



TOWN OF KITTERY
Planning and Development Department
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TO: PLANNING BOARD
FROM: ADAM CAUSEY, DIRECTOR OF PLANNING & DEVELOPMENT
SUBJECT: TITLE 16 RECODIFICATION
DATE: NOVEMBER 17, 2021

This memo is a companion to the October 6, 2021 memo previously presented to the Planning Board. This separate memo deals with comments from the Planning Board since their October 28, 2020 meeting. However, the larger intent and context of the Recodification project has not changed since the last meeting, so I will refer back to the original memo for those who want a more comprehensive view of the initial changes proposed.

To recap, Planning Department staff, the Kittery Land Issues Committee (KLIC), and the Planning Board have spent many hours reviewing proposed language changes and formatting for the proposed code. Staff is grateful for the Planning Board's attention and willingness to thoroughly review and consider these changes, understanding that they use this ordinance regularly during their service to the Town. The Planning Board have held public hearings on this draft code on October 14, 2021, October 28, 2021, and November 18, 2021 (scheduled). Prior to these public hearings, the Planning Board discussed the Title 16 Recodification projects at the following meetings:

October 8, 2020, October 22, 2020, November 12, 2020; December 10, 2020; January 14, 2021; January 28, 2021; February 11, 2021; February 25, 2021; March 11, 2021

The Planning Board held a workshop on November 9, 2021 to review their submitted comments and hear from staff on how to incorporate any potential changes. A review of those comments submitted to staff and the resolution from the workshop is provided on the following pages.

Staff believes the proposed draft of Title 16 with the amendments outlined below is ready for the Planning Board to recommend to Town Council. Whenever the Planning Board elects to move forward, a separate workshop with Town Council will be scheduled.

Thank you,

Adam Causey, AICP
Planning & Development Director

Section reviewed: 16.1

Submitted comment: Some of the text in the existing code (current code Section 16.7) is not included in the recodification code Section 16.1.8. Specifically:

- at line 280 paragraph [2] on page 16.7:10 of the existing code is not included
- at line 289 the last eight lines of existing code are not include
- at line 295 the last two lines of existing text are not included,
- at line 310 the designation of a separate paragraph 5 is eliminated and the text added to paragraph 4, changing the meaning of the requirement,
- at line 314 the last two lines of existing text are not included,
- at lines 327 through 341 some existing text is not included and some existing wording has been changed

These omissions and changes are substantive. For the record, please identify the origin of these changes and how they got past the review process.

Workshop review: During the workshop, the Planning Board had concerns over the deletion and relocation of certain language from the nonconformance section of 16.1.8 General Development Requirements. The Board opined that moving forward with such changes would constitute as a major policy amendment outside the scope of the recodification process. Ultimately, the Board agreed to reinstate the language as it is currently written under the current section 16.7, where applicable.

Staff response: Staff agrees that certain segments of the code under 16.1.8 were inappropriately amended, necessitating the reinstatement of its current content and syntax under 16.7. Although there are certain amendments made to this section that staff have found to be appropriate, as those changes reduce redundancy and remove misplaced standards (e.g., removes new construction standards from the nonconformance section). Staff, in general, is neutral on the reversion to the original construction / placement of those standards in the instance the Board wants the original text reinstated.

Section reviewed: 16.1 General Provisions

Submitted comment: In Section 16.1.6, please add the word “must” to shall at Line 62 and fix grammar.

Workshop review: Discussion on the use of “must” to convey the intent of required elements of the code.

Staff response: Staff will amend Section 16.1.6 at Line 62 to read:

E. The words “must” and “shall” ~~is~~ are mandatory, the word “may” is permissive;

Section reviewed: 16.2 Administration and Enforcement

Submitted comments: On proposed code Section 16.2, while not complete there are text duplications and omissions in 16.2.4 Port Authority in both paragraphs A and B. Also, I have not found where existing code paragraphs 16.5.5 and 16.5.6 are located in recodification code. There are text duplications and omissions in 16.2.4 Port Authority.

Workshop review: Lines 115 through 122 are duplicative and should be removed. Some omissions from Port Authority language, and there was discussion to not conflict or duplicate with sections of the Charter or code Title 4 referencing the Port Authority.

