



TOWN OF KITTERY

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Kittery Port Authority

February 1, 2024 | 6:00 PM | Council Chambers

1. Call to Order/Attendance
2. Pledge of Allegiance
3. Agenda Amendment and Adoption
4. Acceptance of Previous Minutes: 1/4/2024
5. Harbormaster Report and Budget Report
6. All items involving the Town Officials or Invited Guests
 - a. Cameron Wake, Climate Action Plan Work Group Strategies
7. Public Hearings
8. Piers, Wharves & Floats
9. Public Segment (three minutes)
10. Unfinished Business
 - a. The Kittery Port Authority moves to adopt the findings of fact dated 12/7/23 and amended 1/25/24, for the application from Langdon Island West Condominium Association, 9 Badgers Island West, Kittery, ME 03904 (Tax Map 1, Lot 23) for the modification of an existing structure consisting of a 4' x 8' float extension, a 4' x 34' (2 – 17') float, and two (2) 6' x 24' finger floats, as shown on ME DEP PERMIT PLAN-2022 AERIAL Drawing C3, REV. 5, dated 12/7/23, and ME DEP PERMIT PLAN C2, REV 6, dated 12/7/23, showing a railing on the short leg of the existing 28 foot long float, and the removal of all cleats that prohibits the berthing of boats on that slip, as well as outlines of six, 24 foot long boats in each slip, shown not extending more than 1 foot beyond the end of each finger float. Agent is Steven Riker, Ambit Engineering – Haley Ward, Inc.

11. New Business
12. Committee and Other Reports
13. Communications from the Chairperson
14. Board Member Issues or Comments
15. Executive Session
16. Adjournment

- 1 1. Call to Order / Attendance
- 2 Chair Patten called the meeting to order at 6:01 PM.
- 3 Members present: Todd Endres, Vice Chair Bryan Bush, Steve Lawrence, John
- 4 McCollett, Michael O’Keefe, Niles Pinkham, and Chair Charles Patten.
- 5 Members absent:
- 6 2. Pledge of Allegiance
- 7 3. Agenda Amendments and Adoption: New Business add Item: 9 Badgers Island West
- 8 denial. **The agenda was approved as amended.**
- 9 4. Acceptance of Previous Minutes: 12/7/2023. **The minutes were approved as**
- 10 **written.**
- 11 5. Harbormaster Report and Budget Report
- 12 The Harbormaster gave a summary of his monthly report, expenses and revenues for
- 13 fiscal year 2024.

FY 2024 YTD EXPENSES THROUGH 01/03/2024

OBJECT	ACCT DESCRIPTION	FY 2024 BUDGET	FY 2024 EXPENSES	FY 2024 REMAINING	PERCENT USED
64010	HARBOR MASTER FULL TIME SALARI	\$ 66,390.00	\$ 33,690.94	\$ 32,699.06	50.75
64020	PART TIME SALARIES	\$ 33,442.00	\$ 9,619.69	\$ 23,822.31	28.77
65010	POSTAGE	\$ 250.00	\$ 10.79	\$ 239.21	4.32
65020	TELEPHONE & INTERNET	\$ 2,600.00	\$ 559.25	\$ 2,040.75	21.51
65080	LEGAL NOTICES/OTHER ADVERTISE	\$ -	\$ 39.00	\$ (39.00)	0.00
65200	ELECTRICITY	\$ 2,016.00	\$ 956.92	\$ 1,059.08	47.47
65220	WATER	\$ 525.00	\$ 214.59	\$ 310.41	40.87
65240	DUMPSTERS/TRASH REMOVAL	\$ 1,800.00	\$ 1,093.23	\$ 706.77	60.74
65305	BOAT EQUIPMENT MAINTENANCE	\$ 5,000.00	\$ 2,064.53	\$ 2,935.47	41.29
65310	VEHICLE MAINTENANCE	\$ 3,500.00	\$ 540.52	\$ 2,959.48	15.44
65311	GAS, GREASE, & OIL	\$ 5,500.00	\$ 3,097.87	\$ 2,402.13	56.32
65462	RIGGING	\$ 14,000.00	\$ 8,926.25	\$ 5,073.75	63.76
65463	SANITATION	\$ 2,500.00	\$ 1,711.24	\$ 788.76	68.45
65470	PROFESSIONAL DEVELOPMENT	\$ 1,500.00	\$ 1,056.40	\$ 443.60	70.43
65480	OTHER PROFESSIONAL/CONTRACTED	\$ 2,500.00	\$ 3,094.36	\$ (594.36)	123.77
65500	MAIN BLDG/GROUNDS WHARVES/HARB	\$ 4,500.00	\$ 2,473.74	\$ 2,026.26	54.97
65521	UNIFORMS	\$ 2,000.00	\$ 371.84	\$ 1,628.16	18.59
66010	OFFICE SUPPLIES	\$ 300.00	\$ 32.60	\$ 267.40	10.87
66030	OTHER SUPPLIES	\$ 2,000.00	\$ 535.62	\$ 1,464.38	26.78
66040	JANITORIAL SUPPLIES & SERVICES	\$ 500.00	\$ 100.96	\$ 399.04	20.19
TOTAL		\$ 150,823.00	\$ 70,190.34	\$ 80,632.66	53.46%

