



Town of Damariscotta
Planning Board Meeting Agenda
Monday, June 5, 2023 – 6:00PM
Hybrid Meeting: Town Office & via Zoom

Join Zoom Meeting: <https://us02web.zoom.us/j/88985249796>

Meeting ID: 889 8524 9796

Passcode: DamaPB

1. Pledge of Allegiance
2. Call to Order
3. Review of Meeting Minutes:
 - a. May 1, 2023
4. Public Hearing:
 - a.
5. Other Business:
 - a. Site Plan Review Ordinance Amendments
Discussion/Review of amendments recommended by Isabelle Oechsle dated
 - b. Questions from the public
(This is an opportunity for the public to ask questions on items not on the agenda)
 - c. Planner's Report
 - d. Housekeeping
 - i. Would the Board like to change the dates of the July 3 or September 4 Planning Board meetings due to the July 4 or Labor Day (9/4/23) holidays?
 - ii. Signing of previously approved documents
 - 207 Ledgewood Court Findings of Fact and Conclusions of Law
 - May 1, 2023 meeting minutes
6. Adjournment

PLANNING BOARD MEETING MINUTES

TOWN of DAMARISCOTTA

Monday, May 1, 2023 – 6:00PM

Hybrid Meeting: Town Office & via Zoom

MEMBERS PRESENT: Jonathan Eaton, Chairperson; Jenny Begin, Neil Genthner, Wilder Hunt, and Ann Jackson

ALTERNATES PRESENT: Gary Rosenthal, and Dan Day

ABSENTEES: Gary Rosenthal

STAFF PRESENT: Michael Martone, Acting Town Planner; Lynda Letteney, Recording Secretary

PUBLIC PRESENT: Steve Bushey; Meg Robinson; Laura Reading; Steve Weatherhead; Dick McLean; Steve Hefnagel (6:55 pm); Haven Simmons, LCTV; and, Elizabeth Waltztoni, Lincoln County News

1. Pledge of Allegiance

Chairperson Eaton led the Pledge at 6:00pm

2. Call to Order

The meeting was called to order at 6:03pm by Chairperson Eaton

3. Review of Meeting Minutes

On motion (Genthner/Hunt) to approve the minutes of March 6, 2023 and April 11, 2023, as presented.

Vote: 5-0-0

4. Public Hearing

Review Site Plan Application 207 Ledgewood Court Drive (Tax Map 001, Lot 050-003)

Michael Martone, Acting Town Planner, introduced this project for the public hearing. At the last meeting (4/11/23), the project was reviewed by the Board. This public hearing is to review the changes and updates since that meeting, and entertain approval of the application. Michael said that they would proceed with the project presentation and then go over the changes and conditions.

Meg Robinson, Developers Collaborative, opened the presentation by stating this would be affordable housing with 32 single bedroom units for residents 55+ in age. The companion units (24) are in an existing adjacent building and it is for family housing. They hope to get approval for low-income authorization. Plan is to get the financing in 2024 and finish building ready for occupancy in fall of 2025. The current management company will remain in place. A total of 6.5 acres will be devoted to the new development. This building is connected to the existing housing by sidewalks. This property is zoned within the village and is close to many amenities. Taxi and rideshare are available. All units are one bedroom with 4 ADA accessible units. There are 33 parking spaces with 4 being ADA accessible. The goal is to provide a safe, clean, affordable housing so our community can "age in place."

There is a demonstrated need in this community for affordable housing: 60% can't afford a two-bedroom apartment now. Cost is indexed to 60% of the area's median income (\$35K-\$39K) at \$906/month.

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There is a limited funding gap allocated by Maine Housing, and Damariscotta qualifies for additional points. The project is LYTEL Program qualified. This is cost effective for high quality living.

Steve Bushey, Civil Engineer with Gorrill Palmer, presented updates from the previous hearing. Parking lot spaces are now at a 30' setback (single lane parking). The patio has been modified to accommodate the fire lane. Waste is now 50' away from building. There will be 2 acres cleared for building parking and water capture.

Jenny Begin asked if the utilities were buried. Response was yes; the division into 2 parcels is all compliant. Sewer and power are already there. They are reusing the pump station which has been approved by the sewer district. Water is an extension of the water main, with a branch off and second hydrant. Building is fully equipped with sprinklers. Fire and Police have voiced no concerns, but they are awaiting to hear officially in writing. LP tanks will be installed underground (ok with ordinance). Power will be underground with an emergency generator, wired to the pump station or well. The lighting has been updated with new parking lot configuration. 6-16' poles w/1.2 candle light. 2.0 is the new security standard. 2.3 is the highest in one spot, 0.3 average; 1.2 average in parking lot. Parking lot bollards are only required to be 36" but with winter weather and snow banks often that high, 42" is recommended.

Landscaping: They will be using an ALA landscape architect. The Board asked for black ash indigenous people used this), but experts say that the ash boor is significant in southern/central Maine and it probably won't make it. Plan is for yellow birches, red maples, a mix of deciduous and evergreens with lawn and meadow. A ramped sidewalk to Piper Mill Road is planned.

- Waivers:
- 1) Reduction of sidewalk from 8' to 6';
 - 2) sight frontage sidewalk no needed;
 - 3) landscape design rendition shows patio 10.5' X 48'

Steve Weatherhead spoke next saying that this was a 2-story facility with 16 units per floor, 4 of them ADA compliant (2 up and 2 down). Entry is at the main entrance in the middle of the building; 2 egresses at either end are exits only. Some discussion as to whether residents could have a swipe key for the ends. Color scheme is gray on gray on gray-with three different shadings. Jenny asked if there was to be a covered area for the patio (even if it were seasonal?) Jenny also asked if there was an interior rear elevator. Response: No, just off the main entrance. Jenny asked if there was an on-site manager. Yes, but the office will be in the first building.

Steve Bushey spoke to other permits. A tier 1 Army Corps of Engineers permit has been issued re: wetlands. A DEP permit for stormwater management has been written, awaiting signature. Site Plan standards give the developer one year to start construction. Steve asked if there can be a time extension. Jenny said if there are no changes, no problem. Steve Hefnagel from Coastal Rivers spoke in favor of the project (abutter); he said the land trust is also in favor. Dick McLean also spoke in favor. The Treasurer of Mid-Maine Community Action spoke saying that they had no stake in the project directly, but their mission revolves around housing. Dick McLean, speaking about the management company, said that historically it was not functioning well. When C&C took over, it became flawless; highly recommend the current management company.

PLANNING BOARD MEETING MINUTES

TOWN of DAMARISCOTTA

Monday, May 1, 2023 – 6:00PM

Hearing no other comments, questions or concerns, the public hearing was closed at 7:05 pm by Chairperson Eaton.

Findings of Fact and Conclusions of Law:

Mr. Michael Martone found this project to be consistent with the Town's most recent Comprehensive Plan (June 2014-February 2015) and falls within the Village Expansion Area.

The request meets the conditional use standard as defined by 101.9.C.2. This is a multifamily dwelling in a rural area. Meets Articles 1-8 with no adverse effect on health or safety; sanitary district has okayed with a letter; water district also approved with letter; quiet subdued environment. All dimensional standards are met (under the maximum); setbacks are okay as are street frontage and building height. Site Plan Review noted a waiver request for 2.3 maximum lighting in the parking lot. The Board finds that the landscaping within and around the proposed parking area including the peninsular in front of the main entrance, and at either end of the parking area meets the requirements of 102.6.H.6.b.

Lighting:

Jenny opened discussion stating that if 1.0 is what's in the ordinance, that's what we should stick to. Wilder Hunt said he was in favor of the waiver as it enhanced safety. Jenny said she was very concerned about light pollution. Dan Day said given it is senior housing, we don't need someone tripping and falling. Neil Genthner reminded the Board the plan was to have some go out at night (10:00 pm-6:00 am). When asked about wall mounted or single pole. Consensus was a pole. Additionally light shielding @75 degrees from nadir with no up lighting. (Note: When revising ordinances review lighting restrictions).

On motion (Genthner/Jackson) to accept the application as complete with 2(two) waivers approved: bollards to a 42" height; and lighting variation to allow 2.3 candle light in the parking area.

Vote: 5-0-0

On motion (Genthner/Jackson) to approve the Conditions of Approval with the addition of dimmer ability for all exterior lights from 10 pm - 6 am.

Vote: 5-0-0

The need for crosswalks connecting Ledgewood Court and the Piper Mill Rd facility was brought up. Initially the project manager will see to this. Maintenance will have to be figured out by property owners on the road. Jenny Begin also asked about runoff into Castner Creek. Are the fertilizer and weed control/herbicides being monitored? Michael said it was not land use so not for the Planning Board. Management of the facility is responsible.

5. OTHER

a. Questions from the Public

(none)

PLANNING BOARD MEETING MINUTES

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b. Planner's Report

Michael plans to have the next meeting to go over changes in the ordinances; updates to Site Plan Review; and identify where the Comprehensive Plan fits in. He would like to know if the Board prefers a special workshop meeting or do this the first meeting in June (the 5th). Consensus was to do it at the next meeting. Michael will forward all of Isabelle's updates ahead of time. Jenny reminded the Board that this would have to go to a special town meeting or be on the November ballot as it is too late for the June Town Meeting.

6. Adjournment

On motion (Genthner/Begin) to adjourn the meeting at 8:00 p.m.

Vote: 5-0-0

We the undersigned approve the minutes for the Planning Board Meeting of May 1, 2023.

Jonathan Eaton, Chairperson

Date

Jenny Begin

Date

Neil Genthner

Date

Wilder Hunt

Date

Ann Jackson

Date

Daniel Day (alternate)

Date

Gary Rosenthal (alternate)

Date

TO: Damariscotta Planning Board
FROM: Isabelle Oechsle, Consulting Planner
RE: Amendments to the Site Plan Review Ordinance
DATE: June 5, 2023 Meeting

INTRODUCTION

A number of deficiencies in the Town's current Site Plan Review Ordinance have been identified and tested as a result of recent reviewed projects. The Site Plan Review Ordinance should guide ideal forms of development while allowing for Town priorities to be met. Further, the Site Plan Review Ordinance reviewing standards are the **only** authority that the Planning Board can base approval or denial of projects on.

When the Site Plan Review Ordinance is not based on community desire, it leads to frustration and tension between applicants, neighboring property owners, and the Planning Board. In order to solve the issues plaguing the community (high property tax burden on residential homeowners, lack of affordable housing, continuing to provide access to needed services, etc.), some level of new development is necessary. What is in our control is the standards that new development must adhere to.

Based on comments received from the public and discussions among Planning Board members during review of projects, it became clear that the current Site Plan Review Ordinance is not currently guiding applicants to come up with a site design that meets the expectations of the community. To that end, I am providing the attached draft amendments for initial discussion by the Planning Board during the work session on June 5, 2023.

ANALYSIS OF PROPOSED AMENDMENTS

During review of recent projects, comments from the public and from Planning Board members centered around the following items:

- Adding the requirement for and regulations surrounding neighborhood meetings for certain projects, in order to allow the public to contribute to discussion of the project prior to the applicant spending significant money to develop a site plan
- Specifying requirements for the identification, protection and replacement of Significant Trees
- Defining different levels of landscape screening and identifying specific projects that need to be subject to higher levels of screening
- Building arrangement
- Cap on building size
- Lighting concerns (standards around lighting spill onto abutting properties)

- Desire to look at standards surrounding traffic; existing standard is not specific enough and doesn't make sense when a building is not accessed from a state road

In the analysis below, I have cited the place in the attached, red-lined draft where I have attempted to address the concerns expressed by Board members and members of the public, and how I have recommended tackling these concerns.

1. ***Adding the requirement for and regulations surrounding neighborhood meetings for certain projects, in order to allow the public to contribute to discussion of the project prior to the applicant spending significant money to develop a site plan:*** In §102.5 of the draft, I have added standards surrounding when neighborhood meetings must occur and standards for how neighborhood meetings must be handled. Neighborhood meetings are not intended to get feedback from the Planning Board (as you already have pre-application meetings outlined in the Ordinance for this purpose), but are instead intended to be an opportunity for abutting property owners (those who will be most impacted by new development) to weigh in about their desires before the applicant spends significant money on engineered plans and permitting costs. In this draft, I have noted that neighborhood meetings are suggested for all projects but are specifically required in the following instances: (1) when the construction or expansion of a commercial, industrial, or other non-residential structure with more than 7,500 square feet of total floor area is proposed to be located in or directly abutting the Rural, Residential, or Medical Zoning Districts; (2) when the construction or expansion of a multi-family dwelling that will create five or more new dwelling units in or directly abutting the Rural, Residential, or Medical Zoning Districts is proposed.

The requirements for neighborhood meetings as I have drafted them require the applicant to mail notice of the neighborhood meeting to all abutting property owners within 500' of the proposed project and to hold the meeting at a public space where it would be convenient for neighborhood residents to attend. If a Site Plan application is eventually submitted, the applicant is required to submit a certificate of mailing for the notices of the meeting as well as the minutes of the meeting so that staff and the Planning Board can review and ask how comments from the public were responded to.

2. ***Specifying requirements for the identification, protection and replacement of Significant Trees:*** The Board will recall that, in the Ordinance amendments adopted at a Special Town Meeting on February 15, 2023, we added a definition for Significant Tree (which is, "Trees having a diameter at breast height (DBH) of 30 inches or greater, or any trees which are located in shoreland areas (those areas within 250 feet of the normal high water line of any great pond, river, or saltwater body, within 250 feet of the upland edge of a coastal wetland,

within 250 feet of the upland edge of a freshwater wetland, or within 75 feet of the high-water line of a stream).” Based on discussion held during review of recent projects, it seemed that there was support for protection of these trees.¹ I have added a submittal requirement to that section specifying that a landscaping plan documenting the project disturbance area (including the areas of proposed buildings and site improvements as well as any construction staging areas and any areas anticipated to be impacted by construction activity on the site) is submitted. Within the project disturbance area, the submitted landscaping plan shall identify the drip line of trees to be preserved and the existence of any Significant Trees (both those proposed to remain on site and those slated for removal). If the removal of Significant Trees is proposed, the applicant shall provide information about the species and health of the Significant Trees to be removed as well as information regarding proposed replacement trees.

In addition, §102.6.E.2 notes that, “If the removal of Significant Trees is proposed, the applicant shall provide information from an arborist licensed in the State of Maine about the species and health of the Significant Trees to be removed. Significant Trees slated for removal which are native species and that were deemed to be in good health must be replaced at a ratio of 2:1 with native trees that will be at least 8’ tall at the time of planting in order to preserve and enhance the natural landscape.”

Essentially what that standard means in practice is that if removal of **healthy, native trees greater than 30” DBH** is proposed, the applicant must replace each of the healthy, native trees with **two native species** that will be at least 8 feet tall at the time of planting. The replacement trees can count toward the number of trees required by the buffering standards described below.

3. ***Defining different levels of landscape screening and identifying specific projects that need to be subject to higher levels of screening:*** Trees and landscaping is an essential part of any site development, even though in many cases these improvements are often viewed as an afterthought. As most of us know, trees improve our air quality by filtering harmful dust and pollutants such as ozone, carbon monoxide, and sulfur dioxide from the air we breathe. But trees also do much more! Tree-lined streets have a traffic calming effect, slowing down cars and making traffic move more safely. Trees also act as a buffer between properties, screening unwanted views or dampening noise from neighboring land uses. Trees reduce the urban heat

¹ Note: Trees of any size located in shoreland areas are already regulated by Section 15.P of the Town’s adopted Shoreland Zoning Ordinance. In cases where there is a conflict, the stricter standard would apply. Specifically, the requirement in the Site Plan Review Ordinance to replace Significant Trees is stricter than that of the Shoreland Zoning Ordinance. In cases where new development is subject to both the Shoreland Zoning Ordinance and the Site Plan Review Ordinance, the applicant would be required to document and replace any Significant Trees in accordance with the Site Plan Review Ordinance.

island effect through evaporative cooling and reducing the amount of sunlight that reaches parking lots and buildings. This is especially true in areas with large impervious surfaces, such as large parking lots. Finally, trees reduce the amount of stormwater runoff, which reduces erosion and pollution in our waterways and may reduce the effects of flooding.

This is all to say, the comments heard from Planning Board members regarding landscape buffering have benefits beyond just providing a buffer between differing land uses. To respond to these comments, I have added §102.6.D.5 regarding screening requirements in the required side and rear setbacks of properties. This section as drafted also gives the Board to require additional landscape screening in the front setback of properties if the proposed development would create outsize noise impacts or for aesthetic purposes.

In this section, I have come up with five different levels of screening intended to address five different potential levels of impact. The five levels are Basic (the bare minimum level required), Low-Screen (L-1), High Screen (L-2), High Wall (L-3), Full Screen (L-4). L-4 is not landscaping so much as a wall of fencing intended to shield dumpsters or land uses that are extremely impactful (or where fencing would be desired for safety purposes).

Throughout the existing Site Plan Review Ordinance, there were contrary references to the sizes of required Bufferyards. I have eliminated the contrary or redundant references, and have moved all references of Bufferyards or landscape screening requirements to Sec. 102.6.D for clarity.

4. ***Building arrangement:*** Currently, the only standard related to building arrangement is within Sec. 102.6.F and reads: “Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed building.” The Maine Municipal Association’s Manual for Planning Board’s, page 48, notes: “It is not legally permissible to include a review standard in the ordinance which requires a board to find that a project will be “compatible with the neighborhood” or “harmonious with the surrounding environment.” Compare *Wakelin v. Town of Yarmouth*, 523 A.2d 575 (Me. 1987), *American Legion, Field Post #148 v. Town of Windham*, 502 A.2d 484 (Me. 1985), *In Re: Spring Valley Development*, 300 A.2d 736 (Me. 1973), and *Secure Environments, Inc. v. Town of Norridgewock*, 544 A.2d 319 (Me. 1988).” Thus, the existing standard needs to be changed anyway.

