WORKSHOP

MATERIAL

Report to Town Council – Revised August 4, 2011

To: Town Council and Jon Carter, Town Manager
From: Town Planning Board via Gerry Mylroie, AICP, Town Planner/ Director of Planning and Development
Date: August 3, 2011
Re: Development Quality Improvement Amendments to Town Code Title 16
Joint Town Council and Town Planning Board Workshop – August 8, 2011, 6pm

Executive Summary / Issue

Will the Town Council approve Planning Board proposals for Comprehensive Plan and Town Code Title 16 amendments to improve the development quality of the Kittery Foreside, Coastal Route 1 Kittery Shopping area and other business districts by enabling the:

1. Use of outdoor café and public seating within the street front right of way and front and side yard setbacks and a parking credit.
2. Improvement of the Coastal Route 1 streetscape with outdoor cafes, wider sidewalks, street trees and landscaping by enabling modification of the easterly Commercial 1 Zone boundary only between Spruce Creek and Chickering Creek on the eastside of Route 1. (see sketch plans)
3. Creation of public access, park, deck and dock at the four corners of Spruce Creek and Route 1. (see sketch drawing)
4. Construction of a hotel and other retail uses up to 60 feet in total height (e.g. 5 stories with 12' per floor; maximum reach of new fire truck) with New England style architecture consistent with the current adopted Design Handbook only on the west side of Route 1 between the Route 1 by-pass/I-95 off ramp on the south to Haley Road on the north, and on the east side of Route 1 between Spruce Creek and Chickering Creek.

Background

Kittery has the opportunity to improve the Kittery Foreside, Coastal Route 1 and other Business Districts by making them better for the citizens, the environment and better for business.

After the requisite public hearings, the Planning Board wants to discuss opportunities and possible plan and town code amendments with the Town Council.

Proposals in the context of other Quality Improvement Plan improvements including:
Business Self Assessment District enabling legislation.
Trolley service
Increased pedestrian safety, connectivity, crosswalks.
Fewer vehicular trips and movements.
Reduced auto emissions; reduced temperature change impacts.
Better environment for citizens and visitors.

Protected, yet more accessible and appreciated environment.
Low impact development benefits.
Improved public transportation access.
Increased employment opportunities for local residents.
Increased property values and municipal revenues.
Increased sales and state sales and income revenues.

Implications

Significant Town development quality improvement.
Should be no neighborhood impact.
Improved environment.
Improved property value.

Action

Feed back to Planning Board on proposals including amendments contained the Town Planning and Development document titled, "Title 16 Development Quality Improvements Revision date August 3, 2011."

16.3.2.9Business – Local 1 B-L1.

D. Standards.

1. The following space standards apply:

Maximum front yard	30 feet* *This area must be designed to promote a pedestrian public space, which includes, but is not limited to, landscaping, ~~sidewalks~~pedestrian ways/sidewalks, and sitting areas. Parking and outdoor storage are prohibited anywhere in the front yard of the structure, except for seasonal sales items. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.
Minimum rear and side yards	10 feet* *Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a Rresidential Zone~~district~~ or use, in which case a minimum of 15 feet, or 50 percent of the building height, whichever is greater, is required.
Maximum building height	40 feet* *May be increased up to 60 feet e.g. five floors; not to exceed 12 feet per floor, with approval by the Planning Board per 16.7.2.8 Building Height Extension, for properties with frontage on US Route 1.

5. Street Right of Way and Yard Use. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.

16.3.2.10 Business – Park B-PK.

D. Standards.

2. Except for cluster mixed-use developments, the following space standards apply.

Maximum front yard	50 feet* *This area must be designed to promote a pedestrian public space, which includes, but is not limited to, landscaping, pedestrian ways/sidewalks, and sitting areas. Parking and outdoor storage are prohibited anywhere in the front yard of the structure, except for seasonal sales items. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.
Maximum building height	40 feet* *May be increased up to 60 feet e.g. five floors; not to exceed 12 feet per floor, with approval by the Planning Board per 16.7.2.8 Building Height Extension .

