

**Town of Kittery
 Planning Board Meeting
 February 11, 2016**

Town Code Amendments – 16.8.11 - Cluster Residential and Cluster Mixed-Use Development. 16.8.11.1 Purpose; 16.8.11.3 Dimension Standards Modifications; 16.8.11.5 Application Procedure; 16.8.11.6 Standards; 16.8.20.1 Green Strip; 16.9.1.7 Buffer areas; and 16.2.2 Definitions

Action: review and schedule a public hearing. The proposed amendments provide clarity with regard to open space and other requirement standards in cluster residential and cluster mixed-use development.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
NO	Workshop	joint with Council and Board scheduled for 2/1/2016	HELD
YES	Initial Planning Board Meeting	12/10/2015	HELD
NO	Secondary Planning Board Meeting	Held 1/14&28/2016, Scheduled for 2/11/16	
YES	Public Hearing (special notice requirements)	1/28/2016	HELD
YES	Review/Approval/ Recommendation to Town Council		TBD

Background

This group of amendments was developed over the course of several months, was reviewed at the workshop on May 28, 2015 and revised December 10, 2015. The amendments were revised again for review at the January 14 and 28 2016 Planning Board meetings. The current amendment reflects comments made from the Town Council joint workshop on 2/1, public testimony on the 1/28 public hearing and the Board’s input. (highlighted in yellow)

Review

Attached for the Board’s consideration are amendments to Article XI of Title 16.8. Staff revised the 1/14 draft amendment to reflect some of the comments at the last meeting on 1/28 and the Joint Workshop with Town Council on 2/1.

Highlights in this amendment include:

- The definition of Cluster Residential Development allowing for more consistency with the state statute, Title 30-A 4301(1-A) and 40-A 4353 (4-C). Note, the definition of Cluster Mixed-Use Development may need a similar review, however, it may be more appropriate to do that review in the context of the Business Park base zone, where such development is permitted.
- The intent of Title 16.8.20.1 Green Strip is combined with Title 16.9.1.7 Buffer areas, the provision staff recommends as the more appropriate location in the ordinance.
- A re-work of the open space standard relating to size, shape and location for the reserved open space under 16.8.11.6.7.
- The amount of developable land (net residential acreage) required to be located in open space is increased from 30% to 50%.
- Buffer requirements for cluster development along public streets that are designated in the Comprehensive Plan as ‘scenic roadways’ has been increased to 100 feet.

Recommendation

After considering staff edits and additions to the amendment and additional thoughts from board members in light of the 2/1 joint workshop with the Council Board may direct staff with additional changes and

...move to continue the proposed Title 16 amendments to the February 25, 2016 Planning Board meeting

1 **Article XI. Cluster Residential and Cluster Mixed-Use Development.** (Ordained 9/24/12; effective
2 10/25/12)

3
4 **16.8.11.1 Purpose.**

5 To implement adopted Comprehensive Plan policies regarding the Town's natural, scenic, marine,
6 cultural and historic resources, land use patterns and recreation and open space, this Article is intended
7 to encourage and allow new concepts and innovative approaches to housing/commercial development
8 and environmental design so development will be a permanent and long-term asset to the Town, while in
9 harmony with the natural features of the land, water and surrounding development. Objectives include:

- 10
11 A. efficient use of the land and water, with small networks of utilities and streets;
12 B. preservation of contiguous, unfragmented open space and creation of recreation areas;
13 C. maintenance of rural character, by means of preserving farmland, forests and rural
14 viewsheds scapes, and limiting development in close proximity to existing public streets, especially
15 along scenic roads as designated in the Comprehensive Plan;
16 D. preservation of areas with the highest ecological value;
17 E. location of buildings and structures on those portions of the site most appropriate for
18 development;
19 F. creation of a network of contiguous open spaces or 'greenways' by linking the common open
20 spaces within the site and to open space on adjoining lands wherever possible;
21 G. reduction of impacts on water resources by minimizing land disturbance and the creation of
22 impervious surfaces and stormwater runoff;
23 H. preservation of historic, archaeological, and cultural features; and
24 I. minimization of residential development impact on the municipality, neighboring properties, and
25 the natural environment.
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27

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29
30 **16.8.11.3 Dimension Standards Modifications.**

31 Notwithstanding other provisions of this Code relating to dimensional standards, the Planning Board, in
32 reviewing and approving proposed residential or mixed-use development under this Article, may modify
33 said dimensional standards as defined under Cluster residential development in 16.2.2. Definitions, to
34 permit flexibility in approaches to site design in accordance with the Code standards. The Board may
35 allow subdivision or site development with modified dimensional standards where the Board determines
36 the benefit of a cluster development is consistent with the Code. Such modifications may not be
37 construed as granting variances to relieve hardship.
38

