



KITTERY PLANNING BOARD MEETING
Council Chambers – Kittery Town Hall 200 Rogers Road, Kittery, Maine 03904
Phone: 207-475-1323 - Fax: 207-439-6806 - www.kitteryme.gov

SPECIAL MEETING

AGENDA for Tuesday, August 21, 2018

5:30 P.M. to 6:15 P.M

CALL TO ORDER–ROLL CALL–PLEDGE OF ALLEGIANCE

ITEM 1 – PUBLIC HEARING - Town Zoning Map Amendment

This zoning map amendment is the second step to a two-part process replacing the Business Park (B-PK) zoning district. The first step proposes a text amendment changing the B-PK zone to the Neighborhood Mixed-Use (MU-N) zone and replace the zoning requirements. This step is currently under consideration by Town Council after going through a public hearing process with the Planning Board on June 14, 2018. This second step proposes a zoning map amendment which will expand the proposed boundary of the new Neighborhood Mixed-Use (MU-N) zone currently under consideration by Town Council.

Public Hearing, Vote to Recommend. Take public comment. Review and discuss proposed expansion of the Neighborhood Mixed-Use (MU-N) Zone. Vote whether to recommend to Town Council.

+/-ADJOURNMENT - (by 10:00 PM unless extended by motion and vote)

NOTE: ACTION LISTED IN ABOVE AGENDA ITEMS IS FOR REFERENCE ONLY AND THE BOARD MAY DETERMINE A DIFFERENT ACTION. DISCLAIMER: ALL AGENDAS ARE SUBJECT TO REVISION ONE WEEK PRIOR TO THE SCHEDULED TOWN PLANNING BOARD MEETING. TO REQUEST A REASONABLE ACCOMMODATION FOR THIS MEETING CONTACT STAFF AT (207) 475-1323.



TOWN OF KITTERY
Planning and Development
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1307 Fax: 207-439-6806

TO: PLANNING BOARD
FROM: JAMIE STEFFEN, TOWN PLANNER
SUBJECT: **POTENTIAL EXPANSION OF THE PROPOSED NEIGHBORHOOD MIXED-USE ZONE (FORMERLY KNOWN AS THE BUSINESS PARK ZONE)**

DATE: AUGUST 13, 2018
CC: KENDRA AMARAL, TOWN MANAGER, ADAM CAUSEY, DIRECTOR OF PLANNING & DEVELOPMENT

At the July 26th Planning Board meeting, the Board voted to hold a public hearing on the potential expansion of the proposed Neighborhood Mixed-Use (MU-N) Zone on August 21, 2018.

To summarize the proposed changes: in the continuing effort to encourage development in the proposed Neighborhood Mixed-Use (MU-N) Zone, the Planning Office sent letters (a copy is included in the Board's packet) in March to the property owners whose parcels on Dennett Road and Route 236 directly abut the current Business Park Zone (B-PK). The Planning Office and Town Manager heard from several property owners (some of whom were in favor and one who wished to withdraw) and the proposed zone expansion map was updated accordingly (also included in the packet).

Now that the Board has voted the proposed Neighborhood Mixed-Use (NH-N) zone amendments to Title 16 on to Town Council and held a joint Town Council/Planning Board workshop on Monday, July 23, 2018, the next step is for the Board to consider this proposed expansion. The amendments to the zoning requirements were done first so that the property owners whose properties are proposed for inclusion could be informed as well as those whose properties are currently within the MU-N zone. Included with the map showing the expansion is a list of the properties proposed for inclusion and their current zoning and use.

State statute requires that notices be sent to all property owners directly affected and to the abutters of the proposed expansion once a public hearing date has been set. The Planning office sent notices to abutters within 500 feet of the proposed zoning boundary. A notice and the map was published in the newspaper twice as well.

After the public hearing, the Board should review and discuss the proposed expansion of the Neighborhood Mixed-Use (MU-N) Zone and then vote whether to recommend it to the Town Council.



TOWN OF KITTERY

Planning and Development Department
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1323

Dear Property Owner,

The Town of Kittery is currently pursuing amendments to Section 16.3.2.10 of Title 16 Land Use and Development Code which concerns the Business Park Zoning District bordered by Route 95, Route 236, Dennett Road, and Martin Road.

In the current and the proposed Comprehensive Plans the Town has identified this area as a targeted growth area. To further that, the Town placed it in a Tax Incentive Finance District in 2010. Despite these moves, the zone remains underdeveloped and underutilized.

The amendments being pursued for this zone include changes to the permitted uses, land and lot requirements, and a change to the zone's name to "Neighborhood Mixed Use Zone".

Some property owners whose property currently directly abuts the zone, but are not part of it, have indicated interest in potentially having their property included in the proposed Neighborhood Mixed Use Zone.

You are receiving this letter as an abutter to the currently existing Business Park zone, to let you know about the proposed zoning amendment effort and that your property may be under consideration for inclusion in the new Neighborhood Mixed Use Zone.

Included with this letter is a map showing the possible expansion of the Neighborhood Mixed Use Zone. A copy of the draft amendments being considered is available on the Planning and Development page on the Town's website. The draft amendments to Title 16 are included in the Planning Board's meeting packet for their March 22nd meeting; which is also available on the Town's website. The Planning Board meets at 6:00 pm in Council Chambers at Town Hall. Planning Board meetings are open to the public, are televised on Channel 22 and can be streamed from the Town's website anytime.

If you are interested in having your parcel included in the zone or have questions and comments about the proposed amendments please contact me at (207) 475-1323 or at kconnor@kitteryme.org.

Best regards

Kathy Connor
Interim Town Planner



TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: July 23, 2018
From: Kendra Amaral, Town Manager
Subject: Neighborhood Mixed Use Zone (Business Park Zone)
Councilor Sponsor: Chairperson Kenneth Lemont

Following an extensive review and development process, the administration, in collaboration with the Kittery Open Space Advisory Committee (repurposed for this effort), and the Economic Development Committee, is pleased to be advancing zoning amendments to the former Business Park Zone. These amendments were developed to support investment in and build-out of one of Kittery's primary "target growth areas".

OVERVIEW

Business Park Use Study

In 2016, the Economic Development Committee was fielding information from a parcel owner within the Business Park Zone about potential development opportunities. The owner was seeking town support to utilize the Tax Incentive Financing district to invest in roads, water, and power access to his parcel. At the time, the EDC wished to better understand the opportunities and challenges with development of the whole zone, prior to providing the Council with a recommendation on the specific request. The EDC and Council agreed to pursue a land-use study as a prudent next step.

In 2017, Southern Maine Planning and Development Commission was engaged to conduct the land-use study. The scope included identifying the build-out options for the full zone and determine the best possible layout for roads, access to water, and three-phase power to support that build-out. The consultant team, working with staff and the owners of the parcels, evaluated the physical conditions of the land, the zoning regulations, and the market opportunities.

The study was completed in August of 2017. Its primary conclusion was that the wetlands and vernal pools serve as the most significant impediment to development in the zone. The zoning regulations further restricted the site, such that beneficial development was all but stifled. Recommendations included adjusting zoning to maximize the limited pockets of developable land that existed between the wetlands.

The complete study was provided to the Council and is available on our Projects tab on our website.

Zoning Amendment Development

In July of 2017, the Council was advised of the plan to utilize the Kittery Open Space Committee as a working group to develop ideas on zoning amendments for the Business Park zone. KOSAC includes representatives from a majority of the land-use focused boards, commissions, and committees in town including Council, Planning, Board of Appeals, Conservation Commission,

Economic Development Committee, Parks Commission, Kittery Land Trust, and the Comp Plan Update Committee. Over the fall and winter, KOSAC worked with staff on the zoning amendment. The result is a new “Neighborhood Mixed-Use” zone in place of the Business Park Zone.