~~3~~4. Other standards.

c. Landscaping Standards.

To achieve attractive and environmentally sound site design, and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapter 16.8, the following landscaping requirements apply to new and modified existing developments:

iii. Street Right of Way and Yard Use. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.

16.3.2.11 Commercial (C-1, C-2, C-3).

D. Standards.

2. The following space standards apply in the C-1, C-2, and C-3 zones:

Maximum building height	~~40 feet~~	
	C-1	40 feet* *May be increased up to 60 feet e.g. five floors; not to exceed 12 feet per floor, with approval by the Planning Board per 16.7.2.8 Building Height Extension, in the following areas in the C-1 Zone: (1) land areas west of US Route 1; and (2) the land area east of US Route 1 located between Ripley Road and Spruce Creek.
	C-2	40 feet
	C-3	40 feet** **May be increased up to 60 feet e.g. five floors; not to exceed 12 feet per floor, with approval by the Planning Board per 16.7.2.8 Building Height Extension for the area west of the US Route 1 By-Pass in the C-3 Zone .

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3. C-1 Zone Standards.

All development and the use of land within the C-1 zone must meet the following standards:

c. Landscaping Standards.

To achieve attractive and environmentally sound site design, and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapter 16.8, the following landscaping requirements apply to new and modified existing developments:

iii. Street Right of Way and Yard Use. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service

provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.

f. Appropriate Waterfront Activity Incentives.
To encourage objectives of the comprehensive plan to (1) provide public access to the waterfront, (2) retain and expand commercial water-dependent uses, and (3) take extraordinary steps to preserve the environmental quality of the shoreline and tidal waters, the required setback from water bodies and wetlands may be reduced to twenty-five (25) feet where the Planning Board finds a development plan significantly contributes to accomplishment of the above objectives by satisfactorily achieving one or more of the following:
1. Public Access. Grants an easement to the Town, or other acceptable party, providing public access to the waterfront at no charge to the general public via a developed accessible pedestrian route with appropriate signage or includes an outdoor deck or patio for customer seating at a restaurant open to the general public; or
2. Retain/Expand Commercial Water-Dependent Uses. Provides for inclusion of commercial water-dependent use(s) on the property for the duration of the portion of the project that encroaches closer than the normal minimum setback from water bodies and wetlands. Provision of fewer than six boat slips for leisure/recreational boating do not constitute a commercial water-dependent use for the purposes of this Section; or
3. Preserve the Environmental Quality of Coastal Resources. Protect existing wildlife habitat, conserve shore cover and ensure the quality of stormwater runoff by satisfying all of the following standards:
a. Retain and protect existing significant wildlife habitat that provides food, cover and/or nesting for migratory song birds and wading birds,
b. In order to conserve shore cover, contiguous areas of shrubberies of varying height, refer to the Design Handbook for recomended species of plant materials, as well as erosion resistant ground cover plantings must be retained and planted, and existing trees retained, wherever practicable in the setback,
c. Implementation of a stormwater management plan endorsed by the York County Soil and Water Conservation District (SCS) or the Town's engineering peer review consultant, that treats stormwater with appropriate BMPs and removes pollutants in accordance with the most current edition of the Maine Department of Environmental Protection BMP Manual, "Stormwater Management for Maine". Pollutants sought to be removed include suspended solids, nitrates, hydrocarbons and heavy metals. Such special treatment of the first flush of runoff may include detention, infiltration, filtering and trapping of pollutants.

4. C-2 Zone Standards.
All development and the use of land within the C-2 zone must meet the following standards:

d. Street Right of Way and Yard Use. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service

provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.

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5. C-3 Zone Standards.

All development and the use of land within the C-3 zone must meet the following standards:

c. Landscaping/ Site Improvements.

