

Town of Kittery Maine Planning Board Meeting August 27, 2020

ITEM 3— 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.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Public Hearing Scheduled	HELD— 6/25/20	HELD
YES	Initial Public Hearing Meeting	HELD—7/23/20	HELD
NO	Public Hearing continued	8/13/20;8/27/20	ONGOING

Background

The purpose of the proposed amendments is to expand the opportunity to create a diversity of housing stock types in the commercial zones while preserving the remaining undeveloped land and natural resources located in the rural zoning districts. Specifically, the proposed amendments focus on the C-1 and C-3 zones, which reside along the US Route One and US Route One By-Pass corridors. A majority of the properties located within these zones are already developed and have a large presence of impervious and devegetated areas, making them ideal to redevelop. Minding most of these properties are significantly devegetated, the proposed zoning amendments seek to incentivized the incorporation of low-impact development (LID) infrastructure while requiring open space preservation and landscaping features. Recognizing in importance of protecting and improving the health of exiting natural resources, the proposed zoning amendments also seeks to create a diversity of housing types for people of various economic standing by provide provisions permitting an increase in density of a development that decides to include deeded affordable units.

The proposed zoning amendments currently before the Board have gone through and extensive public participation process. The proposed language has gone through both the Kittery Land Issues Committee and the Kittery Housing Committee. The Planning Board also offer initial comments on the proposal at the June 25, 2020 meeting before setting the public hearing for their July 23, 2020 meeting. At the July 23, 2020 meeting, the Board and the public offered their initial comments and concerns on the project were are listed as follows:

1. The ability for the Board to waive buffer requirements;
2. The potential effects of the proposed height standards;
3. Setback requirement for lots abutting single-family dwelling units;
4. Landscaping maintenance requirements by the developer; and
5. The submission of an analysis by Town staff to estimate the number of units that could be built.

Given the current pandemic, the Board thought it would be in the best interest of the Town to continue the public hearing to its August 13, 2020 meeting. At the August 13th Planning Board meeting, the Board heard additional input on the proposed amendments. Comments were received regarding varying the height of structures depending on which side of Route 1 they are built (with taller structures allowed on parcels along the western right-of-way), that work was needed on crafting a more complete vision for the Route 1 corridor, and that existing businesses should be protected from changes that harm expansion efforts. The Planning Board also agreed that they would like to have input from the Town's Economic Development Committee (EDC), with a previously scheduled meeting slated for August 19th. Staff agreed to gather input from the EDC with members of the Planning Board invited to attend. The EDC met August 19th with Planning Board members Karen Kalmar, Ron Ledgett, and Drew Fitch attending. EDC members spoke

about the need for affordable housing, a desire to create a more pedestrian friendly development pattern along Route 1, and a need for interconnectivity between larger parcels. The EDC also endorsed the idea of creating a master plan for the area or on some of the larger properties. Staff responded that a master plan is a good idea but it was not in the scope of the existing code amendments that have made their way from the Housing Working Group and Kittery Land Issues Committee. Staff stated the changes to the C-1/C-3 district were focused on introducing housing as a use that is currently not allowed. Any properties developed or redeveloped would still be subject to the rest of the provisions of the zoning code related to street standards, sidewalks, and the Kittery Design Handbook. Staff conceded the design guidelines are in need of updating and would be good to have varying guidelines for the unique neighborhoods in Kittery.

Staff is still working on updates to these amendments to satisfy the concerns of the Planning Board and public comments received so far. These updates are not available for the August 27 Planning Board meeting but could be ready by September.

Build-out analysis

As describe hereinabove, the Board wanted to know the maximum build-out potential that the proposed amendments would permit. The Board looked to staff to perform a preliminary analysis for which staff did by using ArcGIS.

Methodology/Analysis

As stated hereinabove, the analysis was conducted using an ESRI ArcGIS platform, which is a computer program that is used specifically to analyze and capture geographic and spatial data. In order to perform the analysis, the Town's databased was searched to include relevant information. The data that was used included the following:

1. Parcels,
2. Zoning districts;
3. Shoreland and Resource Protection overlay zones; and
4. Wetland, vernal pool and other natural features.