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FY 2024 YTD REVENUE THROUGH 01/03/2024

OBJECT	ACCT DESCRIPTION	FY 2024 BUDGET	FY 2024 REVENUE	FY 2024 DIFFERENCE	PERCENT
43147	DINGHY FEES	\$ (12,000.00)	\$ (831.40)	\$ (11,168.60)	6.93
43148	TRANSIENT SLIP RENTAL	\$ (16,000.00)	\$ (9,917.00)	\$ (6,083.00)	61.98
43149	KPA APPLICATION FEES	\$ (500.00)	\$ (750.00)	\$ 250.00	150.00
43150	MOORING FEES	\$ (85,000.00)	\$ (1,979.60)	\$ (83,020.40)	2.33
43151	LAUNCH FEE	\$ (15,000.00)	\$ (6,359.75)	\$ (8,640.25)	42.40
43152	TRANSIENT MOORING	\$ (12,000.00)	\$ (8,054.00)	\$ (3,946.00)	67.12
43153	WAIT LIST FEE	\$ (2,000.00)	\$ (180.00)	\$ (1,820.00)	9.00
43156	PIER USAGE FEE	\$ (2,600.00)	\$ (641.00)	\$ (1,959.00)	24.65
43157	MOORING LATE FEE	\$ -	\$ (50.00)	\$ 50.00	0.00
43159	KAYAK RACK RENTAL	\$ (1,500.00)	\$ -	\$ (1,500.00)	0.00
TOTAL		\$ (146,600.00)	\$ (28,762.75)	\$ (117,837.25)	19.62%

15

16 6. All Items involving Town Officials or Invited Guests

17 a. Cameron Wake, Climate Action Plan Work Group Strategies- Postponed

18 7. Public Hearing

19 a. The Kittery Port Authority moves to hold a public hearing and vote on an application
 20 from Briers Homeowners' Association, 6 Tudor Drive, Kittery, ME 03904 (Tax Map 17
 21 Lot 43-3) for the modification of an existing structure consisting of the addition of a 6' x
 22 20' landing float and relocation of the existing floating dock downriver 14 feet. Agent is
 23 Zachary Taylor, Riverside and Pickering Marine.