Staff response: “Temporary Housing standards” previously contained in 16.5.5 and 16.5.6. can now be found in proposed code Section 16.5.28. The duplications on Lines 115 through 122 will be removed and replaced with the following:

A. Appointment and composition.

(1). ~~The Port Authority is established by Maine Private and Special Law, Chapter, as amended, and Town Charter, Article IX. The Port Authority is established by Maine Private and Special Law 1961, Chapter 163, as amended, and Town Charter, Article IX.~~

(2). ~~The Port Authority consists of seven members, who are Kittery residents, serving staggered terms of office of five years. The Port Authority consists of seven members, who are Kittery residents, serving staggered terms of office of five years.~~

(3). ~~The Port Authority consists of seven members, who are Kittery residents, serving staggered terms of office of five years. Members of the Port Authority are appointed by the Town Council.~~

(4). ~~The Port Authority consists of seven members, who are Kittery residents, serving staggered terms of office of five years. A municipal officer, or spouse thereof, may not serve as a member of the Port Authority.~~

(5). Members serve until their successors are appointed and qualified.

(6). No member shall serve more than two consecutive terms of five years. Any member who has served two consecutive terms of five years is ineligible to serve on the Board for a period of one year. Computation of term limits commences with the first term of five years following the effective date of this provision. Computation of term limits does not include service prior to the effective date of this provision nor to terms of fewer than five years after the effective date.

(7). A member of the Port Authority may be dismissed for cause by the Town Council before the expiration of such member's term after notice and hearing.

(8). Vacancies are filled by Town Council appointment for the unexpired term.

Section reviewed: 16.2 Administration and Enforcement

Submitted comments: Clarify title of single-family residential commencement and completion rules to Section 16.2.8

Workshop review: General discussion on adding clarifying language that covers activities described in subdivision, site plan, and other development plan sections.

Staff response:

Staff will make the following changes to Section 16.2.8 at Line 223:

16.2.8. Building/Regulated Activity Permits and Requirements

Section reviewed: 16.2 Administration and Enforcement

Submitted comments: The Basis of Decision code section is used by the Planning Board when reviewing Special Exception Use requests but the section only makes reference to the Board of Appeals.

Workshop review: Discussed making the language broader to cover all jurisdictional boards.

Staff response: Staff recommends to alter relevant language in Section 16.2 to change certain references of only the “Board of Appeals” to “appropriate jurisdictional Board”.

Section reviewed: 16.3 Definitions

Submitted comments:

- Add definition for “AADT – Annual Average Daily Traffic”
- Add “Dwelling, Cottage Cluster” to definitions (keeping the same format and naming strategy as for other dwellings).
- Delete Cottage Cluster
- Modify “Cluster Residential Development” definition based on review of Section 16.8 (see later in this document on Page 14)
- Clarify “Master Site Development Plan” and ensure conformance with Section 16.6

Workshop review:

- Discussion regarding some definitions that are missing, including several types of the term “glare.”
- Discussion of “marina” and what constitutes uses allowed in such a development.

Staff response: Part of the recodification effort is to reduce the number of terms in the Definition section due to obsolescence or redundancy and to remove any performance standards that had often been written into definitions, which are best contained to Section 16.5 Performance Standards. Staff combined certain individual terms like “Grocery Store” with other retail uses as “Retail Sales.” Part of the feedback from users of the code was that the current definition section is too lengthy and contains too many typical terms that can be defined by a dictionary. Performance standards (the “how” you do something) do not belong in definitions since that contributes to flipping back and forth within the code and can lead to conflict if both Definitions and Performance Standards aren’t updated uniformly.

- Staff recommends not reverting any of the terms previously removed or consolidated.
- Staff will add “Annual Average Daily Traffic (AADT)” as the following:
A measure of the total volume of vehicular traffic on a street or road for a year divided by 365 days.
- Staff will add and alphabetize all Dwelling Unit terms
- Staff will clarify “Master Site Development Plan” to read:

A conceptual, integrated design and infrastructure plan for the development of a master planned property, in which:

A. The development standards are applied to the land as defined by its perimeter, rather than by the individual lots, tracts and parcels into which the land may be divided; and

B. The standards are applied to the ~~zone~~ proposed master development boundary rather than to individual lots, tracts and parcels ~~within the zone~~.

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: A preference to have uses alphabetized within each zoning district.