After data collection was complete, the data was processed to include information only located in the C-1 and C-3 zones and refined to include dimensional standards of the proposed amendments. Thereafter, the data was merged into one dataset by using overlay tools and then refined to keep only relevant data. Parcels with land located in the Resource Protection overlay zone, land within 100' from the high annual tide (HAT), wetlands, vernal pools, conservation areas/easements, and Town / State owned lands were excluded from this analysis, being that they are undevelopable lands.

Results

After data processing, a series of calculations were performed based on the proposed zoning amendments to ascertain the maximum amount of residential units that could be built within each parcel's developable footprint. At this point of the analysis there were two scenarios that were looked at: one scenario in which all the parcels were developed or redeveloped to include only residential units without any affordable units and a scenario which all parcels were developed and all included affordable units, which allows for greater density.

In the first scenario, which does not include a density bonus, the data suggest that a total of 2,102 units could be built whereas under the second scenario, which includes the affordable density bonus, a total of 2,622 units could be built. Please see the maps hereinafter to each parcels build-out potential.

Limitations

This analysis was cursory in nature and would require the incorporation of more data such as topography, soils and climate to give a more accurate estimate of the build-out potential. In addition to more data, verification (ground truthing) of the data would need to be performed to assure accuracy. This analysis also

did not account for housing market trends and the supply of commodities used to construct the developments. Furthermore, the analysis' direct intent was to understand the maximum amount of residential units that theoretically could be built on each lot located within the C-1 and C-3 zones based on the zoning amendments provisions and not designed to forecast development trends.

Recommendations

The Board should continue to discuss the provisions of the proposed amendments and continue the public hearing to the September 10, 2020 meeting so as to allow for more time for public to comment and to permit further review and consideration by the Board. Below is a recommended motion for the Board to use, if it is their wish to continue the public hearing.

Move to continue the public hearing for the proposed amendments to Title 16.2 Definitions and Title 16.3.2.11 Commercial (C-1, C-2, C-3) to the September 10, 2020 Planning Board meeting.

Revisions to C-1 and C-3 Zones related to housing – August 13, 2020 – DRAFT

Highlighted sections either changed or are a point for discussion based on the last PB meeting

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

2 A. Purpose.

3 (1) The purpose of the Commercial (C-1, C-2, C-3) Zones is to provide general retail sales, services and
 4 business space within the Town in locations capable of conveniently serving community-wide and/or
 5 regional trade areas and oriented primarily to ~~automobile~~ vehicular access. Additionally, in the C-1 and
 6 C-3 Zones where significant existing infrastructure, minimal existing residential development, and the
 7 presence of under-developed or under-utilized commercial lots allows, development of a range of
 8 dwelling unit types is encouraged. To reflect the differing character of various parts of the commercial
 9 areas, it is divided into three zones that are shown on the Zoning Map:

C-1	Route 1 Commercial Zone
C-2	Route 236 Commercial Zone
C-3	Bypass/Old Post Road Commercial Zone

10 (2) Where the standards or requirements for the zones vary, the provisions for the zone in which the parcel
 11 is located apply.

12 B. Permitted and special exception uses for each of the Commercial Zones follow: ~~The following uses are~~
 13 ~~permitted in the Commercial Zones:~~

14 (1) **C-1 permitted uses.**

- 15 (a) Public open space recreational uses, recreational facilities and selected commercial recreation;
- 16 (b) School (including nursery school), hospital, long-term nursing care facility, convalescent care
 17 facility, municipal or state building or use, church or any other institution of educational, religious,
 18 philanthropic, fraternal, political or social nature;
- 19 (c) Accessory uses and buildings including minor or major home occupations;
- 20 (d) Business and professional offices;
- 21 (e) Mass transit station;
- 22 (f) Commercial parking lot or parking garage;
- 23 (g) Retail uses and wholesale businesses, excluding used car lots and junkyards;
- 24 (h) Service establishments;
- 25 (i) Public utility facilities, including substations, pumping stations and sewage treatment facilities;

Revisions to C-1 and C-3 Zones related to housing – August 13, 2020 – DRAFT**Highlighted** sections either changed or are a point for discussion based on the last PB meeting