KOSAC’s work was guided by the understanding that the zone is designated as a targeted growth area, the majority of the land is undevelopable due to wetlands, and this particular area of town is truly a fitting place for new growth given its location, its natural buffers with other neighborhoods, and its access to major road systems. KOSAC finalized their process in February, supporting the main principals of the zoning amendment being brought forward.

Neighborhood Mixed-Use (Business Park Zone)

Attached is the draft zoning for the Neighborhood Mixed Use. Our goal is to see an area that attracts a diverse demographic of residents, workers and visitors. The zone:

- Establishes pockets of population and street-level activity surrounded by large amounts of natural open space;
- Incentivizes Best Management Practices (BMPs) and Low Impact Development (LIDs) practices for stormwater management through wetland setback bonuses;
- Supports the town’s interests in wetland protection and eliminates drawn out disputes and costly peer reviews of wetland evaluations by requiring the wetland professional on a project to be selected by the town;
- Maximizes the limited uplands for development through higher density options;
- Allows mixed-use and multi-unit residential development instead of single-family units;
- Encourages vibrant street-level activity through setback standards, incentivized parking under buildings, and “liner-building” buffers;
- Incentivizes paths and trails through parking requirement bonuses.

Planning Board Review

The Planning Board discussed the proposed amendments at a number of meetings, and held a public hearing on June 14, 2018. The Planning Board sought increases in density, and expressed divergent opinions on the height allowance (50 feet, or up to 70 feet if parking is constructed under the building). The Planning Board also discussed whether affordable housing incentives could be incorporated into the zone.

The Planning Board voted 4-2 in favor of recommending the zoning amendment to the Town Council. The Planning Board is now being asked to consider a change in zone boundaries.

PROPOSED SOLUTION/RECOMMENDATION

Approve as presented.

ATTACHMENTS

- Proposed Title 16 Amendments
- Proposed Enactment
- Planning Board Minutes related to proposed zoning amendment
- Letter from Chief O’Brien regarding building height
- Map of current and proposed zone boundaries (for illustration purposes only, the Planning Board has not voted on a recommendation of the boundaries yet)

1 **REPLACE in 16.2 DEFINITIONS Best Management Practice**

2 **Best Management Practice (BMP)**

3 ~~Schedules of activities, prohibitions of practices, maintenance procedures, and other~~
4 ~~management practices to prevent or reduce the pollution of water bodies. BMPs also include~~
5 ~~treatment requirements, operating procedures, and practices to control plant site runoff, spillage~~
6 ~~or leaks, sludge or waste disposal, or drainage from raw material storage.~~

7 **Best Management Practice (BMP)** means a structure or practice designed to minimize the
8 flushing by stormwater and the discharge of pollutants to waterbodies by temporarily storing and
9 treating urban runoff. BMPs shall be used to achieve four stormwater management objectives
10 identified by Maine DEP: effective pollutant removal, cooling, channel protection and flood
11 control.

12 **ADD to 16.2 DEFINITIONS Liner Building and Low Impact Development**

13 **Liner building** means a building that lines the edge of a street or other public space. Liner
14 buildings are typically used to shield public space, like a street or sidewalk, from something less
15 desirable to view, such as a parking garage. They can also be used to enclose a space such as
16 protecting a courtyard from a busy street. Where allowed, a liner building may be a minimum of
17 8 feet deep and a maximum of 14 feet deep.

18 **Low Impact Development (LID)** means the site-based process of developing land while
19 minimizing impacts on water resources and infrastructure. LID replicates the natural hydrology
20 of a site.

21 **AMEND 16.3 Table of Zones**

22 **16.3.1.2 Establishment of zones.**

23 To implement the provision of this title, the Town is divided into the following base and overlay
24 zones:

25 A. Base zones.

~~Business – Park~~ Mixed Use – Neighborhood

~~B-PK~~ MU-N

26 **REPLACE 16.3.2.10 Business – Park - BP with the following:**

27 **16.3.2.10 Mixed Use – Neighborhood (MU-N)**

28 **A. Purpose:** To encourage higher density, mixed-use development that provides increased
29 housing opportunities and a desirable setting for business while balancing such increased
30 development with environmentally-conscious and ecologically sensitive use of land.

31 **B. Permitted Uses.**

- 32 1. Accessory buildings and uses including minor or major home occupations;
- 33 2. Art studio/gallery;
- 34 3. Business and professional offices;
- 35 4. Business Services;
- 36 5. Conference Center;
- 37 6. Convalescent care facility,
- 38 7. Convenience Store, neighborhood grocery facilities excluding the sale of gasoline;
- 39 8. Day care facility;
- 40 9. Dwellings, limited to the following:
 - 41 i. Multiunit residential;
 - 42 ii. Dwelling units on the upper floors of a mixed-use building that is served by public
43 sewer;
- 44 10. Eldercare facility, attached dwelling units only
- 45 11. Elderly daycare facility;
- 46 12. Food Store;
- 47 13. Grocery store;
- 48 14. Hospital;
- 49 15. Hotel;
- 50 16. Industry, light (less than or equal to twenty thousand (20,000) square feet in gross floor
51 area);
- 52 17. Inn;
- 53 18. Liner buildings, as part of a mixed-use building;
- 54 19. Low intensity recreation;
- 55 20. Nursing care facility, long term;
- 56 21. Personal services;
- 57 22. Public open space or recreation;
- 58 23. Public utility facilities including substations, pumping stations, and treatment facilities;
- 59 24. Repair service;
- 60 25. Research and development;
- 61 26. Restaurant;
- 62 27. Retail use, not to exceed thirty thousand (30,000) square feet in gross floor area unless part
63 of a mixed-use building;
- 64 28. Selected commercial recreation, except shooting and archery ranges;
- 65 29. Shop in pursuit of trades;
- 66 30. Specialty food and/or beverage facility.
- 67 31. Theater;
- 68 32. Veterinary hospital;

69 **C. Special Exception Uses.**

- 70 1. Commercial kennel;

- 71 2. Commercial parking lot or garage
- 72 3. Construction services
- 73 4. Equipment sales and rentals (only on lots with frontage on Route 236)
- 74 5. Gas service station (only on lots with frontage on Route 236);
- 75 6. Industry, light (greater than twenty thousand (20,000) square feet in gross floor area);
- 76 7. Mass transit station;
- 77 8. Mechanical service;
- 78 9. New or used motor vehicle sales, (only on lots with frontage on Route 236);
- 79 10. Repair garage; (only on lots with frontage on Route 236)
- 80 11. Retail use, greater than thirty thousand (30,000) square feet in gross floor area and less than
- 81 fifty thousand (50,000) square feet in gross floor area;

82 **D. Other Uses.**

83 Additional commercial/business uses may be considered by the Planning Board if:

- 84 1. The use is not listed above and;
- 85 2. The use is not defined by 16.2.

86 Such uses will be considered special exceptions uses and must be reviewed by the Board based on

87 the following criteria:

- 88 1. If the use is consistent with the Comprehensive Plan and zoning district purposes and
- 89 2. If the use meets special exception criteria found in 16.6.4.4.

90 In addition, the use must meet one or both of the following criteria:

- 91 1. If the proposed use has substantially similar impacts as a listed use.
- 92 2. If the proposed use is compatible with existing uses within the zoning district for which it
- 93 is proposed.

94 **E. Standards.**

95 1. All development and the use of land in the MU-N zone must meet the following standards.

96 Kittery's Design Handbook illustrates how these standards can be met. In addition, the

97 design and performance standards of Chapters 16.8 and 16.9 must be met unless noted

98 otherwise below.

99 All submissions must include a lighting plan. Hours of operation and number of employees

100 for businesses must also be provided.

101 2. The following space standards apply:

<u>Minimum land area per dwelling unit – mixed-use building:</u>	<u>4,000 square feet for first residential unit plus 3,000 square feet for each additional unit, no</u>
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minimum land area for business or commercial uses when combined in a building with residential uses except that the total lot size must be at least 20,000 square feet.*

102 **NOTE:**

103 *1) ADA-compliant units may be located on the first floor
104 through a special exception permit by the Planning Board but only
105 50% of the first floor may be such ADA- compliant residential units.