Workshop review: Discussion regarding ease of use if items are in alphabetical order within sections. Though this could prove difficult in certain situations once the code is amended, staff agrees to start out the new code this way.

Staff response: Staff proposes to alphabetize uses currently listed within Section 16.4 but notes they cannot guarantee that future amendments are alphabetized in the same manner.

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: Which professionals are certified to challenge or redefine OZ-SL & RP zone boundaries in Section 16.4.6?

Workshop review: Discussion regarding what types of “Maine State professional” is allowed to certify boundaries for wetlands and shoreland.

Staff response:

- Staff proposes the following amendment to Section 16.4.6(4) on Line 91:

(4). Where there is uncertainty regarding a zone boundary, the Planning Board is the local decision authority as to the exact location of said boundary. In the Shoreland and Resource Protection Overlay Zones, boundary redefinition must be supported by documentation from an appropriate certified Maine ~~state professional~~ land surveyor.

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: Clarify language in Lines 176, 324, 479, 600, 726, 811, 1140, 1296, 3213, 3709, and 3996 to show we mean the already defined term “functionally water-dependent uses.”

Workshop review: No discussion.

Staff response:

- Staff proposes the following amendments to various parts of Section 16.4. on Lines 176, 324, 479, 600, 726, 811, 1140, 1296, 3213, 3709, and 3996:

...functionally ~~and wetland~~ water-dependent uses...

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: Maintain conformity withing zones on the “Accessory Use” language as it was changed to “Accessory Use and Building” from “Accessory Buildings and Structures.”

Workshop review: Discussion to make sure the code is consistent with regard to uses listed in permitted use language.

Staff response:

- Staff proposes the following amendments to various permitted and special exception use segments of Section 16.4:

Accessory Buildings, Structures, and Uses ~~Use and Building~~

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: Dwelling, two family. Currently there’s no duplex option in the zone, just an option for an ADU. Would three housing units on lots in the Rural Conservation zone be in line with the purpose statement that says RC “require(s) special measures to ensure low-density development”?

Workshop review: While not discussed during the workshop, this was discussed at the previous Planning Board meeting on October 28.

Staff response:

- Staff proposes the following amendments to Section 16.4.15 at Line 768:

(5). ~~Dwelling, Two Family~~

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: The BL & BL1 gasoline spacing provisions aren’t in the current online Code. Is it a new add or has it been enacted recently?

Workshop review: No discussion.

Staff response: The gasoline spacing provisions are in the existing Title 16 in both the B-L and B-L1 zones under Special Exception Uses. The language was included in the recodification draft on Line 1144 (B-L) and Line 1300 (B-L1). There is a formatting error on Line 1144 that should be adjusted to maintain consistency accordingly:

(7). ~~Gasoline Sales~~

~~a. l. 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.~~

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: In the BL and BL-1 zones, current OZ-SL rules limit dwellings to single-family or duplexes. They're both SEs. The new OZ-SL permitted dwelling use in BL is "Dwellings, if farther than 100ft from..." the resource. There is no mention of any dwelling types or number of dwellings in BL's SEs. Yet dwellings are called out in BL-1's SEs.

Perhaps this was just an oversight in BL? And, is much of the either BL zone in the OZ-SL? Haven't had time to look at Zoning map.

Workshop review: No discussion.

Staff response: These sections were rewritten prior to the adoption of the 2019 amendments which permit dwelling outside the base zone setback of the Shoreland Overlay Zone and prohibits new structures by right within the base zone setback. The recodification draft contains inconsistencies relative to that update. Staff will make the following amendments to the Permitted Use sections of all OZ-SL zones, where applicable to mirror the existing permitted residential (dwelling) uses:

c. Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the upland edge of a wetland:

(1) Dwelling, Single-Family

(2) Dwelling, Two-Family

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: On Line 1309 there appear to be new BL-1 parking requirements that aren't in the current code. Please mention at meeting if newly enacted or are a proposed change.

Workshop review: No discussion.

Staff response: This was a copy error. Parking standards are included in Section 16.7. Staff recommends the following amendment to Section 16.4.18 at Line 1309:

~~d. Each parking space is to contain a rectangular area at least 19 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section. This is exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets, and usable for the storage or parking of passenger vehicles. Parking spaces or access thereto must be constructed as to be usable year round.~~

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: On Line 1431 (and others), is “parking area” meant to replace “commercial parking lot or parking garage”? Does it infer garage? Does it need a definition in 16.3?