To achieve attractive and environmentally sound site design, and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapter 16.8, the following landscaping requirements apply to new and modified existing developments:

i. Landscape Planter Strip.

(C) Special Situations.

(4) Street Right of Way and Yard Use. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.

16.3.2.13 Mixed Use MU.

D. Standards.

2. Minimum Dimensional Standards.

Maximum front yard	60 feet* *This area must be designed to promote a pedestrian public space, which includes, but is not limited to, landscaping, pedestrian ways/sidewalks, and sitting areas. Parking and outdoor storage are prohibited anywhere in the front yard of the structure, except for seasonal sales items. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces.

Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.

6. Landscaping Standards

f. Street Right of Way and Yard Use. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.

16.3.2.14 Mixed Use - Badgers Island MU - BI.

F. Special Parking Standards.

2. Joint Use Parking.

a. Such joint parking areas must be held under ownership or under terms of an ~~contractual~~ agreement that ensures such parking remains available to all users of the shared parking spaces;

6. Street Right of Way and Yard Use. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.

16.3.2.15 Mixed Use - Kittery Foreside MU-KF.

E. Special Parking Standards.

NOTE: For each use in the zone, the total parking demand is calculated using the standards above or in Section 16.8.9.4 if not modified above. Then each nonresidential use is exempt from providing off-street parking for the first ten~~three~~ required spaces. For uses requiring a demand of greater than ten~~three~~, then the off-street parking is to be provided on-site and/or in accordance with subsections (E)(2) and (3) of this Section.

3. Off-Site Parking.

Required off-street parking may be satisfied at off-site locations provided such parking is on other property owned by the applicant or is under the terms of an ~~contractual~~ agreement that will ensure such parking remains available for the uses served. Applicant must present evidence of a parking location and an ~~contractual~~ agreement to the Town Board or officer with jurisdiction to review and approve.

4. Joint Use Parking.

a. Such joint parking areas must be held under ownership of the applicant or under terms of an ~~contractual~~ agreement that ensures such parking remains available to all users of the shared parking spaces;

5. Street Right of Way and Yard Use. The Planning Board may approve a site plan so the street right of way outside the curb, and the front, side and/or rear yard that may include a deck or paved area, may be used for public or commercial seating, tables and food service provided minimum space is provided for handicapped access. Related required off-street parking is exempt for the first fifteen required spaces. Said seating use area will not count as lot coverage unless within the Shoreland Overlay Zone.

16.3.2.17 Shoreland Overlay Zone OZ-SL.

D. Standards.

2. Principal and Accessory Structures – Setbacks and Development.

a. All new principal and accessory structures (except certain patios and decks per Section 16.3.2.17.D.2.b), must be set back as follows:

i. At least one hundred (100) feet, horizontal distance, from the normal high water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any water bodies, or the upland edge of a wetland on the Commercial (C-1), Mixed Use - Badgers Island and the Kittery Foreside Zones, unless modified according to the terms of Sections 16.3.2.14.D & E ~~and~~, 16.3.2.15.D &E, and 16.3.2.11.D.3.f, except that in the Commercial Fisheries/Maritime Uses Overlay Zone there is no minimum setback requirement. In the Resource Protection Overlay Zone the setback requirement is 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in the zone, in which case the setback requirements specified above apply.

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS

Article II. Conformity

16.7.2.5 Zone Boundary Line Extension.

Where a ~~z~~Zoning ~~d~~District boundary line divides a lot, except where located in the Resource Protection (OZ-RP) and/or Shoreland (OZ-SZ) Overlay Zones, the regulations applicable to either zone of such lot may extend not more than fifty (50) feet into the portion in the other zone(s)~~,~~). ~~except when a less restrictive portion abuts the resource protection zone.~~ Where the Commercial (C-1) Zone boundary is located between Chickering Cove and Spruce Creek, the regulations applicable to the Commercial (C-1) Zone may extend not more than two hundred fifty (250) feet into the portion in the other zone.

