

Letter to Town Council

Reference: Proposed Changes to B-L and B-L1 Zones

Dear Town Councilors,

- The Planning Board, at its September 8th meeting (2 members were absent), discussed details of proposed changes to density requirements and building height for B-L and B-L1. The Town Manager and Planning Staff also participated in these discussions. The Board reached the following consensus on recommendations for Council consideration:

1. Keep the present code requirement of 8,000 square feet of land area per dwelling unit for “all floors residential”. Specifically,
 - a. In proposed B-L at line 75 change 3,000 back to the present code requirement of 8,000
 - b. In proposed B-L1 at line 73 change 2,500 back to the present code requirement of 8,000

Reason: The density changes before the Council apply most of the available density increase to all market rate (all floors residential) which prevents any density advantage large enough to make development of combined market rate and affordable housing more profitable for developers than alternatives allowed by the code. Kittery loses the opportunity to get affordable housing built using market place profit incentive.

2. In proposed B-L1 at line 65 delete the special exception for structures over 40 feet.
Reason: There are no standards to support findings of fact required for a Planning Board determination other than the basic definition of “Special Exception Use”.

Thank you for your time and consideration.

Kittery Planning Board Members

Dutch Dunkelberger, Karen Kalmar, Ron Ledgett, Russell White, and John Perry

Cheria Clow Rollins, LCSW

47 Tilton Avenue

Kittery, ME 03904

September 11, 2022

Kittery Town Council

200 Rogers Road

Kittery, ME 03904

Dear Councilors:

I am a resident of Kittery and a local mental health counselor in private practice. I also work part-time at a local retail store. In all of these roles in our community I have encountered people who are struggling to find affordable housing options and it is for this reason that I am writing to ask that you pass the BL/BL-1 zoning amendments.

Throughout my over twenty years working as a mental health professional, I have had clients struggle to find housing and be on waiting lists for years. I have friends who were unable to settle down in Kittery because they could not afford the housing market here. Lastly, I have heard stories in my new retail job of people who have been searching for local housing for several years. Working in retail, they simply are unable to find anything affordable to rent or buy, some after having sold their family homes to downsize as they come into their retirement years.

I value living in a town that is composed of a diverse community where the people who work here can also afford to live here and enjoy all that Kittery has to offer. Thank you all for your time and the work that you do for our community.

Sincerely,

Cheria Clow Rollins, LCSW

Affordable Housing

Diane Harvey

Mon 9/12/2022 7:49 AM

To:town comments <tcomments@kitteryme.org>;

Dear Councilors,

I write to ask your support for the proposed BL and BL1 zoning changes. As a member of the Trustees of Trust committee, I am acutely aware of how desperate the housing shortage is. At our July meeting we learned of the increase of families either living in their cars or in tents because of the lack of housing. I am also aware of people who have been offered employment in Kittery but declined positions because of the lack of affordable housing. In fact, even though my husband and I have two professional incomes, we could no longer afford to buy the house we bought here 16 years ago. Having participated in the webinar on June 29, I am convinced that the proposed changes will not turn Kittery into one big development, and I believe this new zoning will help address the significant need for affordable housing in our town.

I urge your support, and I thank you for your work.

Diane L. Harvey
190 Brave Boat Harbor Rd.
Kittery Point, ME 03905

Support for B-L/B-L1 Zoning amendment

Tim Brochu

Mon 9/12/2022 8:01 AM

To: town comments <tcomments@kitteryme.org>;

Dear Town Councillors,

My wife and I own a rental property on Government Street in the Business-Local 1 (B-L1) zoning district. I am writing in enthusiastic support of the proposed revisions to the B-L and B-L1 zoning districts.

These zoning revisions are a small but essential first step in removing needless barriers to development of housing in central areas of Kittery. This can help to create desperately needed rental units and make all housing throughout Kittery more affordable over time.

The housing affordability problem we're seeing in Kittery has resulted from a national problem of supply and demand.

On the demand side, people are coming here from cities like Boston, New York, and even LA and San Francisco where decades of restrictive zoning has made housing absurdly expensive. COVID pushed more people out of these cities, remote work has made small towns like Kittery more viable for more working people, and baby boomers are retiring to desirable areas like Kittery.

On the supply side, the US has been chronically under-building housing relative to population growth for decades. The 2008 housing crash gutted the home building industry, young people are not entering the building trades, and global material shortages and cost inflation have now hit the industry hard. And antiquated zoning restrictions in every town and city place stifling, arbitrary prohibitions on what types of housing can be built and where it can be built.

