TOWN OF BRUNSWICK

ZONING ORDINANCE REWRITE COMMITTEE

85 Union Street, Brunswick, ME 04011-1583

WORK SESSION AGENDA

TOWN HALL ROOM 206
85 UNION STREET
WEDNESDAY, MAY 18, 2016; 1:00 PM

1. Public Comment
2. Draft 2:
    a. Chapters 4 and 5 Revisions from 5/4/16 meeting
        i. Neighborhood Protection
        ii. Proposed Setbacks from GC1
    b. Completion of Chapter 5: Administration
    c. GR2 Mapping (now R1 and R8)
    d. Other Revisions
3. Approval of Meeting Summaries
4. Other Business
5. Upcoming Meetings Schedule

Please note that this is a Committee work session. The public is invited to attend with public comment allowed regarding discussion topics. Please call the Brunswick Department of Planning and Development (725-6660) with questions or comments. Individuals needing auxiliary aids for effective communications please call 725-6659 or TDD 725-5521.

applicable overlay district shall prevail. If regulations for one overlay district conflict with those for another applicable overlay district, the more restrictive regulations shall prevail.

2.3.2. Aquifer Protection Overlay (APO) Districts

Comment [AB49]: Proposed revisions accepted by BTWD, 11/19.

A. Purpose

The purpose of the Aquifer Protection Overlay (APO) districts is to protect the quality and quantity of Brunswick's present and future ground water resources by regulating activities and land use practices ~~that~~ which are likely to affect those resources. The protection of ground water is critical to promoting the health, safety, and general welfare of the residents of Brunswick.

B. Definition and Delineation of APO Districts

(1) The Aquifer Protection Overlay (APO) districts consist of sand and gravel aquifers and aquifer recharge areas. There are three APO districts:

a. Aquifer Protection Overlay 1 (APO1) District, defined in Section 2.3.2.C(1);

b. Aquifer Protection Overlay 2 (APO2) District, defined in Section 2.3.2.D(1); and

c. Aquifer Protection Overlay 3 (APO3) District, defined in Section 2.3.2.E(1).

(2) The boundaries of the APO districts are delineated on the Brunswick Zoning Map, and are based on:

a. "Hydrogeology of the Jackson, Taylor and Williams Stations Aquifer in Topsham and Brunswick, Maine" report, dated February 25, 1994, by Caswell, Eichler and Hill; and

b. "Hydrogeology of the Jordan Avenue Station Aquifer in Brunswick, Maine" report, dated March 22, 1994, by Caswell, Eichler and Hill.

C. Aquifer Protection 1 (APO1) District

(1) Definition of APO1 District

The APO1 District is the area within which leachable materials disposed of or applied into or onto land or water bodies can travel to the public water supply wells within 200 days.

(2) Use Standards for APO1 District

a. All uses are prohibited with exception of the following:

i. Conservation of soil, water, plants, and wildlife.

ii. Outdoor recreation—including fishing, nature study, and hunting—where otherwise legally permitted.

iii. Pedestrian, bicycle and horse paths, and bridges.

iv. Operation, maintenance, and expansion of public water supply facilities.

v. Timber harvesting.

vi. Natural gas or propane storage and transmission facilities.

~~vi.~~vii. Solar energy collection facilities as a primary or accessory use.

Comment [AB50]: Added with concurrence of BTWD 5/10

b. Motorized vehicles may be used in conjunction with the allowable uses listed in subsection a above, except that the use of motorized vehicles for recreational purposes is prohibited.

c. The permitted uses shall meet the performance standards in Section 2.3.2.F (Performance Standards for Aquifer Protection Overlay (APO) Districts).

Table 3.2: Permitted Use Table for Growth Area Zoning Districts

P = Permitted C = Allowed Only with a Conditional Use Permit X = Prohibited
A = Allowed Only as an Accessory Use T = Allowed only as Temporary Use

Land Use	NEW ZONE	GR1	GR2	GR3	GR4	GR5	GR6	GR7	GR8	GR9	GM1	GM2	GM3	GM4	GM5	GM6	GM7	GM8	GC1	GC2	GC3	GC4	GA	GI	GO	GN	Supplementary Use Standards
	CURRENT ZONE	RR	R1 ~~4-6~~	R2 ~~7 & 8~~	R3, 4, 5, 6	R7	TR1	TR2	TR3 & 4	TR5	MU2	MU3 & 6	MU4, I1, I4	MU1, CC	HC1 & 2	TC1, 2, 3	RCMU	MUOZ	CU1, 2 & 3	CU5 & 6	CU4 & 7	CU/TC	R-AR	I2, I3, RBTI	R-R&OS	BCN	
					P						C	C	C	C	C		C	C						C			
Kennel		X	X	X	P	X	X	X	X	X	C	X	X	X	C	X	X	X	X	X	X	X	X	P	X	X	
Plant nursery		X	X	C	P	P	P	C	X	X	P	P	C	P	P	X	C	C	P	X	P	P	X	P	P	X	
Urban Agriculture		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	3.4.1.F
Veterinary office		X	X	X	X	X	X	X	X	X	P	C	P	P	P	P	P	P	X	X	X	X	X	P	X	X	
Food, Beverage, and Entertainment																											
Adult entertainment establishment		X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X	X	X	X	X	3.4.1.G
Golf course		X	X	X	P	X	X	X	X	X	X	X	X	C	X	X	X	X	X	X	X	X	X	X	P	X	
Recreation facility, as a principal use		X	X	X	C	C	C	X	X	X	P	P	P	P	P	P	P	C	P	X	P	P	X	P	P	P[1]	
Restaurant or dining facility		X	X	X	X	X	C	X	X	X	P	P	C	P	P	P	P	A	P	X	P	P	P	C	X	X	3.4.1.H
Theater		X	X	X	X	X	C	X	X	X	P	C	C	P	P	P	P	X	P	X	P	P	X	P	X	X	
Lodging																											
Campground		X	X	X	X	X	X	X	X	X	C	C	C	C	C	C	X	X	X	P	P	X	X	X	P	X	
Hotel		X	X	X	X	X	C	X	X	X	P	C	C	P	P	P	P	P	X	X	P	X	X	P	X	X	3.4.1.I
Retail Sales and Services																											
Farmer's market		X	X	X	X	X	C	X	X	X	P	P	P	P	P	P	P	P	X	X	X	X	X	P	X	X	
~~Bank~~Financial Institution		X	X	X	X	X	C	X	X	X	P	C	P	P	P	P	P	P	X	X	X	X	P	P	X	X	
Neighborhood store		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	P	X	X	3.4.1.J
Office		X	X	X	P	P	C	X	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	1.1.1.A~~3.4.1.K~~
Retail, Class I		X	X	X	X	X	C	X	X	X	P	P	P	P	P	P	P	P	X	X	X	P	P	P	X	X	3.4.1.K~~3.4.1.L~~
Retail, Class II		X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	X	X	X	X	X	P	X	X	3.4.1.K~~3.4.1.L~~
Service business, Class I		X	X	X	P	C	C	X	P	X	P	C	P	P	P	P	P	P	X	X	X	P	P	P	X	X	3.4.1.L~~3.4.1.M~~
Service business, Class II		X	X	X	X	X	X	X	X	X	P	C	P	P	P	P	P	P	X	X	X	X	P	P	X	X	3.4.1.L~~3.4.1.M~~
Studio		C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	X	P	P	X	P	X	X	
Transportation and Vehicle-Related Uses																											
Aviation operations		X	X	X	X	X	X	X	X	X	P	P	C	C	C	C	P	P	X	X	P	X	P	P	X	X	
Aviation-related business		X	X	X	X	X	X	X	X	X	P	P	C	C	C	C	P	P	X	X	P	X	P	P	X	X	
Bus or rail station		X	X	X	X	X	X	X	X	X	X	X	X	P	X	P	P	X	P	X	X	X	X	X	X	X	
Car wash		X	X	X	X	X	X	X	X	X	X	X	X	C	P	X	X	X	X	X	X	X	X	X	X	X	
Marina or boat storage		X	X	X	X	X	X	X	X	X	C	C	C	C	C	C	C	P	C	C	C	P	X	P	X	X	
Motor vehicle fueling station		X	X	X	X	X	X	X	X	X	C	X	X	C	P	X	P	X	X	X	X	X	P	P	X	X	3.4.1.M~~3.4.~~

Comment [AB72]: Under review (11/17)

Comment [AB73]: Z ORC discussion 5/13

Table 3.3: Permitted Use Table for Rural Zoning Districts

P = Permitted C = Allowed Only with a Conditional Use Permit X = Prohibited
A = Allowed Only as an Accessory Use T = Allowed Only as a Temporary Use

Land Use	NEW ZONE	RN	RF	RR	RP1	RP2	RM	Supplementary Use Standards
	CURRENT ZONE	BCN	FF1, CR1	CR2, MU1	CP1, FF3	CP2	MU5	
Recreation facility, as a principal use		P[1]	C	C		C	C	
Restaurant or dining facility		X	X	X	X	X	X	3.4.1.H
Theater		X	X	X	X		X	
Lodging								
Campground		X	C	C	C	C	C	
Hotel		X	X	X	X	X		
Retail Sales and Services								
Farmer's market		X	X	X	P	P	P	
~~Bank~~Financial Institution		X	X	X	X	X	C	
Neighborhood store		X	P	P	P	P	P	3.4.1.J
Office		X	X	X		X		
Retail, Class I		X	X	P	X	X	P	3.4.1.K~~3.4.1.L~~
Retail, Class II		X	X	X	X	X	X	
Service business, Class I		X	C	X	C	C	P	
Service business, Class II		X	C	X	X	C	P	
Studio		X	P	P	C	P	P	
Transportation and Vehicle-Related Uses								
Aviation operations		X	X	X	X	X		
Aviation-related business		X	X	X	X	X	X	
Bus or rail station		X	X	X	X	X	X	
Car wash		X	X	X	X	X		
Marina or boat storage		X	C	C	C	C	C	
Motor vehicle fueling station		X	X	X	X	X	X	
Motor vehicle service or repair		X	X	X	X	X	C	
Parking facility, as a principal use		X	X	X	X		C	
Ultra-light airpark		X	X	X	X	X	C	1.1.1.A
Vehicle sales, rental, or storage		X	X	X	X	X	C	
Industrial Uses								
Contractor's space		X	C	C		C	C	
Industry, Artisan		X	X	X	X	X	P	
Industry, Class I		X	X	X	X	X	P	
Industry, Class II		X	X	X	X	X		
Junkyard or automobile graveyard		X	X	X	X	X	X	
Marine activity		P	P	P	P		P	3.4.1.S~~3.4.1.T~~
Mineral extraction		X	P	P	P	P	P	3.4.1.T~~3.4.1.U~~
Recycling collection facility, as a principal use		X	X	X	X	X	C	
Renewable energy generating facility, as a principal use		X	C	C	C	C	C	3.4.1.U~~3.4.1.V~~

Comment [AB74]: Z ORC discussion 5/13

In the GA district, Class I retail uses are only permitted in conjunction with aviation-related activities or uses.