- 26 (j) Restaurant;
- 27 (k) Veterinary hospital;
- 28 (l) Motel, hotel, rooming house, inn;
- 29 (m) Art studio/gallery;
- 30 (n) Grocery, food store, convenience store;
- 31 (o) Day-care facility;
- 32 (p) Business service;
- 33 (q) Personal service;
- 34 (r) Building materials and garden supply;
- 35 (s) Conference center;
- 36 (t) Repair services;
- 37 (u) Accessory dwelling unit; ~~and~~
- 38 (v) Specialty food and/or beverage facility; ; **[Added 6-10-2013 by Ord. No. 13-02]** and
- 39 (w) Dwelling, two-family.
- 40 **(2) C-1 special exception uses.**
- 41 ~~(a) Used car lot not connected with new car sales;~~
- 42 ~~(b)~~(a) Gasoline sales if: i) not located within 1,000 feet of an existing station or private residence; and
- 43 ii) not located within 150 feet of an existing structure;
- 44 ~~(e)~~(b) Funeral home;
- 45 ~~(d)~~(c) Place of assembly, including theater;
- 46 ~~(e)~~(d) Transportation terminal excluding truck stops;
- 47 ~~(f)~~(e) Warehousing and storage;

Revisions to C-1 and C-3 Zones related to housing – August 13, 2020 – DRAFT

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- 48 ~~(g)~~ Mini-storage;
- 49 ~~(h)~~(f) Research and development;
- 50 ~~(i)~~(g) Manufacturing operations that conform to the provisions of §16.1.3.2.2 and Chapters 16.8 and
51 16.9;
- 52 ~~(j)~~(h) Repair garages not located within 150 feet of a private dwelling or existing structure;
- 53 ~~(k)~~(i) Buildings and structures over 40 feet that conform to the provisions of Chapters 16.8 and 16.9.
54 Buildings and structures higher than 40 actual feet from the lowest point of grade to the
55 highest point of the building or structure must have side, rear and front yards of sufficient
56 depth to adequately protect the health, safety and welfare of abutting properties and which
57 may not be less than current standards or 50% of actual height, whichever is greater;
- 58 ~~(l)~~(j) Temporary, intrafamily dwelling unit;
- 59 ~~(m)~~ New motor vehicle sales;
- 60 ~~(n)~~(k) Mechanical services, excluding junkyard; ~~and~~
- 61 ~~(o)~~(l) Aquaculture;
- 62 (m) Cottage cluster;
- 63 (n) Dwelling, attached single-family;
- 64 (o) Dwelling, multifamily; and
- 65 (p) Dwelling units as part of a mixed-used building.
- 66 (3) **C-2 permitted uses...** [Note to Planning Board and Town Council: no changes in uses proposed so
67 section removed for brevity].
- 68 (4) **C-2 special exception uses...** [Note to Planning Board and Town Council: no changes in uses
69 proposed, section removed for brevity]
- 70 (5) **C-3 permitted uses.**
- 71 (a) Public open space recreational uses, recreational facilities and selected commercial recreation;
- 72 (b) School (including nursery school), hospital, elder-care facility, long-term nursing care facility,
73 convalescent care facility, municipal or state building or use, church or any other institution of

Revisions to C-1 and C-3 Zones related to housing – August 13, 2020 – DRAFT

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- 74 educational, religious, philanthropic, fraternal, political or social nature;
- 75 (c) Accessory uses and buildings including minor or major home occupations;
- 76 (d) Business and professional offices;
- 77 (e) Mass transit station;
- 78 (f) Commercial parking lot or parking garage;
- 79 (g) Retail uses and wholesale businesses, excluding used car lots and junkyards;
- 80 (h) Service establishments;
- 81 (i) Public utility facilities, including substations, pumping stations and sewage treatment facilities;
- 82 (j) Restaurant;
- 83 (k) Veterinary hospital;
- 84 (l) Motel, hotel, rooming house, inn;
- 85 (m) Art studio/gallery;
- 86 (n) Grocery, food store, convenience store;
- 87 (o) Day-care facility;
- 88 (p) Business service;
- 89 (q) Personal service;
- 90 (r) Building materials and garden supply;
- 91 (s) Conference center;
- 92 (t) Repair services;
- 93 ~~(u) New motor vehicle sales;~~
- 94 ~~(v)~~(u) Boatyard;
- 95 ~~(w)~~(v) Mechanical services, excluding junkyard;

Revisions to C-1 and C-3 Zones related to housing – August 13, 2020 – DRAFT**Highlighted** sections either changed or are a point for discussion based on the last PB meeting