The increased demand for housing is not the Town's fault, and there's not much the Town can do to reduce this sudden demand shock.

The lack of supply of new housing is partly the Town's fault, and there are significant steps the Town can take to change its zoning ordinance to stop preventing more homes from being built.

For housing throughout Kittery to become more affordable again, more homes need to be built. To have the biggest impact on affordability, smaller, rentable units like duplexes, townhouses, cottages, and small apartment buildings are needed.

Without new homes for them to buy, wealthier newcomers will replace Kittery's workers, families, and seniors over time. They will destroy the affordable housing stock we have by buying cheap homes and renovating, expanding, or rebuilding them to be expensive homes. Not allowing new homes to be built will completely change the character of Kittery.

Under the current zoning, central areas of Kittery are almost entirely built out. There's no land to build additional homes without cannibalizing commercial properties, like the ambulance garage or Kate's Bakery. Many of the duplexes and small apartment buildings we have would not be allowed to be built today under current zoning. Current zoning does not reflect the character of our neighborhoods.

But with the relentless demand for housing, some new homes are getting built in Kittery.

The only practical place zoning allows us to add these new homes is on virgin land on the edges of town, like the new homes being built off of Picott Road behind Haley Field, where Residential-Rural zoning requires 1-acre minimum lot size per dwelling unit. To build a duplex there, you would need a 2-acre lot.

This forces development to sprawl deeper into natural areas and farmland, closer to wetlands and waterways, with longer pipes and wires to maintain, longer roads to plow and repair, more school bus stops, larger service areas for police, fire, and ambulances, and more cars sitting in Shipyard traffic, all to serve a small number of large, expensive single family houses on large lots that will never generate enough property taxes to pay for their expansion of town services.

A better way to build housing is to allow more units to be built gradually and incrementally on small existing lots, infilling central areas that are already developed, walkable to the Shipyard, generating more property tax without expanding utilities, roads, or Town services, and creating opportunities for homeowners and small developers to invest in new, affordable, rentable units by turning single family lots into

duplexes, townhouses, cottages, and small apartment buildings.

That is what this revised zoning ordinance does.

For anyone who wants more affordable, rentable housing to be built gradually and incrementally without adding costs to the Town, this new zoning ordinance is about as good as it gets.

Thank you,

Tim Brochu *Principal and Manager*

adra ARCHITECTURE LLC

[207-475-6844](tel:207-475-6844) | adraarchitecture.com

6 School Street | Kittery Maine 03904

ME | NH | MA Licensed Architect

Support for BL/B-L1 zoning changes

Erin Brochu

Mon 9/12/2022 9:04 AM

To: town comments <tcomments@kitteryme.org>;

Dear Town Council,

I own a property in the B-L1 zone at 90 Government St. I am fully in favor of the proposed BL/B-L1 zoning changes. I understand that the intent of the provision is to allow more homes to be built on existing lots. I would like Kittery residents and property owners to be able to build more housing and feel strongly that this is a great place to do it. This will allow more smaller units that have the potential to be affordable units with public walking access to the Shipyard, the Foreside and Portsmouth. By allowing more housing in the downtown area we continue to create housing that is walkable to our amazing downtown restaurants, library, shops, and the community center. The potential for new units also allows us to use the existing infrastructure that is already in place such as sewer and electric, rather than having to pull these utilities to farther less dense areas in Kittery. This is the right move for what Kittery needs and the perfect zone to do it in! Thank you,

Erin Brochu
6 School St Kittery

Support for BL and BL-1 Amendments

Nicole Benoit

Mon 9/12/2022 10:22 AM

To: town comments <tcomments@kitteryme.org>;

To Whom it May Concern,

My name is Nicole and I am a resident of Kittery and I'm writing in support of the amendments for BL and BL- 1.

I am writing not only as a concerned member of the Kittery Community but also as someone who has moved from an area that suffered due to not making affordable housing a priority.

I lived in California for 13 years, and while I have been living on the East Coast For a while I'm still hearing stories of the detriment caused by a housing crisis in California.

The first hand accounts of impact that have been shared with me are friends who went to high school in that area not being able to stay after college. Mostly because the cost of living was too high for people also strapped with student loans. Many of them starting families in other states, meaning they are planting roots in other communities with no immediate plans to return or even seeing returning as an option.

For the state of California, people leaving for other states means loss of revenue and loss of work force but in Maine we also have concerns around an aging population. If my experience with California is repeated here that issue will only be exacerbated here.