24 Chair Patten opened the public hearing. There were no public comments. Chair Patten
 25 closed the public hearing.

26 Zachary Taylor presented the project to the board.

27 The Harbormaster read an email from an abutter. Chair Patten reviewed the staff report.

28 **Mr. O'Keefe moved to approve the findings of fact as written in the staff report.**
 29 **Seconded by Mr. Lawrence. The motion passed by roll call vote 7-0-0.**

30 **Mr. O'Keefe moved to waive rule 4.7.3. Seconded by Mr. Lawrence. The motion**
 31 **passed by roll call vote 7-0-0.**

32 **Mr. O'Keefe moved to approve the application. Seconded by Mr. Lawrence. The**
 33 **motion passed by roll call vote 7-0-0.**

34 b. The Kittery Port Authority moves to hold a public hearing and vote on an application
35 from Eric Dyer, 15 Bowen Road, Kittery, ME 03904 (Tax Map 17, Lot 4) for the
36 modification and replacement of an existing structure consisting of a 6' x 59' permanent
37 pier, 3' x 40' seasonal gangway, 10' x 16' landing float and two 10' x 20' main floats and
38 stabilization of the shoreline with a stone riprap revetment. Agent is Ryan McCarthy,
39 Tidewater Engineering & Surveying, Inc.

40 Chair Patten opened the public hearing. There were no public comments. Chair Patten
41 closed the public hearing.

42 Mr. McCarthy reviewed the project to the Board.

43 **Vice Chair Bush moved to approve the findings of fact as written in the staff**
44 **report. Seconded by Mr. Lawrence. The motion passed by roll call vote 7-0-0.**

45 **Mr. Pinkham moved to approve the waiver of rule 4.7.4. Seconded by Mr. O'Keefe.**
46 **The motion passed by roll call vote 7-0-0.**

47 **Mr. Pinkham moved to approve the application. Seconded by Mr. O'Keefe. The**
48 **motion passed by roll call vote 7-0-0.**

49 c. The Kittery Port Authority moves to hold a public hearing and vote on an application
50 from Paul J. McKeon Jr. & Jessica McKeon, 23 Bowen Road, Kittery, ME 03904 (Tax
51 Map 17, Lot 6) for the construction of a 6' x 76' permanent pier, 3' x 45' seasonal
52 gangway, 8' x 20' landing float and two 10' x 21' main floats. Access to the pier will be
53 by a 4' x 6' access ramp and a 4' x 16' boardwalk, as shown on Proposed Pier & Float
54 Plan revised on 11/21/2023. Agent is Ryan McCarthy, Tidewater Engineering &
55 Surveying, Inc.

56 Chair Patten opened the public hearing. There were no public comments. Chair Patten
57 closed the public hearing.

58 Mr. McCarthy presented the project to the Board. He corrected the length of the pier to
59 read 6' x 60'.

60 **Mr. O'Keefe moved to approve the findings of fact as written in the staff report.**
61 **Seconded by Mr. Lawrence. The motion passed by roll call vote 7-0-0.**

62 **Vice Chair Bush moved to waive rule 4.7.4. Seconded by Mr. Lawrence. The**
63 **motion passed by roll call vote 7-0-0.**

64 **Mr. O'Keefe moved to approve the application, with the corrected 6' x 60' pier.**
65 **Seconded by Mr. Lawrence. The motion passed by roll call vote 7-0-0.**

66 8. Piers, Wharves & Floats

67 9. Public Segment (Three Mins.)

68 10. Unfinished Business

69 11. New Business

70 a. 9 Badgers Island West Denial

71 Harbormaster Brosnihan asked the Board to make a motion to reconsider the
72 application to reset the appeal clock for the applicant, due to the findings of fact being
73 omitted from their denial.

74 **Mr. Lawrence moved to reconsider the vote denying the waiver request for 9**
75 **Badgers Island West for the purpose of making findings of fact known. Seconded**
76 **by Vice Chair Bush. The motion passed by roll call vote 7-0-0.**

77 b. Election of Officers

78 **Mr. Lawrence moved to postpone the election of officers until next month.**
79 **Seconded by Vice Chair Bush. The motion passed by roll call vote 7-0-0.**