Workshop review: No discussion.

Staff response: This was an intentional change reflected in the new definitions (Section 16.3 Line 1102). A “Parking area” includes a parking garage.

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: In the MU district, on Line 3500, gas station is conditioned on a 2,000-foot separation?

Workshop review: No discussion.

Staff response: This is from the existing language contained in the MU zone regulations under §16.3.2.13D(10)(c).

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: In the MU-BI district, why was grocery store/food store taken out of the MU-BI zone?

Workshop review: No discussion.

Staff response: Grocery store was combined with “Retail sales” and would be permitted per the new 16.4.24.B.(24).

Section reviewed: 16.4 Land Use Zone Regulations

Submitted comments: “Buffers” are included in the MU-N “surface parking” section. There’s no connection. Might it be separated out as #9, and change Open Space to 10, etc. to end (which is currently 11)?

Workshop review: No discussion.

Staff response: Staff agrees that this is a formatting error and proposes the following amendment to Section 16.4.26.D.(8) on Line 4471:

~~iv. f.~~ Buffers required between residential uses and mixed use or nonresidential uses, and between adjacent residential zones and this zone must be 50 feet wide and consist of one of the following as determined by the Planning Board:

~~1.i.~~ Existing natural woodland and vegetation.

2.ii. Existing natural woodland augmented by the planting of additional trees consisting of a variety of species at least 2.5-inch caliper and 12 feet high.

~~3.~~ iii. A fence at least six feet high, constructed of material similar to surrounding buildings, with plantings of trees and shrubs at least six feet tall on either side of the fence.

Section reviewed: 16.5. General Performance Standards

Submitted comments: It's imperative that we increase the stormwater management criteria to a 100-year level for major developments. It's clear that there have been, and will likely be, more major storms as the climate continues to warm. Why wait to increase this requirement?

Workshop review: Discussed other Town efforts to regulate stormwater and floodplain management, including updates to the C zones earlier this year that were coupled with incentives to use low-impact development strategies and best management practices.

Staff response: There are several areas the current standards could be made stronger, such as requiring 15-inch minimum on all new culverts, including new driveway culverts not regulated by Title 16, designing for the 50- or 100-year storm, prohibiting any increase in post-construction runoff quantities, or requiring all subdivisions to meet DEP stormwater quantity and quality standards, even if they don't meet DEP permitting thresholds. Other Town departments and committees are doing work on the standards necessary to alleviate the impacts of storm surge and flooding from more frequent or heavier weather events. Those recommendations should be given a full review before being codified in Title 16.

Section reviewed: 16.6

Submitted comments: Master Site Plan Development definition and description needs to be clarified.

Workshop review: The Planning Board reviewed the Master Site Development Plan Review and discussed adding a Preliminary Plan step in the process.

Staff response: Staff recommends the following amendment to 16.6.1 on Line 22:

B. The standards are applied to the ~~zone~~ proposed master development boundary rather than to individual lots, tracts and parcels ~~within the zone~~.

Staff also recommends adding a Preliminary Plan step to 16.6.3, either referencing or mirroring the language located in the existing Site Plan section.

Section reviewed: 16.7

Submitted comments: The review authority for Minor Site Plans has changed to the staff's Technical Review Committee. Since a small staff committee will be reviewing plans that encompass projects up to 5,000sf, might we include abutter notification and create an opportunity for abutter input?

Workshop review: Planning Board reviewed the proposed Minor Site Plan vs Major Site Plan thresholds and consensus was reached on developments between 1,000-5,000sf would fall under Minor Site Plan review. Consensus was for some notification to abutters for filed Minor Site Plans.

Staff response: Staff agrees regarding abutter notification and proposes the following be added in Section 16.7.10.D.(4) at Line 841:

f. The applicant shall demonstrate they have sent written notice of their filing for Minor Site Plan review by postage paid, first-class mail (cost to be paid by the applicant) to all owners of abutting property, as herein defined (within 150 feet of the property).

