

“Are you getting what you want out of your zoning?” - “No”

Question posed to Town Staff and Boards during a charrette focus meeting.



Diagram of some of the plan differences between form based codes (top), and conventional use based codes (bottom). Both contain the same uses, but the form based plan is interconnected, mixed use, and places buildings to create walkable streets and squares.

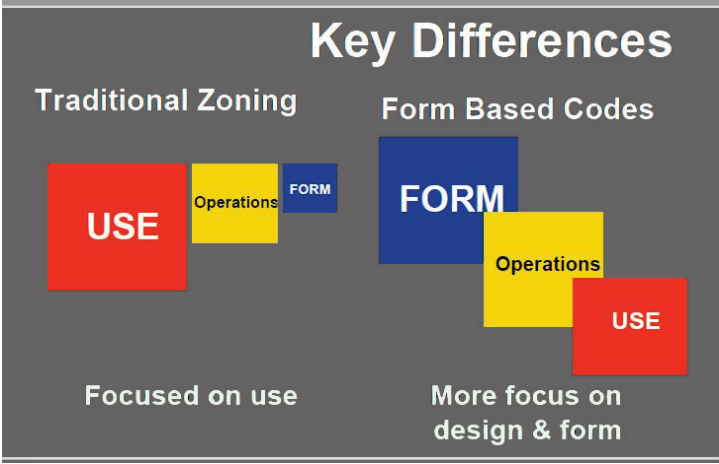
The primary implementation obstacle contained in the present Damariscotta regulatory system is the rather conventional nature of the Land Use and Subdivision ordinances. By their nature, the Land Use and Subdivision ordinances are, reactive to individual proposals, like many conventional zoning systems.

Because the Town’s existing regulations are primarily focused on regulating use, rather than form, the vague nature of most of the standards that relate to the form and placement of improvements requires an applicant to speculate about the site design the Town is seeking. This leads to uncertainty in outcome from the perspective of both applicants and decision-making bodies.

As a result, the Town is less likely to get the form of development it desires and it often requires an extended review process to guide the applicant toward changes that generally approximate, but usually fall short of, a design that the community is seeking. This lack of certainty may discourage some applicants from pursuing development in Damariscotta and leaves the Town dissatisfied with the development that does occur because it doesn’t reflect what the community wants.

Another way Damariscotta regulates development is through its Site Plan Review Ordinance, which has been amended over time. The mechanisms contained in that ordinance, however, can also create substantial uncertainty due to reservation of significant discretion by the Planning Board. The intent of the regulations is fine, but the standards are generally not measurable. Standards about the desired form of the development should be more specific, so the applicant can be informed about what the Town is seeking.

According to Town Staff and Board members asked during the charrette, the current ordinances do not result in the type or form of development that reflects their desires and goals for the community.


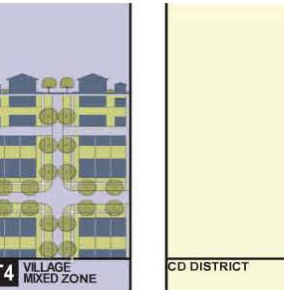


DAMARISCOTTA HEART & SOUL PLANNING CHARRETTE

THE FORM BASED APPROACH AS AN ALTERNATIVE

Given general dissatisfaction with the result on the ground based on conventional regulations such as those in Damariscotta, local governments around the country are increasingly turning to an alternative method of land development regulation. This method, known as a form based code, is a particularly efficient and effective way to translate the ideals of an Illustrative Plan (achieved through consensus) into regulations. The focus of a form based code is primarily on the creation of places, rather than on the creation of individual buildings and regulation of uses; thus, its aim is to ensure development that is compact, mixed use, and pedestrian-oriented. In contrast to conventional land development regulations, form based codes focus on public spaces – including streets – shaped by individual private buildings. More information on this technique can be found at www.formbasedcodes.org and www.smartcodecentral.com.