A. Before granting any such extension, the Planning Board must determine that the proposed use of the extended portion will:

1. Not prevent the orderly and reasonable use of properties in the adjacent zone;
2. Be in harmony with the character of the adjacent zone;
3. Not adversely affect the property values of adjacent zone's immediate neighborhoods;
4. Not create any traffic hazards or undue traffic congestion on streets in the adjacent zone;
5. Not give off obnoxious gases, odors, smoke or soot;
6. Not cause disturbing emission of electrical discharges, dust, light, vibration or noise; and
7. Be adequately screened and buffered from the adjacent zone.

B. The Planning Board may require a study to be performed, or commissioned, by the applicant to insure compliance with the above requirements.

16.7.2.8 Building Height Extension.

Where applicable per Chapter 16.3, the Planning Board may grant an extension of the required building height.

A. Before granting any such extension, the Planning Board must determine that the proposed development will:

1. not prevent the orderly and reasonable use of properties in the adjacent zone;
2. be in harmony with the character of the adjacent zone;
3. not adversely affect the property values of adjacent zone's immediate neighborhoods;
4. not create any traffic hazards or undue traffic congestion on streets in the adjacent zone;
5. not give off obnoxious gases, odors, smoke or soot;
6. not cause disturbing emission of electrical discharges, dust, light, vibration or noise; and
7. be adequately screened and buffered from the adjacent zone.

B. The Planning Board may require a study to be performed, or commissioned, by the applicant to insure compliance with the above requirements.

Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT

Article IV. Streets and Pedestrian ways/sidewalks~~Sidewalks~~ Site Design Standards

16.8.4.1Purpose.

Streets will be designed as "complete streets" that enable multi-modal use for pedestrians, bicycles and vehicles for all ages and abilities, and ~~The design of streets~~ must provide for proper continuation of streets from adjacent development and for proper projection into adjacent undeveloped and open land. These design standards must be met by all streets within Kittery and control ~~roadway~~street, shoulders,

curbs, ~~sidewalks~~pedestrian ways/sidewalks, drainage systems, culverts and other appurtenances.

16.8.4.13.1 Pedestrian Way Easements / Open Space Requirements

Easements granted for the construction of pedestrian connectivity are a form of manmade open space unifying the built and natural environments. Such areas are to be considered part of a development's open space requirement.

16.8.9.5 Pedestrian Ways / Sidewalks

A. Waiver of Lot Coverage. Easements granted by property owners for the construction and use as a pedestrian way / sidewalk will not be counted as lot coverage.

B. Snow Plowing. All pedestrian ways / sidewalks will be plowed of snow for safe pedestrian use and handicapped accessible and said snow plowing is the responsibility of the property owner.

Chapter 16.9 DESIGN AND PERFORMANCE STANDARDS - NATURAL ENVIRONMENT

Table 16.9 - Minimum Setbacks from Wetlands and Water Bodies*

STRUCTURE/ACTIVITY	TOTAL SIZE OF WETLAND AND/OR WATER BODY		
	< 501 square feet	501 square feet – 1 acre and Intermittent Streams	> 1 acre
Local distribution utility pole, fence, flagpole, signs or drainage structure	0	0	0
Functionally water-dependent uses	0	0	0
Roads and Driveways			
Traveled way of road or driveway of 18 feet or less in width[1]	0	10 feet from toe of slope	10 feet from toe of slope
Traveled way of road or driveway greater than 18 feet in width[1]	0	30 feet or 10 feet from Toe of slope whichever is greater	30 feet or 10 feet from Toe of slope whichever is greater
Parking Areas			
Parking areas for one- and two-family residential uses	0	10 feet	20 feet
1—5 stall parking area	0	30 feet	50 feet

