

**APPENDIX E**  
**LAND USE ANALYSIS**



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*Village Residential Zone*, while the remaining land is located in the *Free Enterprise Zone*. The tables below show regulations for each of these zones in the Town’s Land Use Ordinance.

<b>4.3 Village Residential Zone</b>									
	Min Lot Area *1 (sq ft)	Min Lot Width (feet)	Max Lot Coverage	Min. Net Residential Area per Dwelling Unit (sq ft)	Min Setbacks Front (feet)	Min Setbacks Side (feet)	Min Setbacks Rear (feet)	Min Open Space	Max Building Ht. (feet)
Single Family Dwelling (one per lot) or Other Use Art. 4.16	40,000	100	20%	40,000	20	15	15	20%	35
Two-Family Dwelling	40,000	100	20%	20,000	40	20	20	20%	35
Multiplex	60,000	150	20%	20,000	25	50	50	20%	35
Public Libraries	40,000	100	75%		20	15	15	5%	35

\*1 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in Article 4.16

<b>4.11 Free Enterprise Zone</b>									
	Min Lot Area *9 (sq ft)	Min Lot Width (feet)	Max Lot Coverage	Min. Net Residential Area per Dwelling Unit (sq ft)	Min Setbacks Front (feet)	Min Setbacks Side (feet)	Min Setbacks Rear (feet)	Min Open Space	Max Building Ht. (feet)
Single Family Dwelling (one per lot) or Other Use Art. 4.16	40,000	100	20%	40,000	20	15	15	20%	35
Two-Family Dwelling	40,000	100	20%	20,000	40	20	20	20%	35

\*9 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirement set forth in Article 4.16

The parcel’s two zones are quite similar in most aspects with regard to dimensional requirements, with the exception that multiplex dwellings are not permitted in the Free Enterprise Zone. The Village Residential Zone allows multiplex dwellings (MPD) that provide more flexibility in achieving slightly higher density, although technically the net residential acre per dwelling unit is the same as it is for two-families (TFD) – 20,000 square feet. When considering the other residential zones in the town, the Dock Square Zone allows for the highest density with 10,000 square feet per dwelling unit for TFD and MPD and 20,000 square feet for single family dwellings (SFD). The Riverfront Zone and the Cape Porpoise Square Zone (10,000 sf for TFD and 20,000 ft for SFD) also allow higher densities.

When comparing zoning regulations across the river in Kennebunk, the Village Residential Zone and the Lower Village Business Zone (located directly opposite the Village Parcel locale) allow for 10,000 sf per dwelling unit across the board, where connected to sewer. This results in two-to-four times more potential units than current zoning for the Village Parcel would permit.

#### Current Zoning Allowed Uses

Permitted versus conditional uses tend to be organized uniformly throughout the zones in that there is a modest list of mostly residential uses as permitted and typically a longer list of conditional uses. The latter is divided between uses approved by Planning Board, under Site Plan Review versus the Board of Appeals.

The Village Residential and Free Enterprise zones differ mostly with respect to the number of conditional uses, with the Free Enterprise Zone offering many more possibilities than the Village Residential. Both zones allow for the same residential uses with the exception of multiplexes allowed only in the Village Residential Zone. With regard to the other principal uses intended for the Parcel, those can generally be accommodated within the current code.

### **Opportunities**

#### Zoning Amendments

It is evident from reviewing the current zoning for the Village Parcel and considering the development objectives sought by the Town that zoning changes will be necessary. To establish a proper framework to support the **desired** development types, zoning amendments will need to include reduced setbacks, smaller lots sizes, greater building coverages, greater density, and perhaps the establishment of design standards.

#### Methods for amending land use code

New zoning can be achieved in several ways:

**Contract Zoning.** The Town can establish (and has previously established) specific zoning regulations and conditions for a particular parcel alone. A legal review is necessary to vet the concept **and determine logistics involved in ownership**. However, the actual contract zone agreement would likely be between the Town and a future developer. This

form of land use regulation is most flexible since it can be tailored to project-specific and site-specific objectives.