39
40 **16.8.11.5 Application Procedure.**

41 All development reviewed under this Article is subject to the application procedures in Chapter 16.10,
42 Development Plan Application and Review, and the following:

- 43
44 A. In addition to the requirements of Chapter 16.10, the following are required at submittal of the
45 Sketch Plan:
46
47 1. Calculations and maps to illustrate:

- 48 a. proposed dimensional modifications and the dimensional standards required in the zone
49 in which the development will be located;
50 b. All land area identified in Title 16.7.8 Net Residential Acreage; and (Ordained 9-28-15)
51 c. Net Residential Density; and
52 d. open space as defined in Section 16.8.11.6.D.2 of this Article.
53
- 54 2. A map showing constraints to development, such as, but not limited to, wetlands, resource
55 protection zones, shoreland zones, deer wintering areas, side slopes in excess of thirty-three
56 percent (33%), easements, rights-of-way, existing roads, driveway entrances and intersections,
57 existing structures, and existing utilities.
58
- 59 3. A written statement describing the ways the proposed development furthers the purpose and
60 objectives of this Article, including natural features which will be preserved or enhanced. Natural
61 features include, but are not limited to, moderate-to-high value wildlife and waterfowl habitats,
62 important agricultural soils, moderate-to-high yield aquifers and important natural or historic sites
63 worthy of preservation.
64
- 65 4. The location of each of the proposed building envelopes. Only developments having a total
66 subdivision or site plan with building envelopes will be considered.
67
- 68 5. A sketch plan showing a conventional nonclustered subdivision layout that complies with all
69 applicable standards, excluding those included in this Article. The Planning Board may use this
70 plan in addition to the proposed cluster site design to determine if the overall design is consistent
71 with the purpose of this Article, applicable provisions of this Title and the growth designations of
72 the Comprehensive Plan. This determination may result in a change to the total number of
73 lots/dwelling units allowed.
74

75 [NOTE: THE FOLLOWING SECTION 16.8.11.5.B IS NOT BEING AMENDED]

76
77
78 **16.8.11.6 Standards.**

79
80 E. Open Space Requirements:

- 81
82 1. Open space must contain equal at least 50% of the total area of the property, ~~and no less~~
83 ~~than 30% of the total net residential acreage, as defined~~ and must include no less than 50% of the
84 property's total net residential acreage.
85
- 86 2. Total calculated open space must be designated as follows (See Open Space definitions
87 Section 16.2): a. Open Space, Reserved; b. Open Space, Common; and/or c. Open Space, Public
88
- 89 3. The use of any open space may be further limited or controlled by the Planning Board at the
90 time of final approval, where necessary, to protect adjacent properties or uses.
91
- 92 4. Open space must be deeded in perpetuity for the recreational amenity and environmental
93 enhancement of the development and be recorded as such. Such deed provisions may include
94 deed/plan restrictions, private covenants, or arrangements to preserve the integrity of open spaces
95 and their use as approved by the Planning Board.

96
97 5. Open space must also be for preserving large trees, tree groves, woods, ponds, streams,
98 glens, rock outcrops, native plant life, and wildlife cover as identified in applicant's written
99 statement. In the Business Park (BP) zone, open space may be both man-made and natural. Man-
100 made open space must be for the development of recreational areas, pedestrian ways and
101 aesthetics that serve to interconnect and unify the built and natural environments.

102
103 ~~6. Open space should be in a contiguous form of unfragmented land to protect natural~~
104 ~~resources, including plant and wildlife habitats.~~
105 ~~[INCORPORATED IN NEW SUBSECTION 7(d) BELOW]~~
106

107 ~~7.6.~~ A portion of the open space should be in close proximity to other open spaces used for
108 recreation (e.g. a common green, multi-purpose athletic field, gardens, and playgrounds).

109
110 ~~7. Reserved open space must include preservation of areas with the highest ecological value.~~
111 ~~The final composition, configuration and location of the reserved open space is based on the~~
112 ~~following as determined by the Planning Board with practical consideration of the applicant's~~
113 ~~objectives, and the parcel's configuration and its context in relation to natural resources on~~
114 ~~adjoining and neighboring properties:~~

- 115
116 ~~a) the majority lands that include wetland, floodplain, and areas of slopes 20% or greater;~~
117 ~~b) land identified on specialized mapping such as that prepared by *Beginning with Habitat*;~~
118 ~~c) the proximity of existing open space located on adjacent or nearby properties;~~
119 ~~d) the size and shape is contiguous and unfragmented to the extent necessary to support the~~
120 ~~conservation objective;~~
121 ~~e) land with critical habitat or conservation area as identified by Maine Department of Inland Fish~~
122 ~~and Wildlife, Maine Department of Environmental Protection, Army Corps of Engineers, and the~~
123 ~~U.S. Fish and Wildlife Service; and~~
124 ~~f) land that is identified as a conservation priority by the Kittery Open Space Committee, Kittery~~
125 ~~Land Trust or other land trust.~~
126

127
128
129 I. The developer must take into consideration the following points, and illustrate the treatment of
130 buildings, structures, spaces, paths, roads, service and parking areas, recreational facilities, and any
131 other features determined by the Planning Board to be a part of the proposed development.