6—20 stall parking area incorporating BMPs for stormwater management[2]	0	40 feet	75 feet
6—20 stall parking area without incorporating BMPs for stormwater management.[2]	0	75 feet	100 feet
21+ stall parking area[3] incorporating BMPs for stormwater management	0	50 feet	75 feet
Patios, Decks, Accessory Buildings			
Patio or deck area no larger than 500 square feet in size	0	30 feet	50 feet
Detached residential storage shed no larger than 120 square feet in size	0	30 feet	50 feet
Other Buildings and Structures			
Building or structure (including patio or deck area larger than 500 square feet in size)	0	50 feet	100 feet (5)
Activities and structures permitted within regulated wetlands.	0	0 feet	0 feet
Subsurface Sewage Disposal			
Treatment tanks and disposal areas for new subsurface sewage disposal systems with design flows of less than 2,000 GPD	0	50 feet	100 feet
Treatment tanks and disposal areas for new subsurface sewage disposal systems with design flows of 2,000 GPD or more	0	100 feet	100 feet

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Table 16.9 - Minimum Setbacks from Wetlands and Water Bodies*

STRUCTURE/ACTIVITY	TOTAL SIZE OF WETLAND AND/OR WATER BODY		
	< 501 square feet	**501 square feet - 1 acre and Intermittent Streams**	**> 1 acre**
Recreational Uses and Structures			
Low-intensity recreation	**0**	**0**	**0**
Recreational facility or structure excluding a golf course	0	50 feet	100 feet

Topsoil Removal			
Removal of more than 10 cubic yards of topsoil except for approved projects	0	50 feet	100 feet
Topsoil removal with a soil conservation service endorsed erosion and sedimentation plan	0	25 feet	25 feet
Special Uses			
Junkyard[1]	0	100 feet	150 feet
Bulk salt storage not in an enclosed structure[1]	0	100 feet	150 feet
Gravel and mineral extraction or Processing[1]	0	100 feet	150 feet
Storage of hazardous chemicals or special wastes other than amounts normally associated with individual house-holds/farms[1]	0	100 feet	150 feet
Commercial painting, wood preserving or furniture stripping[1]	0	100 feet	150 feet
Laundromats, auto wash, printing, dry-cleaning, photographic processing if not connected to a sanitary Sewer[4]	0	100 feet	150 feet
Metal plating, finishing, polishing[1]	0	100 feet	150 feet

* All vernal pools, including those having an area less than 501 square feet, are regulated by MDEP 06-096 Chapter 335.9.