~~(2) In the GM4 district, Class II retail structures that will be occupied by a Retail Class II occupant that occupies an area with a footprint of more than 50,000 square feet shall include specific community improvements in keeping with the 1998 Cook's Corner Master Plan as amended, such as community facilities, enhanced public space, environmental improvements, and public artwork with a minimum value of one percent of the total construction budget. This condition may be satisfied, through approval by the Planning Board, by providing:~~

~~(3) Community improvements on the project site; or~~

~~(4) Community improvements elsewhere in the GM4 District; or~~

~~A cash payment equal to one percent of the total construction budget to the Town for planning and/or creation of community improvements in the Cooks Corner area.~~

L. Service Business, Class I and Class II

In the GA district Class I and Class II service business uses are only permitted in conjunction with aviation related activities or uses.

M. Canopies for Motor Vehicle Fueling Station and Other Drive-Through Uses ~~Canopies~~

Canopies for Motor Vehicle Fueling Stations and all other canopies permitted as accessory structures to any Permitted or approved Conditional or Special ~~Use~~ Permit Use shall comply with the following requirements:

(1) In all districts except the GM4 and GM5 districts, canopies shall be a single color. ~~and c~~Corporate colors and patterns shall not be permitted on canopies, except for signs located on the canopy.

~~(2) Canopies are not permitted in the GM6 district.~~ In the GM6 zoning district, canopies shall not exceed 500 square feet in size.

~~(3)~~(2) No portion of the lighting fixture shall extend beyond the lower horizontal surface of the canopy.

Comment [AB87]: To allow primarily smaller-scale bank canopies.

~~N. Ultra-light Airpark~~

~~All ultra-light air parks shall require Major Development Review by the Planning Board.~~

Comment [AB88]: This should be stated in Dev. Review.

~~O.~~N. Vehicle Sales, Rental or Storage

The sale or display of automobiles for sale or display shall not occur within any required setback.

~~P.~~O. Contractor's Space

In the GA district contractor's space uses are only permitted in conjunction with aviation related activities or uses.

~~Q.~~P. Industry, Class I

In the GM3 district, this use is ~~only allowed~~permitted by right for properties accessed by Cressey Road or Columbus Drive, south of the limited access portion of Route 1.

~~R.~~Q. Industry, Class II

In the GM3 district, this use is ~~only allowed~~permitted by right for properties accessed by Cressey Road or Columbus Drive, south of the limited access portion of Route 1.

Comment [AB89]: Added to accommodate reuse of existing large-scale industrial-type structure.

a structure ~~on the lot~~ shall be no more than five (5) feet behind the reduced minimum front setback.

b. **Front Setback Requirement on Corner and Through Lots**

i. Whenever a side or rear yard is adjacent to a street, the minimum front setback requirement shall apply to such side or rear yard.

ii. To establish a new public street or private ~~access~~ street right-of-way that would convert one or more existing lots into a corner lot, ~~the width of the street or access right-of-way shall be at least 50 feet and~~ existing structures on such new corner lot shall meet ~~must be able to satisfy~~ the minimum front setback requirement along the new public street or ~~access~~ private street right-of-way.

c. **Permitted Encroachments into Required Yards**

The following encroachments into required yards are allowed:

Table 4.2.5.B(4)c~~4.2.4.B(4)c~~: Allowable Required Setback Encroachments

	Structure or Feature	Encroachment Conditions or Limits
i.	Open fire escape	Up to 4 feet into any required rear or side setback
ii.	Steps or stoop	Up to 8 feet into any required front setback; up to 4 feet into any required rear or side setback
iii.	Awning or movable canopy	Up to 6 feet into any required setback
iv.	Cornice, eave, and other similar architectural feature	Up to 3 feet into any required setback
v.	Front or wraparound porch ~~that is~~ open or enclosed only with screens (not glassed in)	Up to 10 feet into any required front setback
vi.	Semi-public space such as table and patio	Anywhere in any required front setback
vii.	Access ramp for persons with disabilities	Anywhere in any required setback provided that it is designed in a manner that is compatible with the design and style of the building
viii.	Seawall, wharf, pier, or dock	Anywhere in required rear or side setback along water
ix.	Retaining wall	Anywhere in required rear or side setback
x.	Fence or wall	Anywhere ~~any~~ in required front ~~yard~~ setback if no more than 4 feet high. ~~(c~~Customary agricultural wire or board fencing that does not obstruct visibility may be higher if first approved by Code Enforcement Officer~~);~~ Aanywhere in ~~any~~ a required rear or side setback.
xi.	Other accessory structure	See ~~Section~~ subsection ~~4.2.4.B(4)d~~4.2.45.B(4)e.

d. **Setback Requirements for Growth-College Districts**

i. As illustrated by Map 4.2.4, minimum setbacks within the Growth College 1 Zoning District, along college boundaries A and B shall be 125 feet; 80 feet along college boundary C.

ii. In the Growth College 2 Zoning District, lots fronting on Park Row or Longfellow Avenue shall have a minimum rear and side setback of 25 feet.

Comment [AB123]: Revised for clarity 5/9. Former 204.3.D).

~~c. The structure will be occupied by a Retail Class II occupant that occupies an area with a footprint of more than 50,000 square feet and the building is part of a mixed use development approved as a Common Development Plan in which at least 30 percent of the gross leasable area of the total development will be occupied by non-retail uses or at least 15 percent of the gross leasable area of the total development will be occupied by residential uses. In this situation, at least 50 percent of the non-retail or residential space shall be constructed prior to or concurrently with the retail space, or enforceable arrangements satisfactory to the Town Manager shall be in place to assure the completion of the construction of the non-retail or residential space within two years of the occupancy of the retail space.~~

c. ~~The structure will be occupied by a~~ A Retail Class II ~~occupant~~ business that occupies an area with a footprint of more than 50,000 square feet either as a separate building or part of a shopping complex, ~~and the project will~~ shall include specific community improvements in keeping with the 1998 Cook's Corner Master Plan as amended, such as community facilities, enhanced public space, environmental improvements, and public artwork with a minimum value of one percent of the total construction budget. This condition may be satisfied, through approval by the Planning Board, by providing:

i. Community improvements on the project site; or

ii. Community improvements elsewhere in the GM4 District; or

~~i.~~iii. A cash payment equal to one percent of the total construction budget to the Town for planning and/or creation of community improvements in the GM4 District.

Comment [AB124]:

Comment [AB125]: Moved from subsection 3.4.1.L (3)

~~(7) **Increased Maximum Building Footprint for Day Care Facilities**~~

~~Day care facilities may exceed otherwise applicable maximum building footprint requirement by no more than 50 percent with approval of a Conditional Use Permit in accordance with Section 5.2.2 (Conditional Use Permit).~~

Comment [AB126]: Staff recommending removal due to changes in dimensional standards and MU Overlay now it's own zoning district. In current ordinance and also addresses Boarding Care Facilities which was not listed in the use table, but listed in MU Overlay.

C. Open Space Developments

(1) Description

An open space development is a subdivision or a single-lot split that is designed with the express intent of integrating open space and naturally occurring features into the siting of buildings and lots. Open space developments require a minimum portion of the development site be set aside as conservation land, allowing the remainder of the site to be divided into lots smaller than otherwise required. The area set aside for conservation may be owned in common by the residents of the development or may be owned by a third party, but shall be subject to an easement or covenant ensuring that it will be conserved as open space. To accommodate these smaller lots and their development, open space developments are subject to less restrictive dimensional standards than generally applicable in the zoning district. To encourage open space developments as an option to conventional subdivisions, open space developments are eligible for density bonuses. See Section 4.2.5.E~~4.2.4.E~~ (Density Bonuses).

(2) Single Lot Split Open Space Developments

Within Rural Zoning Districts, ~~A~~an open space development in the form of a single lot split allows the reduction of the minimum lot area requirement to 20,000 square feet, as long as the balance of the site is placed in permanent conservation protection by filing an Indenture for Division of Land form with the Codes Enforcement Office and recording the Indenture in the Cumberland County Registry of Deeds. The remaining provisions of this subsection pertain to open space developments in the form of subdivisions involving the approval of

conservation land. The minimum protected conservation area requirement ~~may~~ shall not be waived.

b. **Modified Dimensional Standards and Density Bonus**

If the amount of protected conservation area meets the standard in Table 4.2.5.C(5)~~1.4.C.5~~ below, the modified dimensional standards shown in that Table shall apply instead of the comparable standards generally applicable in the district. For dimensional standards and zoning districts not shown in the Table, the standards generally applicable in the base zoning district shall apply.

i. Density bonuses are only allowed if the development protects lands beyond those that are excluded from the Net Site Area calculation (See subs~~S~~ection 4.~~1.4~~2.5.A). Any areas excluded from the net site area calculation may be counted to determine eligibility for dimensional flexibility, but may not be counted in determining eligibility for density bonuses.

Table 4.2.5.C(5)~~4.2.4.C(5)~~: Dimensional Standards for Open Space Developments

Standard	Zoning Districts				
	GR6, GR7, GR8, GR9, GM1, GM2, GM5, GC1, GC2, GC3, GC4	GR1, GR2, GR3, GR4, GR5, GM3, GM4, GI	GM8	RF, RR	RP1, RP2, RM
Protected conservation area (as a percent of total site area (includes area excluded from net site area calculation plus additional protected areas)	15	30	15	45	50
Lot area, min. (square feet)	~~4,000~~n/a	~~6,000~~n/a	~~7,500~~n/a	n/a[1]	n/a[1]
Lot width, min. (feet)	40	60	75	75	75
Front setback, min. (feet)[2]	10	15	20	n/a	n/a
Rear setback, min. (feet)	10	15	20	20	20
Side setback, min. (feet)	10	10	10	10	10
Impervious surface coverage, max. (% of lot area)	50	50	80	n/a	n/a
Density Bonus (based on areas protected beyond those required to be excluded from net site area calculations)	See subs~~S~~ection 4.2.5.E~~4.2.4.E~~ (Density Bonuses)				

NOTES:
[1] For lots containing septic systems and/or wells, lot area must be sufficient to accommodate the septic system and/or well. Septic systems must be set back at least 15 feet from any lot line.
[2] This may be reduced further in accordance with subs~~S~~ection 4.2.5.B(4)a~~4.2.4.B(4)a~~ (Reduction of Minimum Front Setback to Average Setback~~Reduction of Minimum Front Setback to Average Setback~~).

