



Town of Kittery, Maine

Conservation Commission

200 Rogers Road, Kittery, Maine 03904

DATE: January 19, 2019

TO: Adam Causey, Director of Planning and Development
Jamie Steffen, Town Planner
Ann Grinnell, Planning Board Chair

FROM: Earledean Wells, Chair

RE: Manmade or created wetland protection

Early in February 2016 a developer referred to a manmade wetland as something other than a wetland when requesting to impact that wetland. The applicant's own soil scientist stated in a letter included in the Planning Board packet, that the wetland in question had hydric soils, wetland vegetation and was functioning as a wetland and that he felt Kittery Ordinances were unclear and needed to be updated so that these wetlands would be protected.

The Conservation Commission has been waiting since 2016 for an opportunity to request consideration for ordinance language for manmade wetland protection, therefore, the Conservation Commission respectfully requests the following ordinance language be changed and we suggest:

16.9.4.2 (Newly-) Manmade or Created Wetland and Water Bodies

Setbacks are (not) required from a wetland or water body created from upland area (provided the newly created wetland or water body is not part of a required mitigation plan) *****once the created wetland or water body attains the characteristics of a functioning wetland or water body with hydric soils and wetland vegetation it is considered a functioning wetland or water body as defined in Section 16.2 for regulatory purposes***.**

- A. All wetland setbacks for the zoning district and the shoreland overlay district apply.
- B. A performance guarantee, such as an escrow or bond is required to guarantee that any new vegetation will survive. Prior to release or drawdown of funds in such account, a written statement from a qualified wetland scientist that says the vegetation is thriving must be submitted to the Town Manager.

NOTE: all words or sentences in bold and underlined are existing ordinance language to remain; language not in bold or underlined and in parenthesis is existing and should be to be omitted; sentence with *** at the beginning and end is suggested new language.