I also feel it's worth noting that before most of my social circle was priced out of their communities there was already growing concerns that professionals that you want to be a part of the community such as teachers and police officers couldn't afford to live in the same town on their salaries. The most effective way to serve a community is to understand it by being a part of it.

I understand the counter argument of protecting the property value/ business economy, but my lived experience is that any efforts that undermine affordable housing options have ended up being to the detriment of the community and not a protection at all. I hope sharing these experiences and thoughts will benefit us all.

Thank You,

Nicole Benoit

"If only I were a candle in the dark" - Mahmoud Darwish

B-L and B-L1

Ronald Ledgett

Mon 9/12/2022 11:55 AM

To:town comments <tcomments@kitteryme.org>;

Cc:Kendra Amaral <KAmaral@kitteryme.org>; Adam Causey <ACausey@kitteryme.org>; Judy Spiller-Personal
; Gorge Dow

Dear Town Councilors,

The changes before you advocated by the Housing Committee do not recognize the opportunity presented by rapidly rising housing prices and rents where developers are now able to build combinations of market rate and affordable housing units at a profit. Industry news reports and developer discussions indicate this is being done in nearby states when sufficient density advantages are offered.

As recognized by LD2003 the key to harnessing this market opportunity is mandating affordable units in return for density bonuses. In the case of B-L and B-L1 that means retaining 8,000 square feet of land area per when only market rate units are built as recommended by the Planning Board. In a rapidly rising housing market without adequate affordable housing why would the residents of Kittery want to give density bonuses to developers without at least one out of every four housing units being an affordable unit?

As you know a number of residents including me have been trying to engage a dialogue to update the Housing committee recommendations to account for current market conditions and to provide greater benefit to Kittery residents. The lack of interest in considering this market opportunity is unfortunate and to all appearances not in the best interests of Kittery residents.

In addition to retaining 8,000 square feet as recommended by the Planning Board, I encourage the Council to set payment-in-lieu no less than the cost of a market rate unit (~\$250,000) to make building affordable units the more profitable choice for developers when they receive a density bonus sufficient to make both market rate and affordable units profitable. Again, why would Kittery residents want to sacrifice construction of urgently needed affordable units for the sole purpose of increasing developer profit?

Thank you for considering my comments, Ron Ledgett

Kendra Amaral

From:
Sent: Monday, September 12, 2022 11:56 AM
To: Kendra Amaral; Adam Causey; Judy Spiller-Personal
Subject: FW: B-L & B-L1 Amendments
Attachments: 2022 LUDC except.pdf

Dear Town Councilors,

I am writing in regards to the proposed B-L and B-L1 Affordable Housing amendment being considered for adoption by the Town Council. This amendment seeks to include affordable housing provisions in these business zones. I strongly support constructing affordable housing in the B-L and B-L1 and also keeping and supporting businesses these zones. I am concerned that the Amendment, as written, is over incentivizing the construction of market rate housing while providing too many ways to avoid actual construction of affordable units. Also that existing businesses could be pushed out of the zone by the rapid escalation of market rate units.

Several concerns with the proposed amendment (as well as recent recommendations by the Housing Committee for revisions to the amendments) were discussed at the Planning Board held September 8, 2022. I understand a letter is being sent by the Planning Board to the Town Council with recommendations for revisions to the amendment. Concerns about the amendment's impacts to existing and new business space have been discussed at the committee level meetings that I have attended, but were not the primary focus of September 8th Planning Board meeting, therefore I offer the following comments:

The B-L and B-L1 Amendments have no low end sq. ft. limit to the first floor "nonresidential use" in the text below.
A 150 sf juice shop could satisfy the requirement (an allowed use in the B-L1 zone)

[b] When less than five dwelling units are proposed with, at minimum, one
76
77 nonresidential use to be located on the first floor facing State Road or Route 1
78 Bypass such that the use will be visible from the street: 3,000 square feet. Such a
79 nonresidential use or uses need not occupy the entire first floor but must be an
80 independent nonresidential use, e.g., not a home office marketed with a dwelling
81 unit as a work/live unit.
82 [c] When five or more dwelling units are proposed with, at minimum, one
83 nonresidential use to be located on the first floor facing State Road or Route 1
84 Bypass such that the use will be visible from the street: 2,500 square feet. Such a
85 nonresidential use or uses need not occupy the entire first floor but must be an
86 independent nonresidential use, e.g. not a home office marketed with a dwelling
87 unit as a work/live unit;

BUT the provisions in the Land Use and Development Code has more specific criteria for the C-1 and C-3 zoning has a required percentage for nonresidential uses on the first floor:

LUDC 16.4.19(l) Mixed-use buildings must have nonresidential uses comprising at least 50% of the street-facing first floor.