A form based code is a land development regulatory tool that places primary emphasis on the physical form of the built environment with the end goal of producing a specific type of “place”. The fundamental principle of form based coding is that how a building relates to the street (public realm) is more important than use. Simple and clear graphic prescriptions for building height, building placement, and building elements (such as location of windows, doors, etc.) are used to ensure development respects the street. Land use is not ignored, but regulated using broad parameters that can better respond to market economies. In some cases, specific uses may be prohibited or specific mixes or percentages of types of uses (e.g., residential, commercial, open space, etc.) may be required.

									
a. ALLOCATION OF ZONES per community (applicable to Article 3 only)									
HAMLET requires		50% min T1 and/or T2		10 - 30%		20 - 40%		not permitted	
b. BASE RESIDENTIAL DENSITY (see Section 3.8)									
By Right		1 unit / 20 ac. avg.		varies by building type		varies by building type		varies by building type	
Other Function (Article 3 only)		by Variance		varies by building type		varies by building type		varies by building type	
c. BLOCK SIZE									
Block Perimeter		no maximum		no maximum		no maximum		no maximum	
d. THOROUGHFARES (see Table 3A and Table 3B)									
DR		not permitted		not permitted		permitted		permitted	
ST		not permitted		not permitted		permitted		permitted	
RD		permitted		permitted		permitted		not permitted	
Rear Lane		permitted		permitted		permitted		not permitted	
Rear Alley		not permitted		not permitted		permitted		required	
Path		permitted		permitted		permitted		permitted	
Passage		not permitted		not permitted		permitted		permitted	
Bicycle Trail		permitted		permitted		permitted		not permitted *	
Bicycle Lane		permitted		permitted		permitted		permitted	
Bicycle Route		permitted		permitted		permitted		permitted	
e. CIVIC SPACES (see Table 10)									
Park		permitted		Civic Space types not regulated by context		Civic Space types not regulated by context		Civic Space types not regulated by context	
Green		not permitted		not regulated by context		not regulated by context		not regulated by context	
Square		not permitted		not regulated by context		not regulated by context		not regulated by context	
Plaza		not permitted		not regulated by context		not regulated by context		not regulated by context	
Playground		permitted		not regulated by context		not regulated by context		not regulated by context	
f. LOT OCCUPATION									
Lot Width		N/A		100 or 150 ft. min		80, 90 or 100 ft. min		45 ft. min 120 ft. max *	
Lot Coverage		N/A		25% max		25% or 30% max		40% max *	
g. SETBACKS - PRINCIPAL BUILDING									
Front Setback (Principal)		N/A		30, 40 or 100 ft. min		15 or 30 ft. min		18 ft. min 50 ft. max	
Front Setback (Secondary)		N/A		10 or 25 ft. min		7, 10, or 30 ft. min		12 ft. min	
Side Setback		N/A		30 or 100 ft. min		30 or 50 ft. min		24 ft. min	
Rear Setback		N/A						N/A	
Frontage Buildout		N/A							
h. SETBACKS - OUTBUILDING									
Front Setback		N/A		10, 15, 20 or 50 ft. min		7, 15, or 20 ft. min		20 ft. min +bldg setback	
Side Setback		N/A		10, 15, 25 or 50 ft. min		10, 15 or 30 ft. min		10 ft. min	
Rear Setback		N/A							
i. BUILDING PLACEMENT (see Table 6)									
Edgeyard		permitted		Building Placement type not regulated by context		Building Placement type not regulated by context		Building Placement type not regulated by context	
Sideyard		not permitted		not regulated by context		not regulated by context		not regulated by context	
Rearyard		not permitted		not regulated by context		not regulated by context		not regulated by context	
Courtyard		not permitted		not regulated by context		not regulated by context		not regulated by context	
j. PRIVATE FRONTAGES (see Table 4)									
Common Yard		N/A		not regulated, regardless of context		not regulated, regardless of context		not regulated, regardless of context	
Porch & Fence		N/A		not regulated, regardless of context		not regulated, regardless of context		not regulated, regardless of context	
Terrace or Dooryard		N/A		not regulated, regardless of context		not regulated, regardless of context		not regulated, regardless of context	
Forecourt		N/A		not regulated, regardless of context		not regulated, regardless of context		not regulated, regardless of context	
Stoop		N/A		not regulated, regardless of context		not regulated, regardless of context		not regulated, regardless of context	
Shopfront & Awning		N/A		not regulated, regardless of context		not regulated, regardless of context		not regulated, regardless of context	
k. BUILDING HEIGHT (see Table 8)									
Principal Building		N/A		35 ft. max		35 ft. max		35 ft. max	
Outbuilding		N/A		25 ft. max		25 ft. max		25 ft. max	
l. BUILDING FUNCTION (see Table 7 & Table 9)									
Residential		N/A		no mixed use buildings allowed by right		no mixed use buildings allowed by right		no mixed use buildings allowed by right	
Lodging		N/A		no mixed use buildings allowed by right		no mixed use buildings allowed by right		no mixed use buildings allowed by right	
Office		N/A		no mixed use buildings allowed by right		no mixed use buildings allowed by right		no mixed use buildings allowed by right	
Retail		N/A		no mixed use buildings allowed by right		no mixed use buildings allowed by right		no mixed use buildings allowed by right	