Comment [AB125]: No longer have minimum lot area in growth districts.

(6) **Community Water and Sewer Facilities**

a. Community water and sewer systems in open space developments are subject to all applicable State and F~~f~~ederal regulations, and the following standards:

Chapter 5 - Administration

5.1 General Provisions

5.1.1. Reviewers and Decision-Makers

A. Town Council

(1) ~~[To be inserted]~~ Membership

The Town Council consists of nine (9) members elected for terms of three (3) years.

(2) Powers and Duties

a. The Town Council shall review and approve all zoning ordinance amendments upon recommendation by the Planning Board.

~~a.~~ The Town Council shall have the option to exercise jurisdiction regarding any Planning Board approved Special Permit in accordance with Subsection _____.

B. Planning Board

(1) Membership

The Planning Board consists of seven (7) members appointed by the Town Council for terms of three (3) years.

(2) Powers and Duties

a. The Planning Board shall review all Conditional Use Permits, Special Permits, Major Development Review applications, and any Minor Development Review application for which the applicant requests Planning Board review. The Planning Board may conduct Minor Development Review if recommended by either the Director or the Staff Review Committee.

b. The authority of the Planning Board to review certain Minor Development Review applications is hereby delegated to the Staff Review Committee in accordance with the provisions of ~~S~~subsection 5.1.1.D. Whenever such delegation occurs, the term "Planning Board" shall also refer to the Staff Review Committee.

C. Zoning Board of Appeals

(1) Membership

The Board of Zoning Appeals consists of five (5) full members and four (4) associate members appointed by the Town Council for terms of three (3) years.

(2) Powers and Duties

The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Codes Enforcement Officer, the Planning Board or Village Review Board, and to authorize v~~V~~ariances in specific cases.

D. Village Review Board

(1) Membership

a. The Village Review Board shall consist of seven (7) members appointed by the Town Council for terms of three (3) years.

b. The members ~~shall~~ include a resident of the Village Review Zone and a Brunswick resident who is a representative of the Pejepscot Historical Society. To the extent possible, the remaining members ~~shall~~ include Brunswick residents with expertise or experience in the fields of architecture, historic preservation and construction engineering.

~~All members shall be appointed by the Town Council for a three-year term.~~

(2) Powers and Duties

The Village Review Board ~~shall~~ ha~~ve~~s the following powers and duties:

a. Review new construction, additions, alterations, relocations and demolitions within the Village Review Zone, and issue a Certificate of Appropriateness for applications satisfying the requirements of this Section.

b. Develop, regularly update, and consult the Village Review Zone Design Guidelines in review of applications for Certificates of Appropriateness.

c. Act in an advisory capacity to the Town Council, Planning Board and other Town entities regarding the protection of historic sites, structures, and artifacts.

d. Review and comment upon proposed National Register of Historic Places nominations for properties within the Town.

e. Maintain and update the existing historic building/structure survey using forms and guidelines established by the Maine Historic Preservation Commission.

f. Provide educational and informational opportunities for Brunswick residents and businesses regarding historic preservation.

g. Adopt rules of procedure and shall establish appropriate meeting times.

E. Staff Review Committee

(1) Membership

The Staff Review Committee ~~shall~~ consists of the Director, Public Works Director, Codes Enforcement Officer, Town Planner, Parks and Recreation Director, Fire Chief, Police Chief, Town Assessor, ~~Natural Resources Planner,~~ General Manager of the ~~Brunswick-Topsham~~Brunswick and Topsham Water District, and the General Manager of the Brunswick Sewer District, or their official designees. For the review of projects in the GR1, GA, GO, GI (within former BNAS), GN, GM7 Districts, the Staff Review Committee ~~shall~~ is ~~be~~ expanded to include one nonvoting staff representative from the Midcoast Regional Redevelopment Authority (MRRA)designated in writing by the ~~. The~~ Executive Director of MRRA. ~~shall designate the MRRA representative in writing~~.

(2) Powers and Duties

The Staff Review Committee shall have the following powers and duties:

a. **Development Review.**

When acting in its Development Review capacity:

i. The Staff Review Committees ~~hall~~ exercises all of the powers exercised by the Planning Board including the power to grant waivers, and the power to approve, approve with conditions, or deny applications for Site Plan approval.

~~ii.~~ Actions by the Staff Review Committee to approve an application, with or without conditions, ~~shall~~ require the approval of three (3) members or a majority of those members present and voting, whichever is greater. A quorum shall consist of three (3) members ~~and, further, shall have a minimum of three deciding votes when acting on an application.~~

Comment [AB191]: Already stated above.

~~iii.~~ ii. The Staff Review Committee may waive provisions of this Chapter, in accordance with ~~S~~subsection 5.2.10.M~~5.2.8.M~~~~5.2.7.M~~ (Waiver Provisions).

~~iv.~~ iii. All appeals from a Staff Review Committee decision shall be heard by the Planning Board.

~~v.~~ iv. The Staff Review Committee ~~shall~~ provides recommendations to the Planning Board for any project undergoing Major Development Review. Individual members of the Committee may, in addition, submit letters of recommendations to the Planning Board.

~~b. **Recommendations.** The Staff Review Committee shall provide recommendations to the Planning Board for any project undergoing Major Development Review. Individual members of the Committee may in addition submit letters of recommendations to the Planning Board.~~

Comment [AB192]: Stated above.

F. Director of Planning and Development and Codes Enforcement Officer

(1) **Powers and Duties**

a. **Minor Change of Use.** The Codes Enforcement Officer may approve Changes of Use that do not exceed the thresholds required for Development Review shown in Table 5.2.7.B.

b. **Minor Modifications.** The Director may approve a minor modification to an approved Site Plan, Subdivision, Conditional Use Permit, or Special Permit, in consultation with the Town Planner, Codes Enforcement Officer, and the Public Works Director, as provided in ~~Section~~ subsection 5.2.11.B~~5.2.9.B~~~~5.2.8.B~~ (Minor Modifications).

5.1.2. Pre-Application Meetings

Pre-application meetings with Town staff are required prior to submission of applications for Streamlined Major Development Review. Pre-application meetings with the Planning and Development staff, Staff Review Committee, or Planning Board are optional for all other applications, but are strongly recommended prior to the expenditure of funds toward the design of a development proposal.

A. Pre-application Meeting with Town Staff

Prior to submitting an application for development review, the applicant is advised to meet with Planning and Development ~~Staff~~ staff to discuss applicable zoning standards and submission requirements. At this meeting, staff can detail the process for development review, answer any questions, and provide feedback to the applicant.

B. Pre-application Meeting with Review Authority

Prior to submitting an application for development review, the applicant may meet with the Review Authority to discuss applicable zoning provisions, submission requirements, and any requested waivers in order to assist the Review Authority in providing feedback to the applicant.

5.1.3. Applications Required

A. Application Submission

Development applications shall be submitted to the Director. Required application materials are summarized in Appendix D. For each item required to be submitted as part of Development Review applications the applicant shall submit either the requested information or a request for a waiver from the information requirement, pursuant to ~~Section~~ subsection 5.2.10.M~~5.2.8.M~~~~5.2.7.M~~ (Waiver Provisions). ~~The~~ Town staff shall provide a dated receipt for each application received.

B. Notice Provided

When an application is received, ~~the~~ Town staff shall notify the owners of all property located within a 200 foot radius of the boundaries of the proposed development, giving a general description of the project and specifying its location. ~~The~~ Town staff shall mail notifications via first class mail between 15 and ten (10) days prior to a scheduled review for which it is required. In addition, notification in digital form shall be posted on the Town's website.

5.1.4. Determination of Completeness

A. An application is complete when an application form and all plan requirements or waiver requests have been submitted to the Director. Within five (5) working days of receiving an application, the Director shall determine whether the application is complete. If the application is not complete, the Director shall notify the applicant in writing and request the additional information required. The applicant shall submit the additional information as soon as possible and the procedure in this paragraph shall be repeated until the application is complete.

B. With the exception of pre-application meetings, no application shall be placed on the Planning Board or Staff Review Committee agenda until the application is complete. As used in this section "complete" shall mean that all submission requirements established by this Ordinance have either been complied with or a waiv~~i~~er has been requested; any additional information requested by the Planning Board or Staff Review Committee at any prior meeting has been provided; and all conditions of any relevant prior approval for the property have been fulfilled (unless the application describes the manner in which unfulfilled conditions will be addressed).

5.1.5. Fees Required At Submittal

A. Application Processing Fee

The applicant shall submit with each application the fees for review of that type of application established by the Town Council.

~~**B. Development Impact Fees**~~

Comment [AB193]: ZORC decision 4/25/16.

~~Where it can be clearly demonstrated that a proposed development will result in a negative impact or decline in the Level of Service of any existing municipal infrastructure system or service, the Planning Board may require the applicant to participate in municipal infrastructure and/or service system improvements. The Planning Board shall assess and establish the applicant's level of participating in the improvement of the system or service.~~

~~(1) **Conducting the Assessment**~~

~~In conducting the assessment, the Planning Board shall consider the following:~~

~~a. The status of the system and service in the Comprehensive Plan and capital improvement program relative to any planned improvements and scheduling.~~

~~b. The net effect of the proposed development on the capacity of the infrastructure or service system, indicating the percentage share caused by the development.~~

~~c. A cost estimate for improvement of this infrastructure or service system to meet the increased demand, and an estimate of the applicant's share of that cost.~~

~~d. An assessment of municipal water and sewer system improvements provided by the appropriate agencies.~~

~~(2) **Improvement Responsibilities**~~

~~As soon as the applicant's share of infrastructure and/or service system impact has been established by the Planning Board, the Board shall select the method by which the applicant is to participate in the infrastructure and/or service system improvement. All determinations of appropriate cost share shall comply with all applicable decisions of the federal and state courts regarding essential nexus and rough proportionality in development exactions. The following alternatives are available.~~

~~a. **Applicant Makes Improvements.** The applicant shall agree to make the necessary infrastructure and/or service system improvements, establish a construction or service schedule, and post a performance guarantee to cover all associated costs. The applicant may recover the improvement costs within 10 years after improvements are made from subsequent developments that realize a benefit by using the infrastructure and/or service system improvements financed by the applicant. Cost reimbursement for the applicant shall be established as subsequent developments go through the Site Plan or Subdivision review process. In arriving at the appropriate cost share for subsequent developments, the same process must be used.~~

~~b. **Town Makes Improvements.** The Town shall agree to complete the improvements. The applicant shall pay the required share of the cost to the Town at the time of approval of the final plan which shall be held in a reserve fund until the improvement is completed in accordance with the scheduled capital improvement program of the Town. If the improvement is not completed within 10 years, the fee, plus interest, must be returned to applicant.~~

5.1.6. Fiscal Capacity and Performance Guarantees

A. Fiscal Capacity

The Planning Board shall require evidence of fiscal capacity, which shall demonstrate that the applicant has the financial resources to complete the project.