The current 2022 LUDC incentivizes businesses on the first floor in the B-L and B-L1. A significant 129% density bonus for residential is provided (3,500 sf land area/ unit vs 8,000 sf) when the first floor is all nonresidential. This provision was the driver for the successful 42 State Road development that has been referenced often. It has 5 residential units on the upper floors and 3 businesses on the first floor. The proposed amendment will negate most of that bonus. If the Amendment is passed as written, the owners of the first business units could convert that space to residences as a “allowed use”, **thereby losing 3 existing businesses and the space like will be lost to business use forever.**

With small changes to the amendment, the first floor nonresidential requirement for market rate projects could remain the same. But special construction considerations that may be required for funding source eligibility associated with affordable housing can be addressed by having a lower first floor percentage of nonresidential (if a high percentage of affordable units are actually included in the project).

I also support leaving the maximum building height at **40 feet**. That said, it is notable that the Hampton Inn was approved (and confirmed by litigation) as having a flat roofed 40 foot building height, whereas parapets extend well beyond 40 feet. Also that the face of the Hampton is over 300 feet from the centerline of US Route 1. Buildings in the B-L and B-L1 are required to be much close to the roadway.

Thank you for your consideration of these comments.

Jeff Clifford

- (26) Conference center.
 - (27) Personal services.
 - (28) Restaurant.
 - (29) Retail sales (excluding those of which the principal activity entails outdoor sales and/or storage and excluding those specifically mentioned under Subsection C of this section).
 - (30) Retail sales, building materials and garden supply (excluding those of which the principal activity entails outdoor sales and/or storage).
 - (31) Retail sales, convenience.
 - (32) Specialty food and/or beverage facility.
 - (33) Mass transit station.
 - (34) Parking area.
- C. Special exception uses. The following uses are permitted as special exception uses in the B-L1 Zone:
- (1) Motel.
 - (2) Hotel.
 - (3) Rooming house.
 - (4) Funeral home.
 - (5) Gasoline service station.
 - (6) Public assembly area.
 - (7) Theater.
 - (8) Public utility facility.
 - (9) Farmers' market.
 - (10) Mechanical service.
- D. Standards. All development and the use of land in the B-L1 Zone must meet the following standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the design and performance standards of Chapters 16.5, 16.7 and 16.8 must be met.
- (1) The following space standards apply:
 - (a) Minimum land area per dwelling unit:
 - [1] When all floors are residential: 8,000 square feet
 - [2] When the entire first floor is in nonresidential use: 3,500 square feet.

- (b) Minimum parking spaces per dwelling unit: 1.5.
 - (c) Minimum lot size: 20,000 square feet.
 - (d) Minimum street frontage per building: 50 feet.
 - (e) Maximum front yard: 30 feet. (Note: This area must be designed to promote a pedestrian public space, which includes, but is not limited to, landscaping, sidewalks and sitting areas. Parking and outdoor storage are prohibited anywhere in the front yard of the structure, except for seasonal sales items.)
 - (f) Minimum rear and side yards: 10 feet. (Note: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential zone or use; in which case a minimum of 15 feet or 50% of the building height, whichever is greater, is required.)
 - (g) Maximum building height: 40 feet.
 - (h) Maximum building and outdoor stored material coverage: 50%.
 - (i) Minimum area dedicated to landscaped area: 15%.
 - (j) Hours of operation must be noted on the final site plan and are determined by the Planning Board on a case-by-case basis. All lighting other than designated security lighting must be extinguished outside of noted hours of operation.
 - (k) Minimum water body setback for functionally water-dependent uses: zero feet.
 - (l) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, § 16.4.28 and Appendix A, Fee Schedules.
 - (m) Gasoline sales must a) not be located within 1,000 feet of an existing station; b) not be located within 1,000 feet of any private residence; and c) not be located within 150 feet of any existing structure.
- (2) Parking.
- (a) Parking must be on the side or back yard;
 - (b) Shared access must be provided where feasible; and
 - (c) New or revised parking must be visually screened through the use of landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)
- (3) Building design standards. Kittery's characteristic buildings reflect its historic seacoast past. The primary architectural styles are New England Colonial (such as Cape Cod and saltbox), Georgian, Federal and Classical Revival. New