- 96 ~~(x)~~(w) Commercial boating and fishing uses and facilities, provided only incidental cleaning and
97 cooking of seafood occur at the site;
- 98 ~~(y)~~(x) Aquaculture;
- 99 ~~(z)~~(y) Accessory dwelling unit; ~~and~~
- 100 ~~(aa)~~(z) Specialty food and/or beverage facility; **:[Added 6-10-2013 by Ord. No. 13-02]** and
- 101 (aa) Dwelling, two-family.
- 102 ~~C. Special exception uses. The following uses are permitted as special exception uses in the Commercial-~~
103 ~~Zones:~~
- 104 **(6) C-3 special exception uses.**
- 105 ~~(a) Used car lot not connected with new car sales;~~
- 106 ~~(b)~~(a) Gasoline sales if: i) not located within 1,000 feet of an existing station or private residence; and
107 ii) not located within 150 feet of an existing structure;
- 108 ~~(c)~~(b) Funeral home;
- 109 ~~(d)~~(c) Place of assembly, including theater;
- 110 ~~(e)~~(d) Transportation terminal excluding truck stops;
- 111 ~~(f)~~(e) Warehousing and storage;
- 112 ~~(g) Mini storage;~~
- 113 ~~(h)~~(f) Research and development;
- 114 ~~(i)~~(g) Manufacturing operations that conform to the provisions of §16.1.3.2.2 and Chapters 16.8 and
115 16.9;
- 116 ~~(j)~~(h) Repair garages not located within 150 feet of a private dwelling or existing structure;
- 117 ~~(k)~~(i) Buildings and structures over 40 feet that conform to the provisions of Chapters 16.8 and 16.9.
118 Buildings and structures higher than 40 actual feet from the lowest point of grade to the
119 highest point of the building or structure must have side, rear and front yards of sufficient
120 depth to adequately protect the health, safety and welfare of abutting properties, and which
121 may not be less than current standards or 50% of actual height, whichever is greater;

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<u>All other uses</u>	40,000 square feet		
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138 *NOTE: These uses are exempt from net residential acreage calculations but are subject to minimum
 139 land area per dwelling unit requirements as described in § 16.7.8.4 Exemptions to net residential
 140 acreage calculations.

141 (b) Minimum street frontage:

<u>C-1 and C-3 Zones</u>		<u>C-2 Zone</u>	
<u>All uses</u>	<u>No minimum*</u>	<u>All uses</u>	150 feet

142 *NOTE: All lots must meet the requirements of Article XVI Lots unless specifically modified by this
 143 section (16.3.2.11). Street frontage must provide sufficient vehicular and pedestrian access for the
 144 uses proposed while meeting public health and safety requirements (e.g. Fire Department,
 145 Department of Public Works). The applicant must demonstrate to the municipal permitting
 146 authority, that the street frontage and lot design meet these requirements to the extent practicable.

147 (c) Maximum ~~Minimum~~ front ~~yard~~ setback:

<u>C-1 and C-3 Zone</u>		<u>C-2 Zone</u>	
<u>All uses</u>	<u>50-15 feet*</u>	<u>All uses</u>	50 feet

148 *NOTE: The Planning Board may, at its discretion, allow a greater setback when public amenities
 149 such as benches, pocket parks or seating areas are proposed.

150
 151 (d) Minimum rear and side ~~yards~~ setbacks:

<u>C-1 Zone</u>		<u>C-2 Zone</u>		<u>C-3 Zone</u>	
<u>All uses</u>	<u>30-10 feet*</u>	<u>All uses</u>	<u>30 feet**</u>	<u>All uses</u>	<u>30 10 feet***</u>

152 *NOTE: Except where side and/or rear setbacks of proposed new uses about a single-family use and/or
 153 any properties located on the east side of Route 1 from the southernmost extent of the C-1 zone
 154 north to properties abutting Ox Point Drive in which case a minimum of 30 feet is required. See
 155 16.3.2.11.C.(4).(e) for buffer requirements.

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

159 ***NOTE: Except where side and/or rear setbacks of proposed new uses abut a single-family use in
 160 which case a minimum of 15 feet is required.

161 (e) Maximum building height:

<u>C-1 and C-3 Zones</u>		<u>C-2 Zone</u>	
<u>Dwelling, Multifamily, Dwelling Units as part of a Mixed-Use Building</u>	<u>50 feet, not including solar apparatus*</u>	<u>All uses</u>	40 feet
<u>All other uses</u>	40 feet		

162 *NOTE: Flat roofs, proposed to locate heating, cooling, or other such mechanical or electrical
 163 apparatus off the ground, are acceptable provided that such apparatus are screened from view and the
 164 screening is designed as an integral part of the building to aid both aesthetics and noise attenuation.
 165 Flat roofs proposed for the purpose of solar array installations are also acceptable.