The table above demonstrates the dimensional differences between Jamestown, Rhode Island’s former zoning ordinance and the new approved form based code.

PROS AND CONS OF
CONVENTIONAL AND FORM BASED CODES

CONVENTIONAL CODES	FORM BASED CODES
Pros	Pros
Familiar system to understand and implement	Allows mixed use by right
Few gray areas about allowable uses – uses are generally predictable	User-friendly with graphics and illustrations
	More efficiently plans and uses public infrastructure – water, sewer, roads, etc.
	Clear standards so design/form is predictable and meets community goals
	Focuses on quality of public realm – public gathering places, engaging streetscapes
	Quicker review process
Cons	Cons
Vague standards for placement and form of development	Requires more upfront planning (charrettes, public input, etc.)
Hinders the creation of mixed use development	New approach
Often results in economically inefficient development – mismatched development of public utilities and transportation systems resulting in inefficient use of public facilities from leap-frogged development and sprawl	Represents change
Rarely produces improvements in the public realm – public gathering places, engaging streetscapes	Little control over uses unless specify prohibited uses or establish proportion of types of uses in advance.
Often produces isolated, single-use lots, excessive setbacks and parking, and, because of separation of uses, an increased dependence on automobile use	Developers / landowners must learn a new way of conducting business.
Slower review process	

Given the varying character of different areas in Damariscotta and the degree to which they are positioned to attract small or large-scale development proposals, the charrette team recommends a combination of methods of applying a form based approach to specific parcels in Town. A tailored system like this is contemplated in Section V(B)(1)-(3) of *Creating Traditional, Walkable Neighborhoods: A Handbook for Maine Communities* (Maine State Planning Office, July 2009), where the concepts of “Neighborhood Development Districts” are discussed.

The charrette team does not recommend the adoption of form based codes townwide. Nor does the team recommend adjusting standard in existing zones to create a so-called “hybrid” zone that continues the focus on use with the addition of more specific design standards within the conventional structure of the zone. Rarely have such “hybrids” proved successful in creating the desired form of development. Given the conventional nature of the Damariscotta Land Use and Subdivision ordinances, implementation would likely require the creation of a new zone or zones, rather than “surgical” repair of the existing regulations.

The decision about whether to adopt a new mapped form based code, overlay, or floating zones for one or more of the focus areas depends on the level of comfort the Town will have with requiring conformance to very specific standards.

If the Town is not ready to replace its current use-based zones, it could provide the option of developing in the desired form through an overlay or floating zone, assuming that most developers might prefer to meet the standards of the overlay or floating zone because it could allow increased development intensity and a streamlined permitting process.

It may be most appropriate to adopt a mix of approaches; for example, a floating or new mapped zone

for Piper Commons to test / inform how a form based code zone might apply to Downtown or Route 1B. The ordinance could establish a framework to land the zone, standards for a street network, and reserve areas to address later on. Piper Commons would have to prepare a “regulating or framework plan” that reflects the design in the Illustrative Plan in order to anchor the floating zone. Once the Town was satisfied with the details, the area would be rezoned. If the Town was not satisfied with the proposed plan, it would not rezone the property.

In the meantime, the Town might adopt overlay zones for Downtown and 1,000 feet back from the centerline of Route 1B to increase options for new development, The overlay zone would include very specific standards that reflect the Illustrative Plan. Applicants would prefer the overlay over the underlying zone because, though it includes far greater prescriptive standards, it presumably would gain advantages of mixed use being permitted, increasing density or intensity of use, and a quicker, more predictable review process.