Minimum land area per dwelling unit – multiunit residential:

4,000 square feet for first unit, plus 2,500 square feet for each additional unit up to 16 units per acre of lot size. Total lot size must be a minimum of 20,000 square feet.

106

Mixed-use or multiunit residential buildings which encompass at least 50% of required parking within the building

Two additional residential units may be added to each story above the parking with no additional land area required

107

Mixed-use buildings which encompass at least 50% of required parking within the building and include a liner building for non-residential uses buffering parking from the street:

One additional residential unit may be added to each story with no additional land area required.

108

Minimum land area per bed for long-term nursing care and convalescent care facilities that are connected to public sewer

2,000 square feet

109

110 Minimum land area per residential unit for eldercare facilities which

111 are connected to public sewer

3,000 square feet

112	<u>Minimum lot size</u>	<u>20,000 square feet</u>
113	<u>Minimum street frontage</u>	<u>75 feet</u>
114	<u>Minimum front setback on Route 236</u>	<u>30 feet</u>
115	<u>Minimum front setback on Dennett Road</u>	<u>40 feet</u>
116	<u>Minimum front setback on Martin Road</u>	<u>40 feet</u>
117	<u>Maximum front setback all other roads</u>	<u>20 feet</u>
118	<u>Spacing between buildings</u>	<u>15 feet*</u>
119	<u>Maximum rear and side setbacks</u>	<u>20 feet**</u>

120 **NOTES:**

121 * Or as required by the Fire Department or State Fire Marshall’s office.

122 ** Except as may be required by the buffer provisions
 123 of this Code, and where the side and/or rear yards of a
 124 proposed nonresidential use abut a residential zone or
 125 use in which case a minimum of forty (40) feet is required.

126 See Landscaping, Screening and Buffer requirements.

<u>Maximum building height</u>	<u>50 feet* (exclusive of solar apparatus)</u> <u>*Buildings which encompass all required parking may be 70 feet.</u> <u>Additional public safety impact fees apply</u>
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127 Maximum impervious and outdoor stored material coverage 70%*

128 ***NOTE:**

129 1) With Best Management Practices (BMPs) and Low Impact
 130 Development Practices (LIDs) as defined in 16.2 and based on Maine
 131 DEP’s Maine Stormwater Best Management Practices Manual,
 132 Volumes I - III, as amended from time to time, incorporated in site
 133 design, otherwise 60%. Maximum on-site stormwater infiltration is the
 134 desired and measurable outcome.

135 Minimum setback from streams, water bodies and wetlands in accordance with

136

Table 16.9*

137 ***NOTES:**

138 1) With Best Management Practices (BMPs) and Low Impact
139 Development Practices (LIDs) as defined in 16.2 and based on Maine
140 DEP’s Maine Stormwater Best Management Practices Manual,
141 Volumes I - III, as amended from time to time, incorporated in site
142 design, then wetland setbacks pursuant only to Maine Department of
143 Environmental Protection (MDEP) Rules Chapters 305 and 310.

144 Without Best Management Practices (BMPs) and Low Impact
145 Development Practices (LIDs) as defined in 16.2 and based on Maine
146 DEP’s Maine Stormwater Best Management Practices Manual,
147 Volumes I - III, as amended from time to time, incorporated in site
148 design, wetland setbacks pursuant to Kittery Town Code Title 16,
149 Table 16.9.

150 2) The Town shall retain expert consultation (qualified wetland
151 scientist and/or Maine-certified soil scientist) to determine wetland
152 delineations and classifications and to perform soil testing as needed,
153 all of which shall be paid for by the applicant at the time of sketch plan.
154 The qualified wetlands scientist and/or Maine certified soil scientist
155 must determine through field investigation the presence, location and
156 configuration of wetlands on the area proposed for use. Any wetland
157 alterations proposed must also be reviewed by the Town’s consultant(s)
158 at the applicant’s expense. These requirements are in addition to
159 engineering, stormwater management/BMPs, traffic or other types of
160 peer review that may also be required.

161 Minimum open space:

162	<u>Lot size less than 100,000 square feet</u>	<u>15 percent*</u>
163	<u>Lot size greater than 100,000 square feet</u>	<u>25 percent*</u>

164 ***NOTE:**

165 1) This requirement may be met by a payment-in-lieu to the Wetland Mitigation Fund. These
166 fees shall be set by Town Council. Landscaping, screening and buffer requirements must still
167 be met.

168 3. Parking:

169 Parking is encouraged within buildings. New or revised surface parking areas, garages, and
170 entrances to parking within buildings shall be located to the rear of buildings. If a rear
171 location is not achievable, as determined by the Planning Board, parking, garages and

172 entrances to parking shall be located to the side of the building. Screening and/or fencing is
 173 required for surface parking areas along a street. See 8. Landscaping, Screening and Buffers.
 174 Parking requirements are based on the Institute of Transportation Engineers (ITE) parking
 175 generation rates.

176 Joint use agreements (between businesses and residences) for parking are encouraged. A plan
 177 describing how joint use parking needs will be met is required as part of any development that
 178 proposes such parking and must be reviewed and approved by the Planning Board.

179 Parking requirements for non-residential uses may be met partially or in full by parking on the
 180 street except that no parking is allowed on Route 236, Dennett Road, and Martin Road. Such
 181 on-street parking plans must be reviewed by planning staff prior to submission and then
 182 reviewed and approved by the Planning Board.

183 Electric car charging stations are allowed in parking lots but must not interfere with pedestrian
 184 movement on sidewalks.

185 a. Parking for development that includes trails and low intensity recreation:

186 Development that includes the creation of public trails and low intensity recreational
 187 opportunities such as wildlife observation stations or boardwalks may apply the pertinent
 188 off-street parking standards below. All other off-street parking standards as found in
 189 16.8.9.4 shall apply.

190

<u>Multiunit residential buildings and mixed-use buildings that include residential</u>	<u>1 parking space for studio and one bedroom dwelling units</u>
	<u>1.5 parking spaces for two bedroom dwelling units plus 1 guest parking space per every 4 dwelling units.</u>
	<u>2 parking spaces for more than two bedroom dwelling units</u>

191 4. Loading Docks, Overhead Doors, Service Areas and Outdoor Storage Areas:

192 Loading docks and overhead doors must be located on the rear or side of the building.

193 Loading docks must be screened from view by adjacent residential uses. This screening shall
 194 consist of the following:

195 a. A fence, constructed of a material similar to surrounding buildings, of sufficient
 196 height as determined by the Planning Board to accomplish the screening. No fence
 197 may be less than six feet tall.

198 All service areas for dumpsters, compressors, generators and similar items as well as any
 199 outdoor storage areas must be screened by a fence at least six feet tall, constructed of a

200 material similar to surrounding buildings, and must surround the service or storage area
201 except for the necessary ingress/egress.

202 5. Site Design

203 Site design and building placement shall be attentive to the surrounding environment
204 including sun, wind and shade patterns related to proposed and existing buildings. A
205 sun/shade analysis may be required by the Planning Board.

206 6. Energy and Sustainability

207 Energy efficiency is allowed and encouraged through the use of solar power, geothermal, and
208 other alternative and sustainable power sources.

209 7. Building Design Standards

210 New buildings must meet the general design principles set forth in the Design Handbook
211 except as noted below. In general, buildings should be oriented to the street from which they
212 derive frontage, with the front of the building facing the street. The front façade must contain
213 the following:

- 214 a. A front door for pedestrian access
- 215 b. Windows

216 Flat roofs, proposed to locate heating, cooling, or other such mechanical or electrical
217 apparatus off the ground, are acceptable provided that such apparatus are screened from view
218 and the screening is designed as an integral part of the building to aid both aesthetics and
219 noise attenuation. Flat roofs proposed for the purpose of solar array installations are also
220 acceptable.

