

MINUTES
PLANNING BOARD
TOWN OF DAMARISCOTTA
October 16, 2017
7:00 PM

MEMBERS PRESENT: Jonathan Eaton, Shari Sage, Adam Maltese, Neil Genthner, and Wilder Hunt. Alternates Dana Orenstein and Jenny Begin were also present.

STAFF PRESENT: Anthony Dater, Town Planner

PUBLIC PRESENT: There was public present. A proper sign-in sheet was not passed around. Based on the video it is estimated there were 25-30 people in the audience, including but not limited to; Amy Lalime, resident; Kim Sampson, resident; Scott Abbotoni, resident; Debra Suchar, resident; Louis Abbotoni, resident; Ann Pinkham, resident; Lucy Harrington, resident; Robin Mayer, resident; Jim Campbell, resident; Andrea Keushguerian.

CALL TO ORDER: Chairman Eaton called the meeting to order at 6:05 pm.

PUBLIC HEARING ON PROPOSED DAMARISCOTTA MORATORIUM

Eaton told the room that the proposed moratorium would stop all commercial development over 2,500 square feet in Damariscotta. He stated that this will not be decided tonight, it will be decided by Town vote and because it is a citizen's initiative, it cannot be altered or changed prior to that vote, which is scheduled for November. This public hearing is merely to answer questions that the public may have.

Hunt felt it was important that public understand that the Planning Board did not generate this document and although the hearing tonight is to answer questions, he feels he is a little short on answers.

Eaton agreed. He stated that they will just have to do the best they can to answer.

Scott Abbotoni asked the Board if they were reviewing the 435 Main project based on what is on the books now, before the moratorium vote. Did they have to wait on the vote to act on this project.

Eaton told him the Board isn't really at the point of voting on this project yet. They were scheduled for a sketch plan review after the public hearing.

Hunt clarified that every application before the Board goes through a process of steps including deeming an application complete, then there is a certain amount of time for the Board to review and come to a decision on said application.

Begin spoke about the moratorium. She stated that in July several citizens, including herself went to the Town Manager to ask the Selectmen to consider placing a moratorium to allow time for the Town to update its ordinances and let the newly appointed Planning Advisory Committee (PAC) do its work. She went on to say it was a reaction to the Sherwin Williams/Dollar General development because there was a sense among people that it "slid through" and something was amiss in the existing ordinances after that approval.

She went on to say that under the existing ordinances, the Sherwin Williams/Dollar General development is not the type of development that should be allowed. The moratorium was

proposed as a pause, to show the Selectmen that there was concern. She pointed out that the proposed moratorium has an end date of 12/04/17, so even if it's voted in, it's only for a month, at which point the Selectmen decide if they want to continue it.

Louis Abbotoni stated that it sounds to him like Begin was saying the purpose of the moratorium was to stop the current project (435 Main). He went on to say that the moratorium was incorrect, it does not qualify for an emergency under State Statutes. In his opinion it never should have gone before the Selectmen in the first place.

Begin told him that it went through an extensive legal review before it was presented.

David Page stated that he assumed that the Sherwin Williams/Dollar General (SWDG) development went through the appropriate process and was approved because it met all the existing requirements of the ordinance in the opinion of the Planning Board, not that it "slid through". He for one could use the help with the taxes in town.

Dater wanted to clarify that as worded, the moratorium would be retroactive back to June 7, 2017 meaning any application, over 2,500 square feet, submitted between June 7, 2017 and November 7, 2017 (if approved at election) would be subject to the moratorium.

Kim Sampson stated that she moved to Damariscotta because of the character on Main Street. The reason she circulated the petition was because for her it was an emergency because she was at the SWDG Planning Board meetings and felt there was nothing she could do. In her opinion it was necessary to give the PAC more time to do the job they've been tasked with.

Amy Lalime asked if anyone knows what the SWDG will generate for taxes. She stated that based on the number of \$60,000 a year given by 435 Main at the last meeting – that will reduce her taxes by just \$40 a year. To her that's not worth the extra construction, extra traffic etc.

Jeffrey Tims spoke about the history of the Pierce family in the area. In his opinion this matter should be decided by the taxpayers of town, not just voters.

Dan Catlin, applicant for 435 told the Board that the estimate of \$60,000 given at the last meeting for taxes is based solely on the buildings. It doesn't take into consideration the personal property tax that will be assessed to each business that goes in. It would not surprise him if that figure actually doubled.

Eaton stated that it's all hypothetical at this point with out knowing the exacts.

He also stated that they are estimating the creation of approximately 80-100-part time & full-time jobs. He told the Board that they use local contractors for landscaping, maintenance etc. as well.