166 (f) ~~Maximum building and outdoor stored material coverage~~ Impervious surface:

167 For lots in the C-1 and C-3 zones which are currently developed and for which new multi-family,
 168 attached single-family or two-family dwellings, cottage clusters, or dwelling units as part of mixed-
 169 use building are proposed, either with or without existing or new commercial uses on the same lot,
 170 the maximum impervious surface, including but not limited to driveways, buildings, sidewalks and
 171 parking areas:

172 [1] Is 70%; or

173 [2] The Planning Board may, at its discretion, allow greater than 70% if proof that all stormwater
 174 will be managed on-site, utilizing LID (Low Impact Development) and BMP (Best
 175 Management Practice) systems based on Maine DEP’s Maine Stormwater Best Management
 176 Practices Manual, Volumes 1-III as amended from time to time. The stormwater report and
 177 plan demonstrating that this requirement is met must be included with the application at the
 178 time of submission.

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180 For lots in the C-3 zone which are currently vacant (no existing structure) and for which new multi-
 181 family, attached single-family, or two-family dwellings, cottage clusters, or dwelling units as part of
 182 mixed-use building are proposed, the maximum impervious surface, including driveways, buildings,
 183 sidewalks and parking areas:

184 [1] Is 60% or

185 [2] The Planning Board may, at its discretion, allow greater than 60% if proof that all stormwater
 186 will be managed on-site utilizing LID (Low Impact Development) and BMP (Best
 187 Management Practice) systems based on Maine DEP's Maine Stormwater Best Management
 188 Practices Manual, Volumes 1-III as amended from time to time. The stormwater report and
 189 plan demonstrating that this requirement is met must be included with the application at the
 190 time of submission.

191 For lots in the C-1 or C-3 zones which are currently developed and for which redevelopment is
 192 proposed with new non-residential structures, the maximum impervious surface, including but not
 193 limited to driveways, buildings, sidewalks and parking areas:

194 [1] Is 70%; and all stormwater must be managed on-site, utilizing LID (Low Impact
 195 Development) and BMP (Best Management Practice) systems based on Maine DEP's Maine
 196 Stormwater Best Management Practices Manual, Volumes 1-III as amended from time to
 197 time. The stormwater report and plan demonstrating that this requirement is met must be
 198 included with the application at the time of submission.

199 For all uses in the C-2 Zone, building and outdoor material coverage must not exceed 40%.

200 (g) Minimum setback from water body and wetland setback for functionally water-dependent uses:
 201 zero feet.

202 (h) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.9,
 203 §16.3.2.17 and Appendix A, Fee Schedules.

204 (i) Affordable housing requirements:

205 [1] All requirements in 16.X. Affordable Housing must be met.

206 [2] Density incentives outlined above in (2).(a) may be applied to projects that create affordable
 207 housing units, as defined by this code. No proportional payment-in-lieu is required if the
 208 affordable dwelling unit requirements for the density incentives are met.

209 (j) Mixed-use buildings which include residential dwelling units must be comprised of at least 50%
 210 commercial uses on the first floor.
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 212
 213

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- (k) Underground utilities are required. The Planning Board may allow an alternative but it is incumbent upon the applicant to demonstrate why such a modification request should be granted.

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- (i) Cottage cluster requirements:

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- [1] Cottage cluster dwelling units must either face the required common open space or the street. The required open space must be held in common for use by all the cottage cluster residents and must be immediately accessible to each dwelling unit, via either the front or the back of each unit.

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- [2] Each cottage cluster dwelling unit must be no greater than 1,200 square feet. Spacing between units must comply with the requirements of the Fire Department and/or the State Fire Marshall's office.

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- [3] Shared parking areas must be connected to each dwelling unit via a sidewalk.

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- (3) C-1 Zone standards. All development and the use of land except for new multi-family, attached single-family or two-family dwellings, cottage clusters, or dwelling units as part of a mixed-use building within the C-1 Zone must meet the following standards:

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[Note to Kittery Planning Board and Town Council: No changes are proposed, section removed for brevity].