Building arrangement standards can mean a number of things, but in general, are focused on articulation and orientation, scale of the building (height and width), relationship of street-facing facades, relationship of parking lots and pedestrian facilities to the street and to

the proposed building, and relationship of proposed building to existing neighborhood context (including all of the above).

You already have an outline for design standards for Large-Scale Development (defined as buildings larger than 7,500 s.f. of total floor area) in Sec. 102.7.A. What I have proposed is strengthening these design standards and making them applicable to all buildings (not just those larger than 7,500 s.f. of floor area). See Section 102.7.D for the full standards.

5. ***Cap on building size:*** Given the added design standards, as detailed above, I would not recommend that a cap on building size is necessary. (Note: you do already have a size cap on building size for retail establishments.) What the Planning Board should instead feel comfortable doing is leaning on the standards for building footprint, building height, and building width (Sec. 102.7.D.3, D.4, and D.5, respectively) and asking applicants to demonstrate how they have considered the neighboring properties and existing neighborhood context in designing their projects.
6. ***Lighting concerns:*** Frankly, the lighting standards that currently exist within the Site Plan Review Ordinance are some of the strictest that I've seen (and were just adopted by the Town in June of 2018). If lighting continues to be a concern on projects reviewed by the Planning Board, it might make sense to begin requiring applicants to escrow funds to have a lighting peer reviewer take a look at the project and provide comments during the completeness review phase of the application (this is already provided for in the Ordinance, see Sec. 102.5). Lighting peer reviewers are third-party professionals in lighting retained by the Town who would check to ensure compliance with the standards that you already have adopted and would have the professional background to be able to provide suggestions or advisory comments for the applicant to consider.

Alternatively, if the desire is to explore providing a legal defense for the Code Enforcement Officer to enforce lighting-related complaints on properties that were **not** subject to the lighting standards of the Site Plan Review Ordinance, you might consider adding lighting performance standards to your Land Use Ordinance instead.

7. ***Desire to look at standards surrounding traffic; existing standard is not specific enough and doesn't make sense when a building is not accessed from a state road:*** The only existing standard surrounding vehicular traffic is outlined in Sec. 102.6.J, which states, "Vehicular access to the site must be on roads which have adequate capacity to accommodate the MDOT Level of Service Process, even if it is a Town owned road. A development not meeting this requirement may be approved if the applicant demonstrates that: (1) A public

agency has committed funds to construct the improvements necessary to bring the level of access to this standard as soon as possible or; (2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements as soon as possible, with a financial guarantee acceptable to the municipality.”

This standard is frustrating for applicants and the public to understand because it essentially asks applicants to apply a process that is not designed to evaluate those kinds of roads to their project. Similarly, this standard as written does not actually evaluate traffic impacts generated by new development, but instead evaluates safety and serviceability of existing roads and intersections.

I have instead proposed a standard in Sec. 102.6.I which would require the Planning Board to evaluate what I believe the community actually wants to understand, which is traffic impacts specifically created by the new development. You still have the provision to require the applicant to be financially responsible for upgrading adjacent roads and intersections in Sec. 102.6.J.7.

ITEMS FLAGGED FOR ADDITIONAL DISCUSSION/DIRECTION

The items below are not items that were specifically flagged by the Planning Board or members of the public as problematic areas of the Ordinance, but which, upon review, I have found to be confusing or misleading. I’m of the opinion that if we are going to be pursuing amendments to the Ordinance, we should attempt to correct these problem areas. I would recommend spending some time at our work session discussing these items. I will incorporate your desired direction into subsequent drafts of the Ordinance.

1. ***Public hearing noticing requirements:*** Section 102.5.Q is where existing requirements for public hearings, including noticing requirements, are located within the Site Plan Review Ordinance. For projects with a proposed building footprint of more than 7,500 s.f. or for projects where five or more residents of the Town object in writing, a public hearing is expressly required. In addition, the Planning Board may, at its discretion, hold a public hearing for any project. I would like to better understand in what circumstances the Planning Board thinks that noticed public hearings are required. Putting the onus on the public to object in writing, and hope that four of their neighbors do as well, does not set a tone for effective public discourse going forward. Further, you’re expecting the public to object in writing when the notice sent to them is not required to include a view of the plan at all. Is the expectation that you are allowing people to object to the idea of potential development?

Second, if the Board schedules a public hearing, the Ordinance as written requires the Town to bear the cost of mailing certified mailers for the second notice. (The applicant is responsible for mailing the initial notice of intent to submit that the Ordinance expects members of the public to object to.) Would it be preferable for the applicant to bear the cost of mailing the notice of public hearing?

In general, I'd like to understand the history behind this section of the Ordinance. Is there value in requiring the applicant to mail a notice of intent to file? Should every project going to the Planning Board be afforded a public hearing instead of only specific projects? If specific projects, does the current Ordinance match your expectations for what projects require a public hearing? Should the Town or the applicant bear the cost of coordinating and mailing notices?

2. ***Regulation of color:*** In Section 102.6.V of the existing Site Plan Review Ordinance, you had regulations surrounding color, noting: "Building facade colors shall be non-reflective, subtle, neutral or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature colors of black, but such colors shall be muted, not metallic, not fluorescent and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage." Of note, Later Victorian Homes in New England were historically often deep reds, purples, greens, and yellows, with even brighter trim. Black facades are becoming more popular in modern architecture, and if done well are often aesthetically pleasing buildings. Similarly, many modern buildings are now making use of metal or steel as both a construction and design element.

Typically, communities do not review paint color except if an applicant is proposing to impact historic materials (e.g. paint original brick or stone to a color that brick or stone is not), because that is an often irreversible change that would damage brick or stone if removed. If regulations surrounding color are in the Site Plan Review Ordinance, the Town is obligated to respond to complaints regarding color as violations to that Ordinance. The Town is currently deciding whether or not to pursue an existing violation at a local business related to the color of the building, which is painted a color that does not meet Sec. 102.6.V.

I would like to understand the Planning Board's position surrounding the regulation of color, and if you believe that we should retain this standard as written or pursue amendments to it.

Chapter 102

SITE PLAN REVIEW ORDINANCE DAMARISCOTTA, MAINE AS AMENDED THROUGH ~~FEBRUARY 15, 2023~~XXXXXXXX

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§102.1 AUTHORITY

This ordinance is enacted pursuant to the authority given the Town in MRSA Title 30-A, Section 3001.

§102.2 PURPOSE

Substantial development or major changes in the use of land cause a profound impact on the cost and efficiency of municipal services and on the environment of the town. Such development can have adverse impact on schools, sewers, water lines, and other public utilities; recreational facilities; liquid and solid waste disposal; police and fire protection; open space; road systems and circulation; traffic congestion, safety and access; emergency access; placement of buildings and structures; property values; water supply and quality; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of historic and archaeological resources; adverse impacts upon adjacent properties, the visual characteristics of the neighborhood and Town. The site plan review provisions set forth in this ordinance are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment, wildlife habitat, fisheries, and unique natural areas; and to fit the project harmoniously into the fabric of the community by assuring that the following objectives are accomplished with the least possible regulation:

- A. To minimize impacts caused by nonresidential, multifamily residential, and other developments described in § 102.3, in a manner, which assures that adequate provisions are made for all of the concerns, listed above.
- B. To establish a Site Review procedure whereby Town officials will review, depending on the size of the project, new proposals to use land and buildings for uses listed in paragraph A above. The Ordinance also applies to the review of significant expansion, significant front facing façade renovation or change-of-use in previously approved developments;
- C. To establish a fair and reasonable set of standards for evaluating each development proposal impartially on its own merits;
- D. To provide a Public Hearing process where required by the Ordinance through which town residents may raise questions and receive answers about how new development proposals would affect them;
- E. To suggest ways in which development proposals may be modified so that potential problems and nuisances can be minimized or eliminated;
- F. To exempt conventional lot by lot residential subdivisions already regulated under the town's Subdivision Ordinance, and other residential uses described in §102.3.
- G. To minimize the review process of existing land uses and developments. Replacing structures, significant changes to design or landscape plans are not exempt from this Ordinance (see §102.2.B).
- H. To balance the right of landowners to use their land for purposes Stated in §102.2(G) above, with the corresponding right of abutting and neighboring landowners and other citizens of the Town to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, or storm water runoff, or the pollution of ground or surface water resources.
- I. To provide local protection from those particular nuisances which are not governed by State law or

regulations;

J. To protect property values;

K. To ensure that new development is located and designed in a way as to be consistent with the adopted Comprehensive Plan of the Town of Damariscotta.

§102.3 APPLICABILITY

A. This Ordinance shall apply to:

1. Construction of nonresidential buildings or structures and of multifamily dwellings, including accessory buildings and structures.
2. Enlargement of or significant change of use of nonresidential buildings or structures and of multifamily dwellings, including accessory buildings and structures. Proposals for significant changes to the front facade, including but not limited to more than 20% of the facade surface area, of non-residential buildings in terms of design, materials, fenestration, porticos or landscaping.
3. Conversion of existing single and two-family residential structures to non-residential or multifamily dwelling uses including accessory buildings and structures.
4. Creation of impervious surface of more than 5,000 square feet in the aggregate (rooftops plus paved or graveled parking areas, sidewalks and pathways) for non-residential or multifamily dwelling uses, or as modification to previously approved plans resulting in 5,000 sq. ft. or more impervious surface.
5. Movement, removal or addition of more than 20,000 square feet in area in the aggregate.
6. Previously conforming uses which have been discontinued for a period of 12 months or more. Such uses cannot be renewed without review by the Code Enforcement Officer to assure conformance with all applicable ordinances.
7. Non-conforming uses which have been discontinued for a period of twelve months or more. Such uses cannot be renewed except as provided for under the Damariscotta Shoreland Zoning Ordinance and other ordinances (Land Use Ordinance, etc.) of the Town as applicable.
8. All construction and expansion of wireless telecommunication facilities except as provided in §102.3.B.
9. Adult use Marijuana cultivation facilities, medical marijuana cultivation facilities, marijuana products manufacturing facilities, medical marijuana manufacturing facilities, adult-use marijuana stores, registered caregiver retail stores, marijuana testing facilities and medical marijuana testing facilities.
10. Medical marijuana cultivation facilities, medical marijuana manufacturing facilities, registered caregiver retail stores and medical marijuana testing facilities.

B. The following are exempt from the provisions of this ordinance:

1. Emergency Wireless Telecommunications Facility.
2. Temporary wireless communication facilities for emergency communications by public officials.
3. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
4. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
5. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
6. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
7. An antenna that is an accessory use to a residential dwelling unit.
8. Single-family detached dwellings
9. Home occupations
10. Two-family dwellings
11. Agricultural land management practices and forest management practices, exclusive of associated structures or buildings.
12. Ordinary repair and maintenance.

§102.4 DEFINITIONS

Meaning of Words. All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural.

ABUTTING PROPERTY - Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

ACCESSORY BUILDING -A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

ACCESSORY USE - A use or structure which is incidental and subordinate to the principal use or structure. Accessory:uses, when aggregated shall not subordinate the principal use,of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

ADULT USE MARIJUANA CULTIVATION FACILITY - A facility licensed under State and

local laws to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

ADULT USE MARIJUANA PRODUCTS MANUFACTURING FACILITY - A facility licensed under State and local laws to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

ADULT USE MARIJUANA STORE - A facility licensed under State and local laws to purchase adult-use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers. **Adult Use Marijuana Testing Facility:** A facility licensed under State and local laws to develop, research and test adult use marijuana, marijuana products and other substances.

ADULT USE MARIJUANA TESTING FACILITY - A facility licensed under State and local laws to develop, research and test adult use marijuana, marijuana products and other substances.

AGGRIEVED PERSON OR PARTY - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of citizens of Damariscotta who have suffered particularized injury as a result of the granting or denial of such permit or variance.

(Note: Maine's Supreme Court has Stated that for a party to establish standing in the context of an appeal to a municipal board, the person (or group) must demonstrate not only that he or she had party status at the administrative proceedings, but, in addition, that he or she suffered a particularized injury or harm. Nergaard, 2009 ME 56, 16.

In other words, there are two basic requirements to establish standing to appeal a decision of the Damariscotta Planning Board or Board of Appeals. First, a person or group of citizens must participate in the official hearing in person (or through an attorney or other designated agent) or must submit written comments for the official hearing record Jaeger v. Sheehy, 551 A.2d 841 (Me. 1989).

Second, the person must establish that his or her actual use or enjoyment of property will be adversely affected by the proposed project or that some other personal interest which will be directly affected which is different from that suffered by the general public.

Brooks v. Cumberland Farms, Inc., 703 A.2d 844 (Me. 1997).)

ANTENNA - any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

ANTENNA HEIGHT- the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the

finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

ARCADE - A series of outdoor spaces located -under a roof or overhang and supported by columns or arches.

ARTERIAL - A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

BAY - As applied to large scale development, a spatial division element in a building defined by beams or ribs and their supports.

BERM - An earthen mound designed to provide visual interest on a site, screen -undesirable views, reduce noise or provide a buffer from adjoining uses.

BUFFER (or BUFFERYARD): A buffer or bufferyard is a unit of land together with existing or planted vegetation, fencing, wall or berm located at the perimeter of a property and encompasses the width of the required setback as designated in the Town ordinance. Buffers are used to separate land uses from each other in order to eliminate or reduce potential nuisances or adverse impacts from dirt, litter, noise, glare, unsightly structures or uses of adjacent property, effectively providing greater privacy to neighboring land uses. Vegetated buffers also capture, diffuse and reduce stormwater run-off from adjacent impervious surface.

BUILDING - Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

BUILDING FOOTPRINT - The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

BED & BREAKFAST - A private home occupied by the owner or his tenant as his principal residence which offers overnight sleeping accommodations and breakfast at a single price for travelers; the total space occupied by such accommodations no to exceed twenty percent of the dwelling.

BOARD -The Planning Board of the Town of Damariscotta.

CANOPY - As applied to large scale development, a projection over a niche or doorway, often decorative or decorated; a roof over an accessory structure including but not limited to gasoline pumps and an Automated Teller Machine (ATM).

CHANGE FROM ONE CATEGORY OF NONRESIDENTIAL USE TO ANOTHER CATEGORY OF NONRESIDENTIAL USE - A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

COLLECTOR - A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

COLOCATION - the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

COLUMN - A vertical support, usually cylindrical, consisting of a base, shaft and capital, either monolithic or built up of drums the full diameter of the shaft.

COMMERCIAL - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

CONNECTED/ASSOCIATED BUILDINGS - Two or more buildings on a site plan that are connected by an arcade or sidewalk or that are less than 50 feet apart at any point on any building.

CURB CUT - The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

DOWNTOWN COMMERCIAL AREA - the Downtown Commercial Area is defined as follows: Downtown Commercial (C1) district of Article 3(C)(2)(a) of the Damariscotta Land Use Ordinance.

DWELLING UNIT - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

EAVE - The overhang at the lower edge of the roof, which usually projects out over the exterior walls of the structure.

EXPANSION-

1. An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans With Disabilities Act (ADA) and/or State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

2. Any intensification of use in time, volume or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans With Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

3. (As it applies to telecommunication facilities) - the addition of antennas, towers or other devices to an existing structure.

FAA- The Federal Aviation Administration or its lawful successor.

FAÇADE - The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.

FCC - means the Federal Communications Commission, or its lawful successor

FOOTCANDLE - A measure of light falling on a surface. One (1) foot-candle is equal to the amount of light generated by one (1) candle shining on one (1) square foot surface located one (1) foot away.

FORMULA RESTAURANT - An eating place that is one of a chain or group of three (3) or more

establishments and which satisfies at least two of the following description:

- a. It has the same or similar name, trade name, or trademark as others in the chain or group;
- b. It offers either of the following characteristics in a style which is distinctive to and standardized among the chain or group;
 - (1) Exterior design or architecture;
 - (2) Uniforms, except that a personal identification or simple logo will not render the clothing a uniform.
- c. It is a fast food restaurant within a chain of 3 or more similarly named and identifiably designed and constructed to look similar to the viewer.

FISHERIES - Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the municipality's comprehensive plan.

FLOOR AREA - The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

FULL CUT-OFF LIGHT FIXTURES - Outdoor lighting fixtures with external shades of metal or other durable and opaque material that extends below the lamp (the source of lighting) so that illumination is prevented from radiating outwards above the horizontal from the fixture. Thus, the illumination is directed downwards. Generally the source of illumination cannot be seen unless the observer is located directly below or nearly below the fixture.

GROUND WATER - All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

HISTORIC OR ARCHAEOLOGICAL RESOURCES and SITES - resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a State inventory of historic places in States with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

HISTORIC DISTRICT - a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by

plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

HOME OCCUPATION - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than 2 persons other than family members residing in the home.

HOTEL/MOTEL/INN - a commercial building or group of detached or connected buildings designed to accommodate for a fee travelers and other transient guests remaining for a limited duration with sleeping rooms without cooking facilities, each unit having its own private bathroom and its separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel, motel, or inn may include restaurant facilities for the use of its guests and other customers.

ILLUMINANCE - The measure of the amount of light that is intercepted by an object that is a distance away from the sign. That is, the lighted sign face illuminates objects that are away from it, and the lighting level produced by the sign on a particular object is measured in foot-candles (fc)s.

IMPERVIOUS SURFACE - The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of storm water.

INDUSTRIAL - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

LANDSCAPING - The combination of natural elements such as trees, shrubs, ground covers, vines, or other organic and inorganic materials, which are installed for purposes of creating an attractive and pleasing environment, screening unsightly views, reducing environmental impacts, and filtering matter from the air.