The Town's Contract Zoning regulations are outlined in Article 13 of the Land Use Ordinance and are pursuant to state law, Title 30-A M.R.S.A. § 4352. Three primary state statutory standards must be met: 1) be consistent with the Comprehensive Plan; 2) rezoned areas are consistent with existing and permitted uses of the original zones (i.e. no gas station where only residential uses were permitted) and 3) any required conditions or restrictions must relate only to the physical development or operation of the property. Kennebunkport's zoning outlines these requirements in the land use ordinance and summarizes the overall intent:

*Contract zoning shall promote the general welfare of the residents of the Town of Kennebunkport. The Board of Selectmen shall approve a contract zoning request for placement on the Town Warrant only if it determines that the proposed contract zoning is in the public interest and will have beneficial effects on the Town as a whole, which would not result if the property were developed under the existing zoning district classification. (Section 13.1)*

Specific criteria for the Board of Selectmen in making such determinations include:

- (1) is consistent with the Town of Kennebunkport Comprehensive Plan;*
- (2) is compatible with the existing and permitted uses within the existing zoning district classification of the property;*
- (3) is in the public interest; and*
- (4) will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification.*

The Board of Selectmen must state its reasons for why the proposed contract zoning amendment meets each of the above criteria in findings and conclusions on all four of the determinations.

A summary of the review and approval process for a typical contract zoning amendment can be summarized as:

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- 1) An application that includes the proposed development for the property and identifies how the new use/development meets the above criteria is submitted to the Town Manager.
- 2) If review by the Town Manager finds the application complete, they schedule a joint meeting with the Planning Board and Board of Selectmen and notice the public hearing per the requirements of Section 13.2.C
- 3) A joint public hearing is held in accordance with Section 13.2.D that includes but is not limited to applicant presentation, Town Staff comments, planning board and selectmen discussion and testimony from the public. The preliminary discussion may be continued at another meeting.
- 4) Once the Board of Selectmen conclude the discussion, it can act in one of three ways: authorize that the proposed contract zone (with amendments or conditions) be placed on a future warrant for vote by the Town; advise applicant to withdraw the proposed contract zoning amendment; advise the applicant to revise and resubmit the proposed contract zoning amendment.
- 5) Before placing the proposed contract zoning amendment on the Town Warrant, the Board of Selectmen must vote and make findings and conclusions on the four criteria outlined above and identified in Section 13.2.E.3.
- 6) If the contract zoning amendment is approved in a Town Meeting vote, the land use ordinance and official zoning map is revised and the contract zoning agreement is recorded at the York County Registry of Deeds.
- 7) After the adoption of the contract zoning amendment and prior to any permits issued, the proposed development must be reviewed by the Planning Board persistent to the Town's Site Plan and Subdivision regulations.

***Overlay Zone.*** Another zoning option for the Town to change the zoning to facilitate the envisioned Village Parcel development is to draft and adopt a series of provisions that add to the base zoning regulations and may supersede them if specific conditions are met. Generally, these conditions would likely target affordable housing dwellings and open space conservation, or recreational amenities. With these conditions met, specific density increases above the base zoning would be permitted.

If the Town is inclined, an advantage to this application over other zoning regulation applications is that it could include more than the Village Parcel. This could encourage other properties in appropriate areas of the town to establish a similar development character. There is land adjacent to the Village Parcel on the north and south that may be appropriate to be developed similarly to what is being considered for the Village Parcel.

The large parcels to the south with frontage along School Street share similar positive attributes with the Village Parcel, **when considering development opportunities in this portion of town near to Dock Square**. The underlying zoning does not change, which allows property owners to choose how they want to develop their land.

***New Base Zone.*** This option would require drafting and adoption of a new land use zone. Typically, such a zoning district would include more than one property. The Town's attorney should review specific logistics and determine if this is an issue, or whether the Parcel should be divided into lots. The advantage to a new standalone base zone is that it could provide more clarity by essentially mandating the type of development based on specific regulatory requirements, unlike the development choices that might be available in an overlay zone, as described above. This may not be a factor if the Town decides to focus only on the Village Parcel.

Both a new Overlay Zone and a new Base Zone would require adherence to Section 12 of the Town's land use ordinance and applicable state statutes including Title 30-A M.R.S.A. § 4352.

#### Types of amendments to the land use

As mentioned earlier, in order to create the framework to support a compact mixed-income, multigenerational neighborhood surrounded by open space, the dimensional requirements, or the rules of development, for the Parcel will need modification. Compact neighborhoods require shallow setbacks, small lot sizes with greater building coverages, and more dwelling units per land area. In addition, to encourage a range of housing types (single family, two-family and multiplex) these dimensional requirements can be calibrated to provide the most optimal development setting needed.

