

28 September 2023

Thank you for this opportunity to voice our concerns. This letter is a collective effort and represents the views of several neighbors in addition to myself. I live at 69 Bartlett Road and abut the proposed development. Bob Kimball, abuts the property at 67 Bartlett, Katy Black, 76 Bartlett directly across the road from me. Bill Paarlberg, directly across from the proposed road, his neighbor Kevin Niles, Michael Landgarten 86 Bartlett, across Bartlett Road from proposed development, Robert and Cathy Houle, 60 Bartlett, Melanie Moore on 26 High Pasture Rd Christianna Skoczek and Rick Mueller 44 Miller Road. Jake Frost 68 Bartlett, Peter Welch and Michael Stone from Lynch Lane. These are just some of the neighbors I was able to connect with. With more time, this list will grow.

My name is Carrie Lyons, I am a relative newcomer, having made a local move to 69 Bartlett Road earlier this year. Although I have been here for a short period, I already have a strong sense of belonging and hope to stay here for many years to come. Kittery, and Bartlett Road in particular is a wonderful community of people who deeply care about where they live. Part of what makes living here so special are the wild places in our own backyard. One of these special places is the pond primarily located on my property, a place I worry will be significantly impacted by the proposed development at 77 Bartlett. People in the neighborhood love this pond – the previous owner loved it so much that he asked to have his ashes scattered there. This pond, which we call Ken's Pond, and the wetlands within the confines of it are important not only to me, but to the neighborhood. They are woven into the fabric of the community and make Kittery the wonderful place that it is.

Protecting these sensitive resources is why I am here today.

I am here to speak on behalf of Ken's Pond and the people who love it and live near it – and to advocate for the protection of these ecologically and socially vital features of our community.

We as a collective hope that you will help us with several key concerns which, we feel, the proposed development at 77 Bartlett threatens. These concerns are: the integrity and health of Ken's Pond and the crucial habitat which surrounds it, the wildlife which frequents this habitat, peace and quiet, and the dark sky.

The Kittery Comprehensive Plan advises that future development should be guided to areas where public utilities exist, and growth has already occurred. Growth should be steered away from protected lands, natural resources, and areas that are not currently serviced by water and/or sewer infrastructure. There is no town water or sewer at 77 Bartlett Road and there are an abundance of natural and ecological resources and protected areas in this neighborhood. The proposed development at 77 Bartlett seems in contradiction with this plan, and the proposed "sustainable" aspects of the development seem lacking in the context of the wider environmental degradation associated with this project – particularly considering that the site is mostly comprised of pristine woodlands and vital, and rapidly vanishing, wetland habitat. Therefore, it is important to provide all the required protections from the project and utilize Best

Management Practices that will assure that no harm is done from erosion and sediment during construction and long-term migration of nutrients and pollutants into the wetland of special significance, Ken's Pond. In addition and importantly, this land is adjacent to Kittery Land Trust preserved land. We think the opportunity exists to make an addition to the properties already held by the Kittery Land Trust in the Bartlett Road area.

I also would like to be clear that I did not receive an abutter notification letter. I had to rely on my neighbor to let me know that the proposed development at 77 Bartlett, which directly abuts my property, was happening. I called the Planning Department and had my name added to the list of abutters so I would receive further notices and so was able to attend the site walk last Thursday and be here today. This is largely with thanks to the information initially provided to me by my neighbor.

Before we address specific concerns about the development plan, we would like to see if an opportunity exists still to preserve this entire parcel as part of the Kittery Land Trust's holdings. This, we believe, would serve the neighborhood and larger community best and fit well with the comprehensive plan regarding not developing in areas with no public infrastructure and an abundance of natural resources.

Short of this option, we would like to address specific issues and requests, beginning with Ken's Pond.

Drainage. It has been brought to my attention that a disproportionate amount of stormwater runoff will empty into Ken's Pond, which is designated as a wetland of special significance. We are asking that the drainage plan be redone to direct at least half the water toward natural flow paths on the other side of the property in the direction of Lynch Lane.

We would like to ask that protections be included as notes in the site plans to reduce road runoff and pollutants from entering Ken's Pond which, again, is a wetland of special significance and of crucial importance to the ecology of the area.