221 8. Landscaping, Screening and Buffers:

222 A landscape plan prepared by a registered landscape architect is a submission requirement.
223 However, a landscape plan done by other design professionals may be allowed at the
224 Planning Board's discretion.

225 Native trees, shrubs and herbaceous plantings are preferred and shall be drought and salt
226 tolerant when used along streets. A diversity of tree species (3-5 species per every 12 trees)
227 are required to provide greater resiliency to threats from introduced insect pests and diseases.

228 Any required plantings approved by the Planning Board that do not survive must be replaced
229 within one year.

230 a. Landscaping along the street frontage of each building must consist of one of the
231 following:

- 232 i. Street Trees. A minimum of one street tree must be planted for each 20 feet of street
233 frontage. Trees may be planted in groups or spaced along the frontage. However,
234 trees must be planted to ensure survival, using silva cells, bioretention cells or tree

- 235 wells. Trees shall be a minimum of 2.5”caliper and 12 feet high at the time of
236 planting. Existing large healthy trees must be preserved if practical and will count
237 towards this requirement.
- 238 ii. Pocket Park. The park must be at least 200 square feet. A minimum of three trees and
239 a bench for sitting are required. Park must be vegetated with ground cover except for
240 walkways.
- 241 b. Surface parking areas that abut a street shall provide screening in one of the following
242 ways:
- 243 i. One tree per 25 feet of street frontage backed by a fence constructed of a material
244 similar to surrounding buildings which must screen the parking area from the street
245 except for necessary vehicular and pedestrian access. Trees must be at least
246 2.5”caliper and 12 feet high at the time of planting
- 247 ii. A combination of trees and shrubs including at least 50% evergreen species, all at
248 least 6 feet high at time of planting, in a planting bed at least 8 feet wide. Plantings
249 must be sufficient, as determined by the Planning Board, to screen the parking area
250 from the street except for necessary vehicular and pedestrian access. Planting beds
251 may be mulched but no orange or red-dyed mulching material may be used.
- 252 c. A minimum of 10% of any surface parking area consisting of 10 or more parking spaces
253 must be landscaped with trees and vegetated islands. This requirement is in addition to
254 the screening requirements in b. above if the parking area abuts a street. Bioretention
255 cells and rain gardens can be utilized to meet the landscaping requirements and perform
256 stormwater management.
- 257 d. Buffers required between non-residential uses and residential uses must be forty feet wide
258 and consist of one of the following as determined by the Planning Board:
- 259 a. Existing natural woodland and vegetation
- 260 b. Existing natural woodland augmented by the planting of additional trees
261 consisting of a variety of species at least 2.5”caliper and 12 feet high
- 262 c. A fence at least six feet high, constructed of material similar to surrounding
263 buildings, with plantings of trees and shrubs at least 6 feet tall on either side of the
264 fence.

265 9. Open Space

266 Open space must be provided as a percentage of the total parcel area including freshwater
267 wetlands, water bodies, streams and setbacks. Required open space must be shown on the site
268 plan with a note dedicating it as open space. The open space must be situated to protect
269 significant natural features and resources, minimize environmental impacts and promote an
270 aesthetically pleasing site.

- 271 a. Wherever possible, large healthy trees and areas with mature tree cover shall be included
- 272 in the open space.
- 273 b. Location of open space shall promote the continuity of open space networks across
- 274 adjacent parcels
- 275 c. Where possible, open space and open space networks shall include public trails and low
- 276 intensity recreational opportunities.

277 10. Special Situations

278 Expansions or modifications of 1,000 square feet or less to existing uses are exempt from

279 landscaping, screening and buffer requirements.

280 11. Conditions for Approving Special Exception Uses in the Neighborhood Mixed Use Zone

281 All applications must include a narrative describing why the use proposed will promote the

282 general welfare (specifics may be found in Chapter 2 Definitions for **special exception**) of

283 the Town of Kittery, how the use proposed will meet the special exception criteria found in

284 16.6.4.4 and how the proposed development will adapt and relate to the natural

285 environmental conditions found on the site.

286 **REMOVE from 16.3.2.17 the Business Park Zone**

287 **16.3.2.17 Shoreland Overlay Zone OZ-SL.**

288 ~~(10) Business Park Zone (B-PK).~~

289 ~~(a) Permitted uses.~~

290 ~~[1] The following land uses are permitted for projects that are cluster mixed-use developments:~~

291 ~~[a] Art studio/gallery;~~

292 ~~[b] Mass transit station;~~

293 ~~[c] Public open space recreational uses, recreational facilities, and selected commercial~~

294 ~~recreation;~~

295 ~~[d] Research and development; and~~

296 ~~[e] Public utility facilities, including substations, pumping stations, and sewage treatment~~

297 ~~facilities.~~

298 ~~[2] The following land uses are permitted for projects that are not cluster mixed-use~~

299 ~~developments:~~

300 ~~[a] Accessory uses and buildings.~~

301 ~~(b) Special exception uses. The following uses are permitted in a cluster mixed-use~~

302 ~~development as a special exception:~~

303 ~~[1] Business and professional offices;~~

304 ~~[2] Business services;~~

305 ~~[3] Commercial parking lot or parking garage;~~

306 ~~[4] Conference center;~~

307 ~~[5] Cluster residential development;~~

308 ~~[6] Grocery, food store, convenience store, including gas station;~~

- 309 ~~{7} Mechanical services, excluding junkyard;~~
- 310 ~~{8} Motel, hotel, rooming house, inn;~~
- 311 ~~{9} Personal service;~~
- 312 ~~{10} Place of public assembly, including theater;~~
- 313 ~~{11} Repair services;~~
- 314 ~~{12} Restaurant;~~
- 315 ~~{13} Retail uses and wholesale businesses, excluding used car lots and junkyards;~~
- 316 ~~{14} School (including day nursery), university, museum, hospital, municipal or state building or~~
- 317 ~~use, church, or any other institution of educational, religious, philanthropic, fraternal,~~
- 318 ~~political or social nature;~~
- 319 ~~{15} Shops in pursuit of trade;~~
- 320 ~~{16} Veterinary hospital;~~
- 321 ~~{17} Warehousing and storage; and~~
- 322 ~~{18} Specialty food and/or beverage facility.~~

323 **REMOVE from 16.3.2.19 the Business Park Zone**

324 **16.3.2.19 Resource Protection Overlay Zone OZ-RP**

- 325 ~~(10) Business Park Zone (B-PK).~~
- 326 ~~(a) Permitted uses — cluster and noncluster development.~~
- 327 ~~{1} Public open space recreational use.~~
- 328 ~~(b) Special exception uses — cluster development.~~
- 329 ~~{1} Public utility facilities, including substations, pumping stations and sewage treatment~~
- 330 ~~facilities.~~
- 331 ~~(c) Special exception uses — noncluster. Special exception uses for projects not designed as a~~
- 332 ~~cluster mixed-use development include:~~
- 333 ~~{1} Accessory uses and buildings.~~

334 **ADD NEW SUBSECTION to 16.7.8.4 Exemptions to Net Residential Acreage Calculations**

335 **16.7.8.4 Exemptions to Net Residential Acreage Calculations**

- 336 A. The maximum number of dwelling units for residential development not subject to
- 337 subdivision is based on minimum land area per dwelling unit defined in Chapter 2
- 338 Definitions of this Title.

- 339 B. The creation of dwelling units subject to subdivision within existing buildings that are
- 340 connected to town sewer and are located in the Mixed Use -Kittery Foreside; Mixed Use-
- 341 Badgers Island; Residential Village; Business Local; or Business Local -1 zones are exempt
- 342 from the net residential acreage calculations in 16.7.8.4. Total number of dwelling units
- 343 permitted is determined by dividing the gross lot area by the minimum land area per dwelling
- 344 unit allowed in the zone. The exemption is allowed in the above base zones when subject to
- 345 the Shoreland Overlay Zone.