Lucy Harrington told the Board that she did not believe anyone in the room was against business going in this space, no one is against increasing the tax revenue and lowering taxes, they just don't want it to look like crap.

Jeff Pierce said when he read the moratorium, and it talks about "threat of retail businesses coming to the town", that feels intellectually dishonest to him, it's a scare tactic. He went to the public hearing on the 435 Main development and no one there mentioned anything about a threat or protecting public safety.

He went on to say that the property in question is in the comprehensive plan for retail development, this is nothing out of the ordinary. Form based codes were voted on three years ago – the town didn't want them.

A member of the audience stated that the Town needs sustainable businesses, they don't need empty store fronts. Scott Abbotoni read from the moratorium about "...a threat from large scale commercial development.." – State Statute defines large scale commercial development as over 75,000 square feet or more– he didn't believe the project at 435 Main was anywhere near 75,000 sqft. The other piece of the moratorium wording he has issue with is that it was unanticipated – this is untrue – the area where the 435 Main project is located is "on the books" for commercial development. He also asked if anyone could elaborate on exactly what the "threats to public health" listed in the moratorium would be. He stated that he thinks the moratorium is a bunch of BS.

Dater told the group that the Board of Selectmen will hold their public hearing on the moratorium the following night, if there were questions the Planning Board could not answer.

Chairman Eaton closed the public hearing portion of the meeting at 6:30pm.

REGULAR/ADDITIONAL MEETING FOR OCTOBER:

1. DAMARISCOTTA MAIN STREET, LLC – 435 MAIN STREET (RT 1B) (GUN CLUB ENTRANCE) – LOT 1/56-1 HIGHWAY COMMERICAL C2 DISTRICT – SKETCH PLAN APPLICATION FOR THREE RETAIL/PROFESSIONAL/COMMERCIAL BUILDINGS.

Shawn Tobey, Andy Sturgeon from Hoyle Tanner Engineering; and Dan Catlin, applicant presented a revised plan.

Before they could start, Andrea Kushquerian asked how much they will charge per square foot for rental.

Catlin told her it depended on the tenant and what he ends up building. He stated that if she was interested in a space, he would be glad to talk with her.

Hunt had some procedural questions.

He inquired of Begin if she circulated the petition she spoke in favor of at the public hearing.

Begin told him that she did.

Hunt stated that he believed there was another member of the Board that also circulated the petition in question.

Eaton agreed, there was.

Hunt stated that it was his opinion that a person cannot be a private citizen AND a planning board member at the same time – you either fish or cut bait. By circulating a petition, he believes it takes away their ability to be impartial to the subject. The petition in question addresses building, and that is what the Board is taking up for review. He told the Board he feels that the 2 people who circulated the petition should recuse themselves from this discussion and vote, alternates should be sat in their place.

Eaton stated that Hunt has a valid point.

Begin stated that they received guidance from the Town Manager, via Maine Municipal Association regarding when Planning Members should recuse themselves:

- 1) If a member had a financial interest in a project.
- 2) If a member made specific public statements regarding a particular project.

Begin stated that it also said the second item was difficult to prove unless there were many statements made against a particular project. She went on to say, that she personally is in favor of the project, she would like it to be the model project for future development in Damariscotta. Her work on the petition had very little to do with this project, it was more in reaction to the SWDG project. She told the Board that she would abide by their wishes.

Genthner agreed with Hunt, that it would be in the best interest of the Town if the members in question recused themselves.

On motion Hunt/Genthner that Sage and Begin recuse themselves from discussion and voting on items pertaining to building projects and commercial development.

Sage stated that she was surprised that the petition for the moratorium, for which she gathered a few signatures, is what triggered this request. She told the Board she came before them as a private citizen regarding the open-faced LED signs earlier and that did not trigger a challenge about her ability to be impartial.

She went on to say that she had been a member of the Planning Board since July 2014 and she doesn't believe anyone can show an instance where any of her decisions or votes were based on anything other than an interpretation of an ordinance, a rule, or other documentation or input. She's never had any financial gain on any project. Anything she has supported or voted for has been done with the purest of intentions. Her reasoning behind supporting the petition was to create a pause, to allow PAC to work, not to go against all retail. The safety concerns are due to glare, increased traffic, pedestrian movement. There are environmental concerns etc. She just wanted time for the Town to reevaluate their ordinances.

She told the Board that she wrote a letter the editor of the Lincoln County News outlining her concerns about other people on Town Boards. She clarified that she was not saying that any of the people listed had any bias, just that she had concerns.

- 1) Mark Hagar is on Board of Selectmen and there is Hagar Enterprises in town.
- 2) Wilder Hunt is on the Planning Board and his family owns NC Hunt.
- 3) Jonathan Eaton is on the Planning Board and is a local plumber.
- 4) Neil Genthner is on the Planning Board and he does maintenance work.