LARGE SCALE DEVELOPMENT - Unless otherwise described, a commercial establishment or a multi-family dwelling or other non-residential development that equals or exceeds seven thousand five-hundred (7,500) square feet of gross floor area, a non-residential development with a drive-thru facility or outdoor fuel sales or a formula restaurant; large scale development does not include agricultural building or commercial greenhouses and nurseries accessory to a retail or wholesale sales establishment.

LEVEL SPREADER - A stormwater management and erosion control device designed to prevent the concentrated flow of stormwater runoff by releasing collected water evenly over a broad, level outlet edge onto gently sloping ground. Also known as 'sheet-flow' of stormwater run-off.

LINE OF SIGHT- the direct view of the object from the designated scenic resource.

LOCAL STREET - A public street or road which is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

LOW IMPACT DEVELOPMENT (LID) -LID design practices and techniques are stormwater control measures used to store and remove pollutants from stormwater flowing from a development project. LID measures include: the placement of vegetated buffers or swales adjacent to paved areas which allow runoff from impervious surfaces to spread out and soak into the ground as well as Stormwater planters, Dry wells, Rain barrels/Cisterns, Rain gardens, Green roofs, Permeable pavers, Level Spreaders, Buffers, Filter Strips and other features of the natural topography that minimize and detain on-site water run-off by allowing water to absorb into the ground. Low Impact Development practices are approved by Maine Department of Environmental Protection and are described in the LID Guidance Manual for Maine Communities, Approaches for implementation of Low Impact Development practices at the local level September 21, 2007 and Model Low Impact Development (LID) Ordinance Provisions for Shoreland Zoning Ordinances F. Snow KCSWCD April 2010

LUMINANCE-The measure of the brightness of the sign face.

MEDICAL MARIJUANA TESTING FACILITY - a public or private laboratory authorized under state law to test medical marijuana for contamination, potency or cannabinoid profile.

MEDICAL MARIJUANA MANUFACTURING FACILITY - a manufacturing facility authorized under state law to manufacture marijuana products for medical use or to engage in marijuana extraction for medical use

MULTI-FAMILY RESIDENTIAL - a residential structure containing 3 or more residential dwelling units.

NADIR - The angle pointing directly downward zero (0°) degrees from the lighting fixture. Seventy-five (75°) degrees nadir, for example, is the angle pointing seventy-five (75°) degrees above nadir.

NATURAL AREAS AND NATURAL COMMUNITIES, UNIQUE NATURAL AREAS AND NATURAL COMMUNITIES -Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the municipality's comprehensive plan.

NOTICE OF DECISION (NOD) -A Statement approved by the Planning Board, signed and dated by the Chair that records the Board's decision on a conditional use permit application. An NOD contains a Statement of facts summarizing the procedural steps the Board followed in reaching its decision. It contains conclusions in law summarizing the decisions reached by the Board pursuant to the various substantive regulations of local land use ordinances. It contains a summary of the decision the Board reaches, which can be approval, approval with conditions or denial of an application. Conditions of approval detail matters of timing for compliance with the conditional use permit, submittals (such as DEP permits, etc.) required by the approval and performance requirements in pursuit of the permit (such as stormwater water quality standards of run-off to be maintained, etc.)

OUT LOT - A comparatively small lot with a small building located between a larger, commercial or institutional building and a public street. The larger internal-lot building is generally of 7,500 square feet or greater footprint.

OWNER - Any person, firm, corporation, or other legal entity which controls a parcel of land by a fee or less than fee title, or is party to a valid contract or option to purchase said title.

PARABOLIC ANTENNA (also known as a satellite dish antenna) - an antenna which is bowl shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

PARAPET - The portion of a wall that extends above the roofline.

PARKING SPACE - An area abutting a street or drive and intended or used for parking vehicles, in compliance with §102.6.H.

PEDESTRIAN WALKWAY - A surfaced walkway separate from the traveled portion of a public or private right-of-way, parking lot or driving aisle.

PITCH - The slope of a roof commonly expressed in terms of inches of vertical rise per foot of horizontal run.

PORTICO - A porch or walkway with a roof supported by columns, often leading to the entrance of a building.

PRINCIPAL USE - the use other than one which is wholly incidental or accessory to another use on the same premises.

PRINCIPAL STRUCTURE - A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises. A use other than one which is wholly incidental or accessory to another use on the same premises.

PUBLIC RECREATIONAL FACILITY - a regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property's owner.

RECHARGE AREA - Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

REGISTERED CAREGIVER - A person who is registered by the Maine Department of Administrative and Financial Services, or other Department designated by Statute, per 22 M.R.S. § 2425-A.

REGISTERED CAREGIVER RETAIL STORE - A store licensed under State and local laws that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

REGISTERED DISPENSARY - A dispensary authorized under state law to cultivate and dispense medical marijuana to qualifying patients and caregiver.

RETAIL BUSINESS, STORE OR USE - A business engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale; also pertaining to any structure or use connected with or engaged in such sale, whether it be attached to the principal

structure or any accessory structure or use which would reasonably be considered incidental and subordinate to the principal use or structure. This definition shall apply to any such structure or use located on the same lot or adjoining lots under the same ownership.

SCALE - The size or proportion of a building element or space relative to the structural or functional dimension of the human body.

SCREEN - See also "buffer". The sole purpose of a screen is to block views. A screen should be constructed of opaque materials and whose height will be effective in obstructing unwanted views.

SETBACK - the nearest horizontal distance from the property line or normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

SETBACK, FRONT - An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the property line at the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SETBACK, REAR - An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of the lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SETBACK, SIDE - An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SHARED PARKING - A system of parking, typically applied to buildings of differing uses that each have peak parking demands at different times within a 24 hour period, thereby allowing some parking spaces to be shared.

SIGHT DISTANCE - The direct line of sight from a point four feet above the centerline of a road or highway to a point four feet above the center of the place at which vehicles enter and leave the highway.

SIGNIFICANT CHANGE OF USE - The change of the use of a property which triggers changes to any of the performance standards of § 102.6 of this Ordinance. Such changes may include, but are not limited to, changes in the number of on-site parking spaces, for example, as required in §102.6(H)(4)(i).

SIGNIFICANT TREE – Trees having a diameter at breast height (DBH) of 30 inches or greater, or any trees which are located in shoreland areas (those areas within 250 feet of the normal high water line of any great pond, river, or saltwater body, within 250 feet of the upland edge of a coastal wetland, within 250 feet of the upland edge of a freshwater wetland, or within 75 feet of the high-water line of a stream).

STRUCTURE - Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle.

STOREFRONT: The traditional "main street" facade bound by a structural pier on either side, the sidewalk on the bottom and the lower edge of the upper facade at the top.

SUBSTANTIALLY COMMENCED; SUBSTANTIALLY COMPLETED-Construction shall be considered to be substantially commenced when any work beyond the State of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than seventy (70) percent of the costs of the proposed improvements within a development and shall include permanent stabilization and/or re vegetation of areas of the site that were disturbed during construction.

SUBSURFACE SEWAGE DISPOSAL SYSTEM- a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall

not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1- A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Ch. 13, Subchapter 1.

TARGETED MARKET COVERAGE AREA- the area which is targeted to be served by this proposed telecommunications facility.

TEXTURE - The visual and tactile quality of a surface apart from its color and form. A building texture refers to the variations in the exterior facade and may be described in terms of roughness of the surface material, the patterns inherent in the material or the patterns in which the material is placed.

THEATRE BUILDING - Or theatre (also a playhouse) is a structure where theatrical works or plays are performed or other performances such as lectures or musical concerts may be given in front of an audience. A theatre building (also a cinema, movie house, picture theater, film theater) may also be a venue for viewing motion pictures ("movies" or "films") by an audience.

USE - The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

VEGETATION - All live trees, shrubs, ground cover, and other plants.

WIRELESS TELECOMMUNICATIONS FACILITY OR FACILITY- any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

WILDLIFE HABITAT, SIGNIFICANT WILDLIFE HABITAT-Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the municipality's comprehensive plan.

~~§102.5 PRE-APPLICATION AND APPLICATION~~ SITE PLAN REVIEW PROCEDURES:

A. Neighborhood Meeting:

1. **Purpose:** The goal of the neighborhood meeting is to inform the public about the project and to identify potential concerns before significant funds are spent by the applicant on the development of an application. It is recommended that the neighborhood meeting be held prior to expending funds on development of a full Site Plan Review Application.
2. **Applicability:** An applicant intending to file a Site Plan Review Application for certain projects, as described below, shall first hold a neighborhood meeting in accordance with the requirements of this section. A neighborhood meeting is suggested for all projects, but is expressly required for applications that involve:
 - a. The construction or expansion of a commercial, industrial, or other non-residential structure with more than 7,500 square feet of total floor area located in or directly abutting the Rural, Residential, or Medical Zoning Districts.
 - b. The construction or expansion of a multi-family dwelling that will create five or more

new dwelling units in or directly abutting the Rural, Residential, or Medical Zoning Districts.

3. Procedures for a neighborhood meeting:

- a. Timing and location: An applicant for Site Plan Review shall conduct at least one neighborhood meeting no more than 120 days and no less than 14 days prior to submitting their application. The meeting shall be held at a publicly-owned building that would be convenient for neighborhood residents to attend. Meetings must be held Monday-Thursdays, excluding holidays, between the hours of 5:30-8pm.
- b. Notice: At least 10 days prior to the meeting, the applicant shall mail notice of the neighborhood meeting to all property owners within a 500-foot radius of the project. The notice shall be mailed by first-class mail with a post office certificate of mailing. The notice shall contain a brief description of the proposal, the subject property, all approvals that the applicant will be seeking from the Town, and the date, time and place of the meeting.
- c. Presentation: At the meeting, the applicant or their representative shall present a summary of the proposal with a conceptual plan or drawing of the project and shall provide adequate opportunity for the public to ask questions and provide comments.
- d. Minutes: The applicant's team shall be responsible for keeping minutes of the meeting and submitting these minutes alongside their Site Plan Review application materials. Minutes shall include a record of all comments provided by the public.

~~B. General Pre-Application: The applicant shall meet with the Code Enforcement Officer and Town Planner to determine if the proposed project will generally conform to applicable ordinance requirements. If the project appears to conform to applicable ordinance requirements, the applicant may request to be placed on the Planning Board's agenda for a Pre-Application Sketch Plan review as described in subsection B below.~~

C. Pre-Application Procedures:

1. Prior to submitting an application, the applicant may meet informally with the Board at a regular meeting to present a sketch plan, generally discuss the proposal and to obtain guidance in development of the plan and how to ensure it conforms to town ordinances. A pre-application meeting is not required but may be helpful for the applicant to receive preliminary, non-binding feedback from the Planning Board before the full application is submitted. It is recommended the any pre-application meetings with the Planning Board occur following a neighborhood meeting as described in Sec. 102.5(A) above.

2. ~~Prior to submitting an application the applicant may meet informally with the Board at a regular meeting to present a sketch plan, generally discuss the proposal and to obtain guidance in development of the plan and how to ensure it conforms to town ordinances. In order to be placed on the Board's agenda, the applicant must submit the following to the Town Planner at least 10 days in advance of an upcoming meeting.~~

~~3.~~

- ~~4. A cover letter describing the proposed project;~~

~~5.~~

- ~~6. The outline of the tract or parcel with estimated dimensions, road rights of way and existing easements;~~

~~7.~~

- ~~8. The proposed layout of the building(s), driveways, and parking areas; identification of general areas of steep slopes, wetlands, streams, and flood plains;~~

~~9.~~

- ~~10. Any other information pertinent to the project;~~

11. In order to be scheduled for pre-application review, the applicant shall submit the following items to the Town Planner at least 2 weeks in advance of the Planning Board meeting at which they wish to appear. If the agenda for that meeting is full, the application will be placed on the next available meeting of the Planning Board. In order for the pre-application to be considered by the Planning Board, the applicant shall submit, at minimum, the following items:

- a. A sketch plan (may be a freehand drawing) showing the outline of the tract or parcel of land with estimated dimensions, road rights of way, and existing easements; and the proposed layout of the building(s), driveways, and parking areas; and identification of general areas of steep slopes, wetlands, stream, and flood plains.
- b. Evidence of right, title or interest in the subject property.
- c. A completed Planning Board application form.
- d. A cover letter explaining the proposed project, including any waivers that the applicant may be seeking of relevant standards of review.

- ~~12. There shall be a presumption of no waivers being allowed to Section 10 of this ordinance concerning submittals. Upon written request by the applicant the Board may allow a waiver(s). The burden of proof is on the applicant to prove why waivers to any standards are needed. Applicants shall provide documentation as to the negative effects of being denied waiver(s).~~

- ~~13. The Board may, at its discretion make an inspection of the site prior to submission of the full Site Plan application.~~

- ~~D. Application Procedures: All applications for site plan review shall be made in writing.¶~~
~~E. General Application Requirements:~~

1. All applications for site plan review shall be made in writing as described below.
2. The burden of proof is on the applicant to provide sufficient information to allow the Planning Board to make findings related to the applicable Standards of Review of this Ordinance and any other relevant standards of review.
3. Waivers:
 - a. There shall be a presumption of no waivers being allowed to Sec. 102.5(D) or (E) of this ordinance concerning submittals. Upon written request by the applicant the Board may grant a waiver(s) to submittal requirements. The rationale for waiver requests must be provided by the applicant in sufficient detail and supported by evidence where appropriate.
 - b. The applicant shall submit an application that fully complies with all applicable standards of review. The Planning Board may grant a waiver of one or more standards of review based on written request of the applicant. If waivers to the standards are requested, the applicant shall provide rationale for their waiver requests and support these requests by evidence or an alternatives analysis where appropriate.¶
4. The Board may, at its discretion, make an inspection of the site prior to undertaking review of the application.
- 5.
6. Independent Consultants: The Planning Board may, at their discretion, shall require a review escrow account to be established by the applicant. ~~for all projects that include a building(s) greater than 7,500 square foot footprint in the aggregate, developments with more than 5,000 sq.ft. of impervious ground surface (parking areas, pathways, etc.), other projects with a combined roof surface and ground surface imperviousness of 10,000 sq. ft. or more or such other projects that the Planning Board determines will require review by a consultant.¶~~
7. ¶

The review escrow fee shall be established by the Board of Selectmen and shall be used by the Planning Board to provide independent engineering, architectural, legal or other advice as deemed necessary to ensure the Planning Board and Town Planner can properly evaluate the proposal prior to making any applicable decisions. ~~The Planning Board shall provide the applicant with notice of its intent to spend any portion of this account, which notice shall specify the purpose for the proposed expenditures.~~ Once the review escrow account decreases to 25% of its original amount, further review of the project shall cease until the applicant replenishes the review escrow account to an appropriate amount. Those monies deposited by the applicant and not spent by the Board shall be returned to the applicant within 30 days after the Board renders its final decision on the application or when all invoices for consultant services have been paid, whichever occurs later.

F. Submission Requirements (except Wireless Telecommunications facilities): The application shall include the following:

1. A fully executed and signed copy of the application for site plan review.
2. Evidence of right, title, or interest in the property such as deed, option to purchase, lease, or agreement.
3. Post office certificate of mailing from the neighborhood meeting held on the application, if applicable.
4. A site plan drawn at a scale ~~sufficient to allow review of the items listed under the preceding general standards but not at~~ of no more than 50 feet to the inch for that portion of the total tract of land being proposed for development. ~~At all preliminary and final plan stages in the review process at least two plans must be presented by the applicant on 24x36 sheets hang-able from an easel to facilitate Board review and at the largest scale possible for the size of the sheet, e.g. 20, 30 or 40 feet to the inch but no less than 50 feet to the inch. In addition, applicants may also electronically project their plans visually onto the wall with an image size sufficient for easy interpretation of all details including any wording.~~ The site plan shall show the following:
 - a. Names and addresses of all abutters on the plan and names and addresses of all abutters on a separate listing.
 - b. Sketch map showing general location of the site within the town.
 - c. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
 - d. The bearings and distances of all property lines and the source of this information. The Board may waive the requirement of a formal boundary survey when sufficient information is available to clearly establish, on the ground, all property boundaries.
 - e. Classification(s) of the property and the location of zoning district boundaries as applicable.
 - f. Soil types and location of soil boundaries suitable for waste water disposal as certified by a registered engineer or soil scientist.
 - g. The location of all building setbacks and buffers required by this or other ordinances of the Town of Damariscotta.
 - h. The location, size, and character of all signs and exterior lighting.
 - i. The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces and associated structures, snow storage areas, loading areas, open spaces, Significant Trees, open drainage courses, signs, exterior lighting, service areas, easements, and landscaping.
 - j. The location of all buildings within 50 feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel.
 - k. Existing and proposed topography of the site at two-foot contour intervals ~~if major changes to the existing topography are being proposed.~~
5. A Stormwater Management Plan including Low Impact Development (LID) measures in

conformance with the provisions of §1 02.6.L. See definition of LID in §1 02.4.