Section reviewed: 16.7

Submitted comments: Improve waiver and modification language per the following:

- Include a reference citation to Basis for Decision (now in 16.2 starting at line 675) and please add any additional criteria needed to guide the Planning Board toward consistent reasoning and action. These older regs may be inadequate to meet the challenge for the many performance standards throughout Title 16.
- List any performance standards that should never be waived or modified
- Include that waiving or modifying any standards based on consideration of cost is not permitted. It's in the current Code & it should be included with waiver authority, wherever it's listed. For the sake of fairness, applicants and Board alike should know what waivers and modification requests can be made, and what the Board is meant to consider before it makes a decision.
- As of now, waiver/modification authority is only in site plan and subdivision chapters. Shouldn't they also be in new 16.5., 16.6, 16.7, and 16.8 for ease of use? Or, perhaps move the waiver authority (as 16.1.8.C) after the 16.1 Conformity sections, then Nonconformance would start as 16.1.8.D.?

Workshop review: Discussion on waivers and modifications, which standards could be waived or modified, and how the Planning Board arrives at any decision to waive or modify standards.

Staff response: Staff believes the separate waiver/modification provisions should remain in Site Plan (16.7) and Subdivision (16.8) sections, as those contain different processes for approvals, which include steps for potential waivers and modifications for each applicant type. The process

for Site Plan review is better served if a Site Plan applicant can review all standards and processes within the Site Plan section, and the same for an applicant for Subdivision review. Staff had difficulty identifying firm rules for which standards are never waived or modified, since waiver and modification requests are tied to submitted plans with individual context and circumstance. A review of other seacoast Maine municipality ordinances revealed waiver language very consistent with Kittery's and also broadly written as to not identify discrete elements that could be waived or those that should never be waived. Since the Planning Board has expressed interest in determining the scope of their waiver authority, staff believes this is a policy question best discussed with Town Council before any substantive changes are made. However, some tweaks to the current language could put the onus on the applicant to explain how a waiver or modification does not harm the public, rather than its current iteration.

- Staff suggest the following language, if the Planning Board wishes to amend at this time, at Section 16.7.8 on Line 254:

A. Waiver authorization.

~~*Where the Planning Board finds, due to special circumstances of a particular plan, certain required improvements or performance standards do not promote the interest of public health, safety and general welfare, , upon written request, it may waive or modify such requirements, subject to appropriate conditions as determined by the Planning Board.*~~

Upon written request, the Planning Board may waive or modify certain required improvements, due to special circumstances of a particular plan, if the applicant demonstrates that the interest of public health, safety, the natural environment, and general welfare are not harmed, or if those improvements are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed development, subject to appropriate conditions as determined by the Planning Board, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan and Title 16.

...

C. Objectives secured. In granting modifications or waivers, the Planning Board must require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or modified. The Planning Board shall consider the provisions in Section 16.2.12.F. Basis for Decisions when reviewing waiver or modification requests.

- Similar language could also be added to Section 16.8.7 beginning at Line 127:

~~*A. Waiver authorization. Where the Planning Board finds, due to special circumstances of a particular plan, certain required improvements do not promote the interest of public health, safety and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed development, upon written request, it may waive or modify such requirements, subject to appropriate conditions as determined by the Planning Board.*~~

Upon written request, the Planning Board may waive or modify certain required improvements, due to special circumstances of a particular plan, if the applicant demonstrates that the interest of public health, safety, the natural environment, and general welfare are not harmed, or if those improvements are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed development, subject to appropriate conditions as determined by the Planning Board, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan and Title 16.

B. Objectives secured. In granting modifications or waivers ~~from requirements in 16.5 General Performance Standards or 16.8.10 Performance Standards and Approval Criteria, below~~, the Planning Board must require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or modified. The Planning Board shall consider the provisions in Section 16.2.12.F. Basis for Decisions when reviewing such waiver or modification requests.

(1). Any waivers granted must improve the ability of the project to take the property's pre-development natural features into consideration. Natural features include but are not limited to topography, location of water bodies, location of unique or valuable natural resources, and relation to abutting properties or land uses.

Sections reviewed: 16.8

Submitted comments: Water supply (somewhere near Line 1048) really must have language that ensures that where there's no town water line, a development SHALL NOT cause an adverse impact on water volume or quality on surrounding properties.

Workshop review: Discussion centered on properties not connected to Town water but utilize wells and take from local aquifers/ground water.