Genthner asked her how many people she thought came to the hospital to get his maintenance work.

Sage stated that she was just saying that people in those types of fields are already on Town Boards, making decisions.

She went on to say that the SWDG project is buying materials from the local hardware stores, including NC Hunt.

Genthner told her that NC Hunt and Wilder Hunt are two separate things and he is certain that Wilder is not getting anything from anyone purchasing items at NC Hunt.

Sage stated that was not what she was saying – she was trying show that there is already a chain of bias. In her opinion she is very low on the list for having a bias.

Maltese felt that the question is; does the Board think any member is incapable of making an unbiased decision. Members don't give up their first amendment rights when appointed or elected to a Board, everyone has a right to their own opinion. Maltese revealed that he was a signer of the petition. The moratorium was not specifically against the 435 Main project and he doesn't think involvement in that process affects anyone's ability to be impartial.

Louis Abbotoni stated that he's known most of the members of the Board for a long time and he told Sage that her assertion about potential bias among the members mentioned is totally off base. He went on to say that in his opinion Sage & Begin made the mistake of not informing the Board that they were circulating a petition that may be considered a conflict of interest. According to State Statute that's a Board member's obligation, to inform the Board that there may be a conflict.

Both Sage & Begin insisted that there was no bias.

Scott Abbotoni stated that the opinion from Maine Municipal Association says "the appearance of bias" and that definitely exists in his opinion.

Ann Pinkham used the example of a firefighter – if there is a topic involving the fire department that comes before a board – those firefighters recuse themselves from all conversations to avoid the appearance of bias all together.

Sage told her that she identified herself as an abutter to the Miles Hospital project when that came before the Board. The Board determined that she would be able to make an unbiased decision. She repeated her earlier statement that she had been a member of the Planning Board since July 2014 and she doesn't believe anyone can show an instance where she has ever shown any bias.

A member of the audience stated that she did by passing around the moratorium petition.

Sage asked the room to provide a specific statement or decision she's made regarding the 435 Main project that shows bias.

Louis Abbotoni and Sage argued, speaking over each other.

Eaton called an end to the argument.

He then asked Sage directly if she thought it would be in the best interest of the Town to recuse herself on this matter.

Sage answered no.

Eaton then asked Sage if she thought she would be able to make a fair and unbiased decision on this matter, regardless of signage.

Sage answered yes, this and any other project.

Eaton then asked Begin if she thought she would be able to make a fair and unbiased decision on this matter.

Begin answer yes.

Eaton stated that he agrees with Maltese – that Board members are entitled to their own opinion. He can't see into the Board members heads and tell if they can be unbiased or not. They've both stated in an open meeting that they can be fair and unbiased.

Eaton called for a vote on the motion before the Board to require Sage & Begin to recuse themselves.

VOTE: 2-2 TIE
(GENTHNER/HUNT IN FAVOR)
(EATON/MALTESE OPPOSE)
(SAGE DID NOT VOTE)

Dater stated that a tie vote means that the motion is defeated. Sage and Begin will not be recused from the conversations or vote on building & commercial projects.

Eaton encouraged Sage & Begin not to do that again.

Scott Abbotoni asked how many Board members make a meeting. Specifically, if 3 or more members were present at the same place wouldn't that have to be posted and a public meeting? He brings his concern forward because at one of the last meetings he attended there were 3 members in the corner talking.

Robin Mayer spoke from the audience to answer. She stated that she believed that 3 members of a Board may be together talking as long as they aren't talking about Town business.

Eaton agreed & stated that it was time to move forward tonight.

Sturgeon told the Board that they would really like to know where they are in the process. Generally, an application is submitted, it's deemed either complete or not, then the sketch plan & public hearing, then preliminary review, and then a final. He stated that they've been before the Board several times, including a public hearing and they are just not sure at what point they are in the process. They are looking for direction from the Board, to ensure they are still moving forward.

Genthner felt that a good starting point tonight may be to go over the checklist for the application. It may answer some of the applicant's questions.

Eaton told him to make it simple, they need to read the ordinances and comply 100%. He went on to say that included removing the parking from the front of the building, changing the buildings to have clapboard siding, pitched rooves etc.

Sturgeon stated that in his experience, those details are handled right at the very end. Can they ensure that they are on some schedule?

Eaton told him he likes the project. Personally, he would like to see a landscape plan with a very specific plantings list for the screening in front of the building. He would like to see the parking reduced or removed from out in front of the building, but that is a decision of the whole Board. He went on that parking in front is allowed in the ordinance if it is screened to the Board's satisfaction. He would like to see them turn that building to front on their own internal roadway, but understands why they are not in favor of that. It is not really a walkable section of town and probably won't be for several years to come.