6. An erosion and sediment control plan in conformance with the provisions of §102.6.M.P
7. ~~6~~ Building plans showing, at a minimum, floor plans and all elevations clearly indicating the type, color, and texture of all exterior surfacing materials of all proposed principal buildings and structures and all accessory buildings and structures.
8. Copies of any proposed or existing easements, covenants, deed restrictions, etc.
9. A list of all applicable State & Federal permits, and indication of their current status at the time of application submittal.
10. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
11. Demonstration of financial and technical capacity to complete the project, as proposed, in accordance with this ordinance and the approved plan.
12. Location of any floodplains on the project parcel as well as any wetlands and streams as identified by a wetlands scientist or other certified wetlands professional.
13. Soils test pit log demonstrating suitable soils for subsurface sewage disposal unless connection to a public sanitary sewer is proposed, in which case a letter from the Great Salt Bay Sanitary District attesting to its ability to accept sanitary wastes from the proposed development.
14. A phosphorus impact report if the project is within the watershed of a great pond.
15. An estimate of the amount of domestic water required for the project; if connection to the public water system is proposed, a letter from the Great Salt Bay Water District attesting to its ability to provide sufficient water to the project; if water is to be supplied by wells, the results of a hydrological study if required by the Planning Board.
16. Plan for supplying water for fire protection.
17. Letters from appropriate State authorities attesting to the project's impact, if any, on historic, archaeological and rare or endangered plant or animal species on or in the vicinity of the project parcel.
18. Demonstration that access to the site will be safe and will meet or exceed minimum required sight distance in accordance with Section 102.6.J.■
19. Demonstration that the project will comply with applicable noise and air quality standards in accordance with Section 102.6.H and 102.6.F, respectively.
20. A scenic assessment ~~and landscaping plan~~ for the site consistent with the recommendations of the Damariscotta Comprehensive Plan that includes drawings and/or photo simulations including elevations of proposed buildings, topography and landscaping as well as sidewalks (if applicable), illustrating the view from each public roadway adjacent to the proposed development.

21. A landscaping plan documenting the project disturbance area, including the areas of proposed buildings and site improvements as well as any construction staging areas and any areas anticipated to be impacted by construction activity on the site. Within the project disturbance area, the plan shall identify the drip line of trees to be preserved and the existence of any Significant Trees (both those proposed to remain on site and those slated for removal). If the removal of Significant Trees is proposed, the applicant shall provide information about the species and health of the Significant Trees to be removed as well as information regarding proposed replacement trees.
22. A circulation plan noting all pedestrian and vehicle traffic flow, both within the development and in terms of ingress and egress impact on surrounding road systems.
23. Any other exhibits or data deemed necessary by the Planning Board to evaluate the proposed development for site plan review purposes.

G. Submission Requirements for Wireless Communication Facilities: The application shall include the following:

1. Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
2. A copy of the FCC license for the facility, or a signed Statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
3. USGS 7.5 minute topographic map showing the location of all structures and wireless application is filed) from the FCC Tower Registration Database.
4. A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (**ANSI**) technical and structural codes; certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and a boundary survey for the project performed by a land surveyor licensed by the State of Maine.
5. A scenic assessment, consisting of the following:
 - a. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
 - b. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of screening, the color of the structure, and the proposed lighting method.
 - c. Photo simulations of the proposed facility taken from perspectives determined by the Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
 - d. A narrative discussing: the extent to which the proposed facility would be visible from or within a designated scenic resource, the tree line elevation of vegetation within 100

feet of the facility, and the distance to the proposed facility from the designated scenic resource's noted viewpoints.

6. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
7. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
 - a. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements
 - b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements
 - c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically: planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - d. Evidence that the applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - e. Evidence that existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - f. For facilities existing prior to the effective date of this ordinance, the fees, costs, for a tower built after the passage of this ordinance;
 - g. Evidence that the applicant has made diligent good faith efforts to negotiate co location on an existing facility, building, or structure, and has been denied access;
8. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
9. A signed Statement that the owner of the wireless telecommunications facility and his or other successors and assigns agree to:
 - a. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 - c. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;

- d. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
- e. A form of surety approved by the Board to pay for the costs of removing the facility if it is abandoned.
- f. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.
- g. The Board may waive any of these requirements when it determines that the scale of the project makes the information unnecessary.

H. Notification and ~~Public~~ Hearing ~~R~~requirements

- 1. The Applicant shall notify all abutting property owners by certified mail, return receipt requested, of all requests for site plan review. If two or more abutters, or 5 residents of the Town, object in writing, and such objection is received by the Board, or postmarked, within 15 days after a public notice of the request for Site Plan Review, the Board shall schedule a public hearing on the proposal. Such hearing shall be scheduled within 30 days of acceptance of an application as complete.
- 2. The Board shall schedule a public hearing and site visit for applications containing one or more buildings with an individual or total footprint of 7,500 sq. or more pursuant to §102.5.G.1. The Board may at its own discretion hold a public hearing and site visit for projects with a smaller footprint than 7,500 sq.ft. The Board shall give written notice of the date, time, and place of such a hearing to the person making the application, and the applicant shall arrange with the Town Office to pay for the cost of publishing such notice. Such notice shall be published by the Board in a newspaper of general circulation in Damariscotta at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing. Written notification by the Board of the hearing shall also be sent to the applicant and adjacent property owners by certified mail, return receipt requested, at least seven (7) days prior to the hearing.
- 3. If other agency permits are required, such as D.O.T. traffic movement permits, with road work involved, notifications as described in subsection G1 above shall be expanded as follows:
 - a. All property owners and lessees affected by the road modifications shall be notified by publication of intent in a newspaper of general circulation in Damariscotta.
 - b. Copies of the notifications shall be submitted with the application.

I. Board Review

- 1. Within ~~45 days of the Board finding the application complete or within 45 days after the conclusion of a public hearing~~, the Board shall vote to approve, approve with conditions or ~~disapprove~~ ~~deny~~ the application. This period may be extended by mutual written agreement

(such as by being recorded in the Board meeting ~~m~~Minutes).

2. The Board shall inform the applicant in writing of its decision (by a Notice of Decision) on final plan applications within fifteen (15) days of its action. The 15-day period may be extended by mutual agreement in writing (email approvals are acceptable) to 30 days for good cause such as, but not limited to, a heavy work ~~schedule~~ load by the Town Planner or other staff of the Planning Board.
3. One copy of the approved site plan shall be retained in the ~~Town Office~~permanent application file and one copy shall be given to the Code Enforcement Officer.
4. ~~The Board may require the posting, prior to final approval of any plan, of a performance bond, agreement, or letter of credit in such amount as is approved by the Board as being reasonably necessary to insure completion of all improvements required as conditions of approval of such plan, and in such form as approved by the Planning Board and the Selectmen. ¶~~
5. The Board may attach reasonable conditions to approvals to ensure conformity with the purposes and provisions of this ordinance. The Board may condition final approval on receipt of copies of all State or federal permits required by the project including, but not limited to, Natural Resource Protection Act Permit, Traffic Movement Permit, Site Location of Development Permit and US Army Corps of Engineers permits.
6. If the application concerns property which in whole or part is within any Shoreland Zone, the criteria included in the Shoreland Zoning Ordinance shall be reviewed concurrently with the Site Plan Review.
7. All approvals shall expire within one year of the date of issuance unless work thereunder is substantially commenced within one year from the date of approval. ~~Applicants may request an extension to an approval for up to one year, if received in writing by the Planning Board before the expiration of the original approval. If work is not substantially completed within two years from the date of issue of an approval, a new application may be required by the Board.;~~ provided, however, that a single one-year extension of said time may be granted by the Planning Board for good cause shown if the standards of review for the original approval have not materially changed.
8. Approvals may be made for site plans designated for construction over two or more phases. The Board may require the applicant to come back before the Board with proof of technical and financial capacity for the Board's approval before the applicant may apply for building permits for constructing each phase. Securing of building permits and work on the designated first phase must commence within one year of the initial approval of the over-all plan. Approval of the first phase may include the Board's requirement to construct some elements of the overall plan such as the overall stormwater management system or the overall parking and internal circulation plan. Building permits and work must commence within two year after the applicant has come back to the Board for approval of the technical and financial capacity of the second or further phases of the site plan.

J. Financial Guarantee

1. The Board may require the posting of a financial guarantee in an amount equal to 100% of the estimated costs of all required improvements.
2. For the purposes of this section, required improvements shall mean all erosion control

measures, all stormwater management features, and all landscaping, as well as any specific conditions of approval that the Planning Board may place on the project.

3. Such financial guarantee shall be in the form of an escrow account on hold with the Town, an irrevocable letter of credit issued by a financial institution, or a bond.
4. Financial guarantees shall be based on itemized cost estimates for each element of construction of all required improvements, taking into account inflation that may occur during the construction process.
5. Partial draw-downs to the financial guarantee may be permitted after inspection by the Town and determination that the funds being held for construction items are complete. While partial draw-downs are permitted, the amount of each shall be no less than 20% of the original amount.

§102.6 ~~PERFORMANCE STANDARDS OF REVIEW~~

The following standards are to be used by the Planning Board in ~~judging~~ reviewing applications for site plan review and shall serve as requirements for approval of such plans. ~~These standards are meant to provide minimum criteria, and should not be regarded as inflexible requirements. The application must be approved unless the Planning Board finds that one or more of these standards have not been met.~~ All proposals should address these standards and be open to demonstrating creativity, invention and innovation to ensure the best outcome for the applicant and the Damariscotta community. ~~The site plan may be approved unless in the judgment of the Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant. Such burden of proof shall include evidence necessary to demonstrate compliance with all applicable standards.~~ If the site plan includes a building or buildings in the aggregate of 7,500 square feet or greater of floor area or has a facade of 50 feet or more, additional standards in §102.7 may also apply.

~~The applicant shall submit a plan that fully satisfies the §102.6 Performance Standards and, if applicable, the §102.7 Large Scale Development Performance Standards. The applicant may also submit an accompanying separate plan that sets out any proposed waivers from §102.6 and §102.7 Performance Standards accompanied by a written Statement(s) explaining why the applicant believes the waivers would still accomplish the purpose of the performance standard so proposed to be altered.~~

- A. **Compliance with Ordinance Standards:** The proposed development complies with all applicable standards in this Ordinance and any other applicable Town Ordinance, including but not limited to the Shoreland Zoning Ordinance and Land Use Ordinance.
- B. **Technical Capability:** The applicant has demonstrated that they or their team have the technical ability to complete the project as proposed.
- C. **Financial Capacity:** The applicant has the financial resources sufficient to complete the proposed development.
- D. **Preserve and Enhance the Landscape** The landscape plan of the proposed development contributes to the visual quality and continuity within and between developments and provides screening between the subject property and abutting properties in accordance with the standards of this subsection.
 1. The submitted plan set shall document the project disturbance area, which includes the areas of proposed buildings and site improvements as well as any construction staging areas and any areas anticipated to be impacted by construction activity on the site. Within the project disturbance area, the plan shall identify the drip line of trees to be preserved and the existence of any Significant Trees (both those proposed to remain on site and

those slated for removal).

2. The removal of Significant Trees shall be minimized. If the removal of Significant Trees is proposed, the applicant shall provide information from an arborist licensed in the State of Maine about the species and health of the Significant Trees to be removed. Significant Trees slated for removal which are native species and that were deemed to be in good health must be replaced at a ratio of 2:1 with native trees that will be at least 8' tall at the time of planting in order to preserve and enhance the natural landscape.

3. ¶

4. ~~The landscape should be preserved in its natural State insofar as practical by minimizing tree removal, disturbance of soil and by retaining existing vegetation during construction. Except for excavation operations approved pursuant to §102.6.Q, only that topsoil directly affected~~ by proposed buildings and site improvements, access and parking areas may be removed from the site.

~~All bufferyards (See §102.4 Definitions) shall be preserved in their natural States, insofar as practical and appropriate, by minimizing tree removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. ¶~~

5. Natural features in Bufferyards shall be maintained wherever possible. When natural features such as topography, gullies, stands of trees, shrubbery, and/or rock outcrops do not exist or are insufficient to screen structures and uses from the view of abutting properties and, where applicable, public roadways, other types of buffers shall be provided to supplement the existing features in accordance with Table 102.6.D.5, below.

6. Within the side and rear yard setbacks, screening is required in accordance with this subsection. In certain instances, such as when a use has excessive impact on noise or aesthetics, the Planning Board may require that the applicant also applies the same screening within the front yard setback. These standards are in addition to any parking lot screening standards as outlined in 102.6.K.3.

- a. The standards reflected in Table 102.6.D.5 below establish minimum landscape buffering requirements that apply to any development requiring review under Sec. 102.3 of this Ordinance, except for:
 - i. Building or façade alterations not including any site work.
 - ii. Changes of uses where site work is not proposed and where the use is not listed in Table 102.6.D.5.

Table 102.6.D.5 Minimum Landscape Screening Requirements					
	Basic	L-1 Low Screen	L-2 High Screen	L-3 High Wall	L-4 Full Screen Fence
Adult business establishments				X	
Automotive services including repair				X	
Boat storage and repair					X
Contractor's offices and associated facilities				X	
Lumber and building materials dealer					X
New and used car dealers				X	
Recreational vehicle, mobile home dealers					X
Gasoline service stations				X	

Any establishment containing a drive-thru				X	
Delivery and loading areas on establishments abutting residential uses					X
Other Commercial/Service Establishments (per 101.5(B)(1)) abutting residential uses			X		
Other Commercial/Service Establishments (per 101.5(B)(1)) not abutting residential uses		X			
Building and construction contractors				X	
Fuel oil dealers and related facilities				X	
Recycling and reprocessing facilities				X	
Warehousing and distribution facilities and self-storage facilities			X		
Other Industrial uses (per 101.5.B.1) abutting a residential property					X
Other Industrial uses (per 101.5.B.1) not abutting a residential property			X		
Airports or heliports					X
Parking facilities as a principal use				X	
Transit and ground transportation facilities					X
Truck wash facilities					X
Solar energy systems					X
Academic institutions			X		
Hospitals and medical clinics				X	
Cemeteries	X				
Congregate care and independent living facilities, assisted living facilities, nursing care facilities, or other institutions or services for the elderly or disabled not abutting a residential use			X		
Congregate care and independent living facilities, assisted living facilities, nursing care facilities, or other institutions or services for the elderly or disabled abutting a residential use				X	
Government buildings or municipal buildings and facilities			X		
Museums, galleries, and non-profit art galleries or theaters		X			
Religious facilities		X			
Multi-family or mixed-use developments			X		
Mobile home parks				X	
Agriculture	X				
Community gardens	X				
Earth material removal					X
Equestrian facilities			X		
Plant nurseries			X		
Campgrounds				X	
Commercial outdoor recreation				X	
Other recreation uses abutting a residential use				X	
Other recreation uses not abutting a residential use			X		
Marijuana-related uses, except for home cultivation				X	

Electrical Substations, Fiber Optic Substations, Pump Stations, HVAC systems, and other utilities (unless fully enclosed within a building)			X		
Trash or dumpster receptacles associated with any type of use					X

b. Description of Landscape Standards

- i. Basic Landscape Standard (Basic): Basic Landscape Standard (Basic) requires the installation and continued maintenance of all of the following: one tree per 30 linear feet as measured along each property line; 6 bushes or shrubs per 30 linear feet as measured along property lines. The required plant materials may be installed in the required Bufferyard in any arrangement and do not need to be linear in design.
 - ii. Low Screen Landscape Standard (L-1): Low Screen Landscape Standard (L-1) requires the installation and continued maintenance of all of the following: low shrubs to form a continuous screen at least 30 inches high within 3 years of planning; one tree (that is at least 6 feet tall at the time of planting) per 30 linear feet as measured along each property line. A stone wall or a wooden fence between 30 and 42 inches high may be permitted as a substitute for the required low shrubs, but the noted trees are still required. When this landscape standard is required along streets, the shrub screen, wall or fence is to be placed furthest from the street, with the required trees in between the shrubs, wall or fence and the street. The required trees may be installed in the required Bufferyard in any arrangement and do not need to be linear in design.
 - iii. High Screen Landscape Standard (L-2): High Screen Landscape Standard (L-2) requires the installation and continued maintenance of all of the following: high shrubs that are in at least 5-gallon containers at the time of planting to form at least a 6-foot high, continuous screen within 5 years of planting; one tree (that is at least 6 feet tall at the time of planting) per 30 linear feet as measured along each property line. A wooden fence at least 6 feet high may be permitted as a substitute for the required shrubs but the noted trees are still required. When this landscape standard is required along streets, the shrub screen or fence is to be placed furthest from the street, with the required trees in between the shrubs or fencing and the street.
 - iv. High Wall Landscape Standard (L-3): High Wall Landscape Standard (L-3) requires the installation and continued maintenance of all of the following: wooden fencing or masonry walls at least 6 feet high with a maximum height of 8 feet; one canopy tree (that is at least 6 feet tall at the time of planting) per 30 linear feet of wall or fencing. Fencing and walls are specifically required between the subject property and any surrounding developed residential properties but are not required to be continuous if the areas between the walls or fencing are sufficiently screened by existing vegetation at least 6 feet in height. When this landscape standard is required along streets, the wall or fence shall be placed furthest from the street with the required landscaping in between the wall/fence and the street.
 - v. Full Screen Fence Landscape Standard (L-4): Full Screen Landscape Standard requires the installation and continued maintenance of continuous walls or fences at least 6 feet high with a maximum height of 8 feet. Walls or fences may be made of wood, masonry or any other permanent materials.
7. In addition to the standards above, along any water body within or adjacent to the project where the Board determines it desirable and necessary to protect such water body from sedimentation and pollution Bufferyards that are a minimum of one hundred (100) feet in width (or such greater width which in the judgment of the Board may be necessary to meet the standards of this section) shall be provided.
 8. The only ~~improvements development~~ permitted in the Bufferyard ~~area~~ is: required landscaping and fencing; landscape lighting (400 lumens or less per bulb, ground-laid or bollard type less than 3 feet high); essential utilities that cannot be located outside of the buffer because of site constraints; permitted signage; and points of egress and ingress authorized by the Planning

Board. Buffers may also include sidewalks or trails or passive stormwater infiltration areas but not stormwater retention or detention structures.