#### Lot sizes and land area per dwelling unit

Public input and committee members supported a traditional neighborhood character, such as Dock Square and Cape Porpoise, as the most preferred type of development for

the Village Parcel. Many of the lots in these neighborhoods are characteristic of what people love about the town and range from less than 5,000 square feet to around 12,000 square feet. “Traditional” neighborhoods designed today are based on the understanding that compact development provides for a more pedestrian-scale and, given a smaller footprint, provides more open space. The objective is better served by quarter-acre lots than one-acre lots for single family; however, a mix of different lot sizes together with a mix of densities (land area per dwelling unit)



*Dock Square Locale. Lot sizes range from less than 5,000 s.f. to 15,000 s.f.*

would be ideal. The option of smaller lots, perhaps 10 to 20,000 square feet, could support single-family, two-family or multiplex buildings. This flexibility in lot size and density would allow development of a patchwork of different types of dwellings crucial to the vision of mixed-income, multigenerational neighborhood – in contrast to the more homogenous development **that one-acre zoning effectively creates.**

### Building Coverages and Setbacks

In the same way that smaller lot sizes and greater density provide the flexibility to achieve the compact village-style neighborhood, reduction in setbacks and increase in building coverages provide a similar flexibility. Dimensional regulations are primarily aimed at locating buildings and limiting building/pavement area to ensure a reasonable space between structures for public safety and to allow for sufficient vegetated versus non-vegetated areas on the lot. The latter has a direct effect on stormwater management and both dimensional requirements have an effect on density and the overall character of the neighborhood. Allowing for buildings to be closer to each other (still providing for conformance with fire safety standards) and to develop more of the lot, results in more efficient use of the overall land. Open space can be planned and designed to be more central and contiguous rather dispersed across individual lots. Stormwater management can also be designed to be more consolidated elsewhere on the overall property in concert with small treatment opportunities on individual lots.



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A bulk and height standards table that would support the dimensional changes to the land use code discussed above might look like the following:

<b>Illustrative Bulk and Height Table</b>									
	LOT					BUILDING			
	Min Lot Area *1 (sq ft)	Min Lot Width (feet)	Max Lot Coverage	Min. Net Residential Area per Dwelling Unit (sq ft)	Min Open Space <sup>1</sup>	Max Setback Front (feet)	Min Setback Side (feet)	Min Setback Rear (feet)	Max Building Ht. (feet)
Single Family Dwelling (one per lot)	10,000	75	75%	10,000	40%	10	10	10	35
Two-Family Dwelling	10,000	75	75%	5,000	40%	10	10	10	35
Multiplex	20,000	100	75%	5,000	40%	12	12	12	40 <sup>2</sup>

<sup>1</sup> Required open space can be located outside of an individual lot, incorporated in an overall open space area for the entire development.  
<sup>2</sup> Three (3) stories maximum.

**Design Standards and Guidelines.**

Design standards and guidelines are important tools to communicate the type of development that is envisioned for the Village Parcel. Identifying a range of appropriate design attributes and details such as architectural massing, form, style and building materials would help to ensure expectations are met regarding the overall character of the neighborhood.

Multiplex building design is a specific element that can benefit from standards and guidelines. A concept that emerged from the planning process involves incorporating several dwelling units within the building envelope of a large New England farm house or captain’s house, perhaps with an attached barn or carriage house. This architectural vernacular is common in many scenic Maine areas and is an element of the overall village character that has been identified as important to preserve and promote.



Prior to constructing new housing, the Town may want to set specific standards and guidelines in place. These guidelines can provide direction and expectation for the

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architectural design as well as the streetscape and overall character of the neighborhood. Guidance may include:

- 1) Overall size of building footprints for various building types/units
- 2) Percentage of exterior blank walls allowed
- 3) Percentage of a single plane of exterior walls without variation
- 4) Minimum steepness of roof (8:12 and steeper is more typical for most New England building vernacular)
- 5) Inclusion of porches and the orientation of garages
- 6) Proximity of the building to the street - a build-to line rather than minimum setback
- 7) Requirement to incorporate a safe and welcoming public pedestrian streetscape with appropriate lighting, landscaping and seating/gathering areas.