Sturgeon told him that there was a plantings list included in the application. He also reminded the Board that waivers are a valid part of the ordinance.

Dater told him that he is correct, but the waiver request must be submitted in writing, as part of a completed application.

Sturgeon agreed with him and they do plan to submit a waiver request for the parking at the front of the one building in the project, specifically the 5,500 sqft building.

Sturgeon told the Board that they have brought new renderings for the project, incorporating some of the changes brought up at the public hearing.

Catlin showed the new renderings, building facades, additional stonework, clapboard details, etc. in response to the feedback from the public hearing.

Begin asked for clarification on the size of the building being shown.

Tobey checked the drawings and told her it was 65 feet deep by 85 feet long across the front.

Begin directed them to the section of the Site Review Ordinance that has specific standards on how long a blank façade can be before it needs to have some type of detail to break it up.

Catlin indicated that they were aware of that standard, and he believes that they have met it.

Sage asked for clarification on the color scheme, noting that the new renderings show more of a gray family color scheme vs the previous more tan/yellow.

Catlin told her that he thought the gray was more traditional, so he changed the colors, but it could change some depending on tenants. He also acknowledged any major changes would require him to come back to the Board.

Sturgeon stated that one interested party was a restaurant, but nothing will be firmed up until after they have definite Board approval.

Begin read from the ordinance “subtle, neutral, or earth tones” as allowed color schemes.

Kim Sampson asked Catlin for clarification on “changes” due to a certain tenant. She expressed concern that if a certain tenant was known for a red building and round roof is Catlin’s design going to change that drastically? Are his buildings even going to look at all like what’s being presented?

Eaton clarified this point by stating that the applicant will have to adhere to the color schemes allowed in the ordinance. He’s going to be permitted for the design submitted. Any change would have to come before the Board.

A member of the audience thanked Catlin for taking the public hearing feedback into consideration. The new renderings look much nicer.

Dater asked Eaton to give a brief summary of the site visit that took place on October 2nd.

Eaton explained that the group discussed the preservation of buffers between the property lines. It was evident that the majority of the property had been cut down 5 or 6 years ago. They also talked about the road to the rifle range and maintaining that access.

The Board reviewed the checklist – Dater informed the Board that the highlighted portions of the checklist in front of them were additions/changes from the Planning Advisory Committee for the Board to consider. He told the Board that this list could be used for this project.

Sturgeon asked if the checklist was new, shouldn’t their project be reviewed under the “old” checklist in place at the time of their application.

Eaton agreed and located an unaltered version.

Dater reminded the group that checklists were not ordinances – the applicant is subject to the ordinances in effect at the time of the application.

The Board proceeded to review the check list with the applicant.

Building Permit Application:

Eaton stated he wasn’t sure the applicant had addressed all buildings yet, specifically the building out back with regards to color, exterior texture, type, etc.

Sturgeon stated that they felt they had addressed all the buildings – they will all be the same color scheme & exterior texture; the larger building out back will have more peaks etc. to break up the long facade

Dater told the Board that this item was asking specifically for the building permit application – which he did not see in the file. Generally, the applicant submits a building permit application to the CEO, who in turn determines whether further review is required by Planning Board.

Payment of Site Plan Review Ordinance Application fee:

Catlin told the Board he has a check in his truck for this.

Fully executed and signed copy of the application for site plan review:

Dater confirmed this is included in the application packet submitted.

Evidence of right, title or interest in the property such as a deed, option to purchase, lease or agreement:

Dater confirmed this is included in the application packet submitted.

Site Plan at a scale sufficient for review, but not more than 50 feet to the inch for that portion proposed for development. (North arrow; graphic scale; PB signature box; Area for Notes?)

Dater confirmed this is included in the application packet submitted.

Names and addresses of all abutters on the plan.

Eaton confirmed this is included.

Names and addresses of all abutters on a separate listing.

Dater confirmed this is included in the application packet submitted.

Sketch map showing general location of the site within Town (aka Location Map).

Eaton confirmed this is included in the application packet submitted.

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.

Eaton confirmed this is included in the application packet submitted.

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 establish, on the ground, all property boundaries.)

Dater confirmed this is included on the survey plan in the application packet submitted.

Classification(s) of the property and the location of zoning district boundaries as applicable.

Eaton confirmed this is included in the application packet submitted.

Soil types and location of soil boundaries suitable for waste water disposal as certified by a registered engineer or soil scientist. [HHE 200 FORMS or equivalent] {Sect. 11.R}.

Eaton confirmed this item is not applicable because the applicant will utilize public sewer.