9. ~~Vegetation variety. All buffers that contain vegetation shall include a variety and mixture of predominately native species. The variety shall be based on a consideration of susceptibility to disease, hardiness for specific site location, colors, season, textures, shapes, sizes, blossoms and foliage.~~
10. Gates and fencing may be used for security and access. Chain link, wire mesh or wood slat fencing are acceptable for security purposes. Such security fencing, however, does not satisfy buffering or screening requirements of this Ordinance.

E. Relationship to Environment and Neighboring Buildings

1. Proposed structures shall ~~meet all design standards as outlined in Sec. 102.7, as applicable. be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed building.~~
2. The location of the proposed buildings will minimize grade changes to the extent practical.
3. ~~Except in the Downtown Commercial (C1) Area, the following setbacks and buffers from parking/paved areas shall be provided.~~
 - a. ~~Frontage on Road: For new Construction along the C2 area of Rte. 1B (Upper Main Street), a 50 foot buffer/setback from the property line to parking/paved areas will be maintained. In other districts a 15 foot buffer from the property line to parking/paved areas is required.~~
 - b. ~~Side and rear lot lines: For developments resulting in more than 50% of the parcel covered in impervious surface and/or with a parcel size greater than 3 acres a 30 foot minimum buffer strip with undisturbed natural vegetation from the property line to any parking/paved areas will be maintained.~~
4. ~~In the Downtown Commercial (C1) area, the following setbacks for parking areas shall be provided.~~
 - a. ~~Frontage on road: Setbacks for parking shall be the same as that for structures as required by the Damariscotta Land Use Ordinance.~~
 - b. ~~Side and rear lot lines: No setbacks are required for parking areas in this district.~~

F. Air Quality

~~The Board may require the applicant to demonstrate that the~~ The project, as proposed, will not result in undue air pollution or odors. In making this determination, the Board may require the applicant to consult with federal and State authorities to determine applicable air quality laws and regulations. Emission of dust, fly ash, fumes, vapors, smoke or other particulate matter or gasses and chemicals which could damage human health, animals, vegetation or property, or which could soil or stain persons or property, at any point beyond the lot line shall be prohibited.

G. Lighting and Glare

H.

- I. ~~Lighting.~~ Exterior lighting is not required, but may be used to serve security, safety and

operational needs so long as the lighting does not: directly or indirectly produce deleterious effects on neighboring properties; obscures the night sky; or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be full cut-off, shielded or hooded so that the lighting elements (lamp) are not exposed to view by motorists or from adjacent dwellings or by pedestrians more than 30 feet beyond the base of the lighting fixture. To ensure compliance with this standard, all requirements of this subsection shall be met.

1. Direct or indirect illumination shall not exceed one-tenth (0.1) foot-candles upon abutting residential properties.
2. No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.
3. Hazards: The Code Enforcement Officer may require a light source to be modified or removed even though it may have been approved by the Board if such light source is subsequently determined to cause a hazard as referenced in paragraph 1, above.
4. Plans shall be submitted for all proposed exterior lighting, drawn to a scale of 1"=20' and shall include the location and type of lighting equipment, manufacturer's specification sheets, and point-by-point calculated luminance values noted on a 10 foot grid. The following lighting criteria shall not be exceeded:
 - a. Parking lots: a maximum of 1.0 foot-candles throughout.
 - b. Intersections: a maximum of 2.0 foot-candles.
 - c. At property lines: Maximum 0.1 foot-candles.

(Note: Within the maximum lighting parameters of this Section, lamps of 1600 to 1300 lumens or less, located not more than 16 feet above the ground, are required. A 1300 lumen lamp is roughly equivalent to a 100 watt incandescent bulb, a 70 watt halogen bulb, a 20 watt CFL bulb or an 18 watt LED bulb.)

- d. All exterior lights shall be in the color range of 3000 to 2500 Kelvins or less (warm white to the mild amber side of the color spectrum).
- e. The maximum height of the luminaire of freestanding or building-attached lights on properties or in parking areas for multi-use residences, commercial and other non residential uses shall be the same as the principal building, but shall not exceed 16 feet.
- f. All lights shall have shielding to provide a beam cut-off at no more than 75 degrees nadir (see full cut-off shielding in paragraph 1 above). The source of any light (illumination; e.g. the bulb) shall not be visible from any place on any abutting lot.
- g. All new or replacement outdoor lights in the public right-of-way shall not exceed 20 feet in height or the manufacturer's minimum height specifications.
- h. Security lights shall be affixed only to the sides of buildings not more than 16 feet above the ground, be fully cut-off shielded (wall pack type) fixtures and be not more than one light per 100 feet of wall length (or fraction thereof for sides of buildings

less than 100 feet in length). If an applicant seeks waiver from this standard a second lighting plan is required with accompanying text explaining the reasons there would be good cause to do so.

5. The applicant shall demonstrate to the satisfaction of the Board that the proposed lighting is appropriate for the intended use. The Board shall consider the hours of operation, characteristics of the neighborhood and the specific activities proposed in making its determination. During nighttime hours when the activity is not occurring, exterior lighting at all commercial and other non-residential properties, as a condition of approval shall be required by the Board to be turned off to the minimum security level. Some exterior lighting at **residential** properties may be required to be turned down or turned off.
 - i. Automobile service stations may have canopy lights and freestanding lights that are full cut-off shielded and up to 20 feet in height. No more than 1.0 foot-candles may spill across the lot line onto abutting commercial or other non-residential uses. No more than one-tenth (**.1**) foot-candle shall spill across any lot line abutting a residential use.
 - ii. During nighttime hours when service stations are closed, all outdoor lighting shall be turned off or down to the minimum security level.
6. Lighting may be located along streets within the development, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split.
7. Non parking lot pathways, sidewalks and trails may be lighted with low mushroom-type standards or bollard type lights 3 feet or less in height.

J. Noise

The proposed development shall not increase noise levels to the extent that abutting or nearby properties are adversely affected. In order to comply with this, the development must meet the following requirements.

1. The maximum permissible sound level of any continuous, regular, frequent, or intermittent source of sound produced by any activity shall be limited according to the time of day and land use which abuts it as listed below except that 7 p.m. - 7 a.m. sound level limits shall apply all day on Sunday.

Abutting Use	Sound Level Limits dB A	
	7 a.m. - 7 p.m.	7p.m- 7 a.m.
Residential	55	45
Commercial	65	55
Industrial	70	60
Institutional	55	45

2. Where the abutting property is undeveloped, the sound level shall be equal to or less than the most restrictive other abutting use. Where there are no uses on abutting properties, the

sound level at the property line shall be equal to or less than the least stringent use allowed in the zoning district.

Sound levels shall be measured at least four (4) feet above the ground at the property line of the development. Sound levels shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the latest version of American National Standards Institute (ANSI S1.4.) "American Standard Specification for General Purpose Sound Level Meters" and shall have been calibrated at a recognized laboratory within the past year.

3. The following uses and activities shall be exempt from the sound pressure level regulations.
 - a. Noises created by construction and temporary maintenance activities between 6:30 a.m. and 8:00 p.m.
 - b. The noises of safety signals, warning devices, and emergency pressure relief valve and other emergency activities.
 - c. Traffic noise on public roads.
 - d. Snow removal.

K. ~~Adequacy of Public Road System~~

~~L.~~

~~M. Vehicular access to the site must be on roads which have adequate capacity to accommodate the MOOT Level of Service Process, even if it is a Town owned road. A development not meeting this requirement may be approved if the applicant demonstrates that.~~

~~N. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard as soon as possible or,
The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements as soon as possible, with a financial guarantee acceptable to the municipality.~~

O. Traffic: The proposed development will not cause unreasonable public road congestion or unsafe conditions with respect to the use of public or private ways which will serve users of the proposed development.

P. ~~Access into the Site~~Site Access

~~Vehicular access to and from the development must be safe and appropriate.~~

- ~~1.~~ Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation (MDOT) standards. Unless otherwise specified by MDOT, the following standards apply:

Posted Speed - Required Sight Distance (I)*	
25 mph	200 ft
30mph	250 ft
35 mph	305 ft
40mph	360 ft
45 mph	425 ft

*(I) Sight distance shall be increased by up to 50% if 30% or

**more of the vehicles using the proposed driveway
or street will consist of vehicles larger than pickup trucks**

2. For developments on lots of record (created after the effective date of this Ordinance), the applicant shall meet, to the maximum extent possible, the above MDOT sight-distances. When meeting their MDOT sight-distances adjacent to said lots of record is clearly a hardship, the Planning Board may vary the sight-distance requirements so long as the public safety is substantially served.
3. ~~Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows. The proposed site layout shall provide for safe access to and egress from public and private roads. Provision shall be made for providing and maintaining convenient and safe emergency vehicle access to all structures at all times.~~
4. The grade of any proposed drive or street must be not more than 3% for a minimum of forty (40) feet, from the intersection.
5. The intersections of any access/egress drive or proposed street **shall avoid hazardous conflicts with existing turning movements and traffic flows, especially where an accident critical rate factor equal to or greater than one (1) exists.** ~~must function at the MDOT Level of Service, even if it is a Town owned road.~~
6. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.
7. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes and traffic controls within public streets.
8. Access ways must be designed to have sufficient capacity to avoid queuing of entering vehicles on any public street.
9. ~~The following criteria must be used to limit the number of driveways serving a proposed project.~~
10.
11. **A minimum number of curb cuts is desired; shared access with adjacent properties shall be used whenever possible.**
 - a. No use shall have more than one (1) two-way driveway onto a single roadway unless a traffic engineer demonstrates that a second access is required for traffic safety. Any driveway must be no greater than thirty (30) feet wide. The Board may permit an additional driveway if necessary to accommodate delivery truck movements on the site.
 - b. ~~No use which generates one hundred (100) or more vehicle trips per day shall have more than two points of access to a single roadway.~~

Q. Parking and Circulation

1. Parking and Streetscape:

Parking areas shall provide safe, convenient and efficient access for vehicles and pedestrians. They shall be distributed around large buildings in order to shorten the distance to other

buildings and public sidewalks and to reduce the overall scale of the paved surface. The object is to provide neither more nor less parking spaces than is needed and to maintain the village-scale street-scape by not setting larger retail buildings farther back from the street than necessary. This regulation may be subject to Planning Board review where out buildings are employed.

2. Parking Requirements

For properties of one-half acre or less, the Planning Board may reduce the minimum parking count (from §102.6.K.7.H) standards down to zero on-site spaces for good reason. For properties over one-half acre, the minimum parking requirement may be reduced for good reason, such as for reducing stormwater run-off, by the Planning Board (from standards in §102.6.K.7.H.5.i) to no less than 1 space per 1,000 square feet of leasable or saleable floor area. These spaces may be located either onsite, on-street (directly adjacent or nearby to the property), in shared parking scenarios or in any public parking facility, the closest outside edge of which facility is located no more than 500 feet from the entry of the proposed building.

3. Off-street Surface Parking Lot Placement

- a. In no case shall parking lots be located between the front facade of principal buildings and the primary abutting streets unless the Planning Board determines, based on an affirmative showing by the applicant, that the parking area is screened from view from the frontage street based upon an affirmative showing by the applicant based on clear and convincing evidence by trees, landscaping, outbuildings, fencing at least 6 feet in height, or similar as described in 102.6.K.3.b or 102.6.K.3.c (as applicable). ~~in which case the building and parking areas must be screened by appropriate landscaping from the frontage street in a manner agreed to by the applicant and the Town's consultants and planners. Developments consisting of out buildings (defined in §102.7.H.2) (i.e. buildings less than seven thousand, five hundred (7,500) square feet of floor area) and placement of 6 foot walls, singly or together may be used to screen parking areas.~~
- b. Except in the Downtown Commercial (C-1) Zoning District, the following setbacks and buffers from parking/paved areas shall be provided:
 - i. Frontage on Road: For new Construction along the C-2 area of Rte. 1B (Upper Main Street), a 50-foot buffer/setback from the property line to parking/paved areas will be maintained. In other districts a minimum 15-foot buffer from the property line to parking/paved areas is required.
 - ii. Side and rear lot lines: For developments resulting in more than 50% of the parcel covered in impervious surface and/or with a parcel size greater than 3 acres a 30 foot minimum buffer strip with undisturbed natural vegetation from the property line to any parking/paved areas will be maintained. Otherwise, a 15 foot minimum buffer strip is required.
- c. In the Downtown Commercial (C-1) Zoning District, the following setbacks for parking areas shall be provided:
 - i. Frontage on road: Setbacks for parking shall be the same as that for structures as required by the Damariscotta Land Use Ordinance.
 - ii. Side and rear lot lines: No setbacks are required for parking areas in this

district.

- d. ~~Parking lots shall be set back a minimum of 15 feet from the lot line along non-frontage streets excluding alleys (see §102.6.T Buffer Areas). In the C1 Downtown Commercial District parking lots may be set back 15 feet from non-frontage streets or in accordance with the Land Use Ordinance, whichever is less.~~
4. Developments containing interior vehicular and pedestrian circulation shall provide layouts that demonstrate safe and efficient movement. The designs will show parking arrangements, flow and separation for vehicles and pedestrians along with designated service/loading areas.
5. ~~Off-street~~ Parking areas shall be ~~off street and~~ designed so that vehicles leave the parking area in a forward motion. To minimize the number of entrances onto the main travel way, a single combined entrance/ exit is encouraged, while a maximum of 2 separate curb cuts is permitted. For those lots in the C2 District as defined herein, the requirements of this paragraph may be modified to fit the prevailing pattern of development.
6. Parking Lot Lay-out
 - a. Parking lots shall be divided into small areas of no more than 40 parking spaces each by landscaping, such as but not limited to, shade trees, shrubs, and evergreens. ~~For those lots in the C1 District, the Board may consider the Municipal Parking lot when assessing the project's parking requirements.~~ Layout should take into account requirement for on-site snow management and storage.
 - b. Each 40 space (or fraction thereof) parking area shall be landscaped to accommodate both parking and stormwater management needs by incorporating vegetated islands/swales and/or tree box filters as landscaped islands designed to retain ~~stormwater~~stormwater. (see Storm Water Management Section ~~OL~~.) Each of these parking areas shall be landscaped with curbed medians with a minimum curb to curb width of ten (~~10~~10) feet. Curbed landscaped islands shall be sited at the end of each parking aisle and within parking aisles at intervals no greater than one island per every twenty (20) spaces. Islands at the ends of aisles shall be counted toward meeting this requirement. Each required landscaped island shall be a minimum of three hundred sixty (360) square feet in landscaped area.
7. ~~The parking spaces provided will meet the needs of the particular use and the following standards shall be used as a guide~~The number and design of parking spaces shall adhere to the standards of this subsection:
 - a. Access to stalls. Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.
 - b. Movement to and from spaces. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
 - c. Pedestrian access. Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.

~~Setbacks. See §102.K.3.~~

- d. Parking stalls. Parking stalls and aisle layout shall conform to the following standards:

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9' -0"		18'-5"	24'-0"
60°	8' -6"	10'-5"	16' -0"	one-way only
45°	8'	12'-9"	17'-5"	one-way only
30°	8'	17'-0"	12'-0"	one-way only
Parallel	9'	n/a	20'-0"	n/a

- e. Parking stripes. In paved parking areas painted stripes shall be used to delineate parking stalls. Stripes should be a minimum of 4" in width.
- f. Directional arrows. In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate proper traffic flow.
- g. Bumpers. Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.
- h. Number required. Off-street parking spaces shall be provided, unless the applicant can demonstrate that another standard is appropriate, to conform to the number required in the following schedule (s.f. = square feet; du= dwelling unit):

Use	Spaces Required
Light industrial	1.5/1,000 s.f.
Industrial park	1.5/1,000 s.f.
Manufacturing	1.5/1,000 s.f.
Warehousing	1.5/1,000 s.f.
Residential	2/du
Apartments, condominiums	2/du
Senior citizen multi-family	1/du
Hotel/Motel/Inn	1/rm
Bed and breakfast	1/guest room
Club, lodge	1/every 2 persons allowed, based on maximum legal capacity
Hospital/medical facility	1/3 beds and 1 per 2 employees per shift
Art gallery, museum, library	6.5/1,000 s.f.
School, primary	1.5 per classroom
School, secondary	8 per classroom
School, post-secondary	1 per student and 1 per faculty & staff member
Theater, auditorium, assembly	1/every 3 seats based on maximum legal capacity
Marina	1/every 2 berths
Sports club, health spa	5/1,000 s.f.
Church	1/every 2 seats
Nursing home	1/every 3 rooms
Medical, dental office	4/1,000 s.f.

General offices	3/1,000 s.f.
Governmental offices	4/1,000 s.f.
Retail store	4/1,000 s.f.
Home improvement, hardware	3/1,000 s.f.
Shopping center	4/1,000 s.f.
Restaurant	9/1,000 s.f. or 1/every 3 seats
Fast food restaurant	14/1,000 s.f. or 1/every 2 seats
Bank	4/1,000 s.f.
Services	4/1,000 s.f.
Child care	1/every 4 children licensed to care
Auto, truck repair	5/service bay
Funeral home	1/100 s.f.
Campgrounds	1/campsite
Barber, beauty shop	3/chair
Car, truck dealers	5 plus 1/3,000 s.f. indoor or outdoor display
Convenience store	4/1,000 s.f.
Convenience store with pumps	4/1,000 s.f.; one-half of service spaces at gas pumps may be applied to meet not more than one-half of total parking required
All other uses	Sufficient spaces to accommodate the normal parking demand as determined by the Planning Board

R. Pedestrian Circulation

1. The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks if they exist or are planned in the vicinity of the project. Internal walkways shall be distinguished from driving surfaces through the use of marked crosswalks and/or durable surface materials such as pavers, bricks or scored concrete to enhance pedestrian safety and comfort.
2. The pedestrian network may be located either in the street right-of-way **or parking areas** or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.
3. At all developments ~~(commercial, retail, institutional), other than single-family or duplex residences, subject to Site Plan Review~~ located along roads designated by an adopted plan, ~~(such as the Town's pedestrian/bicycle plans)~~ sidewalks shall be required **to be installed by the applicant and** constructed to town specifications to permit completion of the comprehensive plan goal of a livable and walkable community. ~~Adopted Plans are: Damariscotta Sidewalk – Bicycle Plan, 2008; Damariscotta – Newcastle Bicycle & Pedestrian Plan, 2015; Heart & Soul Charrette Plan, 2010 and Damariscotta Comprehensive Plan, 2014/15.~~

S. Existing Public Utilities and Services

1. The proposed development shall not impose a burden on sewers and ~~storm~~**storm** drains,

water lines or other public utilities. If the proposed development will be served by the Great Salt Bay Sanitary (and water) District, the applicant shall submit a letter from the District stating that there is capacity to serve the proposed development upon payment of an impact fee. This impact fee must be paid prior to issuing of building permit and will be a condition of the Planning Board's approval.