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- (4) C-1 and C-3 Zone standards for attached single-family dwellings, multi-family dwellings, two-family dwellings where more than one two-family dwelling is proposed for a single lot, cottage clusters, and dwelling units as part of a mixed-use building:

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- (a) Design standards.

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- [1] Sidewalks must be installed within the right-of-way to meet minimum requirements as specified in 16.8 Table 1, subject to review and approval by the Department of Public Works.

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- [2] All service areas for dumpsters, compressors, generators and similar items must be screened by a fence at least six feet tall, constructed of a material similar to surrounding buildings, and must surround the service area except for the necessary ingress/egress.

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- [3] Parking must be located behind multi-family dwellings and mixed-use buildings with residential dwelling units when viewed from the street. The Planning Board may allow parking to the side or front of such residential or mixed-use buildings at its discretion, but it is incumbent upon the applicant to demonstrate why rear parking is not feasible.

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- 252 [4] Lighting plans, including lighting fixture designs and photometric plans must be included at the
 253 time of application submission. All fixtures must be cut-off to prevent light trespass and meet all
 254 requirements of Chapter 16.8 Article XXIV.
 255
- 256 [5] A single new two-family dwelling proposed for a lot or the addition of another dwelling unit to
 257 an existing single-family residence to create a two-family dwelling is exempt from these design
 258 standards.
 259
- 260 (b) Open space standards.
 261
- 262 [1] Open space must be provided as a percentage of the total area of the lot, and may include
 263 wetlands, water bodies, streams, and setbacks. Fifteen percent (15%) of each lot must be
 264 designated as open space.
 265
- 266 [2] For multifamily dwellings, mixed-use buildings with residential dwelling units and attached
 267 single-family dwellings, in cases where the property does not meet the 15% requirement due to
 268 existing development, and where redevelopment will remain at the same or comprise a lower
 269 percentage of the lot, the Planning Board may, at its discretion, allow a smaller percentage of
 270 open space. In granting this concession, the Board may require more intensive landscape
 271 plantings.
- 272 (c) Parking standards.
 273
- 274 The following minimum off-street parking requirements must be provided and maintained in case
 275 of new construction, alterations, and changes of use:
 276
- 277 [1] Parking requirements must be met on site unless an existing building covers so much of the lot as
 278 to make the provision of parking impractical in whole or in part. If meeting the parking
 279 requirements is not practical, then the parking demand may be satisfied off site or through joint-
 280 use agreements as specified herein. Notwithstanding the off-street parking requirements in
 281 Article IX of Chapter 16.8, minimum parking requirements for the uses below are modified as
 282 specified:
- 283 [a] Dwelling units: 1 parking space per dwelling unit.
 284 [b] For multifamily dwellings, if more than ten parking spaces are required, up to 20% of the
 285 parking may be designated for compact cars. See 16.8.9.4 Off-Street Parking Standards.
 286
- 287 [2] Off-site parking. Required off-street parking may be satisfied at off-site locations, provided such
 288 parking is on other property owned by the applicant or is under the terms of a contractual
 289 agreement that will ensure such parking remains available for the uses served. Applicant must
 290 present evidence of a parking location and a contractual agreement;
 291
- 292 [3] Joint-use parking. Required off-street parking may also be satisfied by the joint use of parking
 293 space by two or more uses if the applicant can show that parking demand is nonconflicting and