Building Envelope: The location of all building setbacks required by this or other Town ordinances.(applicable Resource Protection, Shoreland, wetland unbuildable land and floodplain lines).

Eaton confirmed this was included in the application packet submitted.

The location, size and character of all signs and exterior lighting of signs {see SIGN Ord}.

Eaton stated this hasn't been covered yet –

Catlin told the Board that each tenant will do their own sign application with the Town. He pointed out the location of the sign pylon near the entrance, on his site plan. There is also a sketch of what the pylon will look like in the packet.

The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping.

Eaton stated that the bulk of the list in this item is covered – however he and Genthner noted that it's not a complete item because of the debate on the parking location at the front of the medium sized building.

Begin stated that the ordinance speaks about pedestrian & bicycle connectivity. In her opinion, it would be important for those areas to be a different color to make them obvious.

The applicant explained that the sidewalks are 6" high concrete behind a granite curb so it will contrast with the asphalt of the parking lot.

Elevations and graphics on how proposed structures comply with the “Building Appearance Requirements’ of Sect. 11.V for building or buildings totaling 7,500 square feet or less gross floor area. {Sect. 11.V}

Elevations and graphics on how proposed structures comply with the “Building Appearance Requirements’ of Sect. 12.A for building or buildings totaling 7,500 square feet or more gross floor area. {Sect. 12.A}

Location of all buildings within 50 feet of the subject site plan parcel and the location of intersecting roads or driveways within 200 feet of the parcel. (Intersecting roads could be on a ‘Location Map’.)

Eaton confirmed this is included in the application packet submitted.

Existing and proposed topography of the site at two-foot contour intervals if major changes to the existing topography are being proposed {Sect. 11.Q}.

Eaton confirmed this is included in the application packet submitted.

Begin confirmed with the applicant that the drainage pond is located in a lower part of the property.

Copies of any proposed or existing easements, covenants, deed restrictions, etc.

Eaton confirmed this is included in the application packet submitted.

Copies of all applicable State and federal approvals and permits (*These may include Maine DEP stormwater permits, wetland disturbance permits, NRPA permits or Site Location permits; MDOT Traffic movement permits; federal Army Corps of Engineers or EPA permits*).

It was noted that the applicants have applied for and or started processes on all of the required State and Federal permits.

Eaton specified that copies of those permits will likely be a condition of approval and be required for the Town files.

Identification of districts, sites, buildings, structures or objects significant in American history, architecture, archeology, engineering or culture that are listed or eligible for listing in the National Register of Historic Places (see 16 U.S.C. 470 w(5)36 CFR 60 and 800).

N/A

Letters from appropriate state authorities attesting to the project's impact, if any, on historic, archeological and rare or endangered plant or animal species on or in the vicinity of the project parcel {Sects. 11.O and P}.

N/A

Location of any floodplains on the project parcel.

N/A

Soils test pit log {HHE 200 Forms or equivalent} 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 {Sect. 11.R}.

N/A

A phosphorous impact report if the project is within the watershed of a great pond. {Sect.11.S}

N/A

An estimate of the amount of domestic water required of 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 to be supplied by wells, the results of a hydrological study if required by the Planning Board. {Sect.10.N}

Eaton confirmed that the larger building out back will have to be sprinkled.

Genthner asked if a letter was included from Great Salt Bay Sanitary District on this.

Applicant indicated there was a letter in the application packet.

Dater could not locate. Applicant to resend.

Plan for supplying water for fire protection {Sect. 11.N}.

Genthner asked the applicant if they had a letter from Fire Marshal's office on their requirements on this yet.

Catlin told him they did not yet – they generally go by the fire code that stated anything over 10,000sqft needs to be sprinkled, but they will have to go to the Fire Marshall's office for permit once they get the building built.

Access into the Site: Demonstration that access to the sight will be safe and will meet or exceed minimum required sight distance determined by the Planning Board {Sect. 11.G}.

Eaton stated that in his opinion the site distances were adequate (from site visit earlier).

Genthner confirmed these items were discussed at the traffic meeting with MDOT as well.

Preserve & Enhance the Landscape: Compliance with applicable soil preservation requirements or with excavation requirements. {Sect 11.A for developments <7,500 sf} { Sect 12.E for developments >7,500 sf

Catlin stated that the landscape plan included in the application packet meets Town code.

Eaton acknowledged this – but also told him that they may or may not require it to be more dense. He also repeated his earlier comment about them keeping as much natural buffer as they can between the side lots.

Catlin told him that anything on site that they don't have to get into the root system of will remain on those side lot lines.

Relationship to Environment & Neighboring Buildings: Compliance with applicable setback and buffer strips for parking areas. {Sect 11.B for developments <7,500 sf} {Sect 12.E for developments >7,500 sf

Eaton confirmed these items are included on the site plan.