- 346 C. The Mixed-Use – Neighborhood Zone (MU-N) is exempt from Title 16.7.8.2 Net Residential
- 347 Acreage Calculation but is subject to the **minimum land area per dwelling unit** as defined

348 in Chapter 2 Definitions except that 50% of all wetlands may be subtracted, rather than
349 100%.

350

351 **REMOVE from 16.8.11.2 the Business Park zone**

352 **16.8.11.2 Permitted zones.**

353 A. Cluster residential development is permitted in various zones as indicated in Chapter 16.3.

354 ~~B. Cluster mixed use development is permitted only in the Business Park (B-P) Zone.~~

355 **REMOVE from 16.8.11.6 the Business Park Zone**

356 **16.8.11.6 Standards.**

357 E. Open space requirements.

358 (5) Open space must also be for preserving large trees, tree groves, woods, ponds, streams,
359 glens, rock outcrops, native plant life, and wildlife cover as identified in the applicant's written
360 statement. In the ~~Business Park (BP)~~Mixed Use - Neighborhood Zone, open space may be both
361 man-made and natural. Man-made open space must be for the development of recreational areas,
362 pedestrian ways and aesthetics that serve to interconnect and unify the built and natural
363 environments.

364 ~~F. In the Business Park (BP) Zone, the maximum building height is 40 feet. If the Planning~~
365 ~~Board finds that provisions for firesafety are adequate to allow buildings of greater height, then~~
366 ~~the Board may allow a building height of up to 60 feet as a part of the development plan review~~
367 ~~and approval process.~~

368 **REMOVE from 16.8.11.7 the Business Park Zone**

369 **16.8.11.7 Open space dedication and maintenance.**

370 C. If any, or all, of the open space is to be reserved for ownership by the residents and/or by
371 commercial entities, the bylaws of the proposed homeowners' or similar governing
372 association for commercial owners (~~in the Business Park Zone~~) and/or the recorded
373 covenants must specify maintenance responsibilities and be submitted to the Planning
374 Board prior to approval. See Subsection A above.

SUPPLEMENTAL BACKGROUND INFORMATION

- Ordainment wording
- Meeting Minutes –
 - 22 March
 - 26 April
 - 10 May
 - 14 June
- Letter from Fire Chief David O'Brien

**KITTERY TOWN CODE TITLE 16
REZONING OF BUSINESS PARK TO MIXED USE - NEIGHBORHOOD**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in
6 Sections 1.01 and 2.07(3) of the Town Charter; 30-A MRS §3001, pursuant to its powers that
7 authorize the town, under certain circumstances, to provide for the public health, welfare,
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or
9 federal laws; and

10 **WHEREAS**, the Town has identified a certain zone as a target development area for over a
11 decade; and

12 **WHEREAS**, following a development study in 2017 it was determined that the current land use
13 regulations for the zone were serving as critical impediments to achieving the development
14 associated with a target development area; and

15 **WHEREAS**, the Kittery Town Council seeks to rezone the area to support the type of
16 development appropriate for the location and topographical conditions of the targeted
17 development area;

18 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001 AND TOWN CHARTER
19 §2.07(3), THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENT TO TITLE 16 OF THE
20 TOWN CODE, AS PRESENTED.

21
22 **INTRODUCED** and read in a public session of the Town Council on the ____ day of _____,
23 20____, by: _____ {NAME} Motion to approve by Councilor
24 _____ {NAME}, as seconded by Councilor _____ {NAME} and
25 passed by a vote of _____.

26 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,
27 Maine on the ____ day of _____, 20____, {NAME}, _____, Chairperson

28 **Attest:** {NAME}, _____ Town Clerk

ITEM 4 – Neighborhood Mixed Use (formerly Business Park) Zoning District

Discussion. Review and discuss proposed changes to the former Business Park Zone, now called the Neighborhood Mixed Use Zone.

Town Manager, Kendra Amaral, gave an overview of the proposal to rezone the former business park. She explained a parcel owner, Bill Cullen, who worked with the Economic Development Committee, proposed the Town add infrastructure. The Town would have needed to utilize \$1.2 million in TIFF to fund for roads, three face power and water. The EDC questioned if that approach was the best investment of TIFF funds. Manager Amaral explained a highest best use type study was conducted through SMPCD and listed the criteria. She added the study results determined the impediment to development in the zone was the wetlands not the infrastructure. Also, zoning was very vague and the developers were not sure what development is allowed. The Town Manager explained they are looking at zoning revisions and worked with KOSAC. The result was given to the Board to provide a zoning based on what we want to see rather than what we want to prevent. It was discovered that two thirds of the area is undevelopable. The upland can handle activity and density. Town Manager Amaral reviewed what she and KOSAC looked at, which included open space to support walkways and paths. She described the methods they used and explained the bonus incentives for developers. They are looking to create a vibrant neighborhood. She added the DEP and Army Corps. of Engineers does not deem this area high on their list of wetlands of interest. Notices were sent out to abutters of the current zone and the Town wants to engage them in conversation. She added they are seeing to move boundaries to Route 236. She thanked all those who participated in the KOSAK process. Chair Grinnell thanked the Town Manager for her excellent overview.

Ms. Connor explained the map in the Board packet is from the highest and best use study and doesn't follow the current zoning boundaries of the park. Town Manager Amaral explained Ms. Connor, a zoning expert, has reviewed this. She added the Town will be looking to recodify Title 16 and the new planning director will be on board on April 17th.

Vice Chair Kalmar reviewed her following comments for changes:

- Why aren't warehousing and wholesale businesses limited for special exceptions?
- Line 86- requested Ms. Connor to reword this to be less ambiguous regarding parking;
- Line 93 – add a definition of liner building;

- Line 110 – verify the Fire Chief has no concerns of no minimum space between buildings;
- Specify the Town’s peer review engineer will determine if LIDS and BMPS are adequate as opposed to the developer;
- Line 157- ask at what rate the open space payment in lieu will be;
- Line 246 – add language ensuring a diversity of species of trees and shrubs of more than two species;
- Line 284 – what is intention to take out criteria condition of approval for special exception uses in Title 16.6.4.4.

Mr. Dunkelberger asked to have a type of catchall under special use to cover future uses. Town Manager Amaral would like to see a more manageable description of uses that makes more sense than what the Town has now. Discussion ensued of the appropriate language to include to point out special use will be at the Planning Board’s discretion.

Mr. Ledgett asked how the square footage limitations were determined. Ms. Connor explained what she looked at target density of 15 residential units per acre and she also looked at the density requirement for communities that resembled is envisioned for the park. Mr. Ledgett requested this be looked at to see if there is a better way to specify density other than incrementally per square foot.

Mr. Fitch commented he liked the village concept and questioned the mixed-use building requirement to have commercial on the first floor and residential on the upper floors. Ms. Connor replied a mixed use with residential is spelled out because there are different standards, such as more density, and do not have to meet any additional land use requirements. Town Manager Amaral added residential will be allowed as well. Discussion of micro apartments ensued.

Mr. Alesse suggested controlled environment agriculture which allows people to farm vertically. Mr. Alesse described what he learned about this and thinks it should be encouraged. It is environmentally clean and has a high production rate.

The Town Manager explained she has been in conversations with the Water District who are showing an interest in the area as well. Mr. White pointed out to put more into paragraphs 5, 6 and 7 to work towards an energy efficiency bonus. Town Manager Amaral informed him they are not including solar panels as part of the building height. She added the land is 90 acres and estimated a third is developable.

Chair Grinnell asked of the amount of money in the TIFF. The Town Manager informed her that the Town has recently discovered they have been inaccurately funding the TIFFs for the three districts and it is being addressed. She also explained the TIFF process.

Chair Grinnell expressed her concern the 50 ft. height allowance will influence other zones. Town Manager Amaral commented it could be beneficial in other areas.