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- 294 will reasonably provide adequate parking for the multiple uses without parking overflowing into
 295 undesignated areas. Nonconflicting periods may consist of daytime as opposed to evening hours
 296 of operation or weekday as opposed to weekends or seasonal variation in parking demand.
 297
- 298 [a] Such joint parking areas must be held under ownership of the applicant or under terms of a
 299 contractual agreement that ensures such parking remains available to all users of the shared
 300 parking spaces;
- 301 [b] Determination of parking adequacy will be based on a most frequent basis, not a "worst
 302 case" scenario;
- 303
- 304 [c] Joint use parking areas must be located within 1,500 feet of the uses served, but do not need
 305 to be located on the same lot as the uses served;
- 306
- 307 [d] Ease and safety of pedestrian access to shared parking by the users served must be
 308 demonstrated, including any proposed improvements or shuttle service that may be offered
 309 and its requisite loading/unloading areas;
- 310
- 311 [e] Such joint parking areas must not be located in residential zones of the Town.
 312
- 313 [4] In making determinations on off-site or joint-use parking under a development plan review, the
 314 municipal permitting authority with jurisdiction to review and approve will make a final
 315 determination of the joint-use and/or off-site spaces that constitute an acceptable combination of
 316 spaces to meet the required parking demand.
- 317
- 318 [5] Electric car charging stations are allowed in parking lots but must not interfere with pedestrian
 319 movement on sidewalks.
- 320
- 321 (d) Landscaping and screening
- 322
- 323 [1] For new multi-family, attached single-family, or dwelling units as part of a mixed-use building
 324 or any new residential use that will create more than three dwelling units on a site, the
 325 following standards apply:
- 326
- 327 [a] A landscape plan prepared by a registered landscape architect is a submission requirement.
 328 However, a landscape plan done by other design professionals may be allowed at the
 329 Planning Board's discretion.
- 330
- 331 [b] A minimum of one street tree must be planted for each 25 feet of street frontage. Trees
 332 may be planted in groups or spaced along the frontage. However, trees must be planted to
 333 ensure survival, using silva cells, bioretention cells or tree wells. Trees are to be a
 334 minimum of 2.5-inch caliper and 12 feet high at the time of planting. Existing large
 335 healthy trees must be preserved if practical and will count towards this requirement. Trees
 336 proposed within the right-of-way must remain under 20 feet tall at maturity.
 337

Revisions to C-1 and C-3 Zones related to housing – August 13, 2020 – DRAFT

Highlighted sections either changed or are a point for discussion based on the last PB meeting

- 338 [c] Surface parking lots designed for five or more cars that will service multi-family or
 339 mixed-use buildings with dwelling units and which abut a street must provide screening in
 340 one of the following ways:
 341
 342 i. One tree per 25 feet of street frontage backed by a fence constructed of a
 343 material similar to surrounding buildings which must screen the parking area
 344 from the street except for necessary vehicular and pedestrian access. To ensure
 345 survival, trees must be planted using silva cells, bioretention cells or tree wells.
 346 Trees must be at least 2.5-inch caliper and 12 feet high at the time of planting.
 347 Existing large healthy trees must be preserved if practical and will count
 348 towards this requirement. Trees proposed within the right-of-way must remain
 349 under 20 feet tall at maturity.
 350
 351 ii. A combination of trees and shrubs including at least 50% evergreen species, all
 352 at least six feet high at time of planting, in a planting bed at least eight feet
 353 wide. Plantings must be sufficient, as determined by the Planning Board, to
 354 screen the parking area from the street except for necessary vehicular and
 355 pedestrian access. Planting beds may be mulched but no orange or red-dyed
 356 mulching material may be used.
 357
 358 [d] A minimum of 10% of any surface parking area consisting of 10 or more spaces must be
 359 landscaped with trees and vegetated islands. This requirement is in addition to the
 360 aforementioned screening and street tree requirements.
 361
 362 [e] Native trees are preferred and must be drought and salt tolerant when used along streets. A
 363 diversity of tree species (three to five species per every 12 trees) is required to provide
 364 greater resiliency to threats from introduced insect pests and diseases.
 365
 366 [f] Any required plantings that do not survive must be replaced within one year. This
 367 requirement does not expire and runs with the land.
 368
 369 [g] If 25% of the proposed development will be affordable dwelling units, the Planning Board
 370 may, at its discretion, modify surface parking lot landscaping and screening requirements
 371 under [c] and [d].
 372
 373 (e) Buffers.
 374
 375 [1] Buffers are required between new residential uses and existing nonresidential uses and must
 376 be at least 10 feet wide. A buffer plan must be prepared in conjunction with the landscape
 377 plan as described in [d].[1].(a) above and consist of:
 378

