



## MEMO

**TO: Planning Board**  
**FROM: Heather Ross, Land Use Tech**  
**DATE: June 24, 2019**  
**RE: Application Review – Kittery Indian LLC – Mic Mac Hotel**  
**317 US Route 1**  
**Map & Lot: 0059-0004**

### OVERVIEW

This is a preliminary plan submission to redevelop the 2 story, 10 unit Mic Mac motel into a 65 unit Comfort Inn or similar hotel.

### JURISDICTION

This is an application for a preliminary plan. Jurisdiction is limited by Site/Sub §5.3 as well as zoning §18-A.5-A. This property is within the RT1-3 zone which per zoning §4.1.4 requires a Route 1 Use Permit. This property must also comply with zoning §6.3 Performance Standards Applicable to all Non-Residential and Multi-family uses in the Route One-1, Route One-2, Route One-3 , Route One-4 and Route One-5 Zoning Districts.

### RECOMMENDATIONS

1. Application Acceptance. I have reviewed all application. I believe the application contains all of the required materials, however, I do not believe the application meets the intended requirements of the zoning ordinance and would be in violation of the Town of York Zoning Ordinance.

In reviewing the application, I requested the Code Enforcement department review the application for compliance, or lack thereof, with the zoning ordinance. I have attached email correspondence from Amber Harrison, Director of Code Enforcement.

The Code Enforcement office has stated (per attached email):

“At this time, the Code office would not issue a permit based upon the proposed plan as it does not meet the zoning ordinance requirements under 6.3.2. and 5.2.4. footnote “g”. You are welcome to appeal this email to the BOA or pursue approval with the Planning Board but as proposed it does not appear the parking meets the ordinance requirements”

If the applicant does not agree with the Code Enforcement Officer's interpretation of the ordinance, and how it relates to the plan, I would advise the applicant to file an administrative appeal with the Board of Appeals.

I recommend the Board does not proceed with this application as a Preliminary application until such time that a decision regarding the interpretation of the Code Enforcement officer be determined by the Board of Appeals. I do recommend that the Board accept this as a sketch plan and open the public hearing in order to have public input on the application.

Proceeding with the application as presented would result in a review of a plan that could not be permitted by the Code Enforcement Department, as it would be in violation of the ordinance.

2. Public Hearing. Following the application acceptance vote or lack thereof, conduct the public hearing to identify any issues or concerns relevant to the decision-making process. The Board, at its discretion, can allow a public hearing for a sketch and or conceptual plan.
3. Substantive Review and Deliberation. I believe the relevant issues for the Planning Board to discuss as part of this application include but are not limited to:
  - A. **Zoning:** This property is wholly located within in the RT 1-3 Zone.
  - B. **Parking:** It is the interpretation of both the Code Enforcement and Planning departments that the applicant's design **does not** meet the requirements of the Zoning ordinance, as it relates to the location of parking.

**Zoning §5.2.4** Route One Zoning Districts ZONE 3 requires a minimum of 80% of the required parking to be located on the side and rear.

Footnotes for article 5.2.4. for the Route 1-3 zone states:

g Provided all parking spaces for a non-residential use are located to the side or rear of the structure, and no parking spaces are located closer to the front lot line than the front setback of the structure occupied by a non-residential use. A nonresidential use existing as of November 5, 1996 that does not meet this setback requirement shall not locate any new parking closer to the front lot line than the existing structure occupied by the nonresidential use.

h A maximum of twenty percent, but no more than ten parking spaces, are permitted directly in front (across front of the structure from side wall to

side wall) of the structure occupied by a non-residential use if this structure is setback a minimum of eighty feet from the front lot line. All other bulk/common parking spaces, the remaining eighty percent of spaces or more than ten spaces, shall be located to the sides and rear of this structure and shall not be located closer than seventy feet to the front lot line. A non-residential use existing as of November 5, 1996 that does not meet this setback requirement shall not locate any new parking closer to the front lot line than the existing structure occupied by a non-residential use.

**Zoning 6.3.2** A non-residential use shall provide an adequate amount of parking for the proposed use, reference Article 15, Town Zoning Ordinance, to ensure public health, safety and welfare. The design and layout of the parking area shall be harmonious to the use, structures and site and to abutting uses, structures and sites. The Planning Board encourages creativity in the design of all parking areas to enhance site appearance, enhance how the site functions, reduce the total amount of area devoted to parking, reduce the scale and bulk of parking areas, and encourage joint use parking between adjacent sites. The design and layout shall conform to the following standards. The Planning Board may allow exceptions to these standards to foster creativity and harmony in layout of the parking areas.

**Zoning 6.3.2.1** A non-residential use which obtains a Route One Use Permit after November 5, 1996 and which occupies a structure constructed after November 5, 1996 shall strictly comply with parking requirements identified in Town Zoning Ordinances, Section 5.2.4.

The proposed use will occupy a structure constructed after November 5, 1996, and will require parking to be in compliance with parking requirements. The Planning Board has authority, under Zoning 6.3.2.2 to allow variations only on properties on which a non residential use that occupies a structure constructed prior to November 5, 1996.

*Items below have been briefly reviewed. A detailed review will not take place until the applicant has amended the plan to be compliant with the zoning ordinance, or the Board of Appeals has made a decision regarding the non-compliant zoning items.*

- C. Lighting: The applicant has submitted a lighting plan, however, should submit detail pertaining to specific lighting fixtures.
- D. Stormwater: A detailed stormwater review will be important, as not to increase stormwater runoff onto neighboring properties.

E. Bufferyards: The Board should review to insure that the bufferyards are providing an adequate buffer for neighboring properties.

F. Building and Site Design:

The Board should discuss if the proposed building is “New England” in character and if it is shown to have “best faces” toward Route One. Typically “best faces” is shown by locating the structure perpendicular to Route 1. The Board may also want to discuss the roof line and whether the design has shown enough variation in the pitch and height, and if all building components have good proportions and relationship to one another.

The applicant has not provided information regarding exterior building materials. The Board should discuss the proposed building materials with the applicant.

The plan shows two separate sidewalks, one along Rt 1, the other along the building. The Board should discuss if the pedestrian access shown should be connected, maybe with a crosswalk on the property, in order to provide safe access from the sidewalk adjacent to the building to the sidewalk along Route 1.

G. Refuse Disposal: The applicant has shown a refuse enclosure that complies with zoning 6.3.16.

H. **Other items of concern for full application:**

- a) **State and Federal Permits:** The applicant will need to show that they have received any required state and federal permits for the proposed work. This will likely include MDEP permits for over an acre of disturbance.
- b) **Timeline/Phasing:** The applicant will need to provide an estimated timeline for construction and any proposed phasing of the development per Site/Sub §7.30.