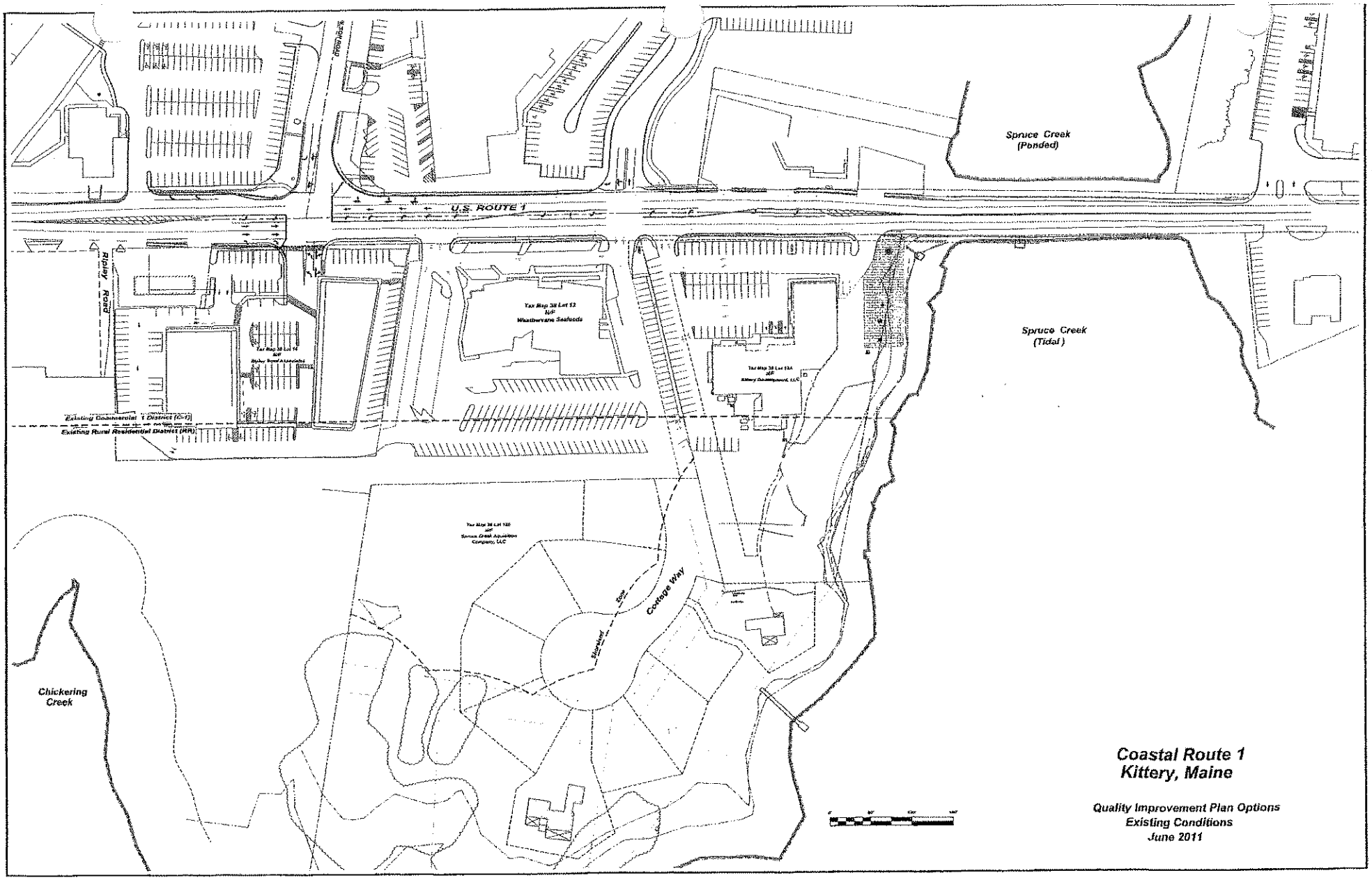
[1] The ~~roadway~~street setback does not serve to negate a wetland crossing project for which a wetlands permit has been approved by the Planning Board.

[2] Written endorsement by the York County soil and water conservation district (SCS) or the Town's peer review consultant that Best Management Practices (BMPs) for protecting water quality by minimizing pollutants leaving the site in the stormwater runoff are incorporated to the maximum extent practicable is required to satisfy this condition. The Planning Board may waive the requirement for written endorsement by the SCS or the Town's peer review consultant when it finds a drainage plan has adequately protected the wetland from adverse impacts.

[3] 21+ stall parking areas must incorporate BMPs.