80 12. Committee and Other Reports - None

81 13. Communications from the Chairperson

82 14. Board Member Issues or Comments

83 Mr. Lawrence – none

84 Mr. Endres – none

85 Chair Patten – none

86 Vice Chair Bush – none

87 Mr. O’Keefe – none

88 Mr. McCollett – commented on height waivers and the flood plan

89 Mr. Pinkham – none

90 15. Executive Session - None

91 16. Adjournment

92 **Mr. Lawrence moved to adjourn at 6:47 P.M. The motion passed 7-0-0.**

93 Submitted by Carrie Varao, Development Staff Clerk on January 16, 2024.

94 Disclaimer: The following minutes constitute the author’s understanding of the meeting.
95 Whilst every effort has been made to ensure the accuracy of the information, the
96 minutes are not intended as a verbatim transcript of comments at the meeting, but a
97 summary of the discussion and actions that took place. For complete details, please

98 refer to the video of the meeting on the Town of Kittery website at
99 <http://www.townhallstreams.com/locations/kittery-maine>.

LAND USE & NATURAL ENVIRONMENT

How can Kittery help our town's natural environment be ready for climate change?

1. Direct growth to areas with existing infrastructure and low flood risk



- Implement coastal flood hazard ordinance (in process).
- Refine ordinance to allow increased density in areas with sewer, water, energy transmission, public transit, and other amenities.
- Identify long-term strategies to reclaim coastal land for resiliency and public access.

2. Advance use of Low Impact Development practices



Refine Low Impact Development (LID) ordinance to:

- Require and promote reduction in impervious surfaces and stormwater runoff to limit groundwater rise and erosion.
- Require limit on soil disturbance.
- Require preservation and maintenance of natural landscapes with native vegetation.
- Require alternatives to hard/impervious surfaces.



3. Preserve and protect natural areas and local farms/food producers



- Refine ordinance to preserve areas that allow for marsh migration by protecting from development.
- Direct development away from flood-prone areas (Also see Strategy 1).
- Monitor shoreland buffer modifications and fine violators.
- Refine subdivision ordinances to require more open space in zones with no public utilities (also see Strategies 1, 2).
- Add seasonal farmstand definition to ordinance and remove regulatory barriers for establishing seasonal farmstands.

4. Limit use of fertilizers, pesticides, and herbicides

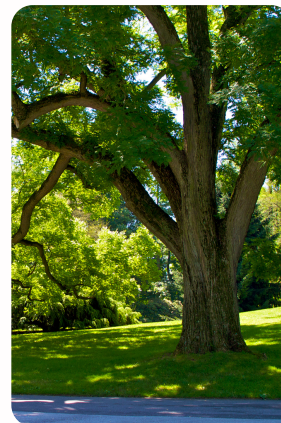


Advocate for statewide limits on residential use of fertilizers, pesticides, and herbicides, particularly in shoreland areas.

5. Preserve and revitalize working waterfronts



- Adopt policies and ordinances to preserve working waterfronts and enhance access to and use of.
- Support infrastructure at dock and marine facilities to enable electric fleets.
- Support the development of aquaculture.
- Permit only water-dependent uses along the coast.
- Require future coastal development/redevelopment to be climate/flood resilient and energy-efficient (Also see Strategy 1).



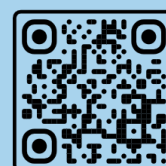
6. Maintain and increase tree cover and access to shade



- Develop a Town-wide tree program to encourage protection and planting of climate-resilient trees.
- Inventory heat islands, street trees, and shade areas, and develop a plan to plant more trees and install shade areas.

Help Guide Kittery's Climate Action Plan! The Kittery Climate Action Plan Task Force has been working hard to create a Climate Action Plan focused on changes that will have the biggest impact. What do you think of the proposed strategies? **Answer the survey by scanning the QR code here or visiting www.kitteryme.gov/CAP.**

SCAN ME



HEALTH, SAFETY, & WELL BEING

How can Kittery increase health, safety, & well being in our town?



