## Re: 47 Cutts Road

## Russell White comments

- would like to see remediation/replanting of construction storage areas or will these areas continue to be used for material storage etc.
- re: existing home of Judith Andrews / provide adequate buffers, (location of and clarify future access to subdivision roadway for this lot)
- investigate information about annual flooding and overflow of upper pond and provide for safeguards (maintenance of grates/gates as necessary, designate responsible party)
- I have received several messages via my PB contact form about unresolved issues re:Judith Andrews' lot and ROW. I believe that the PB cannot resolve these, but should it be required that they be resolved/ clarified before we proceed? If the answer to this question is at all unclear, I suggest submitting to Counsel for a written opinion to become part of the record for this application.
- minimize tree removal
- will KLT provide signs, and will trails be established/marked?

\_

Public comments for 47 Cutts Road, 10/26/23:

Good morning,

I respectfully request a delay in further discussions of the development on 47 Cutts Rd. until such time as a question pertaining to my ROW has been legally addressed to my satisfaction.

Respectfully, Judith Andrews

Dear Planning Board Members,

Thank you for taking the time to hear mine and many others' concerns about this project. First, is the fact that yes, this is Chip's land that he bought after my dad passed but was conveyed to the other family members that he just wanted to own land like our dad. He never said that building a development was his intent. When this was brought to my attention and the fact that it was coming in front of the planning board for first step approval, I couldn't understand how this could take place because of my sister's ROW that this project goes through. Without her knowledge and written consent it should have been dead in the water right then until this issue was taken care of. I heard one of you say " This is a civil matter." How can that be when the planning board represents the town and issues permits without first checking if there are any outstanding legal issues pending or during the approval process of which my sister has brought up many times?

The other issue that concerns me is the maintenance of the outflow grates for both ponds (NOT THE GATE VALVES). Grates that do get covered up with debris. These ponds have in the past and do almost every year overflow the bankings and on many occasions have washed out parts of the road. If these are not taken care of and the upper pond overflows bad enough it will take out the underground utilities (power, cable, water that services Judy's house and Lot 11) which in turn will flood the lower pond and overflow into the lower lots down stream. Who decides to maintain these grates?

They're are other factors I feel that this project shouldn't be allowed, but I don't want to take up anymore time so other people may speak. I just wanted to get the major issues out there to the planning board and other committees involved in this development.

I hank ve	<b>11</b>
Thank yo	u.

Chris Andrews

Dear Planning Board Members,

I am writing this letter because I strongly oppose the subdivision plans brought before you for 47 Cutts Road.

The roadway from a portion of Cutts Rd leading into and crossing over Lot 4, Lot 7, and Lot 8 is a deeded Right of Way to Judith Andrews and has been her legal access to her home, "the island lot", at 25 Andy's Lane. During the Planning Board meeting on September 28, 2023, when Mike Sudak was asked about this Right of Way, he commented, "Our proposed Right of Way does intersect and go on top of where that existing easement exists for a portion of the travel way." At an earlier meeting in March, he also mentioned that the Right of Way would be abandoned through the creation of this subdivision.

In my own research I found that "any changes to a Right of Way must have consent in writing of the holder and be recorded." To my knowledge and review of the Registry of Deeds, there has not been a signature given from Judith Andrews giving up her legal Right of Way. He also went on to mention that his client contacted a lawyer who did a deep dive into the history of this deed. From this deep dive, did the lawyer include the results of her findings other than include copies of some of the existing deeds found in the Registry of Deeds?

In addition, the homes built in Lot 12 and Lot 13 will abut the natural spring and stream that feeds into both of the ponds located on this subdivision proposal. Is there no concern for lawn debris and lawn care chemicals being dispersed along this natural waterway? We have already seen the result of this very practice played out over the past two years next to the upper pond and watched the discoloration of water, not to mention the effect it may have already had on the wildlife in and around these ponds.

A concern brought up at the site walk was whether or not the two ponds would pose an overflow problem. Contrary to what was presented at the Planning Board meeting on September 28, 2023, "Yes," the upper pond water level has risen up to and over the road that separates the two ponds, into the lower pond, and from there, down over the banking on the other side. This event does not happen every single year, but with a heavy rainfall and without someone regularly cleaning off the grates of leaves and twigs, it could easily happen more often.

Also, it was mentioned during the March 23, 2023 meeting, that the travel way through the subdivision would be a private road. If the Kittery Land Trust's access path and five car parking area become part of this subdivision, doesn't the travel way now have to become a public travel way for the public to have access to parking?

In closing, I would like the board members to take a moment to imagine. Imagine you have just retired and are looking forward to spending time in your home that's nestled in the forest with the wildlife as your neighbors. A real slice of serenity. Now, picture watching helplessly those surrounding trees cut down to make way for a road that will now be 20 feet from your house. Now, insert the daily buzz of chain saws as your backdrop with the back and forth of heavy trucks and equipment for years while this development is being built.

Please ask yourself this question: "If the dream of Chip is to build a home for himself, one for his daughter, and one for his son, then why would there be a need to build ten additional homes?"

Please vote NO on this 13 home proposed subdivision as presented.

Sincerely,

Lisa Hippern

To the Town of Kittery;

I oppose the development of 13 homes on Cutts Road and Andy's lane for three main reasons.

- A. This development is on top of Judy Andrews' deeded Right of Way from 1981.
- B. The plans for the road near lot 10 appear to be on Judy Andrews' land, and therefore must be further researched.
- C. The majority of this land is wetland, and always has been.