Ms. Connor will make the adjustments based on the comments and the Board will look at this again at the April 26th meeting. It was noted the Town Council may want to have a workshop with the Planning Board.

ITEM 5 – Affordable Housing/Workforce Housing Discussion. Review and discuss Maine Housing (Maine State Housing Authority) information and next steps following the February 22nd Affordable & Workforce Housing Forum.

Chair Grinnell informed the Board after she attended the affordable and workforce housing meeting, she is keeping this topic as a priority. She explained she has met with Vice Chair Kalmar, Ms. Connor and Mr. Brock. from Town Council, and they decided to set up an ADHOC committee that will be looking into this issue. She added the committee will have eight board members from different Boards, a resident and the new planner. Chair Grinnell requested Planning Board members contact Ms. Connor if they are interested in participating and a tentative meeting is planned for next week. Chair Grinnell explained she also met with Marissa Day who will be sending her information from the Route One project. Representatives from Fair Tide will be included as well. Chair Grinnell wanted residents to know they are working on affordable and workforce housing and the information from the Maine State Housing Authority will be added to the website

ITEM 6 – Board Member Items / Discussion A. Planning Board Action Item List B. Other

Board members reviewed their action list and updated it as follows:

#1 – omit; #2 – omit; #3 – keep but lower priority; #4 – keep; #5 – keep; #6 – keep and remove former planner's name; #7 – keep; #8 – omit; #9 – omit; #10 – keep; #11 – omit; #12 – give to Jessa Kellogg; #13 – Town Planner will work on this; #14 – omit; #15 – omit; #16 – keep; #17 – keep; #18 keep and move up priority.

Ms. Connor will update the list. She will add the Foreside report, air B&Bs; and business park mixed use as items.

OLD BUSINESS

ITEM 1– Neighborhood Mixed Use (formerly Business Park) Zoning District

Discussion, Set public hearing. Review and discuss proposed changes to the former Business Park Zone, now called the Neighborhood Mixed Use Zone. Set public hearing date.

The Board reviewed the proposal that included the changes discussed from a previous meeting. Ms. Connor addressed Mr. Ledgett's comment to look at other than typical square footage for density calculations. After discussions, the Planning Department has decided not to deviate from the way most of the other zones calculate density and they will look at his suggestion in the future. She suggested a time to discuss this would be during the recodification of Title 16.

Ms. Connor informed the Board the energy and sustainability remains the same but the Comprehensive Plan mentions it and Kittery needs to explore this. When the energy committees make their recommendations, they can add those guidelines into this document.

Ms. Connor also informed the Board they have had discussions with CMA, who have had a contract with the Town since 2005 and have agreed to review the best management practices for stormwater for the business park. They also agreed to outsource if they feel they lack the expertise on a matter. She added CMA is recommending the drainage structures be allowed to be in the wetland setbacks in this zone.

Mr. Ledgett suggested creating an incentive for developers to build inclusionary housing. He added the incentive could be density. He also suggested seeking comments from developers if this proposal will work for users. He recommended the Inclusionary Housing Working Committee review this document. Ms. Connor commented one of the barriers to having inclusionary housing in this district is the high cost to add the infrastructure and the environmental constraints of the area. Staff will bring this document to the Inclusionary Housing Working Committee for review.

Mr. Dunkelberger commented of adding language to allow consideration of uses not contemplated before. He feels the list "Other Uses" in the document is limiting and does not like the term similar noted on lines 57 and 58 on Page 2D. He referred to language on Page 7 of Conditions for Approving Special Exception Uses. He suggested

removing the word “similar” to allow the Planning Board to decide if project is beneficial for Kittery using the criteria outlined in the document.

After discussion, the Board was in consensus to have the planning staff make the suggested changes and bring them back to the Board and asked the Inclusionary Housing Committee to review the document.

Vice Chair Kalmar suggested the following changes:

- Add liner building to the list of definitions;
- Lines 97 and 102 - specify all the parking required must be encompassed in the building;
- She asked for an explanation for change in density. Ms. Connor explained it was suggested in the original study to have 15 units per acre and after receiving several comments from other committees who want to see more density it was changed. It is now 14 units per acre for mixed-use and 16 units for multi-unit residential;
- Spacing between buildings should be cleared by the Fire Chief before the public hearing.
- Add more tree species of deciduous and evergreens diversity. Earldean Wells explained the number of species depends on the number of trees in the area.

The Board questioned the maximum height of a building the Fire Department’s trucks can manage. Mr. Causey reported he has spoken with the Fire Chief and 50 ft. is the height limit now. Ms. Connor will remove the 60 ft. height limit from the document.

The Board determined a public hearing will not be schedule until they review the next draft with the changes highlighted.

NEW BUSINESS

ITEM 2 – MS4 (Municipal Separate Storm Sewer Systems) Presentation and Q&A.
Jessa Kellogg, MS4 Coordinator and Shoreland Resource Officer will present.

Jessa Kellogg, Shoreland Resource Officer/Stormwater Coordinator presented the annual MS4 General Permit for Stormwater Discharges. She explained a stormwater permit is administered by Maine DEP and the Town is required to ensure there is no discharge of polluted stormwater going into the waters of the State. She read over the required six minimum control measures. She explained the areas the Planning Board

Mr. Dunkelberger suggested the applicant to draw the property line straight. Mr. Yassa agreed if he can maintain the tree line between the two homes.

Discussion of the division of the two lots will be reviewed by the Board to ensure each lot has adequate frontage and the ROW is designed to ensure the two lots are legally conforming. Mr. Mende explained the waiver for the roadway width is because of the low traffic condition and not creating more road than they need.

The Board asked the applicant to give attention to the staff comments and is subject to the Fire Chief's review.

Mr. Dunkelberger moved to accept the sketch plan application dated April 13, 2018 as complete and approve the sketch plan for Sami Yassa requesting consideration of a right-of-way for a 3.04 +/- acre parcel located on Bond Road (Tax Map 25 Lot 12) in the Residential Kittery Point Village zone (R-KPV) and the Shoreland Overlay zone (OZ-SL-250).

Mr. Ledgett seconded the motion

The motion carried 6-0-0.

OLD BUSINESS

ITEM 4 - Neighborhood Mixed Use (formerly Business Park) Zoning District

Discussion, Set public hearing. Review and discuss proposed changes to the former Business Park Zone, now called the Neighborhood Mixed Use Zone. Set public hearing date.

Town Manager Amaral reviewed some items from the last meeting. She has followed up with Mr. Fitch and Mr. Ledgett regarding the proposal to add affordable or inclusionary housing to the proposed neighborhood. She explained she does not feel this should be incorporated at this time. The Inclusionary Working Group is still in the process of deciding how to handle inclusionary housing. She asked the Board to move forward with the understanding that once the working group has a plan for inclusionary housing, this item can be reopened and added.

Mr. Dunkelberger suggested the following changes:

- Page 2, Lines 64-67 - change No. 1 to "If the use is consistent with the Comprehensive Plan and Zoning District purposes and/or one or more of the following:

- Change No. 3 to “If the proposed use is compatible with the listed uses of that zone”.

Ms. Connor reported she has already made similar changes to those items.

Vice Chair Kalmar had the following changes:

- Under D “Other Uses”, Line 67 - move No. 4 – to No. 1.
- Line 192 – change the word “is” to “are”.
- On Page 4, Lines 144, 153 and 160 - insert language “as amended from time to time” for Volume I – III.

Ms. Connor read over her changes since the last review and reported the Town’s Fire Chief will give his opinion on the building separation and building height.

Mr. Dunkelberger moved to schedule a public hearing for comment on the proposed amendment to 16.3.2.10 for June 14, 2018.

Mr. Ledgett seconded the motion.

The motion carried 6-0-0.

Item 5 – Board Member Items/Discussion

Mr. Ledgett informed the Board he conducted a review of the housing impact on the Town for accessory dwelling units and short-term rentals as a follow up from previous Board discussion. He described the results of his review and believes this is an item the Board should be examining soon and requested comments for the next meeting.