7. Provide advisories on health impacts of climate and extreme weather events



- Develop and implement communication strategies for public health advisories about climate-related health risks around vector-borne diseases and air/water quality issues and during extreme heat and storms, fires, and power outages.
- Develop a plan for "Resilience Hubs" that can provide critical services during a disruption or health event – such as electricity, food, water, shelter, medical supplies, heat/cooling – and coordinate partners for post-disruption support.

8. Enhance planning for disaster response and mitigation for current and emerging climate hazards



- Develop town-level plans that build upon existing county-level efforts – for climate hazards including loss of electrical service, extreme precipitation and flooding, extreme temperatures, wildfires, and drought.
- Create a coordinated climate and health response team to address disasters and establish a network for pre- and post-event coordination.
- Enhance collaboration with York County Emergency Management Agency on hazard mitigation planning.

9. Assess potential impacts of groundwater rise on septic systems and wells



Advocate for a regional groundwater modeling effort to identify areas of risk for groundwater rise and saltwater intrusion.



10. Provide education on public health impacts of climate change



- Implement community and school-based programs to educate the community about public health impacts – including vector-borne diseases, low air-quality days, and heat-related illness.
- Ensure education includes additional information-sharing methods for contacting "harder-to-reach" audiences (e.g. vulnerable populations, seasonal workers).

11. Evaluate and update evacuation routes to reflect current and future flood risk areas



Review and update evacuation routes, along with the signage and maps that direct people away from flood hazard areas.

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SCAN ME



BUILDING & ENERGY EFFICIENCY

How can Kittery make our town's buildings and energy systems ready for climate change?

12. Increase efficiency in public and private buildings



- Support weatherization outreach programs – operated by KCAN and others – that provide resources and information on efficiency evaluation, Efficiency Maine incentives, contractors, and financing options.
- Create incentives to build energy efficient affordable housing within Town.
- Support the adoption of higher efficiency building codes at a regional level.
- Support monitoring of energy efficiency in municipal and school facilities – along with planning for additional efficiency measures.



13. Support efforts by Efficiency Maine to transition single family homes and other buildings to heat pumps



- Support usage of Efficiency Maine's heat pump adoption programs for single family homes.
- Support current town plans to transition more municipal buildings to heat pumps. Encourage the school system to consider opportunities to transition to heat pumps.

14. Encourage distributed renewable energy



- Support solarization programs that provide resources and information on solar evaluation, Efficiency Maine incentives, contractors, and financing options.
- Actively engage in discussions of off-shore wind and other renewable sources at the regional level.

15. Support improved grid resilience



Support regional-level planning in cooperation with utilities to ensure a strong grid in the transition to greater electric dependency and for all potential crises.



16. Promote resilient building designs



- Encourage that building designs and modifications consider both current and potential future hazards from climate change.
- Ensure critical facilities consider climate-related weather risks in both location and design and ensure they have plans for resiliency.

17. Promote hazard disclosure for property transactions



Encourage the State to require flood risk disclosures for all property transactions.

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SCAN ME



TRANSPORTATION & INFRASTRUCTURE

How can Kittery make our transportation systems and infrastructure ready for climate change?

18. Expand access to & use of public transportation services



Mount a concerted regional effort towards expansion of public transportation throughout southern Maine.

19. Direct development to areas of town with public utilities, public transportation & essential services



- Modify land use codes to promote infill development.
- Redevelop brownfield sites to increase housing stock.

20. Improve bikeability & walkability



Improve and expand the walkability and bikeability of our roadways with safe, comfortable, and convenient paths, sidewalks, and bikeways.



21. Reduce paved areas in new development & redevelopment projects



- Review and amend parking ordinances to reduce minimum requirements and build in flexibility.
- Review and update minimum parking space dimensions and parking lot design, including compact car spaces where appropriate.



22. Expand electric vehicle charging on public & private land



- Expand public EV charging locations through public/private partnerships – including in existing publically-accessible but privately-owned lots and on the waterfront and wharfs.
- Require EV chargers or EV-ready parking in new development and redevelopment projects.