B. Performance Guarantee

(1) When Required

a. A performance guarantee ~~may~~ shall be required prior to the construction of infrastructure that is intended for dedication to the Town, t~~T~~he ~~Brunswick-Topsham~~Brunswick and Topsham Water District or Brunswick Sewer District or of infrastructure that will be privately owned but will function as the equivalent of public improvements, including, but not limited to, ~~-~~private roads, private sewer systems and private water systems. A performance guarantee ~~will~~ may also be required prior to initiation of work within an existing public right of way. ~~The Planning Board may also require security for a period of two years to ensure the replacement of any plantings shown on the landscaping plan which have failed to grow normally, are diseased or have died.~~ ~~No~~ A Certificate of Occupancy ~~may~~ shall not be issued unless a written approval is granted by the Town Engineer stating that the occupancy of the project or project phase can accommodate occupants without posing a threat to the public's safety.

Comment [AB194]: Stated separately below.

b. The Review Authority may require financial security for a period not to exceed two (2) years to ensure the replacement of any plantings shown on the landscaping plan that have failed to grow normally, are diseased, or have died.

(2) **Certified Check, Performance Bond or Letter of Credit**

a. The performance guarantee may be a performance bond, irrevocable letter of credit, or an escrow agreement. Such performance guarantee shall be in a form acceptable to the Town Manager, based upon the recommendations of the Director, the Town Engineer, and/or the Town Attorney.

b. The performance guarantee shall be for the full amount of the cost of the subject work, as determined by the Town Engineer, plus an additional ten (10)~~%~~ percent to account for inflation and contingencies.

c. The time for performance under the performance guarantee shall not exceed two (2) years and the full amount secured by the performance guarantee shall remain available to the Town for the entire term of the performance guarantee unless reduced by written agreement between the Town Manager and the applicant.

(3) **Release of Performance Guarantee**

a. The developer may request, at any time, that the performance guarantee be released, in whole or in part. Within 60 days of receiving such a request, the Town Manager, based upon the recommendation of the Director, ~~and~~ the Town Engineer and/or Town Attorney, may release all or part of the performance guarantee. In making a determination on the request, the Town Manager shall consider, and the applicant shall provide, evidence of satisfactory completion of the required improvements such as, but not limited to:

i. A statement by the Town Engineer that all street and storm drain systems have been constructed and completed in compliance with the Final Plan.

ii. A statement from the Brunswick Sewer District and/or the Brunswick and Topsham Water District General Manager that all sewage disposal and water distribution systems have been constructed and completed in conformity with the Final Plan.

iii. A statement by a professional land surveyor, that all permanent boundary monuments have been set in accordance with the F~~f~~inal ~~p~~Plan and current guidelines and standards of the State of Maine Board of Licensure for Professional Land Surveyors Rules at all street corners and angles of all street lines and along ~~with~~ intersections, corners or breaks in a straight lot line. The cost of obtaining this statement shall be borne by the applicant.

b. In releasing the performance guarantee, ~~the~~ Town staff shall provide the applicant with a C~~c~~ertificate of ~~c~~Compliance signed by the Town Manager.

5.1.7. Property Owners' Associations

All private roads, land and facilities owned in common private ownership shall be managed and controlled by a homeowners' association or property owners' association, in accordance with the following:

A. The documentation for the association shall be completed prior to approval of the Final ~~Subdivision~~ P~~p~~lan, and recorded prior to the sale of the first lot or unit. The association shall comply with all applicable provisions of State law.

B. Membership shall be mandatory for each lot or unit owner within the development, who shall be required by recorded covenants and restrictions to pay fees to the ~~home-owners~~ association for

taxes, insurance, and maintenance of commonly owned land, private roads, and other common facilities.

C. Property owners shall be required to pay their pro rata share of the costs and/or the assessment levied by the association shall become a lien on the property.

D. The ~~homeowners~~ association shall be able to adjust the assessment to meet changed needs.

E. Ownership shall be structured so that real property taxing authorities may satisfy property tax claims against the ~~conservation~~ common land and facilities from the association and its members.

~~5.1.8. Appeals of Administrative Decisions~~

~~A. Making an Appeal~~

~~(1) Administrative appeals from decisions of the Codes Enforcement Officer, Planning Board or Village Review Board shall be taken no later than 30 days after the decision is rendered. Dimensional variance appeals do not require a prior decision of the Codes Enforcement Officer or a board and are not subject to this time limit.~~

~~(2) The appeal shall be made by filing in the Office of the Codes Enforcement Officer a written notice of appeal specifying the grounds for such appeal. For an appeal seeking a Variance, the applicant shall submit a sketch drawn to scale or photograph showing lot lines, location of existing buildings and other physical features pertinent to the Variance request, and a concise written statement stating what Variance is requested.~~

~~(3) Upon being notified of an appeal, the Codes Enforcement Officer, the Planning Board or Village Review Board, as the case may be, shall transmit to the Zoning Board of Appeals all of the documents constituting the record of the decision appealed from. Each appeal shall be accompanied with the fee designated by the Town Council.~~

~~(4) A copy of each Variance request located in the Flood Protection Overlay (FPO) district, including the application and all supporting information supplied by the applicant, shall be forwarded by the Codes Enforcement Officer to the Commissioner of the Department of Environmental Protection at least 20 days prior to action by the Zoning Board of Appeals. Any comments received from the Commissioner prior to the action by the Zoning Board of Appeals shall be made part of the record and shall be taken into consideration by the Zoning Board of Appeals.~~

~~B. Procedure on Appeal~~

~~(1) The Zoning Board of Appeals shall hold a public hearing on the appeal within 45 days after the filing of the appeal.~~

~~(2) At least ten days prior to the date set for hearing, the Board shall give similar written notice to all property owners of record whose properties lie within 200 feet of the perimeter of the affected property, the person making the appeal, and the Codes Enforcement Officer, Planning Board, or Village Review Board (whichever made the decision being appealed), and any other person requesting notice. The notice will be sent via U.S. Mail, postage prepaid, to those persons as listed on the Town's tax records.~~

~~(3) At least seven days prior to the date of the hearing on such appeal, the Zoning Board of Appeals shall cause to be published in one issue in a newspaper of~~

~~general circulation in Brunswick a notice which includes, the name of the person appealing, a brief description of the property involved, including the street address, a brief description of the decision appealed from, or the nature of a Variance, and the time and place of the Zoning Board of Appeals' hearing.~~

~~**C. Hearings**~~

~~(1) In hearing an appeal from a decision of the Codes Enforcement Officer, Planning Board, or Village Review Board, the Zoning Board of Appeals shall:~~

~~a. Examine all application documents, Ordinance requirements and Finding of Fact and Conclusions prepared by the Codes Enforcement Officer or the Board whose decision is being appealed.~~

~~b. Determine on the basis of the entire record presented whether the Codes Enforcement Officer or such Board, as applicable, could reasonably have found the facts and reached the conclusions upon which the decision under appeal was based.~~

~~c. Determine whether the decision being appealed was based on substantial evidence.~~

~~d. Not substitute the judgment of the Zoning Board of Appeals for the judgment of the Codes Enforcement Officer or the Board whose decision is under appeal.~~

~~e. If the Zoning Board of Appeals finds that the Codes Enforcement Officer or the Board was not erroneous in its review of the application, the original determination shall be upheld.~~

~~(2) The Zoning Board of Appeals may find that all or portions of the decision were faulty, in which case the Board may remand that portion of the application to the Codes Enforcement Officer, Planning Board, or Village Review Board for reconsideration, with recommendations that the Officer or Board make additional Findings of Fact and conclusions to enable the Zoning Board of Appeals to complete its evaluation of the appeal. In the case of a remand, the appeal before the Zoning Board of Appeals shall remain pending until the Codes Enforcement Officer or Board whose decision is on appeal acts on the remand and reports its action to the Zoning Board of Appeals, which shall then made a final decision on the appeal. The decision of the Zoning Board of Appeals to remand is not final action by the Zoning Board of Appeals and is not appealable to Superior Court.~~

~~(3) At a hearing on any appeal, the appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the chair.~~

~~(4) At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued to other times except for good cause.~~

~~(5) If a party does not attend a hearing and is not otherwise represented, its case will be deemed to have been withdrawn without prejudice to refile the appeal. The filing fee will not be refunded to any applicant whose appeal is withdrawn in this manner.~~

~~(6) The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.~~

~~**D. Decisions of the Zoning Board of Appeals**~~

~~(1) The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to:~~

~~a. Reverse any order, requirement, decision, or determination of the Codes Enforcement Officer, Planning Board or Village Review Board;~~

~~b. Grant a Variance; or~~

~~c. Decide in favor of the applicant on any matter which the Board is required to decide under this Ordinance.~~

~~(2) The Zoning Board of Appeals shall decide all appeals within at least 30 days after hearing, unless the Board and the applicant agree to a longer time, and shall issue a written decision on all appeals.~~

~~(3) All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, on all the material issues of fact, law or discretion presented, and the order, relief or denial. Notice of any decision shall be mailed or hand-delivered to the petitioner, his representative or agent, the Codes Enforcement Officer, Planning Board, or Village Review Board (whichever made the decision appealed from) and the Town Council within seven days of the decision date.~~

~~(4) For appeal decision located in the Flood Protection Overlay (FPO) district, the Zoning Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven days of the Board's decision. Copies of written decisions of the Zoning Board of Appeals shall be given to the Planning Board, Codes Enforcement Officer, and the Town Council.~~

~~(5) A Variance granted by the Zoning Board of Appeals shall expire if the work or change involved is not completed within two years of the date on which the Variance is granted.~~

~~(6) All Variances granted by the Zoning Board of Appeals shall be recorded in the Cumberland County Registry of Deeds in accordance with 30-A M.R.S.A. § 4353(5).~~

~~(7) Once an appeal has been denied, a second appeal of a similar nature with regard to the same building or property may not be brought to the Board within six months.~~

~~(8) Appeals may be taken as permitted by law from any decision of the Zoning Board of Appeals to Superior Court.~~

5.2 Specific Procedures

5.2.1. Permits

Applications for Building Permits, Certificates of Occupancy, and Changes of Use shall be filed with the Codes Enforcement Officer. All other processes, permits or approvals required by this Ordinance for the type of development involved shall be obtained prior to the issuance of a permit under this ~~Section~~ Subsection 5.2.1. Each application shall state the intended use of the land and buildings. ~~A Building Permit application must also include a plot plan drawn approximately to scale showing the dimensions of the lot, the location and size of the building or buildings proposed to be constructed or relocated, and the location of any public or private way on or adjacent to the lot. All designs must be in accordance with adopted building codes.~~

Comment [AB195]: Stated below.