2. The proposed development shall not have an adverse impact on the municipal services ~~including the including municipal road systems,~~ fire department, police department, solid waste program, sewage treatment plant, and other municipal services and facilities.
3. ~~If proposed development will be served by the Great Salt Bay Sanitary (and water) District, the applicant shall submit a letter from the District stating that they will be able to hook up to the system upon payment of an impact fee. This impact fee must be paid prior to issuing of building permit.~~
4. The Board may require the applicant to complete a public facilities impact study or ~~to escrow funds to allow the Town to retain its own~~ consultant ~~to conduct such study (pursuant to the provisions of § 102.5.D) to conduct such study~~ if it determines the results of such study are necessary to adequately review the application.

T. Water Quality

1. The proposed development shall not unduly affect the quality or quantity of ground water. In making this determination, the Board shall consider the location of aquifers and aquifer recharge areas, the nature of the proposed development and its potential threat to ground water resources. The Board may place conditions upon an application to minimize potential impacts to the Town's ground water resources.
2. The development will not result in the existing ground water quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the State Drinking Water Regulations, pursuant to Title 22, M.R.S.A. Section 2601. If the existing ground water quality is inferior to the State Drinking Water Regulations, the development will not degrade the water quality any further.
3. At commercial and other non-residential uses, above ground commercial or bulk fuel storage and chemicals or industrial wastes and potentially harmful raw materials, shall be contained within an impermeable diked area; the diked area must be sized to contain one hundred ten (110) percent of the total volume of the fuels/chemicals/wastes able to be contained therein. The containment area shall be roofed to prevent accumulation of rainwater in the diked area and shall be properly vented. There shall be no drains in the facility. All concrete walls and/or pads shall be reinforced concrete and shall be designed by a State of Maine Registered Professional Engineer.
4. Underground petroleum tanks, where permitted, shall be installed in accordance with the standards promulgated by the Maine Board of Environmental Protection.
5. Residential uses, such as but not limited to a multi-unit residential development, may store conventional heating fuel, such as but not limited to heating grade oil, propane or natural gas, in above-ground tanks ~~so long as view of the tanks are appropriately~~

screened from abutting properties.

U. ~~Storm Water Management~~

~~V. Stormwater Management:~~ All new construction and development shall be sited and designed to minimize storm water runoff from the site in excess of natural predevelopment conditions using decentralized Low Impact Development (LID) measures as described in the LID Guidance Manual for Maine Communities, September 21, 2007 or as amended and the ME DEP Stormwater Management Regulations LID standards of Appendix U. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.

~~A stormwater management plan, prepared by a registered professional engineer or the SWCD, shall be designed to use small decentralized Low Impact Development (LID) measures rather than large centralized engineered detention structures, so that the post-development runoff does not exceed the pre-development runoff for extreme storm events defined in which two or more inches of precipitation falls within a 24-hour period as well as a 25 (5.8 inches)* and 50 (6.6 inches)* year frequency 24-hour rain events. In sensitive areas, the Board may also require the design to accommodate a 100-year (7.3 inches),* 24-hour rain event.~~

~~¶~~

~~* (1) Data for Newcastle, ME from the National Oceanic and Atmospheric Administration National Weather Service, Hydrometeorological Design Studies Center website:~~

~~http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk-me~~

~~(2) Also, the EPA Storm Calculator may be used to forecast volume and probability of precipitation events (see EPA website):~~

~~http://lcrpc.org/uploads/visual_edit/stormwatercalc-demo-8-30-18.pdf~~

1. If the development requires a DEP review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Stormwater Regulations.
2. For projects that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Regulations. The plans prepared for the MEDEP shall include all town requirements. ~~If the development requires a Stormwater Permit from the Department of Environmental Protection (DEP), the approved permit must be received by the Town before the Site Plan Application is deemed complete by the Planning Board.~~
3. The Board may require peer review and endorsement of the storm water plan and calculations by the Knox-Lincoln Soil and Water Conservation District or qualified engineer.

The plan shall be prepared in accordance with MeDEP *Storm Water Management for Maine: Best Management Practices*, latest edition, and the *SWCD LID Guidance Manual for Maine Communities*, latest edition, (LID Manual) which are incorporated herein by reference and made a part thereof.

4. Smaller site plan applications that do not trigger DEP stormwater regulations and that include building footprints in the aggregate of 7,500 square feet or less, shall use the LID Guidance Manual for Maine Communities to design their stormwater management

methods and facilities.

5. In general for all site plans, new construction and development shall be designed to minimize the total area of impervious surface and volume of storm water runoff and rate as well as nutrient and pollutant loadings from the site in excess of natural pre development conditions. Where possible, the storm water management plan shall preserve **existing** natural runoff control features of the pre-development landscape, such as berms, swales, terraces and wooded areas, in order to reduce runoff and encourage infiltration of storm waters. The plan shall rely on LID techniques such as vegetated wet swales, stormwater planters, dry wells, rain gardens, porous paving and buffers that minimize and detain on-site water run-off by allowing water to absorb into the ground.
6. Where possible snow shall be stored on site using appropriate LID measures. Snow storage sites shall allow adequate buffers between the sites and freshwater streams and wetlands to minimize the impact of salt and sand on freshwater ecosystems.
7. If retention or detention ponds are necessary because no other practical alternative exists, the pond or basin structure shall not be located within the required setback or buffer yard of the property.

W. Erosion and Sediment Control

An Erosion and Sediment Control Plan shall be prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC).

At a minimum, the erosion and sediment control plan shall include:

1. The name, address, and telephone number of the person responsible for implementation of the plan.
2. A vicinity map showing the location of water bodies that may be affected by erosion and sedimentation from the project.
3. Existing and proposed drainage patterns, including drainage channels that drain to surrounding water bodies.
4. A sequence of work that outlines how the project will be constructed and specifically addressing how the area of soil disturbance will be minimized and the duration of exposure of the disturbed area shall be kept to a practical minimum during the construction process.
5. Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.

6. Descriptions and locations of temporary and permanent "best management" erosion control practices that will be used to minimize erosion of soil and sedimentation of watercourses and waterbodies. The following practices are to be incorporated into the plan.
 - i. Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.
 - ii. The duration of exposure of the disturbed area shall be kept to a practical minimum.
 - iii. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
 - iv. Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practicable after construction ends.
 - v. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Board.
7. Identification of the locations of the temporary and permanent erosion control practices.
8. Identification of how and where collected sediment will be disposed.
9. Dust control measures.
10. Inspection and maintenance procedures, including schedule and frequency.
11. The Board may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District.

X. Water Supply

The development has sufficient water available for the reasonably foreseeable needs of the development, including adequate fire protection and will not cause an unreasonable burden on an existing town water supply and/or neighboring wells.

Y. Natural Beauty

The development will not have an undue adverse effect on the scenic or natural beauty of the area, or rare and irreplaceable natural areas. In making this determination, the Planning Board shall consider comment from the Maine Natural Areas Program. If any portion of the site has been identified as containing any rare plant or animal species, the development must include appropriate measures for protecting said species, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation. ~~In making this determination, the Planning Board shall consider the following.~~

1. ~~The clearing of trees should be the minimum necessary to accommodate the proposed development. The development shall, by notes on the final plan, limit the clearing of~~

~~trees to those areas designated on the plan.¶~~

- ~~2. The development shall be designed to minimize the visibility of buildings from existing public roads. If the land cover type at the time of application is forested, the applicant shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.¶~~

~~3. ¶~~

In addition, if the development is in proximity to a ridgeline, the applicant shall demonstrate how the design will minimize or eliminate any adverse visual impact on such ridgeline.

- ~~4. The Board may require the application to include in the landscape plan the preservation of any existing large trees, the replacement of trees and vegetation, and graded contours.¶~~

P. Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

Q. Filling and Excavation

Excavations of sand & gravel, borrow, clay, topsoil, silt or rock that are not incidental to a development approved by the Planning Board and which exceed 1 (one) acre in area shall conform to the following performance standards. The Planning Board may approve modifications to these standards if such modifications have been approved by the Department of Environmental Protection. Where the project schedule for excavation that is incidental to a development approved by the Planning Board will exceed two years, such excavation shall default to comply with this section.

1. The following minimum setbacks from the excavation must be maintained. Such setbacks shall be maintained as a natural buffer. Existing vegetation cannot be removed. If existing vegetation has previously been removed, it must be replaced in conformance with a plan approved by the Planning Board. A buffer strip is not required between excavations owned by abutting property owners with abutters' written permission

Point-driven or dug well in existence prior to the excavation	200 feet
Drilled well into bedrock in existence prior to the excavation	100 feet
Public drinking water source serving 500 persons or less	300 feet
Public drinking water source serving 501-1,000 persons	500 feet
Public drinking water source serving over 1,000 persons	1,000 feet
Great pond or river	100 feet
All other water bodies	75 feet
Public road unless reduced by agreement with authority to grant such reduction	100 feet (topsoil 25 feet)
Private road unless reduced by agreement with legal users of such road	75 feet
Public right-of-way not containing a road	50 feet
Property boundary	50 feet (topsoil 25 feet)

2. No excavation within 5 (five) feet of the seasonal high water table.
3. Refueling and maintenance operations within the excavation must be in accordance with

a spill prevention, control and countermeasures plan prepared by a registered professional engineer and approved by the Planning Board.

4. The excavation must be naturally internally drained or the applicant shall submit a storm water management plan in conformance with §I 02.6.L.
5. An erosion control plan prepared in conformance with §102.6.M shall address any access or haul roads, stabilization of material stockpiles and prevention of tracking of material onto public roads.
6. Dust associated with excavation and trucking activities shall be controlled by sweeping, paving, watering or other approved method.
7. The applicant shall submit a reclamation plan that shall include, at a minimum, the following:
 - a. final slopes shall be no steeper than 2.5 horizontal feet to one (1) horizontal foot vertical;
 - b. re-vegetation of excavated surfaces within one year of completion of each phase of the excavation; re-vegetation must result in a 75% survival rate for trees and shrubs and a permanent 90% ground cover;
 - c. removal of all structures and access and haul roads;
 - d. an engineer's cost estimates for all reclamation activities;
 - e. a bond or other financial guarantee satisfactory to the Planning Board sufficient to cover the cost of reclamation.
8. The excavation shall comply with the noise standards of § 102.6.E and the access road shall comply with the minimum sight distance of § 102.6.G.
9. Excavation operations are limited to 7 a.m. to 6 p.m. Monday to Friday and 7 a.m. to 2 p.m. Saturday.
10. If blasting is proposed, the applicant shall submit a blasting plan prepared by a firm licensed to conduct such work. The plan shall include pre-project inspections of any off site structures and wells that may be potentially affected by the blasting.

R. Sewage Disposal

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

1. All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.
2. If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the owner and the

new or expanded use connected to the public system. Such extension shall be required if the public system is within two hundred (200) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided the connection to the public system will occur if and when the subsurface system needs to be replaced.

If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules. The location of the bed and distances from wells on the property and on adjacent lots will be clearly shown. A copy of the design will be submitted with the application. If site is currently served by a septic system and the use is being expanded or changed, report must be submitted by a licensed soil scientist that the existing system and soils can accommodate the increased load or a expanded system.

3. When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an **owners' association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.**
4. Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment standards shall be in compliance with the Great Salt Bay Sanitary District "Regulation of Sewer Use".
5. **Prior to the issuance of a Certificate of Occupancy**~~For all developments which require a building permit,~~ the applicant shall demonstrate to the satisfaction of the Plumbing Inspector that the existing septic system is functioning properly.

S. Phosphorus Control

The introduction of excessive amounts of phosphorus into lakes and ponds has been identified as a significant threat to water quality. The following provisions are applicable to all projects requiring site plan review that are located within the watershed of a great pond.

1. For all new principal structures, expansions of existing structures which increase the floor area by 30% or more over the lifetime of the structure, new accessory structures of 300 square feet or more and new or enlarged roads and driveways on lots, phosphorus export from such development shall be equal to or less than that which is calculated using the methods established by the Maine Department of Environmental Protection and described in Section 4.2.1 of Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development (September, 1992). The following phosphorus

allocation factors shall be applicable.

Watershed	Water Quality as established by MDEP	Protection Level (from MDEP)	Phosphorus Coefficient (a)	Acceptable Increase in Phosphorus	Future Area to be Developed (b)	Per Acre Phosphorus Allocation ©
Paradise Pond	Mod-sensitive	Medium	8.13 lbs.	1.00	174 acres	0.047
Little Pond	Mod-sensitive	High	4.80 lbs.	0.75	92 acres	0.039
Pemaquid Pond	Mod-sensitive	High	26.15 lbs.	0.75	464 acres	0.042
Biscay Pond	Mod-sensitive	High	18.65 lbs.	0.75	254 acres	0.055

- a. Indicates the amount of additional phosphorus that, if exported from the watershed to the lake, will produce a 1 part per billion (ppb) increase in the lake's phosphorus concentration (lbs./ppb/year)
- b. Assumes 15% of each watershed is undevelopable due to environmental considerations; 30% of the remaining acreage is likely to be developed over the next 50 years.
- c. Amount of phosphorus each developed acre is allowed to export without violating water quality goals.

For all other accessory buildings, expansions of existing structures and expansions of existing roads and driveways, the applicant shall demonstrate that, by utilizing permanent vegetated buffers, limiting the clearing of vegetation and the size of the development area limiting impervious surfaces and directing runoff away from the affected water body, the potential for phosphorus export has been minimized.

T. ~~Buffer Areas~~

~~No industrial or commercial buildings or uses shall be established in, or abutting, a residential use unless a landscaped buffer strip is provided to screen visually the uses. Where no natural vegetation can be maintained due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection, and disposal areas. Where a potential safety hazard to small children would exist, physical screening/barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replaced to ensure continuous year round screening.~~

~~The following standards apply to buffers or buffer yards, screening and landscaping required under this Ordinance. The terms Buffer and Bufferyard are used interchangeably.~~

1. ~~Bufferyards. Buffers or bufferyards shall be required of the following widths for the following areas and/or purposes:~~

- a. ~~Protect water bodies. Along any water body within or adjacent to the project where the Board determines it desirable and necessary to protect such water body from sedimentation and pollution. Such buffers shall be a minimum of one hundred (100) feet in width or such greater width which in the judgment of the Board may be necessary to protect water bodies from sedimentation and pollution.~~

¶

- b. ~~Bufferyard on adjacent lot. If there is a buffer on the adjacent lot and the applicant for Site Plan Approval provides the Board with a guarantee from the abutter acceptable to the Board that the adjoining buffer will remain undeveloped, the Board may reduce the required buffer yard by the width of the encumbered adjoining buffer.~~¶

¶

- c. ~~Route One By-Pass (aka Atlantic Avenue) buffer. A vegetative buffer 100 feet deep, or twenty percent (20%) of the depth of the lot, whichever is less, measured from the edge of j' the lot line abutting the Route One By-Pass right-of-way shall be provided along the Route One By-Pass for all new developments including single-family and duplex residences and for the re-development of existing commercial properties. Parking shall be prohibited within this buffer yard.~~¶

¶

- d. ~~Roadside buffer in C2 District. Except as described in section 11.T.e, a vegetative buffer 50 feet deep, or twenty percent (20%) of the depth of the lot, whichever is less, measured from the edge of the lot line abutting the right-of-way shall be provided along all public roads in the C2 District for all new commercial developments and for the re-development of existing commercial properties. Parking shall be prohibited within this bufferyard.~~

- e. ~~Incompatible uses. Where the Board determines that adjacent uses or accessory uses are incompatible, a buffer may be required along any property line to shield incompatible uses or accessory uses from one another. Such buffers shall be a minimum of thirty (30) feet in width and such additional width which in the judgment of the Board may be necessary to shield incompatible uses from ordinary view.~~¶

2. ~~Screening. Screening within the required buffer strips, in the form of natural or man-made barriers, existing vegetation or new plantings should be based on a twenty-year plan and take into account the impact of changing climate on choice of plantings, and is required as follows:~~¶

- a. ~~Natural features. Natural features in buffers or buffers or bufferyards shall be maintained wherever possible. When natural features such as topography, gullies, stands of trees, shrubbery, and/or rock outcrops do not exist or are insufficient to screen structures and uses from the view of abutting properties and, where applicable, public roadways, other types of buffers shall be provided to supplement the existing features.~~¶

¶

- b. ~~Vegetation variety. Appropriate buffer area plantings shall be determined in consultation with the Town. All buffers that contain vegetation shall include a variety and mixture of predominately native species. The variety shall be based on a consideration of susceptibility to disease, hardiness for specific site location, colors, season, textures, shapes, sizes, blossoms and foliage. Planted vegetation shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover, the species of which shall be well suited to the Damariscotta area and approved by the Board.~~¶

¶

- c. ~~Vegetation standards. Where planting is required, as determined by the Board at least one (1) shade tree or evergreen at least six (6) feet in height and at least two and a half (2 1/2) to three (3) inches in diameter, measured at a point four (4) feet above~~

~~finished grade level, shall be planted no nearer than five (5) feet to any lot line for each three hundred (300) square feet of required landscaped area; and at least one (1) deciduous shrub or evergreen at least eighteen (18) inches above finished grade level, shall be planted for each two hundred (200) square feet of finished landscaped area.~~

~~Where year-round visual screens are required, tree plantings shall be comprised largely or entirely of evergreen trees. White pines shall not be used for low-level visual screening. Evergreen trees shall be between four (4) and eight (8) feet in height with an average height of six (6) feet and planted an average of 8 ft. apart. Larger trees may be required for buffering of larger projects with structures that differ significantly from those on adjacent properties, or that produce significant potential visual or operating impacts.~~

~~Landscaping as depicted on the site plan is considered an integral component of the approved development. Should any portion of the landscaping that dies, is removed or otherwise requires replacement, is not replaced within thirty (30) days, or as seasonally required by the species, it shall be considered a violation of the approval granted by the Board pursuant to § 102.5.H and shall be subject to the enforcement provisions of § 102.14.~~

- ~~d. Fencing. Fencing, where provided, shall be no more than six (6) feet in height, and shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties, except that the Board may require up to an eight (8) foot high fence to separate incompatible uses.~~

U. Signs

See the Damariscotta Sign Ordinance.