Air Quality: Demonstration that the project will comply with applicable air quality standards {Sect. 11.C}

Eaton felt this was not applicable as the applicant is not proposing any manufacturing facilities on this site, and that's really what this requirement is geared toward.

Noise Control: Demonstration that the project will comply with applicable noise control standards {Sect. 11.E}

N/A

Lighting & Glare Control: Demonstration that the project will comply with applicable glare control standards {Sect. 11.D}

Sturgeon told the Board that they have included the lighting plan in their application and that they believe it meets the ordinance standards.

Adequacy of Public Road System: Demonstration that the project will meet applicable MDOT Level-of-Service standards. {Sect. 11.F} (Applicant is financially responsible for meeting level-of-service improvement on public roads.)

Eaton confirmed that this discussion was started at the traffic meeting with MDOT held earlier – and the applicant is required to get an MDOT permit (process started) so he is confident that this will be addressed and be sufficient to Town ordinances.

Driveways: Demonstration that the project will meet applicable driveway standards. {Sect. 11.G}

Eaton stated that the project does meet applicable driveway standards.

Parking and Vehicle Circulation: Demonstration that the project will meet applicable parking space numbers and design; {Sect. 11.H}

Eaton confirmed the parking space numbers meet the ordinance requirements.

Genthner felt that this goes along with the other parking item – this is not met at this time due to ongoing discussions and the possibility of a waiver request coming from applicant.

Pedestrian Circulation: Demonstration that the project will meet applicable pedestrian circulation and external linkages. {Sect. 11.I}

Begin stated that there are specific standards requiring that the parking be segmented.

Eaton felt the applicant had met that standard.

Dater offered to go over any part of the standards with any Board members at his office.

Existing Utilities and Municipal Services: Demonstration that the project will meet applicable requirements for connecting to existing public facilities including any applicable fee payment. {Sect. 11.J}

Dater reminded the Board and the applicant that the missing letter from Great Salt Bay Sanitary District (GSBSD) will cover this item as well.

Water Quality: Demonstration that the project will meet applicable water quality maintenance requirements including applicable standards of the ‘State Drinking Water Regulations, pursuant to Title 22, MRSA, Section 2601.’ {Sect. 11.K}

N/A

Storm Water Management: A storm water management plan in accordance with, *Storm Water Management for Maine: Best Management Practices, Maine DEP (latest edition)*. {Sect. 11.L}

Permit in process with Maine DEP per applicant.

Dater stated that it was his opinion that the Town requirements would be met if the DEP standards are adhered to in a permit from them.

Board agreed.

Begin asked what type of pond was being proposed.

The applicant stated it was a detention pond designed to hold the waterflow and release it at a controlled rate.

Sage asked if that would cause a mosquito problem.

Tobey explained that the wet pond is what the State requires based on their type of project. He's not sure about mosquitoes, but it is a fairly commonly used design.

Erosion and Sediment Control: An erosion and sediment control plan in accordance with, '*Erosion and Sediment Control Handbook for Construction: Best Management Practices, Cumberland County Soil & Water Conservation District and Maine DEP (latest edition)*' {Sect. 11.M}

N/A except during the construction phase. CEO will monitor.

Applicant acknowledged this fact and confirmed plans to use silt fencing etc. during construction.

Dater stated that generally a "best management practices, Cumberland County Soil & Water Conservation District and Maine DEP" statement on the plans suffices.

Applicant acknowledged that statement was included on their plans submitted.

Natural Beauty: Demonstration that the project will meet applicable guidelines for maintaining the scenic, natural, historic, rare and irreplaceable natural areas on the site. including preservation of all large trees when possible. {Sect. 11.O for developments <7,500 sf} {Sect 12.E for developments >7,500 sf}

N/A

Historic and Archeological Resources: Appropriate measures, as applicable to protect identified historic and archeological resources. {Sect. 11.P}

N/A

Filling & Excavation: Excavation/reclamation plan via standards {Sect. 11.Q}.

Eaton confirmed this was in the applicant's plan.

Sewage Disposal: Demonstration that the project will be in compliance with town standards and the State Plumbing Code. {Sect. 11.R}

Genthner confirmed again that the letter from GSBSD will meet this standard.

Buffer Areas: Demonstration that the project will meet applicable requirements for maintaining screening of the site. {Sect. 11.T}

Eaton stated this has been discussed – and will be worked out in detail. Maintain the natural buffer at the side lot lines and a dense screening at the front.