Vice Chair Kalmar requested staff to inform them of their priorities and projects to help the Board set their priorities. She added the Board’s action list has several Number 1 priorities. After discussion, the Board agreed to have one item as priority Number 1.

Ms. Wells informed the Board the State has a new program for mitigation of vernal pools and wetland areas called SAMP. This will impact the business park property and she passed out information of the program to the Board.

Item 6 - Town Planner Items

None.

Item 7 - Adjournment

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: Karen Kalmar, Dutch Dunkelberger, Mark Alesse, Drew Fitch, Russell White, Ronald
6 Ledgett

7

8 Late arrival: Ann Grinnell

9

10 Staff: Kathy Connor, Interim Planner; Adam Causey, Director of Planning and Development;
11 Jessa Kellogg, Shoreland Resource Officer/Stormwater Coordinator

12

13 Advisory: Earldean Wells, Conservation Commission

14

15 **PLEDGE OF ALLEGIANCE**

16

17 **APPROVAL OF MINUTES – May 24, 2018**

18

19 Line 173 – remove repeated line.

20

21 **Mr. Dunkelberger moved to accept the Minutes of May 24, 2018 as amended.**
22 **Mr. Ledgett seconded the motion.**

23

24 **The motion carried 6-0-0.**

25

26 **PUBLIC COMMENT**

27

28 Vice Chair Kalmar opened the public comment segment of the meeting. There being no
29 comments, Vice Chair Kalmar closed the public comment.

30

31 **PUBLIC HEARING**

32

33 **ITEM 1 – Neighborhood Mixed Use (formerly Business Park) Zoning District Public**
34 **Hearing, Vote to Recommend.** Take public comment. Review and discuss proposed changes
35 to the former Business Park Zone, now called the Neighborhood Mixed Use Zone. Vote
36 whether to recommend to Town Council.

37

37 Vice chair opened

38

39 Vice Chair Kalmar opened the public hearing.

40

41 Rich Balano, 3 Oxpoint Drive, explained he is against the proposal and questioned how liner
42 buildings will be used. He also shared his concern of the building height allowance of 70 feet
43 because he feels it will change the character of the Town. He referred to the current and

44 proposed Comprehensive Plans and read the preamble that refers to Kittery as a small town.
45 He urged the Board to amend the height requirement to 40 ft.

46
47 Bill McCarthy, 27 Adams Drive, reiterated Mr. Balano's concerns and commented the Town
48 should be careful of raising heights of buildings. He added he believes the 40 ft. height limit
49 serves the Town well.

50
51 There being no further comments, Vice Chair Kalmar closed the public hearing.

52
53 Mr. Alesse expressed his concern of the definition of permitted uses under B and of the
54 inclusion of public utility facilities, which includes sewage, being compatible with housing. He
55 added the height maximum is too high and believes it does not make sense because the Town
56 would need to purchase new fire equipment.

57
58 Mr. Ledgett had the following concerns and comments:

- 59 • Line 65 - Other Uses - Title 16.6.6 is a Board of Appeals' requirement and he
60 questioned why it is included.
- 61 • He would prefer the building height being above 40 ft. if it would benefit reasonably
62 priced residences and he is concerned it could set a precedence in other areas in Town.
- 63 • Line 149, Page 4 – suggested the word “only” be taken out. Ms. Connor agreed.
- 64 • Lines 211 – 213 – “Public Parking Access for Trails” Ms. Connor explained there will be
65 on street parking when the streets are developed and added they discussed the
66 reduction in parking with code staff as well.
- 67 • Line 272 – Ms. Connor defined pocket park.
- 68 • Line 347 – Mr. Ledgett questioned this paragraph and Ms. Connor explained she
69 provided “A-B” for context, with “C” being the amendment.

70
71 Mr. Fitch explained the Inclusionary Housing Working Group was in consensus at their last
72 meeting to wait until they are ready to add inclusionary housing incentives for this proposal.

73
74 Mr. Dunkelberger pointed out the proposal is a test and he agrees with the height limit as
75 written because it allows flexibility and will be conducive with the area.

76
77 Vice Chair Kalmar commented that the height will add density which is difficult for that area.
78 She also reminded the Board and the public if the proposal is sent to the Town Council, there
79 will be another public hearing.

80
81 Mr. White explained he is concerned with the height but would agree with the limit if it is
82 contained in this zone only. He added the areas of developable land is low for this area, so the
83 standards need to be different from other areas of Town. He would like to see incentives for
84 inclusionary housing in the future and understands this will not happen right away. He pointed
85 out the Town Council is responsible of deciding if the Town needs another fire truck to service
86 the height.

87

88 Vice Chair Kalmar encouraged Board members and the public to express their concerns to the
89 Town Council.

90
91 Ms. Connor addressed Mr. Alesse's comments regarding the public utility facilities and
92 explained there is discussion that the water district may consider that location. She also
93 pointed out Title 16.8.11.6 has language that allows the height of 60 ft. for cluster
94 developments and mixed-use cluster developments if the fire department is satisfied with their
95 ability to service the building.

96
97 **Mr. Dunkelberger moved to recommend the modified plan to the former Business Park**
98 **Zone, now called the Neighborhood Mixed Use Zone to the Town Council.**
99 **Mr. White seconded the motion.**

100
101 **The motion carried 4-2-0. (Mr. Ledgett and Mr. Alesse opposed).**

102
103 **OLD BUSINESS**

104
105 **ITEM 2 – Miller Road – Major Subdivision Preliminary Plan Review Action:** Accept or deny
106 application, Set public hearing date. Owners Paul E. and Peter J. McCloud and Applicant
107 Joseph Falzone request consideration of a 6-lot conventional subdivision on land along Miller
108 Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay
109 (OZ-RP) Zones. Agent is Ken Wood, Attar Engineering.

110
111 Vice Chair Kalmar recused herself from this item.

112
113 Mr. Wood provided an overview of the project. He added the preliminary plan is submitted and
114 meets the requirements. He informed the Board the plan will have slight changes because
115 discussions took place between the applicant, a representative from his office and an abutter,
116 Jeff Clifford. Mr. Wood explained the change is regarding water discharge and he described
117 how this will be accomplished and how it will preserve more trees on Miller Road.

118
119 The following staff comments were addressed:

- 120
- 121 • Note 1 – The applicant agreed to add the 40 ft. front yard setback number to the plans
122 and will add a note describing the site as wooded. Mr. Wood explained the Board
123 packets include an amended FEMA Flood Zone Map and they have received the Letter
124 of Map Amendment (LOMA), which is also copied and submitted with the preliminary
125 plan. The applicant does not own the property and has a purchase and sale agreement
126 to do so when the plans are approved. The plan will also show the 50 ft. buffer along
127 Miller Road.
 - 128 • The erosion and sediment control plan will be the same but with less disturbance
129 because of the added swales along Miller Road.
 - 130 • Note 3 –Pedestrians can walk down the street to get to the open space.
 - 131 • Note 5 - Stormwater easement calculations for Lot 1 will be on the final plan and will
132 meet the requirement.



Town of Kittery, Maine

Fire Department

3 Gorges Road
Kittery, Maine 03904
Tel (207) 439-2262

Chief David O'Brien
firechief@kitteryme.org

MEMORANDUM

10 May 2018

To: Adam Causey; Town of Kittery Planner

Subj: Height Limitations

Adam:

Thank you for the opportunity to meet with you and the Town Manager to discuss the potential for allowing an increase in building height in certain areas of town. Currently the Fire Department has a 75' aerial ladder that allows us to service buildings up to 50' in height. This height restriction is a product of being capable of placing men and equipment on a roof up to this height and also meet criteria defined by the Insurance Service Office (ISO) that penalizes communities for having buildings higher than what is deemed serviceable by available aerial apparatus. Kittery's 75' aerial ladder currently meets the ISO requirements and full value was awarded Kittery during the recent ISO review.