~~V. Building Arrangement and Appearance: The proposed development shall comply with the requirements of Section 102.7: Design Standards.~~

~~The following standards shall apply to all buildings less than the size standard for large scale development. Buildings required to meet the standards for large scale development (7,500 square feet and larger) shall comply with those standards contained in Section 12 of this ordinance.~~

- ~~1. The building's architecture (e.g. buildings of less than 7,500 square feet of gross floor area) shall reflect traditional New England building forms including, but not limited to, hipped and gabled roofs, dormers, windows (rather than plate glass) and clapboard, shingle or brick siding. Freestanding accessory structures, such as ATMs, gas pump canopies, sheds or drive-thrus (so called), etc., shall be treated as architectural elements and meet the same design standards as the principal structures on the site. Waivers of these requirements are not permitted and all proposals coming before the Planning Board must meet these requirements to be considered for Approval.~~
- ~~2. Pitched roofs with a minimum pitch of 5/12 are required by the Planning Board to complement existing abutting buildings or otherwise maintain a particular esthetic objective.~~

~~Building facade colors shall be non-reflective, subtle, neutral or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature colors of black, but such colors shall be muted, not metallic, not fluorescent and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage.~~

~~Additional Standards for Large Scale Developments with buildings 20,000 square feet or greater in total floor area. These standards are intended to ensure that the buildings are not prominently visible from roads unless they are sited close to the road in a manner similar to traditional village commercial development.~~

~~Bicycles and Pedestrian Facilities~~

~~1. Sidewalks internal to the development shall be provided and shall be no less than eight (8) feet in width and raised at least 6 inches above the vehicle travelway. Also, they shall be provided from the public sidewalk or right-of-way to the principal customer entrance(s) of all larger commercial buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points and shall feature adjoining landscaped areas that includes trees, shrubs, benches, flower beds, ground covers and other such materials for no less than fifty (50) percent of the length of the walkway.~~

~~2. Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public street.~~

~~3. Sidewalks at least eight (8) feet in width shall be provided along the full length of the building along any facade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade. Weather protection features such as awnings or arcades are required at all customer entrances.~~

~~4. All internal pedestrian crosswalks shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as, but not limited to, pavers, bricks or scored concrete or asphalt to enhance pedestrian safety and comfort as well as the attractiveness of the walkways.~~

~~5. The development shall provide exterior pedestrian furniture in appropriate locations at the rate of one seat for every five thousand (5,000) square feet of gross floor area and secure bicycle parking at the rate at least three bicycle rack spaces for every fifty (50) vehicle parking spaces.~~

~~6. Retail buildings of twenty (20,000) square feet or greater in total floor area that are set back more than fifty (50) feet from a road shall not be prominently visible from such a road. This may be accomplished by existing vegetation and topography as well as proposed site improvements such as landscaping, berms and similar site design features. In determining if existing vegetation and/or proposed landscaping will satisfy this standard, the Planning board shall require the applicant to provide a visualization of the building and landscaping as they would appear 7 years after completion of the project.~~

~~7. Alternatively, the standards in Section II herein, may be satisfied by the siting of~~

~~smaller commercial buildings on pads or out-lots between the large-scale retail building and the designated road. This technique shall be employed for the full width of the development site along the road that provides its principal vehicular access except for access locations and landscaped public open spaces that the Planning Board determines will provide effective visual buffering of the large retail building.~~

~~8. Community Impacts~~

~~The Planning Board shall require an economic and fiscal impact analysis for a proposed large-scale development. The applicant shall provide adequate funding to the Town to retain a consultant of the Town's choice with appropriate experience to provide a peer review of the submitted analysis, if a peer review is determined to be necessary by the Planning Board.~~

~~a. The impact Statement shall include the following elements:~~

- ~~(1) Identification and assessment of the impacts of the proposed project, including positive, negative and indirect impacts.~~
- ~~(2) Proposed measures to mitigate adverse impacts and/or maximize positive impacts including provision of infrastructure or public service improvements sufficient to support the project. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.~~
- ~~(3) Proposed measures to mitigate negative traffic impacts to road plans of the Town and how to integrate the proposed development into the road plans of the Town.~~

~~b. The impact Statement shall assess the following areas of potential impact:~~

- ~~(1) Types of jobs created.~~
- ~~(2) Number of full-time (forty (40) hours per week) and part-time (less than forty (40) hours per week) jobs created.~~
- ~~(3) Evaluation of the market and financial feasibility of the project. Include a trade area analysis indicating the market area proposed for the project and the area from which patrons will be attracted and any plans for phased construction. Include any further market studies prepared for the project by the applicant.~~
- ~~(4) Evaluation of the potential for the proposed project to create an over-supply of retail space in Town using industry-accepted standards for commercial floor area per resident.~~
- ~~(5) Evaluation of the impact of the proposed project on commercial vacancy rates in Damariscotta and Lincoln County.~~
- ~~(6) Estimate to what extent the proposed project would reduce the diversity of the Town's economic base by eliminating smaller businesses.~~
- ~~(7) Comparison and evaluation of the projected costs and benefits to the Town resulting from the project including:~~

~~(i) Projected costs arising from increased demand for and required improvements to public services and infrastructure.~~

~~(ii) Value of improvements to public services and infrastructure to be provided by the project.~~

~~(iii) Projected tax revenues to the Town to be generated by the project and the need for increased financial support for infrastructure improvements and protective services.~~

~~(iv) Projected impact of the project on land values (both residential and commercial) and potential loss or increase in tax revenues to the Town.~~

~~(v) Short term and long term projection of increased revenues to the Town and costs resulting from the proposed project.~~

~~Estimate of the difference between how much of the revenue generated by the proposed project would be retained and re-directed back into the economy of the community compared to other retail chain stores and locally owned, independent retailers in Town.~~

U. Additional standards for Large-Scale Developments: The proposed development complies with Section 102.8: Additional Standards for Large-Scale Developments.

V. Additional standards for all retail or service establishments (regardless of the total floor area proposed): The proposed development will comply with each of the following standards related to retail or service establishments:

1. Outdoor sales:

- a. Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping, be counted as part of the minimum 7,500 square feet (or maximum of 35,000 square feet) of floor area and shall be permanently defined and screened with walls, roofs and shall conform to those compatible predominant materials and colors used on the rest of the building.
- b. Outdoor sales areas not counted toward minimum 7,500 square feet (or maximum 35,000 square feet) of floor area at commercial buildings include the location, storage and display of such hardscape or softscape landscaping, nursery, gardening or agricultural products such as, but not limited to, cement or brick pavers, outdoor pottery, outdoor furniture or plants, mulch, fertilizer or sand bags. Except for such agricultural, gardening, landscaping, nursery and similar products normally stored outdoors, the outdoor storage of products for retail sale is prohibited in an area where customers are not permitted unless such area is visually buffered from adjacent streets and abutting developed properties. This prohibition includes outdoor storage sheds and containers. There may, however, be outdoor storage of such things, but not limited to, excess stock of products normally found outdoors such as patio furniture, if properly visually screened and for display purposes only.

- c. Outdoor sales areas must be clearly depicted on the site plan. They must be outside the buffer/setback requirements of Town Ordinances.

2. Building Reuse

- a. If the building remains vacant for a period of four (4) consecutive years (within a 20 year time frame after having been initially constructed), the Selectmen may, following notice to the owners, mortgagees and any other legally interested parties, along with an opportunity to be heard, vote their right to pursue the removal of the building(s) from the site pursuant to 17 MRSA, Section 2851 (The Dangerous Buildings Statute) if the Selectmen find that the building(s) are structurally unsafe, unstable, unsanitary, constitutes a fire hazard, is unsuitable or improper for the use or occupancy to which it is put (or could reasonably be put pursuant to the Damariscotta Land Use Ordinance), constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence, or is otherwise dangerous to life or property. In pursuit of exercising removal of a building(s) pursuant to 17 MRSA, Section 2851, the Selectmen must find, after notice and hearing on the vacant or abandoned building(s), that the building(s) are a nuisance or dangerous before deciding upon razing and removal of the building(s) from the site.
- b. Where a proposed new building will replace an existing commercial building of 7,500 square feet of total floor area or more, the applicant shall submit evidence that there will be no private prohibition on the type of reuse of the previously occupied building through conditions of sale or lease.



§102.7 ~~LARGE SCALE DEVELOPMENT~~ DESIGN STANDARDS

- A. Purpose: The purpose of these standards shall be to provide specific regulations for building arrangement and design.
- B. Applicability: These standards shall apply to all buildings subject to Site Plan Review when the proposal includes any of the following:
 - 1. Construction of new buildings, including either Primary or Accessory Structures. Freestanding accessory structures, including but not limited to ATMs, gas pump canopies, sheds or drive-thrus shall be treated as architectural elements and meet the same design standards as the principal structures on the site.
 - 2. Significant changes to the front façade (defined as more than 20% of the front façade surface being changed) of existing buildings in terms of design, materials, fenestration, porticos, porches or similar additions or removal of architectural elements.
- C. Waivers: The Planning Board may modify or waive specific performance standards in this section only in the following instances:
 - 1. If the proposed building is less than 7,500 s.f. in total floor area and is unable to be seen from abutting public ways.
 - 2. If it finds that, due to the design, location, function or layout of the structure, the

application of specific performance standards is impractical or inappropriate.

D. Standards: The following standards shall be reviewed in determining compliance with this section:

1. Building articulation: Buildings shall be comprised of a main building mass with a rectangular form. Additional massing components such as side or rear expansions may be allowed, so long as the front façade of the building remains rectangular in nature when viewed from the primary frontage line.
2. Building orientation: Principal structures shall be orientated such that the front of the building is parallel to the primary frontage line.
3. Building footprint: With respect to building footprint and orientation, where a consistent pattern exists within the neighborhood in terms of the existing buildings and spaces between buildings, applicable construction must be compatible with the pattern. Determination of compatibility will be based on the overall building footprint square footage, the dimensions of each building side, placement of the building footprint on the lot, and the pattern of buildings and spaces along the street edge.
4. Building height: Within allowable height limits set by the Land Use Ordinance, a proposed building or addition shall be configured to be visually related to its immediate neighbors. Where the new building or addition is proposed to be more than 20% taller or shorter than immediate neighboring structures, the Planning Board must find that the character of the streetscape and the scale and character of the pedestrian-oriented lower portions of the building are preserved.
5. Building width: Without restricting the permissible limits of the applicable zoning district, the width of each building shall be compatible with its site and existing (or anticipated) neighboring buildings. If there is a prevailing pattern of development on the street, the Planning Board shall find that the width of the proposed building maintains that development pattern.
6. Building entrances: The front facade of any principal structure must incorporate at least one distinctive entrance, although secondary entrances are permitted on the sides and rear of principal structures. For buildings on corner lots, the setback relationship on both streets must be maintained. The creation of “empty corners” must be avoided through the placement of buildings or other site features. Front entryways shall be clearly defined and highly visible on the building's exterior design and shall be emphasized by on-site traffic flow patterns. Two (2) or more of the following design features shall be incorporated into all public entryways: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, outdoor patios, display windows, distinct architectural details.
7. Building roofs: Flat roofs are not allowed and shall be hidden from view from the ground by false roofs, gables, or similar decorative elements. Pitched roofs with a minimum pitch of 5/12 may be required by the Planning Board to complement existing abutting buildings or otherwise maintain a particular aesthetic objective.
8. Building materials: On building facades, the exterior finish material must be brick, wood clapboard, wood shingles, cement board siding, stone, corrugated metal, lime-based stucco, or other materials that have the finish of natural materials. Wall materials must be combined such that heavier masonry materials, if proposed, are on the lower portion of the façade.

9. Windows: The integration of windows into the building design is required and shall be transparent glass between three (3) to eight (8) feet above the walkway along any facades facing a public street. The use of blinds shall be acceptable where there is a desire for opacity. If large areas of plate glass are proposed, the Planning Board may require the applicant to demonstrate that glare from such glass will not create safety concerns for vehicles.

10. Building facades:

- a. Building facades shall include a repeating pattern that includes no fewer than three (3) of the following elements: (a) color change; (b) texture change; (c) material module change; (d) expression of architectural or structural bay through a change in plane no less than twenty-four (24) inches in width such as an offset, reveal or projection rib. At least one of these elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.
- b. In the C-1 Zoning District, ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than fifty (50) percent of their entire horizontal length.
- c. Ground floor facades of retail buildings that face public streets or contain the principal access to the building and which exceed one hundred and fifty (150) feet in length shall be designed to appear as a series of attached, individual storefronts even though the building itself may consist of a single retail occupancy.

11. Utility screening: Roof-top equipment must be screened by parapets, upper stories or exterior walls from viewing from public streets within one-thousand (1,000) feet. Roof-top solar panels or wind power generators shall be screened only to the extent that their function is not compromised.

~~In addition to the standards of § 102.6, the following standards apply to larger non-residential buildings or structures, as well as multi-family dwellings. These standards shall apply when the total floor area of all buildings (including connected buildings or accessory buildings and structures) is greater than or equal to 7,500 square feet. The following standards are to be used by the Board in reviewing applications for site plan review. After the effective date of this Section, additions to a building (as defined herein) that exceeds the 7,500 square foot threshold, either individually or cumulatively, shall meet the following standards for large-scale development. The Board may modify or waive specific performance standards for such additions if it finds that, due to the design, location, function or layout of the principal structure, the application of specific performance standards is impractical or inappropriate.~~

3. **Building Appearance.**

~~The building shall employ varying setbacks, heights, roof treatments, doorways, window openings and other structural or decorative elements to reduce apparent size and scale of the building.~~

~~The building's architecture shall include, but not be limited to, pitched roofs, dormers, windows (rather than plate glass) and clapboard or brick siding. Freestanding accessory structures, such as ATM's, gas pump canopies, sheds or drive-thrus (so called), etc., shall be treated as architectural elements and meet the same design standards as the principal structures on the site. Flat roofs are discouraged and shall be hidden from view from the~~

~~ground by false roofs or gables and like decorations.~~

- ~~1. a. A minimum of fifty (50) percent of the structure's facades, 50 feet or longer in length and that are directly facing (i.e. parallel to) a public street, shall employ architectural features such as, but not limited to, actual protrusions or recesses with a depth of at least six (6) feet. No uninterrupted facade shall extend more than forty-nine (49) feet.~~
- ~~b. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than fifty (50) percent of their horizontal length.~~
- ~~2. A minimum of twenty (20) percent of all of the linear roof eaves or parapet lines on the side of structures (with a facade of 50 feet or more in length fronting on a public way), shall employ differences in height, with such differences measured eaves to eaves or parapet to parapet.~~
- ~~3. Pitched roofs with a minimum pitch of 5/12 may be required by the Planning Board to complement existing abutting buildings or otherwise maintain a particular aesthetic objective.~~
- ~~4. Building facades shall include a repeating pattern that includes no fewer than three (3) of the following elements: (a) color change; (b) texture change; (c) material module change; (d) expression of architectural or structural bay through a change in plane no less than twenty-four (24) inches in width such as an offset, reveal or projection rib. At least one of these elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.~~
- ~~5. Any rear or side building facade that is directly facing a public street (i.e. parallel thereto), shall be designed to complement the architectural treatment of the primary facade. Rear and side building facades visible from residential properties shall be screened to block visibility from the residential property in conformance to §102.7.E.2.~~
- ~~6. Building facade colors shall be non-reflective, subtle, neutral or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature colors of black, but such colors shall be muted, not metallic, not fluorescent and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage.~~
- ~~7. Building Compatibility~~
 - ~~a. Exterior building materials shall be of a comparable aesthetic quality on sides of the building directly facing (parallel to) public ways. Building materials such as glass, brick, tinted or decorative concrete block, wood, stucco, vinyl siding or exterior insulation and finish systems (EIFS) shall be used. Decorative architectural metal with concealed fasteners or decorative tilt-up concrete panels may be approved if incorporated into the overall design of the building.~~
 - ~~b. Sides of the building not visible from a public way shall maintain compatibility~~