A. Building Permit and Certificate of Occupancy

(1) No building or other structure subject to the Maine Uniform Building and Energy Code adopted by the Town shall be erected, moved, added to or structurally altered without first obtaining a Building Permit. No Building Permit shall be issued except in conformity with the provisions of this Ordinance and all other applicable ordinances of the Town and any conditions imposed pursuant to those ordinances. In the Growth Mixed Use 4 (GM4) district or Village Review Overlay Zone, a Building Permit shall not be issued unless the proposed building or renovations to an existing building ~~complies~~ comply with the Cook's Corner Design Standards or Village Review Zone Design Guidelines, as applicable. A Building Permit secured under the provisions of this Ordinance shall expire if the work or change is not begun within one (1) year of the date the permit is granted, and if the work or change is not completed within two (2) years of the date on which the permit is granted. All Building Permits heretofore issued shall be subject to the provisions of this paragraph.

Comment [AB196]: Added

(2) All applications for Building Permits for the erection or enlargement of any new or existing building shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the sizes and locations on the lot of buildings already existing, if any, the location and dimensions of the proposed building or alteration, and the proposed sewage disposal system as required by the Maine State Plumbing Code. The application shall include such other information as may be required by the Codes Enforcement Officer to determine conformance with and to provide for the enforcement of this Ordinance. The Codes Enforcement Officer shall maintain a public record of all Building Permits issued.

(3) ~~An applicant for a Building Permit shall also make application for a Certificate of Occupancy, which application must be received before a Building Permit may be issued.~~ Upon completion of the work permitted by the Building Permit, the Codes Enforcement Officer shall issue the Certificate of Occupancy upon finding that the building, structure or land and the use or occupancy thereof comply with the provisions of this Ordinance, with all ~~provisions~~ conditions of any development review approval ~~Site Plans or Subdivision plans approved~~ by the ~~Planning Board or Zoning Board of Appeals~~Review Authority. The Codes Enforcement Officer shall maintain a public record of all Certificates of Occupancy which are issued.

Comment [AB197]: Do not require as stated.

(4) It shall be unlawful to use or occupy, or permit the use or occupancy of any land, building, structure or part thereof that is created, erected, changed, converted, altered or enlarged, or to change, alter, or enlarge the use of any land, building, or structure without first obtaining a Certificate of Occupancy endorsed to the effect that the proposed use of the land, building or structure conforms with the requirements of this Ordinance.

B. Change~~/Expansion~~ of Use Permit

Comment [AB198]: Don't have an expansion of use permit.

(1) Change of Use Defined

Change of Use is a change from one use to another use of any structure or portion thereof that is permitted in the base zoning district (and overlay zoning district, if applicable) where the property is located. A change within the same category of permitted use (for example a change from one restaurant to another, or a change from one retail store to another) shall not be considered to be a Change of Use. A change in use from a vacant structure to an occupied structure shall be considered a Change of Use, unless the use is a resumption of a prior use. For the purposes of this section, the prior use includes the last occupied use of the vacant structure provided that such use has primarily occurred for a time period of not less than 12 consecutive months ~~at any time~~ during the prior three years.

(2) **Permit Required**

Any Change of Use shall require a Change of Use Permit. The Codes Enforcement Officer shall issue the Change of Use Permit upon the submission of a completed application and payment of the required fee unless the Codes Enforcement Officer determines that Development Review is required in accordance with ~~Section~~ Subsection 5.2.10~~5.2.8~~~~5.2.7~~, (Development Review). If Development Review and/or a Village Review Zone Certificate of Appropriateness is required, the Codes Enforcement Officer shall not issue the Change of Use Permit until the required Development Review has been conducted.

Comment [AB199]: Added

(3) **Departmental Review**

Any Change of Use that does not require Development Review or a Village Review Zone Certificate of Appropriateness, but results in a change in the configuration of parking, traffic circulation, architecture or landscaping shall require Departmental Review by the Director and the Town Engineer within seven (7) days of the filing of a completed application with the Codes Enforcement Officer.

Comment [AB200]: Added

5.2.2. Conditional Use Permit

Uses listed as Conditional Uses in Table 3.2 (Growth Area Permitted Use Table) or Table 3.3 (Rural Area Permitted Use Table) may be allowed upon the issuance of a Conditional Use Permit by the Planning Board as described in this section.

A. Conditional Use Process

(1) Applications for Conditional Use Permits shall include those materials required by Appendix D - (Summary of Application Requirements) showing that the application satisfies the standards in ~~Section~~ Subsection 5.2.3.B below~~5.2.3.B below~~~~5.2.3.B below~~.

(2) When an application is filed, a public hearing will be scheduled ~~using the provisions~~in accordance with ~~of Section~~ Subsection 5.1.3.B (Notice Provided) as modified by subsection (3) below.

(3) ~~The~~ Town staff shall send notice of public hearing to the owners of all property located within 200 feet of any boundary line of the property for which the permit is sought as determined by ~~the~~ Town staff based upon the Town's tax records, at least ten (10) days prior to the public hearing. If the application is for property located within ~~the~~ an Aquifer Protection Overlay Zone, notice shall also be sent to the ~~Brunswick Topsham~~Brunswick and Topsham Water District.

(4) Any Brunswick resident or Brunswick property owner shall have the opportunity to provide written comments for consideration by the Planning Board. Written comments must be received by noon the day of the ~~prior to the~~ scheduled public hearing. If the application is for property within the Aquifer Protection Zone, the Planning Board shall also review any comments made by the ~~Brunswick-Topsham~~Brunswick and Topsham Water~~Sewer~~ District.

Comment [AB201]: ZORC decision.

~~(5) A Conditional Use Permit shall be subject to the Development Review Process, subject to any conditions placed on the permit. Any application involving the review of a proposal that involves a Conditional Use Permit shall be subject to Development Review.~~

(5) The Planning Board may approve, approve with conditions or deny the Conditional Use Permit application. Decisions of the Planning Board shall be made by written Findings of Facts and Conclusions that set forth the reasons for the decision based on all standards of S~~s~~ubsection 5.2.3.B below~~5.2.3.B below~~~~5.2.3.B below~~ and shall

be made within 14 days ~~of~~ after the public hearing. Such Findings of Fact and Conclusions shall include a plan submitted by the applicant and a permit that outlines all conditions and requirements, copies of which shall be forwarded to the applicant and any person requesting a copy within 14 days ~~of~~ after the public hearing.

(6) Upon approval of the Conditional Use Permit, the proposed development shall be subject to Development Review (Subsection 5.2.7), subject to any conditions placed on the permit.

Comment [AB202]: Moved and revised for clarity

B. Criteria for Approval

The following Criteria shall be applied, where applicable, by the Planning Board when considering an application for Conditional Use Permit. The burden of proof of compliance with these standards rests with the applicant.

a. The proposed structure and site design comply with all standards of this Ordinance applicable to the zoning district and any overlay district within which the property is located.

b. The proposed use will not create significantly more vehiclular~~e~~ traffic by patrons, residents, or suppliers than the uses and structure currently within 300 feet of the proposed use or structure that ~~currently~~ generates the most vehiclular~~e~~ traffic;

c. The proposed use will not operate or require deliveries earlier in the morning, or later at night, than the uses and structures currently within 300 feet of the proposed use or structure that ~~currently~~ operate earliest in the morning and latest at night.

d. The proposed use shall not create any more ~~other significant~~ adverse impacts on any current property within 300 feet of the lot on which the proposed use or structure would be located.

C. Time Limits and Effect of Denial

A Conditional Use Permit shall expire two (2) years after it is approved by the Planning Board if no Certificate of Occupancy is granted for the use in accordance with Subs~~S~~ection 5.2.10.Q(5)~~5.2.8.Q(5)~~~~5.2.7.Q(5)~~ (Conditional Use Permit Approval Expiration).

5.2.3. Special Permits for Unclassified and Omitted Uses

Unclassified and Omitted Uses may be allowed upon the issuance of a Special Permit by the Planning Board as ~~described in in this section~~follows:~~.~~

A. Special Permit Process

(1) The process for review and decision on an application for a Special Permit shall be the same as that for a Conditional Use Permit in ~~S~~Subsection 5.2.2.A.

~~(2) After a Special Permit has been granted, the Director shall prepare and submit to the Town Council an analysis of whether and under what conditions the use allowed by the Special Permit should be added to Table 3.2 (Growth Area Permitted Use Table) and/or Table 3.3 (Rural Area Permitted Use Table). The Council may then act to incorporate such use by an amendment to this Ordinance.~~

(2) In the event that a Special Permit is approved by the Planning Board, notice shall be forwarded within seven (7) days to the Town Council. The notice shall include a brief description of the Special Permit, including the name of the applicant, the street address and tax map reference of the application, the proposed use or uses,

and a brief synopsis of the permit. The Planning Board shall also forward findings of Fact and Conclusions to the Town Council with the notice.

(3) If the Planning Board votes to approve a Special Permit, that approval shall not take effect for 30 days after the Planning Board's vote. During that 30 day period, the Town Council may elect to exercise jurisdiction over the application. Decisions to exercise jurisdiction shall be made by a majority vote of the Town Council during a public meeting. If the Council exercises jurisdiction, it shall, after notice and hearing in the same manner as required for a zoning amendment under Subsection5.2.12 (Ordinance Text or Map Amendment), ratify, reverse or modify the decision of the Planning Board. If the Town Council does not exercise jurisdiction within 30 days, then the decision of the Planning Board shall be deemed ratified by the Town Council. If the Planning Board denies an application for Special Permit, the Planning Board's decision shall not be subject to any appeal, but the applicant may apply to the Town Council for a zoning amendment as provided in Subsection 5.2.12.

~~(3)~~(4) After a Special Permit has been granted, the Director shall prepare and submit to the Town Council an analysis of whether and under what conditions the use allowed by the Special Permit should be added to Table 3.2 (Growth Area Permitted Use Table) and/or Table 3.3 (Rural Area Permitted Use Table). The Council may then act to incorporate such use by an amendment to this Ordinance.