ADDITIONAL SUBMITTALS FOR SITES WITH BUILDING(S) LESS THAN 7,500 SQUARE FEET

Building appearance: Demonstrate that project will meet applicable architectural and aesthetic standards for buildings. {Sect. 11.V} (see requirements above)

Dater read from section 11.V aloud just so the applicant is aware.

ADDITIONAL SUBMITTALS FOR SITES WITH BUILDING(S) 7,500 SQUARE FEET OR MORE

Building appearance: Demonstrate the building(s) meet architectural and aesthetic standards. {Sect. 12.A} (see requirements above)

Dater encouraged the applicant to review the sizeable amount of information and standards included in section 12 of the site plan review ordinance.

Applicant acknowledged that they have seen section 12.

Outdoor Sales: Demonstrate that site will meet requirements for display of goods outdoors. {Sect.12.B}

Depends on tenant, but no outdoor sales are planned at this time. Tenants will have to address this with CEO if needed.

Parking: Meet applicable parking lot layout and design requirements. {Sect. 12.C}

Still under discussion- i.e. parking at the front of the 5,500 sqft building on site.

Bicycles and Pedestrian facilities: Meet applicable standards for bicycle facilities and lay-out of pedestrian circulation. {Sect. 12.D}

Sage asked if there were bike racks included in the plan.

Applicant acknowledged that there were, as required by ordinance.

Landscaping: Prepare a landscaping plan that meets applicable standards. {Sect. 12.E}

Screening: Meet all applicable screening requirements. {Sect. 12.F}

Building Reuse: Submit evidence that for building(s) of 7,500 sq. ft. or more that there will be no private prohibition on the type of reuse of that building.

ADDITIONAL SUBMITTALS FOR SITES WITH BUILDING(S) 20,000 SQUARE FEET OR MORE

Landscaping: Meet applicable setback, screening and landscaping standards. {Sect.H.1} Retail buildings more than 50 ft. from road screened by vegetation by elevation showing vegetation 7 years after completion of project.

Out-lots: Alternatively meet standards of Section H.1 by placing smaller commercial buildings around perimeter of site per applicable standards. {Sect. H.2}

Eaton stated that this has already been met.

Community Impacts: If Planning Board requires it, an assessment report of likely community impacts of the proposed project per applicable standards. {Sect. 12.H.3}

- ___ *Impact Statement of positive, negative and indirect impacts. {H.3.a}*
- ___ *(1) Impact on jobs created. {H.3.b}*
- ___ *(2) Number full-time and part-time jobs. {H.3.b}*
- ___ *(3) Market study and financial feasibility study. {H.3.b}*
- ___ *(4) Potential for creating over-supply of retail space. {H.3.b}*
- ___ *(5) Impact on commercial vacancy rates in Damariscotta and County. {H.3.b}*
- ___ *(6) Estimate of eliminating smaller businesses. {H.3.b}*
- ___ *(7) Benefit/Cost Analysis. {H.3.b}*
 - ___ *Cost for required infrastructure upgrades.*
 - ___ *Value of improvements to public services and infrastructure.*
 - ___ *Cost for required infrastructure upgrades.*

___ *Impact of residential and commercial land values; impact on tax revenues.*

___ *Short and long-term revenues and cost to Town.*

___ *Estimate of revenue from project retained by Town compared to other retailers.*

Eaton explained that this means that the Town could require that the applicant pay for a community impact study as part of the Board's review process. He stated that he was uncomfortable requiring that since the applicant doesn't even know what exactly will be going in.

Begin asked about the impact of the additional trash on the transfer station.

Catlin told her the trash would be handled by private hauler. Each tenant would make their own arrangements.

Eaton explained that commercial haulers pay – usually by the tonnage – no one dumps for free.

Sturgeon clarified that they do plan to request a waiver on the parking requirements of the one medium sized building. He told the Board they understood there would be extra screening & landscaping requirements and they are willing to work with the Board on that, to make sure the Board is comfortable with their decision in the end. He then read aloud from the minutes where the waiver was granted for the recent Dollar General project – noting most of that applicant's reasoning is the same as Catlin's.

Maltese stated that future judgements can not be based on past judgements because it would create a bottomless spiral.

Sturgeon stated that he understood that – but they also were not asking for anything that the Board had not granted before – it's not unusual to the area.

Catlin stated that they are willing to work it out with the Town.

Maltese suggested that the applicant check the counts – there is a formula in the ordinance that dictates how many trees per so many feet – it ends up being a fairly significant number of trees.

Begin asked about the possibility of the developer contributing funds to pay for a CEO to oversee the project as it goes along. She stated that the Town doesn't have the resources to oversee a project of this size at this time.

Catlin explained that he is the project manager – CEO's routinely visit construction sites to make sure they are following the rules, or he won't get a certificate of occupancy. The Town does have a system in place to check on these things. He further told her that the State requires a licensed storm water engineer to oversee the construction / installation of the storm water pond.

