

To: The Kittery Planner and members of the Planning Board:

From: Rich Balano, 3 Ox Point Drive, Kittery

RE: Proposed amendments to 16.3.2.11 Commercial (C-1, C-2, C-3)

While the work to induce affordable housing in Kittery is a laudable effort, I remain very concerned over the more permanent effects the proposed changes to the three Commercial zones will make, but also the attempt to grant undefined broad powers to the Planning Board without any enforceable standards. The changes proposed in C-1 zone directly affect the property where I live. While most of my property is in RR a small portion sits in C-1, thus this will directly impact the use and enjoyment of my property. I want to suggest the following modifications prior to the Board voting on moving the item to the Kittery Town Council, specifically:

1. Lines 147 & 151 – I request that Kittery does not reduce maximum setbacks for front and rear/side yards from 150 feet to 0 (10 ft abutting residences), and 50 feet to 15 feet. These changes simply don't comport with Land Use goals contained in the Comprehensive Plan to protect Spruce Creek and retain Kittery's character. 10 Feet is ridiculously small and provides no buffer whatsoever from a building that is permitted to be 50 feet tall (see next item). Any house next to such a development will be engulfed in its shadow.
2. Line 158 – I request that Kittery does not raise the maximum building height from 40 to 50 ft for Multi-Family dwellings, or dwelling units as a part of mixed-use buildings as this also will detract from the character of Kittery and negatively affect the current skyline for the residents in the abutting RR zone. The Comprehensive Plan does not direct the town to increase heights, and only indirectly suggests an example of raising height to accommodate Mixed Use north of the Mall. There is no instruction, goal, or otherwise to raise heights anywhere else and it is not what the residents of Kittery asked for in the Comp Plan meetings.
3. Lines 148, 170, 179, 239, 258, 317, 358, 378 start ordinance paragraphs which grant overly broad and unchecked power to the Planning Board with no, or virtually no standards to be applied. I request that these be removed and replaced with standards that: a) comport with the Kittery Comprehensive Plan, and b) will not result in arbitrary or capricious change or development approvals exposing Kittery to unnecessary litigation.

As a resident of Kittery with property in the RR and C-1, I believe these proposed changes, if enacted, will negatively affect my quiet enjoyment of my home. While affordable housing is attainable through smart planning, the above reductions in setbacks and increases in building height, with allowance for flat roofs are not the solution, but seem more like a simplistic means to clear "red-tape" for someone's pet project. I hope I'm wrong.

Regards,

Rich Balano

## Bart McDonough

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**From:** cmsmailer@civicplus.com on behalf of Contact form at Kittery ME  
<cmsmailer@civicplus.com>  
**Sent:** Thursday, August 13, 2020 11:37 AM  
**To:** Bart McDonough  
**Subject:** [Kittery ME] A Perfect Move - Opposing - C1 land use variance (Sent by James S. O'Connell, JOConnell@APerfectMover.net)

Hello bmcDonough,

James S. O'Connell (JOConnell@APerfectMover.net) has sent you a message via your contact form (<https://www.kitteryme.gov/user/3484/contact>) at Kittery ME.

If you don't want to receive such e-mails, you can change your settings at <https://www.kitteryme.gov/user/3484/edit>.

Message:

My name is James O'Connell I am one of the owners of A Perfect Move, we are located at 240 US Route One. My sister Erin O'Connell and I own A Perfect Move together. I am writing you in regard to the zoning variance being proposed in Kittery—the action of changing the C1 land usage would directly affect our business and future livelihood.

We operate in an industry, which as a whole is viewed with negative connotations. The public holds numerous negative stereotypes about our industry. We have heard them all, to include that the trucks are bad for the environment, the work force is full of derelicts and social outcasts, and that they are not visually appealing businesses to have operating in your city limits. Many of these stereotypes are based on truths because it's an industry that is slow to evolve and it's extremely hard work, so those who have other options for employment often are employed elsewhere. We fight these stereotypes daily. We operate a business and in an industry with which the nation and business commerce would halt if transportation were non-operable. Part of our business plan is and has been to be involved with non profits, raising funds for Fair Tide yearly by donating or hosting charities, helping start and stock The Fabulous Find, Easter Seals, Stuff a Truck, and Fuel and More to name a few. We have provided and aided our community out of the simple golden rule, to help your neighbor and anyone in need. Simply put, we are now the one in need of assistance and help so we can continue to help our community by providing moving services and storage options to Kittery residents who would otherwise be turned away to other cities for these services.

