” is the correct definition.

Second, a more critical and judicious look should be made at the definitions for land areas that must be subtracted from a parcel’s gross area to calculate the Net Residential Acreage. While most might agree that most areas defined should be subtracted (i.e. floodplain, wetlands etc..) and is justifiable, a few definitions are clearly arbitrary, ambiguous and redundant and should be either changed or removed.

For example, proposed 16.7.8.1.E says, *“All land located within existing easements, excluding view easements, and rights-of-way, as well as proposed rights-of-way, parking and associated travel ways, including driveways that service two (2) or more dwelling units.”*

Rights-of-way are easements. What about blanket easements? or easements in gross? would the entire area be deducted? how about easements that have no defined width? that can’t be located on the ground? mineral easements? aerial easements? reciprocal easements? would the appurtenant easement area be counted back toward the gross area? Should all parking areas and associated travel ways really be deducted from the parcel’s gross acreage? Couldn’t these areas be conceivably used for development?

“Existing easements” is too ambiguous. It should be replaced with a clearer definition. (i.e. “Town Approved Right of Ways”)

Another example, proposed 16.7.8.1.I says, *“All land identified as exposed bedrock, or soils with a drainage class of poorly drained, and/or very poorly drained”*

Should all of the area of poorly drained soils and bedrock really be excluded? Adjacent Towns with similar definitions at least allow for a percentage to be counted.

Also, 16.7.8.2 Documentation says, “The Net Residential Acreage calculation must be supported by verifiable information and accurate data and shown on the subdivision plan or other plan when applicable”

Verifiable to whom and by what standard? What is the standard of accuracy?

The development code is changing at break neck speeds. The current code was ordained on 7/26/2010. 7 amendments have been made since then: 9/26/11; 1/23/12; 5/30/12; 9/24/12; 3/25/13; 6/10/13; 1/27/14; and now this proposed amendment. What has precipitated all of the changes? Has the code been that faulty that it requires constant maintenance to address its apparent inadequacies? How can a land owner or small developer navigate these changes? How can they plan if the code and definitions change 3 or 4 times in a year?

Recent code amendments have left Kittery residents reeling, especially relating to cluster provisions that have had unintended consequences. The board has been faced with proposed cluster developments that seemed beyond what the code was trying to allow. These proposals appear to have prompted knee-jerk reactions to implement a quick-fix. The record indicates that the current remedy sought by the Planning Board is to redefine and apply the Net Residential Acreage definition to subtract as much land as possible from a landowner’s gross area so that the amount of units or lots they can build is greatly reduced, or eliminated. Simple proposals and subdivisions that are arguably sustainable and responsible will not be possible under the current ordinance and proposed amendment - proposals that would have been entirely viable just a few years ago. At the same time, the Net Residential Area is currently being misapplied to non-subdivision proposals (divisions exempt from subdivision review). The standard Lot Area definition should apply to these proposals.

The Board is right in directing an amendment to the ordinance and has a great opportunity to provide a fair amendment. However, recent and proposed amendments betray a lack of public input and representation. When tested, the current code and proposed amendment fails Kittery land owners. It will negatively impact land owner’s rights and will unfairly restrict otherwise responsible development. The proposed amendment is inadequate and demands wider representation and critical review.

Respectfully,

A handwritten signature in black ink, appearing to read 'Adam M. Pray', with a stylized, looping flourish at the end.

Adam M. Pray, PLS