132
133 1. Orientation. Buildings, view corridors and other improvements are to be designed so scenic
134 vistas and natural features are integrated into the development. Buildings should be sited to
135 consider natural light and ventilation.

136
137 2. Utility Installation. All utilities are to be installed underground, wherever possible. The
138 Planning Board must require the developer to adopt a prudent avoidance approach when
139 permitting above ground electrical service installations. Transformer boxes, pumping stations and
140 meters must be located so as not to be unsightly or hazardous to the public.

141
142 3. Recreation. Facilities must be provided consistent with the development proposal. Active
143 recreation requiring permanent equipment and/or modification of the site may not be located within

144 the wetland setback areas or contiguous reserved open space areas.

145
146 4. Buffering. Planting, landscaping, form and siting of building and other improvements, or
147 fencing and screening must be used to integrate the proposed development with the landscape
148 and the character of any surrounding development. A buffer not less than 100 feet in depth must
149 be provided along the street frontage adjacent to Scenic Roadways, as identified in the
150 Comprehensive Plan and 50 feet in depth for all other public streets. Where the portion of the
151 development does not abut a street, the side and rear yard setbacks must include a buffer no less
152 than 20 feet in depth. All or a portion of the existing vegetation may be used in lieu of new
153 plantings for the buffer area as determined by the Planning Board.

154
155 5. Development Setbacks.

156 Setbacks from wetlands and water bodies, must demonstrate compliance to Table 16.9 of Chapter
157 16.9.4.3. These setbacks must be permanently maintained as no cut, no disturb buffer areas. If
158 the setback areas ~~are not of substantial vegetation to~~ do not provide a sufficient buffer, the
159 Planning Board may require additional plantings. The most restrictive setback applies in
160 determining the buffer area.

162 **Article XX Subdivision Noise Pollution Buffer [RESERVED]**

163 **16.8.20.1 Green Strip.**

164
165 ~~Subdivision design must minimize the possibility of noise pollution either from within or without the~~
166 ~~development (from highway or industrial sources) by providing and maintaining a green strip at least~~
167 ~~twenty (20) feet wide between the abutting properties that are so endangered.~~

168 {MODIFIED AND MOVED TO 16.9.1.7.B}

170
171 **16.9.1.7 Buffer and Buffer areas.**

172 A. Any nonresidential yard setback space abutting an existing or potential residential area shall
173 be maintained as a buffer area, as defined in 16.2.2, strip by the developer and subsequent owners.
174 Such buffer area shall be for the purpose of eliminating any adverse effects upon the environmental
175 or aesthetic qualities of abutting properties or any type of nuisance, as defined in state statute,
176 affecting the health, safety, welfare and property values of the residents of Kittery. The Planning
177 Board or Board of Appeals may require an increase to the width of the buffer area and/or establish a
178 buffer, as defined in 16.2.2, if yard area is insufficient to mitigate the potential adverse effects as
179 determined by the Board.

180
181 B. Subdivision development must minimize the possibility of noise pollution either from within or from
182 outside the development (from highway or industrial sources) by providing and maintaining a buffer or
183 buffer areas as described subsection A. above.

184
185 C. Subdivision development must provide and maintain a buffer or buffer area of no less than fifty
186 (50) feet deep along the frontage of existing streets.

187
188 D. The Planning Board may reduce or waive the buffer requirement in areas where the Board
189 determines that a buffer would have an adverse effect on existing scenic vistas or public safety.

191 **16.2.2 Definitions**

192
193 **Cluster residential development means** a form of development land use improvements and/or
194 ~~change~~ in which the dimensional requirements standards are reduced below what is that normally
195 required in the by the land use zoning regulations district in which the land use improvements and/or
196 ~~change is located~~, in exchange for the creation of permanent open space for recreation areas, the
197 preservation of environmentally sensitive areas, agriculture and silviculture, and other environmental
198 enhancements and for the reduction in the size of road and utility systems. ~~return for the provision to~~
199 ~~set aside a portion of the tract as of permanent open space and other environmental enhancements~~
200 Such open space is owned and maintained jointly in common by individual lot/unit owners, the Town,
201 or a land conservation organization. For the purpose of this definition "dimensional standards" means
202 and is limited to ordinance provisions relating to lot area, building coverage, street frontage and yard
203 setback requirements.
204
205
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