23. Increase public & private use of electric vehicles



- Transition municipal, school, and public transit fleets to EVs.
- Ensure the public has user-friendly information and resources to encourage and assist with purchasing EVs.
- Continue to push for EV charging stations along state/interstate highways as well as locally.

24. Protect critical water-related infrastructure



Assess and protect critical assets such as drinking water, wastewater and stormwater management infrastructure that will be impacted by sea level rise, storm surge, flooding and extreme weather events associated with climate change. (Also see Strategy 9)

25. Assess vulnerability and improve resilience of transportation infrastructure



- Assess impacts of heat, groundwater rise, saltwater intrusion and flooding caused by sea level rise on local roads, culverts and bridges to better understand vulnerabilities of important infrastructure assets.
- Plan and conduct improvements for appropriate upgrades such as raising or relocation of transportation infrastructure.
- Amend road design standards to include climate resilience.
- Adopt a policy that the Town will only consider adopting roads that meet these updated standards

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SCAN ME



LEADERSHIP & CAPACITY

How can Kittery foster leadership and support to implement our Climate Action Plan?



26. Ensure municipal decision-making and funding strategies considers resilience and sustainability



- Adopt protocols to account for environmental conditions of today and tomorrow in municipal decision-making.
- Include funding for resilience and sustainability infrastructure investments in annual budgets and capital plans. Provide ongoing funding for staff to plan and implement projects.

27. Grow municipal capacity to support and implement climate adaptation strategies



Provide town departments with the resources, space, staff, and training needed to identify, evaluate, plan, and implement adaptation approaches.

28. Engage the community and local businesses in ongoing sustainability and resilience efforts



Encourage more residents and local companies to take action in their own homes and businesses by providing support, education, and programs. (Also see Strategies 12 & 14)



29. Advocate for resiliency and sustainability education at the state level



Ensure that the next generation has an understanding of these issues by advocating for greater incorporation of climate change and resiliency into core curricula requirements.

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SCAN ME





PLANNING & DEVELOPMENT DEPARTMENT STAFF REPORT

Port Authority Meeting Date: December 7, 2023
Amended: January 25, 2024

STAFF REPORT – 9 BADGERS ISLAND WEST

Project Name: 9 Badgers Island West Float Modification

Applicant: Steven Riker, Amit Engineering

Owner: Langdon Island West Condominium Association

Proposed Development: Installation of a 4'x8' float extension, 4'x34' float, and two 6'x24' finger floats

Waivers: 4.7.3 Overall length

Map & Lot Numbers: Map 18, Lot 27

Staff Recommendation: Denial of request

Riparian Line Determination:

Riparian lines used by abutters for previous development were determined using the extension method. Riparian lines for the purpose of this development were determined using the colonial method.

Site Description:

The subject property is in the Mixed Use – Badgers Island district, in close proximity to other water dependent uses and structures.

Description of Request:

The applicant requests addition of a 4'x8' float extension, a 4'x34' float, and two 6'x24' finger floats to an existing pier, ramp and float system that is 165' long.

Performance Standards:

For the purposes of this report, and the application before the Board, the normal high-water mark referenced in the KPA Rules is equivalent to the mean high-water mark referenced in the application and survey

- (1) *KPA Rules 4.7.2: The construction of any piers, docks, wharves, and other structures and uses extending over or beyond the normal high-water mark of a water body or within a wetland must comply with all applicable requirements of Town Code Title 16.*
 - **Town Code Title 16 incorporates by reference the 2015 International Residential Building Code. Compliance with this code will be ensured through the building permitting process.**
- (2) *KPA Rules 4.7.3: Non-commercial private piers may have a maximum width of 6 feet as measured parallel to the shoreline and be limited to the minimum size necessary to accomplish their purpose. Except for temporary ramps and floats, the total length of a ramp, pier and float structure may not extend more than 150 feet beyond the normal high-water mark and piers not extend more than 100 feet beyond the normal high-water mark nor extend below the mean low water mark, whichever is shorter.*
 - **This application does not propose any change to the existing pier width. The application proposes the addition of new floats that extend 34' further from the normal high-water mark. Based on the Town's GIS map, the existing structure extends approximately 165' from the normal high-water mark. This would result in an overall length of 199', exceeding the allowable 150 feet.**
- (3) *KPA Rules 4.7.4: The maximum height of the pier deck may not exceed six (6) feet above the normal high-water mark, and the handrails not exceed 42" without the specific approval of the Port Authority.*
 - **This application does not propose any change to the existing pier height.**
- (4) *KPA Rules 4.7.5: Commercial piers are limited to the minimum size necessary to accomplish their purpose. They may not extend beyond the mean low water mark except with credible proof by the applicant that the extension is necessary for the water-dependent use of the pier. The maximum height of the pier deck may not exceed six (6) feet above mean*