Part of being a second generation mover means I have the experience from working with older generations but I am part of the new wave of ideas and methodology that requires evolving to match the economy and demands of our industry. The American Moving and Storage Association (AMSA) is our equivalent to the BBB and acts as a national accreditation and resource for transportation and moving in specific. The AMSA awarded me with the Young Professional Model of Excellence Award. I was the inaugural recipient of this award—right here in Kittery was the industry's first choice for recognition of young excellence in the moving industry. I understand the need we fill, the troubles in the industry, and the potential eye sores we create on a community. It's out of necessity, it's the nature of the beast. Our work is not easy, like many blue collar businesses that built the culture and backbone of our great community. We are and will always be a working community; it's ingrained in the DNA of our town. While the world and our nation stayed home during the peak of the COVID-19 pandemic, we were working, the moving and storage industry were universally deemed essential at a national level. I understand that the idea and thought of self storage coming in abundance to Kittery maybe out fo the vision for the towns future plans, however I strongly urge this be viewed with the previous sentence fresh on your mind. Moving and Storage was universally deemed essential and a necessity to continue in every day life. I am asking as a moving business that needs to evolve to remain relevant that you revisit your view as it pertains to C1 zoning and our business.

The service we provide is essential to the communities we are imbedded in.

Transportation of goods is necessary for growth, progress, and stability in our town, state, and nation. There has to be a balance with the increase in residents and the local services to have gentrification. Along with moving there must be storage, they are complimentary businesses. Removing self storage from our property handcuffs our ability to provide the full spectrum of services to the community.

We would love to continue working quietly without change providing the service we are currently, the problem is that in doing so we will, like many others, become extinct. Along with a workforce shortage, work force wages have increased, taxes have increased, insurance costs have increased, nearly every functional running cost for our business has increased year after year for nearly a decade while operating in Kittery. Amidst this exponential increase in overhead, our moving rates have remained the same due to competition and consumer expectation and demand. As a result profit margins have dwindled to nearly nothing. Movers industry wide make their money in storage. That is now changing as well, thus we are here. The explosion of the self storage industry has now jeopardized that profit avenue for movers nation wide. We have to be creative, clever, and trim expenses as best we can to find ways to sustain and stabilize our business and find new revenue streams - self storage.

Self storage for us is “essential.” It is the last effort we have to be able to remain operational in Kittery. We don't ask that the proposal in whole be disregarded; we fully recognize the great vision with which it has been created to allow more dense housing options—increasing the residents of our great town is good for everyone. It's been a tremendous decade in Kittery with the foreside, the food renaissance, and the re-connection to Portsmouth. However, with increased housing comes an increase in moving needs, storage, and those essential services for our community. We are currently the only legal federal motor carrier in Kittery. The elimination of the land allowance for self storage would be a detriment to our business. It would reduce our ability to compete and offer viable necessary services to the community. We are simply trying to supplement our existing business, instead of storing in our warehouse provide the clients the free access to their goods, which comes with self storage. Warehousing is allowed, self storage isn't. There is not a marketable or visible difference in the two yet one is proposed to be removed.

We are in a section of town that otherwise may be vacant still. When we purchased this property, it was with the intent to have flexibility to utilize the C1 zoning and its land use allowances. We now are being faced with a property appraised more valuable as land than with the existing buildings. We were only made aware of the meeting tonight out of luck that Howard Patten contacted the town to begin the planning of our project. If not for this inquiry, we likely would have missed the opportunity to express the need to halt the removal of this land use allowance from the C1 zone because this proposal was not required to make public notice.

We ask that you exclude our property from this zoning proposal or issue our location an exception given we have and are currently attempting to use a viable land use which is now in jeopardy because timing coincides with the recent in progress proposal. Were this is comparable to our existing business blueprint with all variables for access to storage we ask that you strongly reconsider this given our business history within the C1 zone. Our ability to continue business in your town depends on it, as do the current and future residents of Kittery who rely on our services, as they have for the last 10 years.

We understand and are for the town evolution, growth, development, and diversification. It's the same which we as a business must do to remain relevant. Altering our land use would immediately eliminate our ability to do so as such you'd be directly hindering a business operating in the town to flourish alongside the town itself.

Regards,  
James O'Connell

August 13, 2020

To Whom It May Concern,

Overall I applaud the effort made to make affordable housing part of the housing mix in Kittery. The various financial incentives proposed to developers would seem to encourage creation of affordable housing units.

However I have concerns with the following parts of the proposed changes to Section 16.3.2.11 Commercial (C-1, C-2, C-3), which overall appear to adversely affect existing residential uses in the Commercial zones.