~~(4) If the Planning Board votes to approve a Special Permit, that approval shall not take effect for 30 days after the Planning Board's vote. During that 30 day period, the Town Council may elect to exercise jurisdiction over the application. Decisions to exercise jurisdiction shall be made by a majority vote of the Town Council during a public meeting. If the Council exercises jurisdiction, it shall, after notice and hearing in the same manner as required for a zoning amendment under Section5.2.9 (Ordinance Text or Map Amendment), ratify, reverse or modify the decision of the Planning Board. If the Town Council does not exercise jurisdiction within 30 days, then the decision of the Planning Board shall be deemed ratified by the Town Council. If the Planning Board denies an application for Special Permit, the Planning Board's decision shall not be subject to any appeal, but the applicant may apply to the Town Council for a zoning amendment as provided in Section 5.2.9.~~

B. Criteria for Approval

The following Criteria shall be applied, where applicable, by the Planning Board when considering an application for Special Permit. The burden of proof of compliance with these standards rests with the applicant.

(1) The application shall meet the criteria for approval of a Conditional Use Permit in Subs~~S~~ection 5.2.2.B, and in addition, shall meet the following criteria:

a. The application shall further the planning goals the adopted Town of Brunswick Comprehensive Plan, including but not limited to the planning goals for the Planning Area (Appendix A - Planning Areas) in which the property is located.

b. If the application involves the construction of a new building, or the substantial expansion of an existing building, the size of the resulting building shall meet the applicable zoning district dimensional and density standards as stated in Section 4.2 (Dimensional and Density Standards)~~:~~.

~~i. Shall not exceed the gross floor area of the largest building located on a lot within 100 feet of the applicant's parcel by more than 10%; and~~

~~ii. Shall not exceed the gross floor area of the largest building located by on a lot within 100 feet of the applicant's parcel by more than 12 feet.~~

c. If the proposed use or structure is located in a ~~p~~Planning ~~district~~ Area(Appendix A - Planning Areas) where pedestrian oriented character is encouraged, the use shall generate patron or resident activity (not just employee activity) during normal business hours, and the majority of the front façade of the building shall be consistent with existing setbacks on street.

d. The proposed use will not generate more noise at any time of the day or night than ~~the~~ any use within 300 feet of the proposed use or structure that currently generates the most noise at that time.

C. Review of Expansions of Legally Nonconforming Unclassified or Omitted Uses

~~The following rules shall apply to the e~~Expansion of uses that are legally non-conforming in that they have never been granted a Special Permit shall be reviewed and acted upon by the Planning Board in accordance with Subsections 5.2.3.A and B.

~~(1) Expansions that do not reach the threshold for Minor Development Review found in Section 5.2.7.B(2) (Development Activities Subject to Development Review) shall be reviewed by the Director under the minor modification provisions of Section 5.2.8.B and in accordance with the Special Permit review standards in Section 5.2.3.B.~~

~~(2) Expansions that meet the Minor Development Review thresholds of Table (Development Activities Subject to Development Review) shall be reviewed by the Staff Review Committee in accordance with the Special Permit process and standards of this section.~~

~~(3) Expansions that meet the Major Development Review thresholds of Section 5.2.7.B(2) (Development Activities Subject to Development Review) shall be reviewed by the Planning Board in accordance with the Special Permit process and standards of this section.~~

~~(4) Appeals of the Director's or Staff Review Committee's decisions shall be made to the Planning Board.~~

D. Time Limits and Effect of Denial

A Special Permit shall expire two (2) years after it is ratified or deemed ratified by the Town Council if no Certificate of Occupancy is granted for the use in accordance with Subs~~S~~ection 5.2.10.Q(5)~~5.2.8.Q(5)~~~~5.2.7.Q(5)~~ (Special Permit Approval Expiration). If the Planning Board denies an application for a Special Permit, no application by the applicant or related entity for the same unclassified or omitted use for the same parcel, or any portion of such parcel, shall be accepted for filing within one (1) year of the date of the Planning Board's decision.

5.2.4. Special Permits for Nonconforming Building Footprint Expansions

Comment [AB203]: Added per Subsection 1.6.4.

An expansion of a building footprint that is legally nonconforming shall be reviewed as a Special Permit and acted upon by the Planning Board in accordance with Subsections 5.2.3.A and D. The review criteria shall be as follows:

A. The proposed building footprint expansion shall comply with all other applicable zoning district dimensional standards.

B. The proposed expansion shall comply with 4.12 (Neighborhood Protection Standards).

~~5.2.4.~~5.2.5. Flood Hazard Development Permit Requirements

A. Flood Hazard Development Permit Required

All construction or other development in special flood hazard areas, including the placement of mobile homes, shall require a Flood Hazard Development Permit from the Codes Enforcement Officer. This permit shall be in addition to any other permits which may be required by this Ordinance. No Flood Hazard Development Permit shall be issued until the Codes Enforcement Officer has determined that all other necessary federal, state, and municipal permits have been obtained.

B. Application for Flood Hazard Development Permit

The application for a Flood Hazard Development Permit shall be submitted to the Codes Enforcement Officer and shall include:

(1) The name, address, and phone numbers of the applicant, owner, and contractor;

(2) An address and a map indicating the location of the construction site;

(3) A site plan showing location of existing and/or proposed development—including but not limited to, structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot;

(4) A statement of the intended use and cost, including all materials and labor, of the structure and/or development;

(5) A statement as to the type of sewage system proposed.

(6) Specification of dimensions of the proposed structure and/or development;

(7) The elevation in relation to National Geodetic Vertical Datum (NGVD) or to a locally established datum in Zone A only, of the:

a. Base flood at the proposed site of all new or substantially improved structures, which is determined:

i. In Zones A1-30 and V1-30 from data contained in the "Flood Insurance Study - Town of Brunswick, Maine," as described in ~~S~~Subsection 2.3.4.B(2); or,

ii. In Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;

b. Highest and lowest grades at the site adjacent to the walls of the proposed building;

c. Lowest floor, including basement; and whether or not such structures contain a basement; and,

d. Level, in the case of nonresidential structures only, to which the structure will be floodproofed;

(8) A description of an elevation reference point established on the site of all new or substantially improved structures;

(9) Either an Elevation Certificate (FEMA Form 81-31) by a Professional Land Surveyor, registered professional engineer or architect, or for non-residential structures to be floodproofed, a Floodproofing certificate (FEMA Form 81-65) completed by a registered professional engineer or architect. These certificates verify that the elevations shown on the application are accurate;

(10) Certification by a registered professional engineer or architect that:

a. Nonresidential structures will meet the floodproofing criteria in Subs~~S~~ection 2.3.4.D(3) (Nonresidential Structures) and other applicable standards.

b. Construction in coastal high hazard areas, Zones V1-30 will meet the criteria of ~~S~~Subsection 2.3.4.D(12) (Coastal Floodplains).

c. Engineered hydraulic openings in foundation walls will meet the standards of Subsection 2.3.4.D(8)a.ii.

d. Bridges will meet the standards of Subsection 2.3.4.D(9) (Bridges).

e. Containment walls will meet the standards of Subsection 2.3.4.D(10) (Containment Walls).

(11) A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

(12) A statement of construction plans describing in detail how each applicable development standard in Subsection 2.3.4.D (Additional Requirements for the FPO District) will be met.

C. Review Standards for Flood Hazard Development Permit Applications

The Codes Enforcement Officer shall:

(1) Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Subsection 2.3.4.D (Additional Requirements for the FPO District) will be met;

(2) Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Study - Town of Brunswick, Maine," as described in Subsection 2.3.4.B(2). In special flood hazard areas where base flood elevation data are not provided, the Codes Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources.

(3) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described above;

(4) In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C.1334;

(5) Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program ~~in the State Planning Office~~ prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

(6) Issue one of the following Flood Hazard Development Permits based on the type of development:

a. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Codes Enforcement Officer with a second Elevation Certificate completed by a professional land surveyor, engineer, or architect based on the Part 1 permit construction, "as built" for verifying compliance with the elevation requirements of Subsection 2.3.4.D(2) (Residential Structures), Subsection 2.3.4.D(3) (Nonresidential Structures), Subsection 2.3.4.D(4) (Mobile Homes), or Subsection 2.3.4.D(12) (Coastal Floodplains). Following review of the Elevation Certificate the Codes Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or

b. A Flood Hazard Development permit for floodproofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the flood proofing standards of Subsection 2.3.4.D(3)a. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or

c. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50 percent~~%~~ of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided in Subsection 2.3.4.D(6) (Accessory Structures), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

(7) Maintain, as a permanent record, copies of all flood Hazard Development Permits issued and data relevant to those permits, including reports of the Board of Appeals on Variances granted under Subsection 5.2.6~~5.2.6~~~~5.2.5~~ (~~Variances~~), and copies of Elevation Certificates, Floodproofing Certificates and Certificates of Compliance required under the provisions of this Ordinance.

Field Code Changed

5.2.6. ~~Variances and~~ Appeals of Administrative Decisions and Variances

Comment [AB204]: Combined variances and appeals in one subsection.

A. Appeals of Administrative Decisions

~~(8)~~(1) **Making an Appeal**

a. Administrative appeals from decisions of the Codes Enforcement Officer, Planning Board or Village Review Board shall be taken no later than 30 days after the decision is rendered. Dimensional variance appeals do not require a prior decision of the Codes Enforcement Officer or a board and are not subject to this time limit.

b. The appeal shall be made by filing in the Office of the Codes Enforcement Officer a written notice of appeal specifying the grounds for such appeal. For an appeal seeking a Variance, the applicant shall submit a sketch drawn to scale or photograph showing lot lines, location of existing buildings and other physical features pertinent to the Variance request, and a concise written statement stating what Variance is requested.

c. Upon being notified of an appeal, the Codes Enforcement Officer, the Planning Board or Village Review Board, as the case may be, shall transmit to the Zoning Board of Appeals all of the documents constituting the record of the decision appealed from. Each appeal shall be accompanied with the fee designated by the Town Council.

d. A copy of each Variance request located in the Flood Protection Overlay (FPO) district, including the application and all supporting information supplied by the applicant, shall be forwarded by the Codes Enforcement Officer to the Commissioner of the Department of Environmental Protection at least 20 days prior to action by the Zoning Board of Appeals. Any comments received from the Commissioner prior to the action by the Zoning Board of Appeals shall be made part of the record and shall be taken into consideration by the Zoning Board of Appeals.