high water mark and the handrails not exceed 42", without a showing of necessity and specific approval of the Port Authority.

- **This application is for a residential use pier, this standard is not applicable.**

(5) KPA Rules Chapter 4.7.6: Piers, wharves, and pilings must be set back at least 25 feet from property lines and 50 feet from other structures that are fixed in place below the normal high- water mark and not owned or controlled by the applicant unless a letter of permission is granted by abutting or other controlling property owner. If abutting property owners reach a mutual agreement regarding structures which have a lesser setback, which does not interfere with navigation, is practical and is consistent with the intent of these regulations, that setback may be authorized by the Port Authority if the applicant agrees to record any ensuing permit (which will have that agreement as a condition) and the abutters' letters of no objection, with the Registrar of Deeds, or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property in the Town.

- **The addition of the proposed floats will be closer than 50 feet from the abutters float to the East (33 feet). This abutter has provided a letter in support of the project. To the West, the float will be 39 feet from the abutters float. This abutter has also provided a letter in support of the project.**

Surrounding Land Uses:

North: Residential – No waterfront, no marine structures.

South: Piscataqua River

East: Commercial – Dock, pier & float.

West: Commercial – Dock, pier & float.

Findings of Fact:

Section 16.9.2.E requires the Kittery Port Authority to use the following process when hearing requests:

Findings of fact. An application shall be approved or approved with conditions if the Port Authority makes a positive finding based on the information presented. The application must be demonstrated that the proposed use will shall:

(1) Maintain safe and healthful conditions;

- **Navigation issues could occur when accessing one of the existing permitted floats on the West side of the proposed project. This could be mitigated by preventing a boat from tying up on the West side of the existing applicants float that supports the gangway.**
- **Navigation issues could also occur when accessing the existing float immediately adjacent to the east side of the proposed project due to unpredictable eddy currents that exist during incoming and outgoing tides.**

(2) Not result in water pollution, erosion or sedimentation to surface waters;

- **This development will not result in water pollution, erosion or sedimentation to surface waters.**

(3) Adequately provide for the disposal of all wastewater;

- **No subsurface wastewater or septic work are proposed for this project.**

(4) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

- **This development would not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.**

(5) Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

- **This development would not have an adverse impact on shore cover or points of access.**

(6) Protect archaeological and historic resources;

- **This development would not have an adverse impact on archeological or historic resources.**

(7) Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;

- **Navigation issues may arise from the proximity of abutting floats. Safe access and egress by commercial boats to the float adjacent to the East side of the proposed project could be difficult due to the unpredictable eddy currents that exist during incoming and**

outgoing tides.

(8) Avoid problems associated with floodplain development and use; and

- **This development would not have an adverse impact within the floodplain.**

(9) Is in conformance with the provisions of this title.

- **This project is *NOT* in conformance with the setbacks from abutting structures, or the overall length of pier, unless a waiver is granted.**

Using the standards and criteria found in the LUDC as well as the standards found in the Kittery Port Authority Rules and Regulations, the Kittery Port Authority denied waiver requests for the development due to its encroachment into the 50-foot setback from abutting structures and the potential navigation impacts in the general vicinity of the project.