1. Line 53 -Buildings and structures over 40 feet that conform to the provisions of Chapters 16.8 and 16.9. Buildings and structures higher than 40 actual feet from the lowest point of grade to the highest point of the building or structure must have side, rear and front yards of sufficient depth to adequately protect the health, safety and welfare of abutting properties and which may not be less than current standards or 50% of actual height, whichever is greater;

**Comment - This wording in general seems to be different than that of lines 151-155 and it's difficult to determine which set of rules has priority.**

2. Lines 151-155 which deal with setbacks in the C zones.

Line 151 reduces the side and rear setbacks in the C-1 and C-3 zones to 10', or 15' where the proposed new use abuts a single-family use.

**Comment - while I appreciate the special note requiring a 30' setback concerning the neighborhoods of Ox Point and Adams Drive, I still feel 10' is too small a setback for other possible instances of commercial lots abutting residential ones. And I would like to see the current 40' setback maintained.**

**Our residence on Adams Drive abuts a commercial lot. According to the proposed changes, a developer could build a 50' building 30' from our lot, which would severely devalue my property as well as adversely affect our quality of life. Think about what 30' means on the ground. That's about 10 steps. No amount of buffering is going to hide a 50' apartment building! There are many homes in the C-1 corridor that abut commercial lots which will be negatively affected by this change. I would like to see the setbacks kept at their current standards, or increased if possible.**

**I feel the note on line 156 should apply to all C zones:**

Except as may be required by the buffer provisions of this title, and where the side and/or rear yards of the proposed nonresidential use abut a residential zone or use; in which case a minimum of 40 feet is required.)

3. Line 158 - Maximum building height increases to 50' in C-1 and C-2 zones

**Comment - In my opinion 50' buildings, combined with the proposal to allow flat roofs, would negatively affect the character of Kittery, and would contradict the expressed goals of the Comprehensive plan. One of the themes listed in the Executive Summary of the comprehensive plan is to "preserve the character" of Kittery. These changes would dramatically alter the character of Kittery, to the detriment of its citizens.**

Line 364 - 10' Buffers between new residential and existing non-residential uses

**Comment - This is too short a distance between residential and nonresidential uses. I understand the need to "densify" the housing stock in order to create affordable housing units, but this would create potential canyons of apartment buildings which, again, goes against the tenet of "preserving the character" of Kittery.**

**Is this a case of buffer and setback meaning two different things?**

Line 453 - Dwelling Unit definition, reduction from minimum of 650 square feet to that of the Maine Bureau of Building Codes and Standards.

**Comment - It would be helpful to know what those Maine codes and standards are. According to the [maine.gov](https://www.maine.gov/dps/fmo/building-codes) website (<https://www.maine.gov/dps/fmo/building-codes>) Maine bases its building code on the 2015 International Residential Code (IRC), but that document is difficult to find online (it was behind a paywall). I would like to know what the intent was in eliminating the 650 square feet minimum. I would suggest wording that says dwelling units will adhere to the Maine codes but shall be a minimum of 650 square feet.**

Lines 148, 170, 179, 241, 261, 319, 359 and 379 - "At the planning board's discretion"

**Comment - I'm concerned with the numerous parts of the revised standard that use the term "at the planning board's discretion." While I understand the need to be occasionally flexible I'm afraid developers would use those words to push the planning board to consider developments that would negatively impact the residents of Kittery. I would suggest eliminating those words and substituting more specific language.**

Line 338 - Screening

**Comment - There are standards for screening parking lots from the street but there do not appear to be any requirements to screen parking lots on side yards. I'm concerned that a developer could put unscreened parking spaces abutting a residential use parcel.**

Lines 151-158 - C-2 Zone not subject to changes

**Comment - I would like to understand why the C-2 zone is exempt from many of the revised standards, particularly the reduced setbacks and the increased building height. It seems to me that the C-2 zone is the zone where you would want larger buildings with reduced setbacks.**

Thank you for considering my thoughts on the proposed Affordable Housing changes.

Regards,

Barb and David Durling  
29 Adams Dr  
Kittery, ME 03904  
207-439-6698  
[dadurling@mac.com](mailto:dadurling@mac.com)

Eileen and William McCarthy  
27 Adams Dr  
Kittery, ME 03904  
[billmccarthy5567@gmail.com](mailto:billmccarthy5567@gmail.com)

## Bart McDonough

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**From:** Bill McCarthy <billmccarthy5567@gmail.com>  
**Sent:** Thursday, August 13, 2020 11:46 AM  
**To:** Bart McDonough  
**Subject:** Zoning

Hi Bart,

I have questions and comments re the revisions.

Line 22 Parking garage

Line 46 transportation terminal which I assume would include a bus station are not suitable uses if they were to abut residential uses.

As line 137 and 47 point out there is no guarantee of affordable housing in this proposal.