This letter is a request to halt any construction of this project until the above issues can be resolved. Judy Andrews, my mother, has asked me, Oriana Allen for my assistance in this matter. Judy Andrews is acquiring professional council in order to pursue resolution.

1. I would like to illuminate the history surrounding the Deeded Right of Way (ROW) belonging to Judy Andrews (at the time Judy and Ric Harris) in 1981. I will start with a bit of history about my grandfather Arthur W. Andrews (Andy). Many will remember him as a pillar of the Kittery community. He was a self-made businessman and town council member. During his lifetime he purchased a rather large parcel of land on Cutts Road and encouraged his children to build homes and raise their families on parcels of his land. He also built a full-size baseball field for the town teams, he built a rustic log cabin in the woods for use by the Cub Scouts, he stocked his ponds with fish and allowed for fishing derbies, and he built a basketball court. He truly cherished his land and understood the value to his family and the larger community. Many residents of the surrounding area have fond memories of swimming or ice skating on his ponds.

My mother and father built their home in 1981 on a lot behind my grandparent's home at 61 Cutts Road. The deeded ROW was given to them extending to Cutts Road, though at the time was undeveloped. During the course of building a house and raising small children the ROW remained undeveloped as money and time had not allowed, though they always intended to develop this ROW. In the mid 1980's Andy Andrews built Andrews Construction Company (ACC) on top of the ROW. My mother was given no notification with respect to the ROW at the time the ACC garage was built. Andy felt he had the right to build on his land despite the ROW access and he felt it didn't require any additional action regarding the ROW. At that time, Judy was told by her father that all would be fine.

In the mid 1990's my grandfather suffered a traumatic brain injury. Any discussion regarding his business or his land became virtually impossible.

Because the ROW issue remains unresolved, my mother is seeking an attorney to pursue a civil suit.

2. The proposed road near lot 10 of this development appears to be on Judy Andrews' land. The surveys completed by Easterly Surveying in 1980/1981 need to be independently reviewed by the Town of Kittery, and this matter needs to be resolved prior to any further consideration to start this development.

3. Lastly, I oppose this development because it is on wetland. The lower pond floods over the bank annually and creates a natural seasonal stream. The land also is full of natural springs and swamp area. This creates lovely natural habitat for water loving animals. The ponds were man made but have been there for 50+ years. At this time, they should be considered natural wild habitats. Creation of the road and developing 13 lots on top of this beautiful habitat is deplorable. Specifically, the lots #5, 6, 7, &8 are directly downstream from where the pond overflows in the spring.

There are too many unresolved questions with regard to the creation of this development; such as who will maintain the overflow of these ponds when the levels get too high or the grates are clogged with leaves and branches? (Which happens several times a year) My mother currently maintains the grates and has for many years. Who will ensure that the construction debris will not contaminate the ponds, the surrounding wetland, and the underground aquafer? Who will manage, test for and enforce nonuse of chemical fertilizers and other runoff such as sand and salt for these 13 lots to ensure the wild habitats are not contaminated? Who will independently verify the statements made by Chip Andrews during the town meeting 9/28/23 concerning these ponds' gate valves? Who will independently verify the soil and water tests that have been filed with this proposal? What happens if construction begins and additional springs/water sources are found? Who will ensure that the Cutts Ridge aquafer remains uncontaminated? There are so many concerns and factors that could occur during this construction that it would be impossible to anticipate the potential impact to this wild piece of land.

In summation, we request that the consideration for the Twin Oaks Subdivision by the town of Kittery halt until the civil matters concerning my mother's deeded ROW and the original surveys of her land can be resolved; and we request an independent review by the state of Maine's department of land resources, specifically wetland management. We request that this project be taken off the docket for the upcoming Kittery planning meeting scheduled on 10/26/23 until these issues are resolved.

Respectfully,

Oriana Allen

## October 26, 2023 Public Hearing Comments Regarding Development of Parcel 60-10-3 (47 Cutts Road) by Owners of Abutting Parcel 60-03 (25 Cutts Road)

As an owner of the abutting parcel 60-03 (25 Cutts Road), there are currently 2 concerns regarding the proposed development plans for parcel 60-10-3 (47 Cutts Road):

- Access to the part of parcel 60-03 which can be developed
- Stormwater runoff to parcel 60-03

See the attached from the Kittery WebGIS with Parcel 60-10-3 highlighted in yellow, part of the proposed road and cul-de-sac outlined in black, and the proposed Lots 1-3 in purple.

The green delineates wetlands per the Kittery WebGIS. Based upon that delineation, not much of parcel 60-03 can be developed. What little that can be developed needs access. It makes much more sense to plan for eventual access via a road (outlined in red on the attached) than building a road across wetlands. Obviously, whoever eventually proceeds with development shall pay for the actual road access.

Currently page 16 of the 90 page plans shows a proposed stormwater management area approximately in the middle of requested access road outlined in red on the attached. It makes much more sense for that proposed stormwater management area to be relocated at the southern corner of the proposed Lot 3 so that it is closer to the existing wetland delineated area in addition to allowing plans for the future access road aforementioned.

Note: When the Huntington Run Subdivision was built on Parcel 66-02A, its stormwater management system was not maintained during the development and is still inadequate and resulted in making parcel 66-02 wetter.

Mike P. Harris

Mike P. Harris

MikePHarris13@gmail.com 650-393-0963 1563 Elderberry Court Arroyo Grande, CA 93420