It is my understanding that there may be miscalculation in the size of the soil disturbance involved with the construction of the road and related site work. It has been mentioned that the existing driveway will be removed at the same time the road will be under construction. There is also excavation work in the Bartlett Road ditch leading to Ken's Pond that does not appear to be included in calculation of disturbed area. These and other possible areas of disturbance that may occur will likely make an area of soil disturbance over 1 acre, which triggers a Maine DEP Stormwater Permit-by-Rule per **38 M.R.S. §420-D** Chapter 420-D. Heavy downpours are much more common and much more severe now than in the past. We feel attention to protection of Ken's Pond during construction is critical. There are no stone check dams or other appropriate Best Management Practices shown on the drawing for this ditch (which is the last line of defense to prevent silt from entering Ken's Pond). I hope the planning board will address our concerns and act in accordance with the values and recommendations of the comprehensive plan.

We would also like to know if pretreatment of waste from septic systems could be utilized to help prevent nutrients from entering and damaging the pond. There will be 9 septic systems and 9 wells, the lots are small and we feel that such densely packed wastewater management systems may put additional pressure on the pond, which will already be affected by construction and changes to runoff flow patterns. Advance treatment systems would also improve groundwater quality for a project that will have 9 closely located drinking water wells.

The survey lines along the property at 69 Bartlett are not clear and there appears to be a discrepancy between the property lines determined by the surveyor for the development and the language in the 1970 deed that created the lot which is now 69 Bartlett from the then Washburn property (77 Bartlett Road). The monumentation used as the point of beginning for the 1970 deed is not shown on the Existing Conditions Plan, but was found last week by the property owners. It is highly important to potential future deed holders that this issue be resolved to avoid problems with the title of 69 Bartlett if and when this property is sold. It is my understanding that it is within the power of the planning board to ask for a 3rd party review of the work of professions hired by the applicant when there is a concern of this magnitude. I would like to ask the planning board for a 3rd party review to resolve the discrepancy, which as currently appears on the survey for the development, draws a line that falls short of where the property line should lie for 69 Bartlett by 35 feet, which, if not corrected, is a substantial encroachment on the property at 69 Bartlett Road.

I would like to speak now about the buffer at the front of the property. We propose that the buffer be made larger than 40 feet and include the open space that is currently delineated on the plan. We ask that it be put in the lot development plan notes that this be a no cut zone to preserve both our privacy and provide an additional buffer to protect the pond and the species which inhabit it.

It would be helpful for all of us to see the covenants in order to clear up a number of the following questions. Will hunting be allowed in the open space? How will the open space be managed? We are concerned about light pollution, will there be restrictions on the type of lighting in order to help maintain a dark sky compliance? Is it possible to arrange for connectivity and access to the Norton Preserve through the open space for the neighborhood to benefit from?

Lastly, I work from home as do many of my neighbors. A major disruption to the peace and quiet of the neighborhood represents a significant disruption to our professional lives. I personally chose to live here because of this. Quiet is crucial to my work life. I am concerned that noise during construction will affect the concentration and productivity of me and my neighbors – disrupting our working lives for an indefinite period of time. I know that health and wellness of residents is part of the Kittery Comprehensive plan, and noise is damaging to physical and mental health.

We are asking for restrictions to be put in the plan notes for hours of operation during construction. We are concerned that the noise from hoe rams, blasting and other heavy

equipment will substantially disrupt our ability to do our jobs. Many of us deliver services via zoom. We need protection against this significant disruption to our lives and productivity. We would like to ask that hours of operation be kept to 8 am to 5 pm and no work on weekends or holidays.

We are also concerned about potential damage to our basements and wells related to construction and blasting. We would like to ask that the developer provide a seismologist to monitor potential damage to these systems during blasting and construction.

The people who live here have a strong sense of community and caring for the surrounding environment. Our aim is to protect and preserve this environment, the wildlife, the pond and our own well-being.

One last point I hope you will consider. I had very little time to think through all of this and connect with neighbors because I did not receive proper notification early on in this process. I rushed to put this letter together with other residents. I believe other neighbors were also missed when notices went out. Because of this we would like more time to study the development and give feedback before any approvals are considered by the board.

In summary, Bartlett Road and surrounding areas are a special place. Hundreds of people bicycle on Bartlett Road every year because of its pristine nature and low traffic. It is surrounded by protected lands – Sawyer Farm preserve, Norton Preserve and the York Land Trust lands off Bartlett Road. We feel the highest and best use for 77 Bartlett is for the land to be preserved and that it is not too late to explore this option. That is our best hope for this property.