Dater reminded the applicant that to obtain the status of a complete application from the Board, they will need to submit any waiver requests in writing for the Board to act upon.

Maltese requested additional elevations for the Board's review in the future.

10/16

A. ADJOURNMENT

On motion Hunt/Genthner to adjourn the meeting at 8:10 pm.

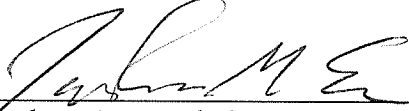
VOTE: 5-0 IN FAVOR

Respectfully submitted by:

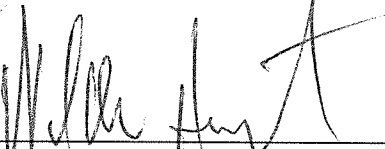


Rebecca J. Bartolotta, Deputy Clerk


We, the undersigned, do hereby approve the minutes of the October 16, 2017 Planning Board public hearing and meeting:




Jonathan Eaton, Chairman



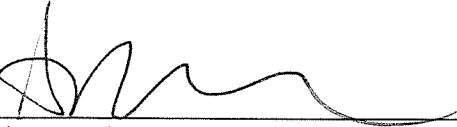
Wilder Hunt, Vice – Chairman



Neil Genthner



Shari Sage



Adam Maltese

Dated: 02/05/18

DAMARISCOTTA MORATORIUM

We, the undersigned registered voters of Damariscotta, Maine, numbering more than 10% of the number of votes cast in the last gubernatorial election in the Town of Damariscotta, submit this petition to the Selectmen of Damariscotta for placement on the next Town warrant or within 60 days from the date of submission of this petition:

SHALL THE TOWN OF DAMARISCOTTA, Maine, adopt a Moratorium Ordinance as follows:

WHEREAS, the Town of Damariscotta is suddenly under threat of increased development pressure from large scale retail development; and

WHEREAS, this development pressure was unanticipated and has not been adequately provided for in the Town's current Land Use Ordinance; and

WHEREAS, continued large scale retail development could pose serious threats to the public health, safety and welfare of the residents of Damariscotta through the over-development of parts of Town with such businesses without adequate provisions for issues of safety, sewage, water, roads and land use compatibility, and visual access to view corridors; and

WHEREAS, the Town will need at least 180 days to develop and implement the necessary amendments to zoning and land use ordinances and regulations to accommodate these development pressures; and

WHEREAS, the Town initiated a review process for a new land use code on June 7, 2017; and

WHEREAS, amendments to the Land Use Ordinance require a public hearing by the Planning Board and the Board of Selectmen, and then must be voted upon at a Town Meeting; and

WHEREAS, in the Judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S.A. §4356 (1)(B) and require the following Moratorium Ordinance as immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, the Town of Damariscotta hereby ordains that a moratorium is hereby imposed on all new structures for retail use larger than 2,500 square feet and subject to the severability clause below, to all proceedings, applications and petitions not pending (within the meaning of 1 M.R.S.A. §302) as of June 7, 2017, and on any new construction, expansion, or use, requiring approval under the terms of the Town's zoning and land use ordinances and regulations for such Town until the effective date of the necessary amendments to the zoning and land use ordinances and regulations or until December 4, 2017, or if, by December 4, 2017, the municipality finds that (1) the issue necessitating the moratorium still exists, and (2) reasonable progress is being made to alleviate the problem, that the moratorium shall be extended to June 1, 2018; and

BE IT FURTHER ORDAINED, that the Planning Board, Board of Appeals, the Building Inspector/C.E.O., all Town agencies and all Town employees shall neither accept nor approve nor consider applications, plans, permits, licenses, and/or fees for any new construction or uses governed by this Moratorium Ordinance for such large retail uses for the said period of time; and

BE IT FURTHER ORDAINED, that those provisions of the Town's Land Use Ordinance and regulations which are inconsistent or conflicting with the provisions of this Moratorium Ordinance, including, without limitation, the requirements for site plan review by the Planning Board, subdivision and/or special exception review by the Planning Board, and size variance appeals by the Board of Appeals, are hereby repealed to the extent that they are applicable for the duration of the Moratorium Ordinance hereby ordained, but not otherwise;

BE IT FURTHER ORDAINED, that to the extent any provision of this Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain as valid.

EMERGENCY CLAUSE: In view of the emergency cited in the preamble, this Moratorium Ordinance shall take effect immediately upon passage by the Town, shall apply, to the maximum extent permitted by the law but subject to the severance clause above, to all proceedings, applications and petitions not pending as of June 7, 2017, and shall stand repealed as of June 1, 2018.