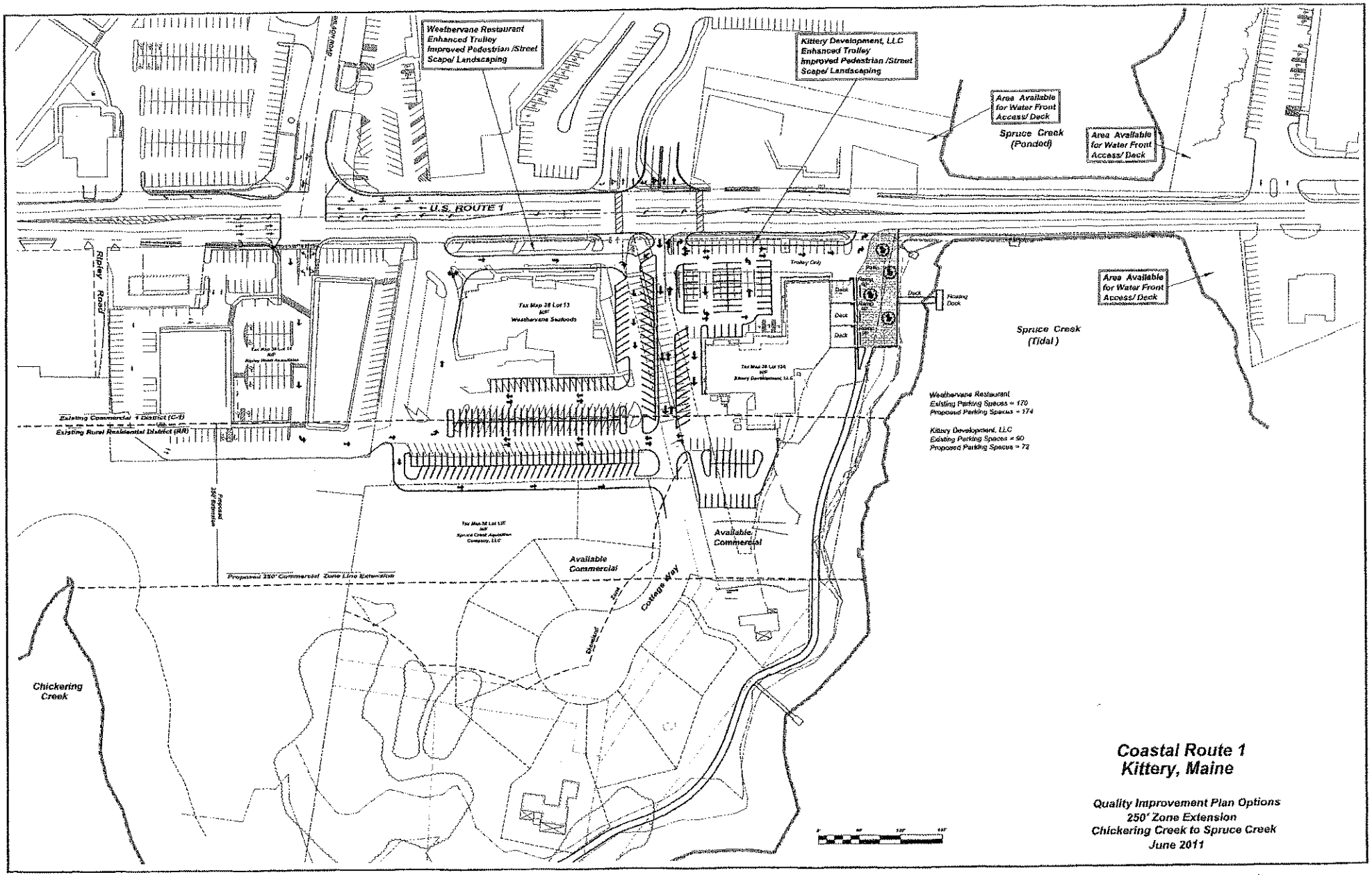
[4] Wetland setback may be reduced to 100 feet, if the SCS or the Town's peer review consultant find the stormwater management plan ~~is endorsed by the SCS as incorporating~~ incorporates BMPs for protecting water quality by minimizing pollutants leaving the site in the stormwater.

[5] Within the Commercial 1 Zone with the Shoreland Overlay Zone, the setback for a deck or patio is twenty-five (25) feet from the high water line.