We hope the planning board will address each of our concerns and keep the people who live here and whose lives will be seriously affected by this development in the loop by keeping the public hearing part of this process open. We want to keep Kittery a place worth living for all of us, current and future residents.

Thank you.

Carrie Lyons

Michael Landgarten

Bob Kimball

Bill Paarlberg

Nancy Grace Horton

Katy Black

Bob Houle

Cathy Houle

Christianna Scoczek

Richard Mueller

Melanie Moore

Jake Frost

Peter Welch and Michael Stone

Hello,

I am writing to you today given my work schedule prohibits me from attending this evening's Planning Board meeting.

Whereas my name is aptly noted as a cosigner on the thorough letter submitted by Carrie Lyons regarding the proposed development at 77 Bartlett Road, I wish to add the following:

I have lived in Kittery/Kittery Point for over 25 years, initially planning to stay 12 months while I completed a professional internship. My appreciation of the area, especially the peacefulness, cleanliness and wildlife, led me to make this my permanent home.

Much has changed in recent years, including remarkably expansive development. In addition to witnessing it in and around my neighborhood, I have learned that over 300 apartments will soon be opening off Route 95 and Dennett Road, as well as 32 condominiums awaiting sale on Route 1 opposite Lewis Road.

I appreciate the appeal of Kittery, yet significant population growth necessarily results in greatly increased traffic and noise/air/light pollution, none of which are physically or psychologically healthy for humans or wildlife. Indeed, in recent years when I walk, run or cycle on Bartlett and Miller Roads, I encounter many more dead animals, almost always the victims of motor vehicles. I frequently witness people driving too fast and aggressively, which creates ambivalence about exercising around home. Trash on the roads has also become much more commonplace, including scores of empty alcohol bottles.

I certainly understand that the issues I raised above are not exclusive to Kittery, however continued population growth and development of open spaces adds multifaceted stress on the present ecosystems and the health of current residents, humans and nonhumans alike. Ironically, the typical statements advertising the bucolic appeal of land and new dwellings in Kittery/Kittery Point promote the diminishment of the very nature that is described!

Please confirm that you received the sentiments herein.

Yours truly,

Christianna Skoczek
44 Miller Road
Kittery Point



September 28, 2023

Maxim Zakian, Town Planner
Town of Kittery
200 Rogers Road
Kittery, Maine

Re: 77 Bartlett Road - Subdivision Application
Tax Map 62, Lot 26
Kittery Point, Maine

Dear Maxim:

Kittery Land Trust (KLT) is writing in regards to the proposed 9-lot conservation subdivision at 77 Bartlett Road. KLT's owns a 10.2 acre property (tax map 68, lot 4A-23) located at the adjacent Lynch Lane subdivision and is within 150 feet of the project site (therefore KLT was notified as an abutter).

KLT representatives have reviewed the subdivision application materials posted on the Planning Board's webpage and attended the September 21st site walk. The proposed project meets several of the objectives of *§16.10 Conservation Subdivision* of the LUDC including preservation of open space, preservation of historic features, minimization of roadway length and creating a compact neighborhood.

Kittery Land Trust's primary concern regarding this project is protection of the natural resources within and adjacent to the site, especially the pond at the southwest corner of 77 Bartlett Road (which is identified as a wetland of special significance). Some neighbors refer to this water body as "Ken's Pond", the majority of which is located on the abutting parcel, 69 Bartlett Road. Ken's Pond drains under Bartlett Road through a culvert that is not shown on the drawings. The outlet stream flows generally to the east, bisects Kittery Land Trust's *Brave Boat Headwater Preserve*, and eventually becomes a tidal creek adjacent to Payne Road. Conservation and preservation of Kittery's natural resources are clearly stated objectives of §16.10, but the current design falls short of providing adequate protection of Ken's Pond from the development's impacts during and after construction. Additional erosion and sediment control measures and stormwater management modifications appropriate to address the sensitivity of the natural resources, at and downstream of the site, should be incorporated into the project.

The September 21st site walk started at the driveway of the existing house on Lot 8. The engineer said the driveway is being removed as part of the roadway construction phase. Much of the driveway and some adjacent lawn areas are within the 100' setback of the wetland of special significance associated with Ken's Pond. The section of the existing driveway near Bartlett Road could be used to create a temporary sedimentation basin to address erosion and sedimentation during the roadway construction phase until upgradient swales are fully stabilized with vegetation. For long term restoration of the area, and in consideration of §16.19.6.E of the LUDC, plantings should be added south of Lot 8 and Lot 9 where the wetland setback area does not currently contain substantial vegetation.