~~with other sides of the building by use of compatible colors.~~

- ~~8. The integration of windows into the building design is required and shall be transparent glass between three (3) to eight (8) feet above the walkway along any facades facing a public street. The use of blinds shall be acceptable where there is a desire for opacity. Any blinds shall comply with the color standards of Subsection A.7 above. If large areas of plate glass are proposed, the Planning Board may require the applicant to demonstrate that glare from such glass will not create safety concerns for vehicles.~~
- ~~9. Ground floor facades of retail buildings that face public streets or contain the principal access to the building and which exceed one hundred and fifty (150) feet in length shall be designed to appear as a series of attached, individual storefronts even though the building itself may consist of a single retail occupancy.~~
- ~~10. Public entryways shall be clearly defined and highly visible on the building's exterior design and shall be emphasized by on-site traffic flow patterns. Two (2) or more of the following design features shall be incorporated into all public entryways: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, outdoor patios, display windows, distinct architectural details.~~

~~4. Outdoor Sales.~~

~~Additional standards are applicable to large-scale development consisting of retail establishments greater than seven thousand and five hundred (7,500) square feet of floor area.~~

- ~~1. Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping, be counted as part of the minimum 7,500 square feet (or maximum of 35,000 square feet) of floor area and shall be permanently defined and screened with walls, roofs and shall conform to those compatible predominant materials and colors used on the rest of the building.~~
- ~~2. Outdoor sales areas not counted toward minimum 7,500 square feet (or maximum 35,000 square feet) of floor area at commercial buildings include the location, storage and display of such hardscape or softscape landscaping, nursery, gardening or agricultural products such as, but not limited to, cement or brick pavers, outdoor pottery, outdoor furniture or plants, mulch, fertilizer or sand bags. Except for such agricultural, gardening, landscaping, nursery and similar products normally stored outdoors, the outdoor storage of products for retail sale is prohibited in an area where customers are not permitted unless such area is visually buffered from adjacent streets and abutting developed properties. This prohibition includes outdoor storage sheds and containers. There may, however, be outdoor storage of such things, but not limited to, excess stock of products normally found outdoors such as patio furniture, if properly visually screened and for display purposes only.~~
- ~~3. Outdoor sales areas must be clearly depicted on the site plan. They must be outside the buffer/setback requirements of Town Ordinances.~~

5. ~~Parking.~~

- ~~1. Parking areas must conform to the Performance Standards of § 102.6.H.~~
- ~~2. No off-street parking shall be sited between the front facade of the principal building and the primary abutting streets. The Planning Board may waive this requirement by allowing up to fifteen (15%) percent of off-street parking if it determines that the building and parking area are screened from view by out-lot(s) (as defined in § 102.7.H.2) consisting of buildings less than seven thousand and five hundred (7,500) square feet of floor area and by the use of additional tree plantings, berms, fencing, low walls, shrubs and/or perennials.~~

6. ~~Bicycles and Pedestrian Facilities~~

- ~~1. Sidewalks internal to the development shall be provided and shall be no less than eight (8) feet in width and raised at least 6 inches above the vehicle travelway. Also, they shall be provided from the public sidewalk or right-of-way to the principal customer entrance(s) of all larger commercial buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points and shall feature adjoining landscaped areas that includes trees, shrubs, benches, flower beds, ground covers and other such materials for no less than fifty (50) percent of the length of the walkway.~~
- ~~2. Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public street.~~
- ~~3. Sidewalks at least eight (8) feet in width shall be provided along the full length of the building along any facade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade. Weather protection features such as awnings or arcades are required at all customer entrances.~~
- ~~4. All internal pedestrian crosswalks shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as, but not limited to, pavers, bricks or scored concrete or asphalt to enhance pedestrian safety and comfort as well as the attractiveness of the walkways.~~
- ~~5. The development shall provide exterior pedestrian furniture in appropriate locations at the rate of one seat for every five thousand (5,000) square feet of gross floor area and secure bicycle parking at the rate of at least three bicycle rack spaces for every fifty (50) vehicle parking spaces.~~

7. ~~Landscaping~~

- ~~1. The applicant shall submit a site landscaping plan that presents the location and quantity of all project plantings. At least 75 % of all vegetation shall be native species. The applicant shall also submit a planting schedule keyed to the site landscaping plan that~~

~~lists the botanical and common names, size at planting and quantity of all project plantings. Landscaping shall be considered an integral component of the approved project. (See Appendix A - Native Tree & Shrubbery Species List). The applicant shall replace within thirty (30) days, or as seasonally required by the species, any landscaping that dies, is removed or otherwise requires replacement. Such replacement landscaping shall be equivalent in species and size to the original landscaping unless the applicant can demonstrate to the satisfaction of the Planning Board that the site conditions require an alternative species of comparable size. Landscaping as depicted on the site plan is considered an integral component of the approved development. Should any portion of the landscaping that dies, is removed or otherwise requires replacement, is not replaced within thirty (30) days, or as seasonally required by the species, it shall be considered a violation of the approval granted by the Board pursuant to §102.5.H and shall be subject to the enforcement provisions of § 102.14.~~

~~2. A minimum of thirty (30) percent of the building's total foundation, including a minimum of fifty (50) percent along the building's facade facing a public street, shall be planted with landscaping, based on proper planting conditions, consisting of trees at least 2" in diameter appropriate to USDA Plant Hardiness Zone 5 and placed into soil that would allow long term growth and survival. Add adequate coverage by shrubbery to visually screen the base (foundation) of the building(s). At a minimum, planted shrubbery shall be eighteen inches (18) in height. Landscaping shall include areas near entrances and facades facing public streets as well as in parking areas. If the building will be located in a C1 village area and there will be no setback between it and a public sidewalk or street right of way, landscaping along the building's front facade is not required.~~

~~3. Parking islands shall be landscaped in conformance to Subsection 2 above §102.6Ji.~~

~~4. Buffer strip landscaping shall consist of trees, based on proper planting conditions, at least 2" in diameter and placed into soil that would allow long term growth and survival and in sufficient numbers to form a visual barrier consisting of understory, trees, evergreen or deciduous shrubs and evergreen trees. These shall be planted along and within a minimum thirty (30) foot or 15 foot as appropriate deep green buffer strip adjacent to all public and private streets and drives including parking lot connections, circulation drives (including those adjacent to buildings) and loading areas. If the building(s) will be located in a C1 village area and there will be no setback between it and a public sidewalk or street right of way, landscaping adjacent to the public sidewalk or street right of way is not required.~~

~~5. Where the commercial building abuts a residential boundary line or a property with at least one residence, a stone wall or fencing with six to eight evergreen trees or a 6 foot high berm planted with shrubbery minimum eighteen inches (18) in height that provides screening in the buffer yard shall be included so that the plantings would protect the residents from seeing the commercial building(s).~~

~~8. Screening~~

~~1. Ground and wall mounted mechanical equipment, refuse containers and permitted outdoor storage must be fully concealed from on site and off site ground level views with materials identical to those on building exteriors.~~

~~2. All trash collection areas that are not within an enclosed building or underground, must be screened or recessed so that they are not visible from public sidewalks, internal pedestrian walkways or adjacent residential properties and at least 50 feet from any lot line. Screening and landscaping of these areas shall conform to the predominant materials used on the site.~~

~~3. Roof-top equipment must be screened by parapets, upper stories or exterior walls from viewing from public streets within one thousand (1,000) feet. Roof-top solar panels or wind power generators shall be screened only to the extent that their function is not compromised.~~

~~4. Gates and fencing may be used for security and access. Chain link, wire mesh or wood slat fencing are acceptable for security purposes. Such security fencing, however, does not satisfy buffering or screening requirements of this Ordinance.~~

~~5. Loading docks must be screened from surrounding roads and developed properties by walls matching the building's exterior or by fully opaque landscaping.~~

~~9. Building Reuse~~

~~Additional standards for maintenance of a site after vacancy applicable only to large-scale developments consisting of commercial buildings (in the aggregate) greater than 7,500 square feet in total floor area are:~~

~~1. If the building remains vacant for a period of four (4) consecutive years (within a 20-year time frame after having been initially constructed), the Selectmen may, following notice to the owners, mortgagees and any other legally interested parties, along with an opportunity to be heard, vote their right to pursue the removal of the building(s) from the site pursuant to 17 MRSA, Section 2851 (The Dangerous Buildings Statute) if the Selectmen find that the building(s) are structurally unsafe, unstable, unsanitary, constitutes a fire hazard, is unsuitable or improper for the use or occupancy to which it is put (or could reasonably be put pursuant to the Damariscotta Land Use Ordinance), constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence, or is otherwise dangerous to life or property. In pursuit of exercising removal of a building(s) pursuant to 17 MRSA, Section 2851, the Selectmen must find, after notice and hearing on the vacant or abandoned building(s), that the building(s) are a nuisance or dangerous before deciding upon razing and removal of the building(s) from the site.~~

~~2. Where a proposed new building will replace an existing commercial building of 7,500 square feet of total floor area or more, the applicant shall submit evidence that there will be no private prohibition on the type of reuse of the previously occupied building through conditions of sale or lease.~~

§102.8 ADDITIONAL STANDARDS FOR LARGE-SCALE DEVELOPMENTS

A. Purpose: This section was developed out of a recognition that Large-Scale Developments bring with them additional impacts, including traffic impacts and economic impacts to both Damariscotta and the region. The purpose of this section is to ensure that potential impacts are adequately evaluated in determining whether a proposed Large-Scale Development

should be approved.

- B. Applicability: This section applies to all development subject to the provisions of the Site Plan Review Ordinance when greater than 20,000 s.f. of total floor area is proposed to be built on a single site.
- C. Standards: The following standards shall be used by the Planning Board in determining compliance with this section:
 - 1. Bicycles and Pedestrian Facilities:
 - a. Sidewalks internal to the development shall be provided and shall be no less than eight (8) feet in width and raised at least 6 inches above the vehicle travelway. Also, they shall be provided from the public sidewalk or right-of-way to the principal customer entrance(s) of all larger commercial buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points and shall feature adjoining landscaped areas that includes trees, shrubs, benches, flower beds, ground covers and other such materials for no less than fifty (50) percent of the length of the walkway.
 - b. Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public street.
 - c. Sidewalks at least eight (8) feet in width shall be provided along the full length of the building along any facade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade. Weather protection features such as awnings or arcades are required at all customer entrances.
 - d. All internal pedestrian crosswalks shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as, but not limited to, pavers, bricks or scored concrete or asphalt to enhance pedestrian safety and comfort as well as the attractiveness of the walkways.
 - e. The development shall provide exterior pedestrian furniture in appropriate locations at the rate of one seat for every five thousand (5,000) square feet of gross floor area and secure bicycle parking at the rate of at least three bicycle rack spaces for every fifty (50) vehicle parking spaces.
 - 2. Retail buildings of twenty (20,000) square feet or greater in total floor area that are set back more than fifty (50) feet from a road shall not be prominently visible from such a road. This may be accomplished by existing vegetation and topography as well as proposed site improvements such as landscaping, berms and similar site design features. In determining if existing vegetation and/or proposed landscaping will satisfy this standard, the Planning board shall require the applicant to provide a visualization of the building and landscaping as they would appear 7 years after completion of the project.
 - 3. Alternatively, the standards in Section 102.8.C.2 above may be satisfied by the siting of smaller commercial buildings on pads or out-lots between the large-scale retail building and the designated road. This technique shall be employed for the full width

of the development site along the road that provides its principal vehicular access except for access locations and landscaped public open spaces that the Planning Board determines will provide effective visual buffering of the large retail building.

4. Community Impacts

- a. The Planning Board shall require an economic and fiscal impact analysis for a proposed large-scale retail development. The applicant shall provide adequate funding to the Town to retain a consultant of the Town's choice with appropriate experience to provide a peer review of the submitted analysis, if a peer review is determined to be necessary by the Planning Board.
- b. The impact Statement shall include the following elements:
 - i. Identification and assessment of the impacts of the proposed project, including positive, negative and indirect impacts.
 - ii. Proposed measures to mitigate adverse impacts and/or maximize positive impacts including provision of infrastructure or public service improvements sufficient to support the project. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.
 - iii. Proposed measures to mitigate negative traffic impacts to road plans of the Town and how to integrate the proposed development into the road plans of the Town.
- c. The impact Statement shall assess the following areas of potential impact:
 - i. Types of jobs created.
 - ii. Number of full-time (forty (40) hours per week) and part-time (less than forty (40) hours per week) jobs created.
 - iii. Evaluation of the market and financial feasibility of the project. Include a trade area analysis indicating the market area proposed for the project and the area from which patrons will be attracted and any plans for phased construction. Include any further market studies prepared for the project by the applicant.
 - iv. Evaluation of the potential for the proposed project to create an over-supply of retail space in Town using industry-accepted standards for commercial floor area per resident.
 - v. Evaluation of the impact of the proposed project on commercial vacancy rates in Damariscotta and Lincoln County.
 - vi. Estimate to what extent the proposed project would reduce the diversity of the Town's economic base by eliminating smaller businesses.
 - vii. Comparison and evaluation of the projected costs and benefits to the Town resulting from the project including:
 - 1. Projected costs arising from increased demand for and required improvements to public services and infrastructure.

2. Value of improvements to public services and infrastructure to be provided by the project.
3. Projected tax revenues to the Town to be generated by the project and the need for increased financial support for infrastructure improvements and protective services.
4. Projected impact of the project on land values (both residential and commercial) and potential loss or increase in tax revenues to the Town.
5. Short-term and long-term projection of increased revenues to the Town and costs resulting from the proposed project.
6. Estimate of the difference between how much of the revenue generated by the proposed project would be retained and re-directed back into the economy of the community compared to other retail chain stores and locally-owned, independent retailers in Town.

§102.98 ADMINISTRATION

The Planning Board (Board) is authorized to review and act on all site plans for development requiring site plan review as defined above. In considering site plans under this provision, the Board may act to approve, disapprove, or approve with conditions as authorized by these provisions. No municipal permits shall be issued, nor construction work begun on any use or development covered by this Ordinance, as specified in Section 3, until the site plan of development has been approved by the Board. All work shall be carried out in accord with the documentation submitted and approved by the Board.

§102.109 APPEALS AND VARIANCES

- A. The Board of Appeals shall have jurisdiction to hear and decide appeals brought pursuant to the enforcement of this Ordinance according to its authority as set forth in Board of Appeals Ordinance Section 5(A)(I). Any person or persons aggrieved by the action of the CEO or any other municipal official in their administration of this Ordinance shall have the right of appeal to the Board of Appeals. Such appeal shall be taken pursuant to the procedures set forth in the Board of Appeals Ordinance. The Board of Appeals shall sit in its capacity as an appellate board, utilizing and applying its procedures as set forth in Section 5 and such other rules and procedures of the Board as they may apply. Any person or persons aggrieved by the decision of the Board of Appeals shall have the right to appeal to Superior Court. The person or persons filing the appeal shall have the burden of proof.
- B. The Board of Appeals may grant a variance from the strict application of this Ordinance according to the procedures and subject to the restrictions contained in the Board of Appeals Ordinance Section 5(A)(2), (B), (E) and (J).

§102.110 SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

§102.124 CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

§103.132 AMENDMENTS

- A. All changes and amendments to this Ordinance must be made at a regular or special Town Meeting of Damariscotta, by a majority of the governing body.
- B. All changes and amendments must first be presented to the Planning Board for a public hearing thereon. Notice of the hearing before the Board shall be made in at least one newspaper of general circulation in the area twice, the date of the first publication must be at least 12 days before the hearing and the date of the second publication must be at least 7 days before the hearing, with said public notice included a small map of the area to be affected, as required by 30-A M.R.S.A. §4352(9) as may be amended.
- C. When a proposed change will impact only a specific geographic area within the municipality, mailed notice shall also be made to all property owners impacted by the proposed change. This mailed notice shall follow the procedures required by 30-A M.R.S.A. §4352(10) as may be amended.

§102.143 EFFECTIVE DATE AND AVAILABILITY

- A. The effective date of this ordinance is June 13, 2007.
- B. A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

§102.154 ENFORCEMENT

A. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

B. Code Enforcement Officer

- a. This ordinance shall be administered and enforced by a Code Enforcement Officer (CEO) appointed by the Municipal Officers. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Municipal Officers and be maintained as a permanent record.
- b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals.

The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

- c. The Code Enforcement Officer shall be responsible for administering the provisions of this ordinance, including interpreting the provisions hereof. Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance may appeal, within the time limits for such appeals, such determination to the Board of Appeals as an administrative appeal. If the Appeals Board finds that the CEO erred in his/her interpretation of the ordinance, it shall modify or reverse the action accordingly.

C. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the town. The Municipal Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

D. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

History: Revised February 15, 2023: Effective Date February 15, 2023.

Revised November 5, 2019: Effective Date January 6, 2020- Medical & Adult-Use Marijuana

Amended June 13, 2018: Effective Date June 13, 2018*

Amended June 15, 2016: Effective Date June 15, 2016

Revised July 1, 2015: Effective Date July 1, 2015

Revised March 16, 2011: Effective Date March 16, 2011

Revised January 21, 2009: Effective January 21, 2009

Revised June 13, 2007: Entire Ordinance; Effective Date June 13, 2007.

Revised June 13, 2006: Effective Date June 13, 2006

Amended June 12, 2002; Effective Date June 18, 2002.

Revised December 30, 1998: Section 10(A)(2)(b),(c), (d), € and Section 13, Downtown Commercial Area.

Enacted March 26, 1994; Effective Date April 28, 1994.

*Amended §102.5.H. 1 & 2 concerning time period for Board to issue a Notice of Decision for an approved site plan; and §102.6 on requiring submittal of a site plan fully conforming to the ordinance before submittal of a second plan that proposed waivers sought.