~~(9)~~(2) **Procedure on Appeal**

a. The Zoning Board of Appeals shall hold a public hearing on the appeal within 45 days after the filing of the appeal.

b. At least ten (10) days prior to the date set for hearing, the Board shall give similar written notice to all property owners of record whose properties lie within 200 feet of the perimeter of the affected property, the person making the appeal, and the Codes Enforcement Officer, Planning Board, or Village Review Board (whichever made the decision being appealed), and any other person requesting notice. The notice will be sent via U.S. Mail, postage prepaid, to those persons as listed on the Town's tax records.

c. At least seven (7) days prior to the date of the hearing on such appeal, the Zoning Board of Appeals shall cause to be published in one issue in a newspaper of general circulation in Brunswick a notice which includes, the name of the person appealing, a brief description of the property involved, including the street address, a brief description of the decision appealed from, or the nature of a Variance, and the time and place of the Zoning Board of Appeals' hearing.

~~(10)~~(3) **Hearings**

a. In hearing an appeal from a decision of the Codes Enforcement Officer, Planning Board, or Village Review Board, the Zoning Board of Appeals shall:

i. Examine all application documents, Ordinance requirements and Finding of Fact and Conclusions prepared by the Codes Enforcement Officer or the Board whose decision is being appealed.

ii. Determine on the basis of the entire record presented whether the Codes Enforcement Officer or such Board, as applicable, could reasonably have found the facts and reached the conclusions upon which the decision under appeal was based.

iii. Determine whether the decision being appealed was based on substantial evidence.

iv. Not substitute the judgment of the Zoning Board of Appeals for the judgment of the Codes Enforcement Officer or the Board whose decision is under appeal.

v. If the Zoning Board of Appeals finds that the Codes Enforcement Officer or the Board was not erroneous in its review of the application, the original determination shall be upheld.

b. The Zoning Board of Appeals may find that all or portions of the decision were faulty, in which case the Board may remand that portion of the application to the Codes Enforcement Officer, Planning Board, or Village Review Board for reconsideration, with recommendations that the Officer or Board make additional Findings of Fact and conclusions to enable the Zoning Board of Appeals to complete its evaluation of the appeal. In the case of a remand, the appeal before the Zoning Board of Appeals shall remain pending until the Codes Enforcement Officer or Board whose decision is on appeal acts on the remand and reports its action to the Zoning Board of Appeals, which shall then made a final decision on the appeal. The decision of the Zoning Board of Appeals to remand is not final action by the Zoning Board of Appeals and is not appealable to Superior Court.

c. At a hearing on any appeal, the appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the chair.

d. At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued to other times except for good cause.

e. If a party does not attend a hearing and is not otherwise represented, its case will be deemed to have been withdrawn without prejudice to refile the appeal. The filing fee will not be refunded to any applicant whose appeal is withdrawn in this manner.

f. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.

~~(11)~~(4) **Decisions of the Zoning Board of Appeals**

a. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to:

i. Reverse any order, requirement, decision, or determination of the Codes Enforcement Officer, Planning Board or Village Review Board;

ii. Grant a Variance; or

iii. Decide in favor of the applicant on any matter which the Board is required to decide under this Ordinance.

b. The Zoning Board of Appeals shall decide all appeals within at least 30 days after hearing, unless the Board and the applicant agree to a longer time, and shall issue a written decision on all appeals.

c. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, on all the material issues of fact, law or discretion presented, and the order, relief or denial. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Codes Enforcement Officer, Planning Board, or Village Review Board (whichever made the decision appealed from) and the Town Council within seven days of the decision date.

d. For appeal decision located in the Flood Protection Overlay (FPO) district, the Zoning Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven days of the Board's decision. Copies of written decisions of the Zoning Board of Appeals shall be given to the Planning Board, Codes Enforcement Officer, and the Town Council.

e. A Variance granted by the Zoning Board of Appeals shall expire if the work or change involved is not completed within two (2) years of the date on which the Variance is granted.

f. All Variances granted by the Zoning Board of Appeals shall be recorded in the Cumberland County Registry of Deeds in accordance with 30-A M.R.S.A. § 4353(5).

g. Once an appeal has been denied, a second appeal of a similar nature with regard to the same building or property may not be brought to the Board within six months.

h. Appeals may be taken as permitted by law from any decision of the Zoning Board of Appeals to Superior Court.

~~D.~~B. **Variances**

(1) **General Variance**

A Variance may be granted by the Zoning Board of Appeals for the following provisions of this Ordinance.

a. Any dimensional requirement in Section ~~4.1~~4.2 (Applicability of Property Development **Standards**

5.2.7. Generally

Except for single and two family developments, all developments shall comply with the standards in Chapter 4. Property development standards shall apply to all development, with the exception of one and two-family dwellings constructed on a lot not part of an approved subdivision or site plan, unless specifically stated to be applicable.

5.2.8. Single and Two Family Dwellings Constructed on Lots Separate From an Approved Subdivision or Site Plan

Single and two family residential dwellings constructed on lots separate from an approved Subdivision or Site Plan must comply with the standards in 4.2.2 (Dimensional and Density Standards), 4. . (Sewer), 4. . (Water), 4. . (Solid Waste), 4. . (Residential Recreation Areas), 4. . (Curb Cuts), and 4. . (Operation of Uses and Development) only.

a. **Dimensional and Density Standards**~~Dimensional and Density Standards~~) including the setback for a single-family dwelling, but not including an increase in allowed density.

b. Any dimensional requirements in Section 3.4 (Supplementary Use Standards); however, a Variance cannot be granted to allow a use that is not a Permitted Use in the zoning district where the property is located, or to allow a Conditional Use without a Conditional Use Permit pursuant to Subsection 5.2.2, or to allow an Unclassified or Omitted Use without a Special Permit pursuant to Subsection 5.2.3. Variances shall not be granted for establishment of uses otherwise prohibited by this Ordinance.

c. A change to a property containing a dwelling to make that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling (Disability Variance).

(2) General Criteria for Approval

Unless subsection C below applies, the Zoning Board of Appeals shall not grant a Variance pursuant to Subsections **Error! Reference source not found.**~~5.2.5.A(1)~~ and **Error! Reference source not found.**~~5.2.5.A(2)~~ ~~above~~ unless it finds that strict application of this Ordinance to the applicant and the applicant's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

a. That the land in question cannot yield a reasonable economic return unless a Variance is granted; and

b. The need for a Variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

c. The granting of a Variance will not alter the essential character of the locality; and

d. The hardship is not the result of action taken by the applicant or a prior owner.

(3) Setback Variance for Single Family Dwellings

a. The Zoning Board of Appeals may grant a set-back Variance for a single family dwelling only when strict application of this Ordinance to the applicant and the applicant's property would cause undue hardship. The term "undue hardship" as use in this subsection means:

i. The need for a Variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

ii. The granting of a Variance will not alter the essential character of the locality.

iii. The hardship is not the result of action taken by the applicant or a prior owner.

iv. The granting of the Variance will not substantially reduce or impair the use of abutting property.

v. The granting of the Variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

b. Under this subsection, the Zoning Board of Appeals may only grant a Variance from a setback requirement for a single family dwelling that is the primary year-round residence of the applicant. A Variance under this subsection may not exceed 20% of a setback requirement and may not be granted if the Variance would cause the area of the dwelling to exceed the maximum permissible lot coverage, provided, however, a Variance under this subsection may exceed the 20~~%~~ percent of a setback requirement (except for the minimum setbacks from a wetland or a water body required within shoreland zones by rules adopted pursuant to M.R.S.A Title 38, Chapter 3, Subchapter I, Article 2-B, as amended), if the applicant has obtained the written consent of an affected abutting landowner.

(4) Criteria for Approval of a Disability Variance

a. The Zoning Board of Appeals shall not grant a Variance pursuant to Subsection **Error! Reference source not found.**~~5.2.5.A(3)~~ unless it finds that all of the following criteria have been met:

i. The Variance is necessary to make a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling.

ii. The Variance only permits the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A. § 4553, as amended, and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

b. The Zoning Board of Appeals may impose conditions on the Variance, including limiting the Variance to the duration of the disability or to the time that the person with the disability lives in the dwelling.

(5) Criteria for Approval of a Disability Variance for Vehicle Storage

a. The Zoning Board of Appeals shall not grant a Variance pursuant to Subsection **Error! Reference source not found.**~~5.2.5.A(3)~~ for this purpose unless it finds that all of the following criteria have been met:

i. The Variance is necessary for the owner of a dwelling who resided in the dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose.

ii. The width and length of the structure may not be larger than two times the width and length of the noncommercial vehicle.

iii. The owner shall submit proposed plans for the structure with the request for the Variance pursuant to this paragraph to the Zoning Board of Appeals.

iv. The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.

v. For the purposes of this Subsection **Error! Reference source not found.**~~5.2.5.E~~, "noncommercial vehicle" means a motor vehicle as defined in Maine Statutes Revised, Title 29-A, Section 101, Subsection 42 with a gross vehicle weight of no more than 6,000 pounds bearing a disability registration plate issued pursuant to Title 29-A, Section 521 and owned by the person with the permanent disability. For purposes of this Subsection, "disability" has the same meaning as a physical or mental disability under Maine Statutes Revised Title 5, Section 4553-A.

b. The Zoning Board of Appeals may impose conditions on the Variance, including limiting the Variance to the duration of the disability or to the time that the person with the disability lives in the dwelling.