The Fire Department has diligently worked to lower our rating over the last few years and are proud of our Class 4 rating, a drop from a Class 6 only 17 years ago. An increase in building height will affect our ability to service the taller buildings and could affect our ISO rating. However, the Fire Department believes that by increasing unit density by allowing taller structures in certain areas may be good for the town.

With this in mind the Fire Department makes the following proposal in support of increasing height limitations in certain areas of our community. We recommend the height limitation be raised from 50' to 70'. We support this with the caveat that as buildings are built, public safety impact fees and other funding mechanisms are put in place to allow for the trade of our current ladder and upgrade to a short wheel base, single axle, 107' aerial ladder. This type of aerial ladder is of sufficient length to allow service to a 70' high structure and also capable of meeting the demands of tight and narrow roadways that we have in some areas of Kittery.

We propose a transition period for this process. If agreed upon, this change should be allowed to go forward prior to the Fire Department upgrading to a longer aerial ladder. The transition to the longer ladder may be phased as buildings are built and impact fees and other funding streams are collected. We envision the possibility of after the second completed building we start the process of replacement. During this time we will work to strengthen our mutual aid agreements with the Shipyard and Portsmouth Fire Departments on use of their 105' ladder and 100' tower respectively. This would include an automatic mutual aid agreement for these specific buildings where either the Shipyard or Portsmouth would respond automatically upon receiving an alarm. Please understand this is only a temporary fix to the situation and cannot be looked at as a long term solution.

Subj: Height Limitations (cont.)

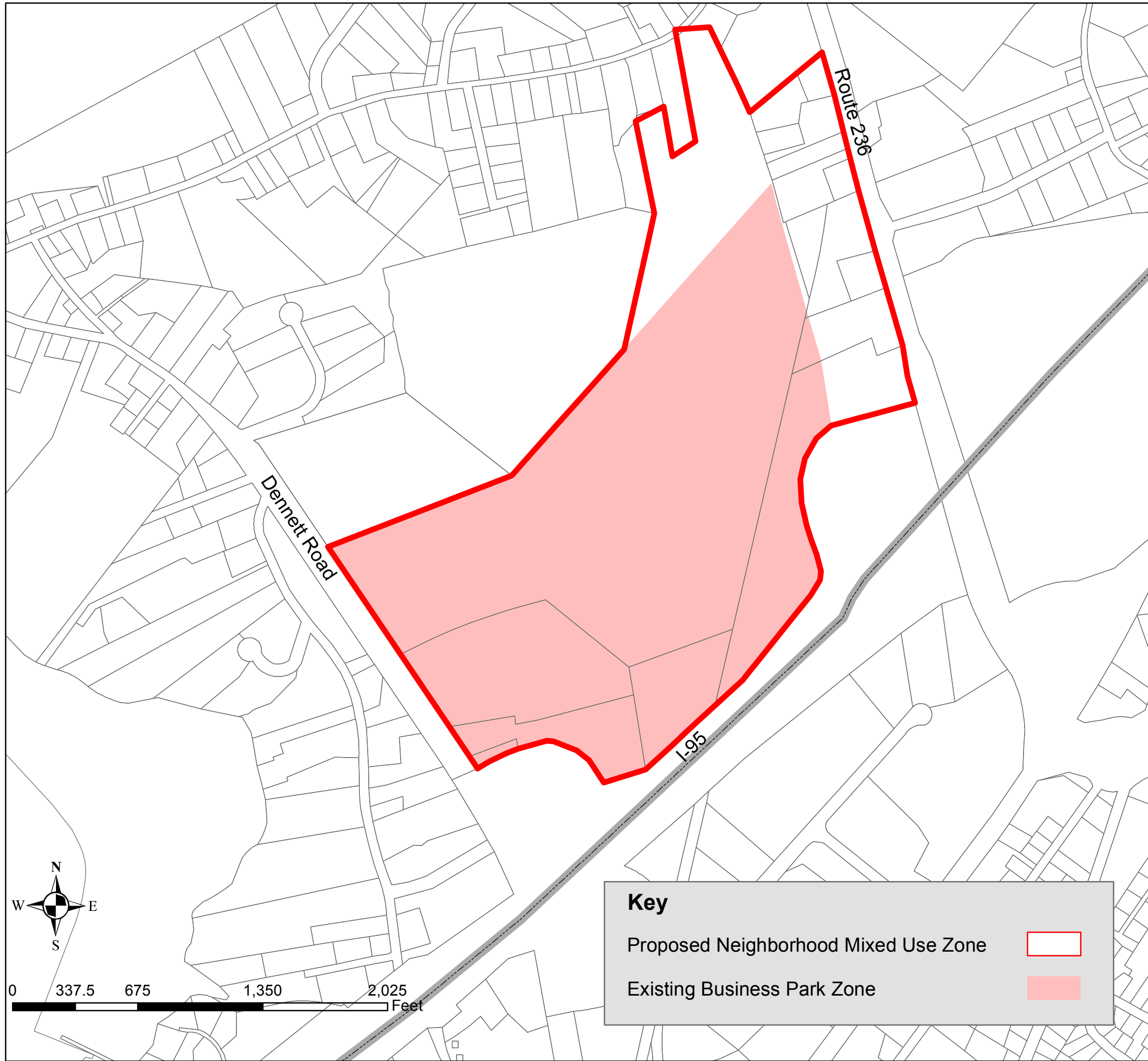
We look forward to continued discussion on this subject with you and the Planning Board. Please do not hesitate to forward questions or concerns to me as I believe there is much more to learn, discuss and understand in regards to increased density and building height.

A handwritten signature in black ink, appearing to read 'D. W. O'Brien', with a long horizontal flourish extending to the right.

D. W. O'Brien
Chief Fire Officer III

cc: Town Manager

List of Parcels Proposed for Inclusion in Proposed Neighborhood Mixed Use Zone



Map and Lot	Street Address	Current Zoning
12-3-1	98 Dennett Road	Portion in R-S and B-PK
21-18	1 Route 236	Portion in C-2 and B-PK
21-18A	7 Route 236	C-2
21-19A	11 Route 236	C-2
21-19	15 Route 236	C-2
21-20	17 Route 236	C-2
21-21	21 Route 236	C-2
20-12	25 Route 236	C-2
20-13	27 Route 236	C-2
20-14	31 Route 236	C-2
20-14A	29 Route 236	C-2
20-17	37 Route 236	C-2
20-15	33 Route 236	C-2
6-15B	76 Dennett Road	B-PK
6-16A	70 Dennett Road	B-PK
13-4	Dennett Road	B-PK

Intended for planning purposes only by the Town of Kittery.

Key

- Proposed Neighborhood Mixed Use Zone
- Existing Business Park Zone

Table of Parcels for Potential Inclusion in Neighborhood Mixed-Use Zone

Map and Lot	Street Address	Current Zoning	Current Use
12-3-1	98 Dennett Road	Portion in R-S and B-PK	Vacant (82 acres)
21-18	1 Route 236	Portion in C-2 and B-PK	Offices
21-18A	7 Route 236	C-2	Service Station
21-19A	11 Route 236	C-2	Equipment Rentals
21-19	15 Route 236	C-2	Landscaping Supplies/Sales
21-20	17 Route 236	C-2	Vacant (1.5 acres)
21-21	21 Route 236	C-2	Landscaping Supplies/Sales
20-12	25 Route 236	C-2	Apartments
20-13	27 Route 236	C-2	Single-family Residence
20-14	31 Route 236	C-2	Single-family Residence
20-14A	29 Route 236	C-2	Single-family Residence
20-17	37 Route 236	C-2	Offices
20-15	33 Route 236	C-2	Single-family Residence
6-15B	76 Dennett Road	B-PK	Vacant (12.25 acres)
6-16A	70 Dennett Road	B-PK	Vacant (4.91 acres)
13-4	Dennett Road	B-PK	Vacant (5 acres)