Staff response: Staff agrees with the intent of the request but has concerns about the analysis needed to determine adverse impacts on water supply. Further discussion and analysis are necessary to determine the best policies and ordinance language that would improve development outcomes, which could include mandatory connections to public water within some distance of existing development (like the language in the sewer connection requirement). Staff recommends this become a separate policy issue to evaluate. Note: water quality standards and type of service (public, private or shared private) are part of the proposed Conservation Subdivision amendments and related Chapter 16.8 changes the Board will have occasion next year to discuss.

Sections reviewed: 16.8

Submitted comments: Add language that dictates that only four distinct dimensional standards of lots – to lot area, lot coverage, frontage and setbacks – may be modified by the Planning Board in review of Cluster Residential Subdivisions.

Workshop review: Discussion of aligning Town language with state law on cluster regulations, to limit what dimensional standards can actually be modified. Note that this change is also anticipated to be made to the proposed Conservation Subdivision changes the Planning Board will see next year.

Staff response: Staff agrees and proposes the following amendment to Section 16.8.10.H.(3) on Line 1664:

Dimension standards modifications. Notwithstanding other provisions of this title relating to dimensional standards, the Planning Board, in reviewing and approving proposed residential development under this article, may modify ~~said~~ certain dimensional standards limited to lot area, lot coverage, frontage and setback requirements to permit flexibility in approaches to site design in accordance with the standards of this title. The Board may allow subdivision or site development with the limited modified dimensional standards listed above where the Board determines the benefit of a cluster development is consistent with this title. Such modifications may not be construed as granting variances to relieve hardship.

Staff also recommends amending the Definitions section for Cluster Residential Development in Section 16.3.2. on Line 248 with the following:

CLUSTER RESIDENTIAL DEVELOPMENT

A form of land use improvements and/or change in which ~~the~~ dimensional requirements limited to lot area, lot coverage, frontage and setback requirements ~~are~~ may be reduced below that normally required in the zoning district in which the land use improvements and/or change is located in return for the provision to set aside a portion of the tract as of permanent open space and other environmental enhancements owned and maintained jointly in common by individual lot/unit owners, the Town, or a land conservation organization.

Sections reviewed: 16.9

Submitted comments:

- Review 16.9.3.D. for structure and clarity.

Workshop review: Requested staff look at Lines 209 through 244 as the construction of that passage does not seem correct.

Staff proposal: Staff agrees and will modify the passage at 16.9.3.D. as follows:

D. ~~Exempt and non-exempt uses.~~ Exempt uses and development not requiring shoreland development review by the Planning Board;

~~1.~~ Proposed development of principal and accessory structures in compliance with §16.4.28.D, when not subject to Planning Board review as explicitly required elsewhere in this title, shall be reviewed and approved by the Code Enforcement Officer (CEO) prior to issuing a building permit, subject to, but not limited to the following requirement:

~~a.~~ The total devegetated area of the lot (that portion within the Shoreland Overlay Zone) shall be calculated by the applicant and verified by the CEO and recorded in the Town's property records.

(2). Clearing of vegetation for activities other than timber harvesting. These are subject to review and approval by the Shoreland Resource Officer or Code Enforcement Officer.

(3). Division of a conforming parcel that is not subject to subdivision as defined in §16.3.

(4). A permit is not required for the replacement of an existing road culvert, provided the replacement culvert is not:

a. More than one standard culvert size larger in diameter than the culvert being replaced;

b. More than 25% longer than the culvert being replaced; and

c. Longer than 75 feet.

~~(5).~~ d. When replacing an existing culvert, the watercourse must be protected so that the crossing does not block fish passage, and adequate erosion control measures must be taken to prevent sedimentation of the water in the watercourse.

(65). A permit is not required for an archaeological excavation, provided the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's Level 1 or Level 2 approved list and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measure

Sections reviewed: N/A - general construction issues

Submitted comments:

- Alphabetize sections for ease of reference
- Add reference numbers to

Workshop review: General discussion on the formatting of the new document.

Staff proposal: Staff commits to do the following:

- Alphabetize terms and uses within each section (with some minor inconsistencies that may be necessary within subsections)
- Add reference points to each physical page or set of pages. Some of these references will be dictated by the format required by our online code vendor, eCode, but staff will push for ease of navigation within each section.