At a minimum, the charrette team recommends that the Town adjust land use districts, street standards, the location of and conflicts in traffic and parking standards, and landscaping requirements to better reflect elements of the Illustrative Plan.

A form based code depends on delegated discretion. The existing ordinance has a lot of discretion. An amended one is likely to have less because it will create standards that reflect what you want upfront in exchange for reduced flexibility in administration. Procedures will reflect what the Town is comfortable with, which may include staff committee, planner review, or other options.

DAMARISCOTTA HEART & SOUL PLANNING CHARRETTE

APPLICATION OF A FORM BASED APPROACH IN DAMARISCOTTA

The following is a description of one way a regulatory system tailored to the various focus areas might be applied.

Downtown could have an overlay zone that reflects the details of the Illustrative Plan generated in the charrette.

Route 1B Nodes. Each node could have its own mapped or overlay zone to reflect the functional differences in the nodes and details of the Illustrative Plan generated in the charrette.

Route 1B, open areas between nodes could be preserved with a new open space zone and/or through strategies to acquire property, development rights, and/or conservation easements to enable open space preservation without adversely affecting the existing landowners. (See Next Steps – Potential Funding Mechanisms).

Piper Commons. A variant on a floating zone could be the preferred approach for this area of commercial, industrial, mixed use, compact residential, and low intensity residential uses in an uncertain real estate market place. Unlike the standardless regulations presently embodied in the Planned Unit Development section of Damariscotta’s zoning regulations, this type of floating zone would provide a relatively limited, but flexible, “kit of parts” that would be applied over time, based on an approved regulating plan. Once the area was rezoned, this type of approach would not require the developer to “front load” its plan submission with many details that will need to be amended as the market place changes, but would establish the overall concept or framework for development of the Piper Commons neighborhood over time.

Whatever mechanism is chosen, implementation success is tied to three overarching tenets:

1. To the extent practicable, the regulations should not look and function so differently from the existing ordinances as to attract negative criticism on that ground alone.
2. The regulations and mapping should contain a degree of flexibility to account for changing real estate development market conditions over time.
3. The procedures applicable to individual development proposals should contain clearly described and streamlined administrative approval mechanisms.

Adoption of a form based code would provide the Town with a simpler and quicker review process which results in development that is more in keeping with the form and character desired by the Town. Changing nothing in the Town’s ordinances is likely to result in the type of sprawling development that is described in Section A of this charrette report.

Comprehensive Plan

Whichever regulatory approach the Town pursues, under state law, it will need to provide its legal basis in its comprehensive plan which the Town is currently considering updating.

If Damariscotta wants to amend its land use regulations relatively quickly, the simplest approach is to amend the existing comprehensive plan to support those regulatory changes at the same time it adopts the amended regulations. If, however, the Town chooses to adopt amended regulations more slowly, the new or updated comprehensive plan should be drafted to include the outcome of the charrette, its recommendations, and refinements of the Illustrative Plan.



Above is the regulating plan created for Jamestown, Rhode Island, with the Sub-Urban Zone indicated in light purple, and the Urban Center Zone indicated in dark purple. The natural and rural areas are shown in green. This zoning map has replaced the former use based zoning map.

DEFINITIONS OF FORM BASED ELEMENTS

Mapped Zone – A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

Floating Zone – An unmapped zoning district where all the zone requirements are contained in the ordinance and the zone is fixed on the map only when an application for development meeting the zone requirements is approved. In Damariscotta’s case, the zone requirements might require the landowner/developer to provide a “regulating plan” that will guide development of the site.

Overlay Zone – A zoning district that encompasses one or more underlying zones and that imposes additional requirements beyond those required for the underlying zone. Overlay zones deal with special situations that are not appropriate to a specific zoning district or that apply to several districts.

Regulating Plan – The map or plan in a form based code that shows streets and public open spaces and designates where various building form standards will apply. A regulating plan helps translate an Illustrative Plan into place-specific development regulations.

Underlying Zone – Used in conjunction with an overlay zone, this term refers to the zone or district that is established in a community’s zoning ordinance.