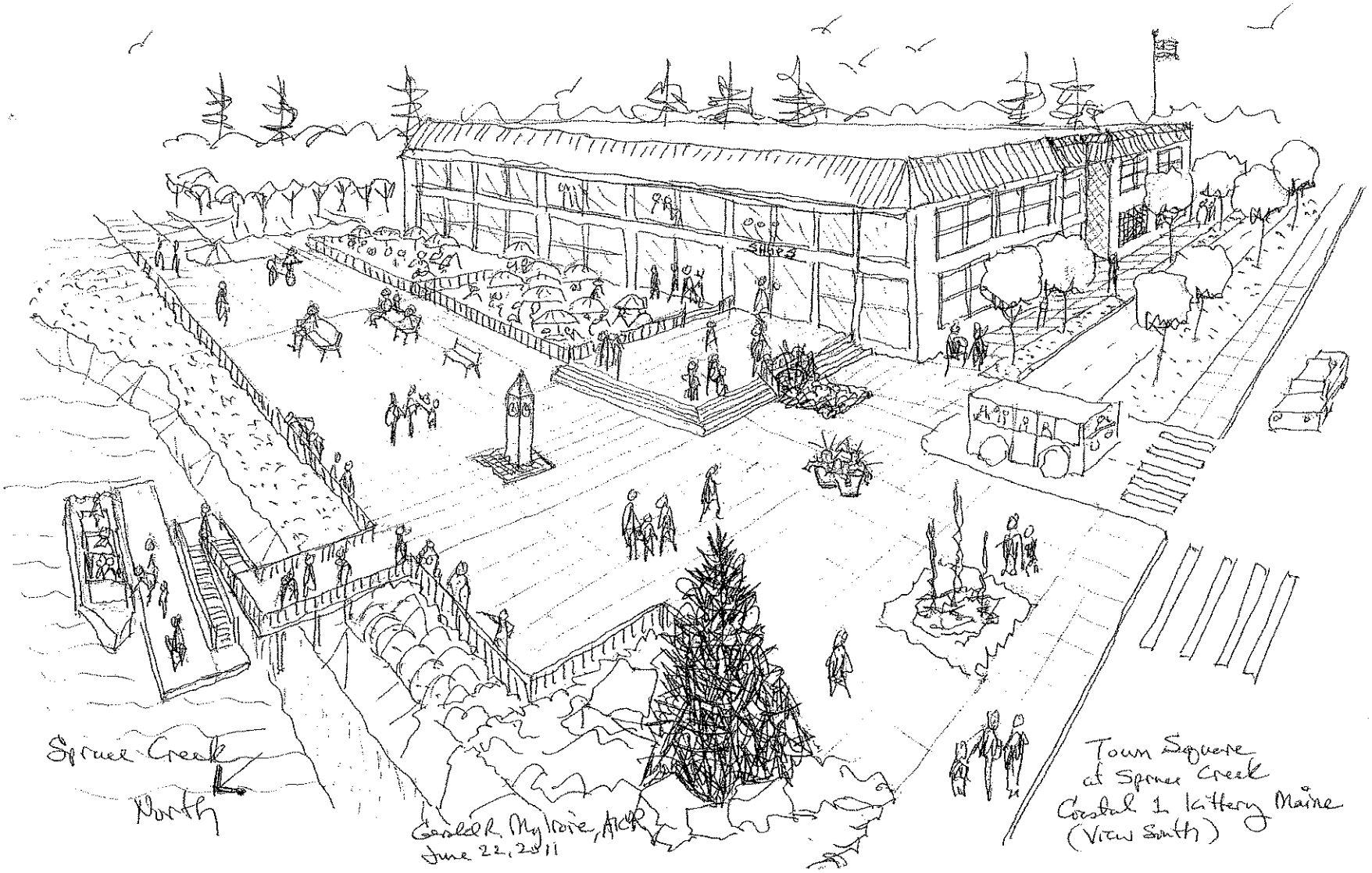
Coastal Route 1
Kittery, Maine

Quality Improvement Plan Options
Existing Conditions
June 2011



Coastal Route 1
Kittery, Maine

Quality Improvement Plan Options
250' Zone Extension
Chickering Creek to Spruce Creek
June 2011


Spruce Creek
North
Gordon R. Mylroie, AICP
June 22, 2011
Town Square
at Spruce Creek
Coastal 1 Kittery Maine
(View South)