Line 147 Maximum front setback: does that allow building to the sidewalk?

Line 161-165 Maximum building height: 50 ' maximum with screening for apparatus off the ground on flat roofs as an integral part of the building would add considerably to the height any flat roof of any height.

Line 167- 172: The current standard is 40% , why such a drastic change?

Line 199: C2 zone...coverage must not exceed 40%

Line 202: question as to minimum setback from streams ,etc.,

Thanks for your consideration on these points

Bill McCarthy

## Bart McDonough

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**From:** Bill McCarthy <billmccarthy5567@gmail.com>  
**Sent:** Thursday, August 13, 2020 11:56 AM  
**To:** Bart McDonough  
**Subject:** Re: Zoning

Sorry ,adding a clarification to the email I just sent  
And as line 137 and line 46-49 of item 3 point out there is no guarantee of affordable housing in this proposal.

On Thu, Aug 13, 2020 at 11:46 AM Bill McCarthy <[billmccarthy5567@gmail.com](mailto:billmccarthy5567@gmail.com)> wrote:

Hi Bart,

I have questions and comments re the revisions.

Line 22 Parking garage

Line 46 transportation terminal which I assume would include a bus station are not suitable uses if they were to abut residential uses.

As line 137 and 47 point out there is no guarantee of affordable housing in this proposal.

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Thanks for your consideration on these points

Bill McCarthy

**Comments for Planning Board Meeting 8.13.20**

**Re: Agenda items 2 and 3**

**From: Emily Flinkstrom, Executive Director, Fair Tide and Kittery Resident at 12 Manson Ave Ext.**

I am writing in support of the amendments to the title 16 Land Use Code that are before you today. Both the revisions in agenda item 2 and those proposed in agenda item 3 represent clear forward movement toward making Kittery a community that is open to economic diversity. While the issue of affordable housing is complex, one simple way to look at it is through the lens of supply and demand. Right now we are in a situation where there is an extremely low level of housing supply which is driving prices up to a point that many households are forced out of the market. This is true for both home ownership and rentals. As of yesterday morning, there were exactly five rental units advertised online as available in Kittery, with an average price tag of \$2,000 per month.

As a way to address this particular root of the housing crisis, we need to create the conditions that allow for smart and responsible growth in housing development. On top of simply allowing more residential development by right, the town must include provisions that ensure the creation of affordable housing that would not be built if left up to the free market.

The amendments proposed in agenda items 2 and 3 will not only begin the process of welcoming much needed housing to our limited supply, but will also ensure that households from a diverse range of economic situations will benefit from this growth in our community.

Thank you.



## Bart McDonough

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**From:** Coralee Thomson <corkythomson@gmail.com>  
**Sent:** Thursday, August 13, 2020 11:20 AM  
**To:** Bart McDonough  
**Subject:** Support for Items on Agenda

Good morning. I am writing in support of two items on tonight's agenda, noted below. I encourage the Planning Board to recommend to the Town Council continuation of the Public Hearing for Items 2 and 3. Offering Land Code Amendments that support movement toward affordable housing is critical to the culture of our community and the opportunity for a desperately needed workforce to be proximate to work opportunities. These changes support a vibrant community for all and I am grateful for the support of the entire Planning Board in moving these Town Council.

Respectfully,  
Coralee Thomson  
25 Old Post Road

**ITEM 2— Land Use Development Code Amendments—Title 16.2 Definitions and 16.3.2.11 Commercial (C-1, C-2, C-3)**

Action: Continue or close public hearing, recommend or not recommend to Town Council. The proposed amendments to Title 16.2 Definitions seek to add and amend terms therein while the proposed amendments to 16.3.2.11 Commercial (C-1, C-2, C-3) seek to amend use, dimensional and performance standards for the commercial zones.

**ITEM 3— Land Use Development Code Amendments—Add new section to Title 16 titled "Affordable Housing", to amend §16.3.2.4.D Standards, to amend §16.7.8.4 Exemptions to net residential acreage standards, and to amend §16.8.9.4 Off street parking standards** Action: Continue or close public hearing, recommend or not recommend to Town Council. The proposed amendments to Title 16 include inserting a new section entitled "Affordable Housing" that intends to provide and incentivize the construction of a diversity of housing types; an amendment to §16.3.2.4.D Standards that intends to remove a dwelling unit standard so as to be in conformance with the definition of a dwelling unit; an amendment to §16.7.8.4 Exemptions to net residential acreage standards that intends to provide exemptions from the standards for certain uses in the C-1 and C-3 zones; to amend §16.8.9.4 Off-street parking standards that intends to provide dimensional standards for compact vehicles, or take any other action relative thereto.