

To: Boothbay Planning Board  
From: Mark Eyerman  
Subject: BVF and BVMU Districts  
Date: November 8, 2018

Sue has raised concerns about the potential density of development and small lot sizes allowed in the BVF and BVMU Districts if public sewerage becomes available. As a way to address these concerns, Sue has looked at those two areas in detail and has put together proposals for refining the district boundaries for those two districts to exclude some areas. Her review and suggested boundary changes are attached.

Before we go back and finalize the draft of Section 7, we should look at this issue and resolve it since the map and the standards that apply are two sides to the same issue in many ways. If the boundaries aren't adjusted then do we have to make changes in the draft standards for those two districts?

State law requires that the Town's zoning or land use ordinance has to be consistent with the adopted Comprehensive Plan. As I have said before, there probably is some flexibility in adjusting the lines that are shown on the Future Land Use Plan or tinkering with the recommended development standards as long as the overall intent of the Plan is upheld. How far the Town can deviate from the Plan before it needs to formally amend the Plan is a subjective question and one that Sally may need to weigh in on at some point. In some ways I think a fundamental issue is whether the deviation is based on "public" reasons that reflect other policies in the Plan or on "private" reasons to benefit property owners. So here are some thoughts to ponder:

- The Comp Plan recognizes the competing objectives of protecting the public water supply (page 32) with diversifying the mix of housing potentially available by allowing higher densities in areas that can be served by the public sewer system (page 27).
- The Plan also recognizes that there was/is a need for better information about the water supplies upon which to make improvements to the ordinances to improve their protection (page 32).
- The District has now completed additional work as envisioned by the Plan.
- So I think that suggests that there is flexibility to "adjust" the water supply protection provisions as long as it is done carefully.
- Sue lays out a reasonable case for both of the suggested changes.
- The suggested change to the BVF District boundary appears to be pretty straightforward and can probably be thought of as an "adjustment" to the boundary of the district set forth in the Plan.

- The change to the BVMU District boundary as Sue suggests probably isn't an "adjustment" – it is a significant change that removes maybe 75% of the area included in the BVMU District as depicted on the Future Land Use Plan. It is further complicated by the fact that the Residential District does not make any provision for smaller lot sizes/increased density with the provision of public sewer service in an area where sewer service is likely. So this raises the fundamental question as to whether putting much of this area into the R District is consistent with the adopted Comp Plan. That is a question for the Planning Board to answer. If the Board feels that it is, then considering Sue's suggestion makes good sense. But if the Board feels that the change isn't consistent with the Plan and it wants to pursue it, then we need to work out a new proposal for that area (that considers the potential for public sewer?) and work that into both an amendment to the Comp Plan as well as the ordinance amendments.
- It may be worth thinking about whether other modifications to the BVMU District standards could address the District's concern in a way that is consistent with the adopted Comp Plan. Here are a couple of ideas to start the discussion:
  - The minimum lot size/maximum density with public sewer could be increased. The Plan talks in terms of up to 4-6 units per acre – increasing the minimum lot size to 15,000 or even 20,000 SF per unit would be a stretch but probably could be justified given the water supply protection concerns.
  - There could be an additional standard that allows the increased density only if the housing is part of a project that meets stringent standards for phosphorous export and stormwater management.
  - Or there could be a combination of both approaches – larger lots and tougher standards.