There are two existing culverts under the driveway. One is shown on the drawings approximately 160 feet from the edge of pavement at Bartlett Road. There is also an existing CMP culvert located 12 feet from the edge of Bartlett Road that is filled with silt. This driveway culvert is not shown on the drawings. The downstream end of this culvert is at the edge of the wetland of special significance (Ken's Pond). The buried upstream end of the culvert is apparently at the southwest end of the roadside ditch on the north side of Bartlett Road. The drawings do not say if the driveway culverts are being removed, replaced, or if how the Bartlett Road ditch will be extended and terminated. Given the sensitivity of wetland of special significance, the driveway area should be considered for a vegetated buffer or other appropriate best management practice to filter stormwater before it enters Ken's Pond (see paragraph above). It is notable that the drawings do not call for stone check dams along the north side Bartlett Road ditch even though most of the new road will be draining into this ditch. Installing stone check dams in this ditch is a critical erosion and sediment control practice that needs to be installed and maintained to protect Ken's Pond, not only during the subdivision road construction but during the buildout of the lots, which may take several years. Providing a temporary sedimentation basin as well will provide a more appropriate level of protection from erosion and sediment.

The roadside ditch on the north side of Bartlett Road, from Ken's Pond east to the new roadway, currently receives runoff from the north half of the pavement on Bartlett Road and only a small portion of adjacent woodland on the 77 Bartlett Road property. The pre- and post-construction flows in the ditch should be compared as part of the updated drainage study (the impervious area draining to the ditch and resulting runoff will increase significantly because of the new road).

The proposed roadway design on Sheet C-3.1 shows that (except for the cul-de-sac) runoff from the new road is being directed to the ditch on the north side of Bartlett Road by means of new roadside swales and berms. Alternately, a roadside ditch turnout could be installed near Sta 1+50L to allow runoff to flow to a topographic low east of the ditch (see contour 58). This runoff would then drain across woodlands along its natural path to the east toward a culvert under Bartlett Road near the intersection of Lynch Lane, thus creating a second "forested stormwater buffer." Preserving this natural flow path will also off-load drainage that is currently proposed to be directed to Ken's Pond. This will help mitigate some of the transport of sediment and nutrients draining to Ken's Pond.

Another consideration for improving stormwater treatment is that the proposed berm shown at Sta 1+60L to Sta 4+50L of the subdivision road prevents runoff in the west ditch from flowing to nature low spots west of the new road. If this berm was removed or shortened, drainage could flow its natural course between Lot 8 and Lot 9 within a underdrained grassed swale (a LID practice).

Based on *Stormwater Management Law M.R.S. Title 38, §420-D* and discussions with MDEP staff over the years, all associated disturbed area (soil disturbance) during the road construction phase are considered for triggering the Permit-by-Rule one-acre threshold. Page 2 of the Stormwater Management Report submitted with the application states that the project does not require a MDEP stormwater permit-by-rule because the new developed area is 0.93 acres. However, KLT questions the applicant's determination. The project includes the road work as well areas outside the new ROW that soil will be disturbed during the road construction phase of this project including:

- all the ditch work in the Bartlett Road ROW
- the level spreader on the north side of the cul-de-sac
- ditch line backslopes and berms for the new road
- removal of the existing driveway to new (relocated) driveway to the existing house
- soil disturbance for the new driveway to the existing house
- construction laydown and staging areas that may be needed

Reviewing the design plans it is difficult to identify the limit-of-work polygon used for the disturbed area calculation. Perhaps using a colored line would clarify. But to get a check on the actual area of disturbance, it is noteworthy that the drainage analysis lists SC 14S as 12,377 sf and SC 31S as 29,090 sf for a total of 41,467 sf (or 0.95 acres), yet there are several areas of soil disturbance (per list above) located beyond the limits of SC 14S and SC31S shown on Sheet WS2. It seems quite clear that the disturbed area for the road work phase exceeds one-acre and a Permit-by-Rule is required.

Thank you for consideration of our comments. When the stormwater analysis is updated and the permitting question is addressed, KLT would like the opportunity to provide additional comments.

Sincerely,

KITTERY LAND TRUST



Lisa Linehan, KLT Executive Director



Jeff Clifford, KLT Board Member