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- 379 [a] A fence at least six feet high, constructed of material similar to surrounding buildings, with
 380 plantings of trees at least six feet tall at time of planting and shrubs on the new residential
 381 side of the fence.
- 382
- 383 [b] Ground cover plantings such as perennials or ornamental grasses must be used where
 384 appropriate.
- 385
- 386 [c] Plantings must be provided with irrigation to enhance survival unless they are part of a
 387 bioretention cell, rain garden or tree well.
- 388
- 389 [d] Any required plantings that do not survive must be replaced within one year. This
 390 requirement does not expire and runs with the land.
- 391
- 392 [e] If 25% of the proposed development will be affordable housing dwelling units, the
 393 Planning Board may, at its discretion, modify buffer requirements under [a] and [b].
- 394
- 395 [2] Buffers are required between new residential uses and existing single-family uses and must be
 396 at least 10 feet wide. A buffer plan must be prepared in conjunction with the landscape plan as
 397 described in [d].[1].(a) above and consist of:
- 398
- 399 [a] A fence at least six feet high, constructed of material similar to surrounding buildings, with
 400 plantings of trees and shrubs at least six feet tall on the new residential side of the fence; or
 401
- 402 [b] Plantings of trees at least six feet tall and shrubs, including at least 50% evergreen species.
 403 Such plantings must ensure adequate buffering and screening is achieved as determined by
 404 the Planning Board.
- 405
- 406 [c] Ground cover plantings, such as perennials or ornamental grasses must be used where
 407 appropriate.
- 408
- 409 [d] Plantings must be provided with irrigation to enhance survival unless they are part of a
 410 bioretention cell, rain garden or tree well.
- 411
- 412 [e] Any required plantings that do not survive must be replaced within one year. This
 413 requirement does not expire and runs with the land.
- 414
- 415 [f] If 25% of the proposed development will be affordable housing dwelling units, the
 416 Planning Board may, at its discretion, modify buffer requirements under [a], [b] and [c].
 417

418 (45) C-2 Zone standards. All development and the use of land within the C-2 Zone must meet the following
 419 standards:

420 [Note to Kittery Housing Working Group and KLIC: No changes are proposed, section removed for brevity].

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421 (56) C-3 Zone standards. All development and the use of land except for new multi-family, attached single-
 422 family or two-family dwellings, cottage clusters or dwelling units as part of a mixed-use building,
 423 within the C-3 Zone must meet the following standards:

424 [Note to Kittery Housing Working Group and KLIC: No changes are proposed, section removed for brevity.

425

426 **§16.2 Definitions**

427

428 Affordable - The percentage of income a household is charged in rent and other housing expenses, or must
 429 pay in monthly mortgage payments (including insurance, HOA fees, and taxes), does not exceed 30% of a
 430 household's gross income, or other amount established in town regulations that does not vary significantly
 431 from this amount.

432

433 Affordable Housing Unit -One dwelling unit of either affordable housing for rent or affordable housing for
 434 sale.

435

436 Affordable Housing For Rent - A dwelling unit that may be rented for year-round occupancy for which the
 437 rental cost does not exceed the maximum cost set forth for households making up to 80% of area median
 438 income, as determined by HUD's York-Kittery-South Berwick Metro Fair Market Area (HMFA) limits.
 439 Annual rent increases are limited by deed restriction, lease agreement or other legally binding agreement to
 440 the percentage increase in the HUD York-Kittery-South Berwick Metro Fair Market Area (HMFA) median
 441 income figures for a household of that size.

442

443 Affordable Housing For Sale - A dwelling unit that may be purchased for year-round occupancy for which
 444 the selling price does not exceed the maximum price set forth for households making up to 120% of area
 445 median income, as determined by HUD's York-Kittery-South Berwick Metro Fair Market Area (HMFA)
 446 limits. The resale price is limited by deed restriction or other legally binding agreement for all future sales of
 447 the unit, or a lesser term if permitted by regulations, to the percentage increase in the HUD York-Kittery-
 448 South Berwick Metro Fair Market Area (HMFA) median income figures for a household of that size.

449

450 Cottage Cluster - A group of size-restricted single-family detached dwelling units that share a common lot as
 451 well as common open space and may share a parking area and/or accessory structures.

452

453 Dwelling Unit - A room or group of rooms forming a habitable unit for one family household, with facilities
 454 used or intended to be used for living, sleeping, cooking, eating and sanitary facilities. ~~It comprises at least~~
 455 ~~650 square feet of habitable floor space, except for elderly housing, an accessory dwelling unit or a~~
 456 ~~temporary, intrafamily dwelling unit. The term does not include a trailer. Such a unit must meet the building~~
 457 ~~code standards adopted and amended from time to time by Maine's Bureau of Building Codes and Standards.~~

458

459 Impervious surface - The total area of a parcel that consists of buildings and any associated structures as well
 460 as roads, driveways, and parking areas, whether paved or unpaved and any additional area that is covered
 461 with a low-permeability material such as asphalt, stone or concrete or compacted through design or use to
 462 reduce permeability.

463