(6) Additional Criteria for Variances in the SPO and FPO Districts

a. In addition to meeting the criteria in Subsection 5.2.6~~5.2.5~~.**Error! Reference source not found.**~~A~~ through E ~~above~~, as applicable, an application for a Variance on property located in the SPO District shall meet the following additional requirements:

i. The Board shall make a positive finding for each of the following additional criteria, where applicable:

(A) Will not result in unsafe or unhealthful conditions;

(B) Will not result in erosion or sedimentation;

(C) Will not result in water pollution;

(D) Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat

(E) Will conserve shoreland vegetation;

(F) Will conserve visual points of access to waters as viewed from public facilities;

(G) Will conserve actual points of public access to waters;

(H) Will conserve natural beauty; and

(I) Will avoid problems associated with the floodplain development and use, such as erosion, increased risk of flood damage to upstream properties or increased flood damage.

b. In addition to meeting the criteria in Subsection 5.2.6~~5.2.5~~.**Error! Reference source not found.**~~A~~ through E~~above~~, as applicable, an application for a Variance on property located in the FPO District shall meet the following additional requirements:

i. Within any designated regulatory floodway will not result in an increase in flood levels during the base flood discharge;

ii. Is supported by good and sufficient cause;

iii. Will not result, should a flood comparable to the base flood occur, in increased flood height, additional threats to public safety, public expense or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances;

iv. Will not cause a conflict with other state, federal or local laws or ordinances; and,

v. Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief, and the Zoning Board of Appeals may impose such conditions to a Variance as it deems necessary.

vi. If the Variance is for new construction, substantial improvements, or other development for the conduct of a functionally dependent use, the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety, and other criteria of Subsection 5.2.5.C~~5.2.4.C~~ (Review Standards for Flood Hazard Development Permit Applications) and Section 2.3.4 (Flood Protection Overlay (FPO) District) are met.

vii. If the Variance is for the repair, reconstruction, rehabilitation, or restoration of Historic Structures, the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure, the Variance is the minimum necessary to preserve the historic character and design of the structure, and the development meets the criteria of Subsection **Error! Reference source not found.**~~5.2.5.B~~ (**Error! Reference source not found.**~~General Criteria for Approval~~).

c. Any applicant who meets the criteria of Subsection **Error! Reference source not found.**~~5.2.5.B~~ (**Error! Reference source not found.**~~General Criteria for Approval~~) and Subsection **Error! Reference source not found.**~~5.2.5.F~~ (**Error! Reference source not found.**~~Additional Criteria for Variances in the SPO and FPO Districts~~) shall be notified by the Zoning Board of Appeals in writing that:

i. The issuance of a Variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

ii. Such construction below the base flood level increases risks to life and property; and,

iii. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the Town against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the Town from any claims the applicant may have against the Town that are related to the use of land located in a floodplain. A statement to this effect shall be a matter of record in an instrument to be recorded by the applicant in the Cumberland County Registry of Deeds within 30 days of approval by the Zoning Board of Appeals.

~~5.2.5.~~5.2.9. Village Review Overlay Design Review

Comment [AB205]: For further review by VRB after adoption.

A. Application for Certificate of Appropriateness

Application forms for a Certificate of Appropriateness shall be made available in hard copy or online by the Department of Planning and Development. Completed applications shall be submitted to the Department of Planning and Development staff with the following information provided:

(1) Name, address and interest in the property.

(2) Location and nature of the proposed activity.

(3) A brief description of the proposed construction, reconstruction, alteration, relocation or demolition and proposed reuse. The description shall include the reason for the request, and must demonstrate how the proposal is in compliance with Subs~~S~~ection 5.2.9.C~~5.2.7.C~~~~5.2.6.C~~ (Review Standards).

(4) Drawings illustrating the design, texture, and location of any construction, alteration, or demolition/relocation for which a certificate is required. The drawings shall include plans and exterior elevations drawn to scale, with sufficient detail to show their relation to exterior appearances and the architectural design of the building. Proposed materials and textures shall be described, including samples where appropriate. Drawings need not be prepared by an architect or engineer, but shall be clear, complete, and specific.

(5) Photographs of the building(s) involved and of immediately adjacent properties. Staff shall provide completed historic building/structure survey forms if available for the structure. For demolition or relocation applications, interior and exterior photographs shall be provided clearly indicating the existing condition of the structure and, if available, the structural condition at the time of purchase by the applicant.

(6) A site plan showing the relationship of proposed changes to walks, driveways, signs, lighting, landscaping, and adjacent properties, if applicable. For relocation or demolition applications, provide post-demolition plans, including a site plan for the property specifying site improvements and a timetable for completion.

(7) The Review Authority may grant a waiver of submission requirements if it finds the submission of that information is not relevant to a determination.

B. Application Review Process

(1) Consultation

All applicants are encouraged to consult with Department staff prior to submitting an application for a Certificate of Appropriateness at which time a determination can be made as to the level of review required. During consultation, Department staff shall provide

appropriate guidance and available resources, including the Village Review Zone Design Guidelines, to the applicant.

(2) Determination of Completeness

Within four (4) days of an application being submitted to the Department, staff shall make a determination regarding completeness. If incomplete, staff will notify the applicant of deficiencies. If complete, staff will process the application as either a Minor Activity or Major Activity application.

(3) Determination of Minor/Major Activity

a. Exempt Activities include:

i. The independent demolition of incidental noncontributing structures accessory to a contributing resource not visible from a public right-of-way are exempt from review.

ii. The demolition of a noncontributing resource if the proposed demolition is not visible from the public right-of-way.

~~i.~~iii. In-kind replacement of windows, siding, doors and building ornamentation, normal maintenance and painting.

Comment [AB206]: Clarification

Comment [AB207]: In existing ordinance.

b. Minor Activities (Staff review) include:

i. Any alterations or additions not visible from a public right-of-way;

ii. Replacement of existing exterior siding or other materials, windows or doors which do not alter architectural or historic character;

iii. Repair, replacement or re-pointing of exterior masonry walls which do not alter architectural or historic character;

iv. Placement of sheds or other outbuildings, fences or dumpsters located in rear yards not visible from a public right-of-way;

v. Any demolitions, partial demolitions or relocations of noncontributing resources not visible from a public right-of-way.

vi. Roof-top appurtenances not visible from a public-right-of-way; and,

vii. Removal of non-historic elements concealing original architectural character-defining features.

c. Major Activities (Village Review Board-level review) include:

i. Any alterations or additions to existing structures or new construction visible from a public right-of-way;

ii. Any roof-top appurtenances visible from a public right-of-way;

iii. Exterior renovations, alterations or modifications to the structure or site not determined to be minor in nature;

iv. Any demolitions, partial demolitions or relocations of either contributing resources or noncontributing resources visible from a public right-of-way.; and

v. Any alterations or new placement of walks, driveways or new impervious surfaces associated with any of the above major activities.

(4) Minor Activity Application Review Process

a. Minor Activity applications for a Certificate of Appropriateness shall be submitted to the Department staff. Staff shall review and either render a decision to the applicant or forward to the Village Review Board for their consideration within ten (10) days of determining the application is complete.

b. The Village Review Board may conduct a review of a Minor Activity application at the recommendation of either the Director or Board Chair. A person with standing may appeal the decision by staff to the Village Review Board by submitting an appeal application to the Director within 30 days of the date of the action. The Village Review Board may hold a public hearing and shall render its decision following the review procedure set forth in subsection (5) below.

(5) Major Activity Application Review Process

a. Major Activity applications for a Certificate of Appropriateness shall be submitted to the Department staff no less than fourteen (14) days before the date of the Village Review Board's meeting in which it will be discussed.

b. The Town shall provide notification to all owners of property within a 200 foot radius of the boundaries of the property under review in the proposed application, giving a general description of the activity and specifying its location. Notifications shall be distributed by first class mail at least ten (10) days prior to a scheduled review, stipulating the time and place of the Board's meeting. The Board may also schedule a publicly noticed site visit of the subject property prior to their meeting.

c. Within 30 days of the Town's receipt of a complete application, the Village Review Board shall hold a public meeting and make a determination as to the completeness of the application. Once the Board determines that the application is complete, it shall review the application. After completing its review, the Board shall vote to deny, approve or approve the application with conditions. The Village Review Board shall set forth the reason or reasons for its decision and make findings of fact, in writing, sufficient to apprise the applicant and any interested member of the public of the basis for the decision. The date of approval, denial, or approval with conditions shall be the date that the Board votes on an application for a Certificate of ~~Approval~~Appropriateness.

d. A written notice of the determination of the Village Review Board, including findings of fact and Certificate of Appropriateness, shall be sent by regular mail to the applicant and to the Planning Board or Staff Review Committee within ten (10) days of the Village Review Board's determination.

e. The Village Review Board, by a majority vote, may request an independent peer review of the application or portion thereof at their discretion. All costs associated with the peer review shall be borne by the applicant. Peer review shall not be undertaken unless it is necessary for an informed review of the submitted materials and at a reasonable cost. Estimated costs for the peer review shall be disclosed to the applicant prior to undertaking such review. The Town shall require an applicant to deposit funds into an escrow account to be held for the purpose of reimbursing peer review costs. The applicant shall be entitled to an accounting of the use of all funds, as well as to a refund of all funds not expended upon final approval, denial or withdrawal of an application.

(6) Additional Processing Requirements for Relocation or Demolition Activities

In addition to the provisions of Subsections 5.2.9.B(1)~~5.2.7.B(1)~~~~5.2.6.B(1)~~ through 5 above, additional processing requirements for Major Activity applications for demolition or relocation of contributing resources, as well as noncontributing resources visible from public right-of-way, are listed ~~below~~as follows. ~~No Certificate of Appropriateness is required for demolition of a noncontributing resource if the proposed demolition is not visible from the public right-of-way.~~

a. A permit for demolition or relocation of a contributing resource, a noncontributing resource visible from a public right-of-way or portions thereof, within the Village Review Zone shall not be issued unless a Certificate of Appropriateness has been approved. No exterior demolition work and interior demolition work rendering the structure uninhabitable, or relocation of the resource may commence until the expiration of the 30-day decision appeal period or, if an appeal is taken, upon final disposition of the appeal.

b. Applications to demolish or relocate contributing resources individually listed on the National Register of Historic Places or deemed eligible by the Maine Historic Preservation Commission, and contributing resources located within a National Register-listed Historic District ~~must~~ shall adhere to a 90-~~-~~day delay period. The Village Review Board may impose a 90-~~-~~day delay period for contributing resources of local and regional significance. Such 90-~~-~~day delay period shall commence when the application is deemed complete by the Village Review Board.

c. During the 90-~~-~~day delay period, the applicant shall:

i. Consult with the Village Review Board and Maine Preservation or Maine Historic Preservation Commission in seeking alternatives to demolition, including the reuse and/or relocation of the contributing resource.

ii. Consult with and notify other related organizations of intent to demolish the contributing resource, as identified during consultations with Village Review Board and Maine Preservation or Maine Historic Preservation Commission.

iii. Document "good faith" efforts in seeking an alternative, including relocation and/or reuse, resulting in the preservation of the contributing resource. Such efforts shall include posting a visible sign on the property, listing the property for sale and/or relocation, and publishing a notice of availability in a general circulation local newspaper. The notice of the proposed demolition shall be forwarded to the Village Review Board, Pejepscot Historical Society, Town Council, and ~~Planning Board~~Review Authority.

iv. Thoroughly photo or video document the contributing resource and provide photo/video and written documentation to the Town and Pejepscot Historical Society. Any significant architectural features shall be salvaged, reused and/or preserved as appropriate.

v. Provide post-demolition plans, including a site plan for the property specifying site improvements and a timetable for completion.

d. If at the end of the 90-~~-~~day period, no satisfactory alternative has been found, the Village Review Board shall either grant or deny a Certificate of Appropriateness to demolish or relocate the resource, applying the criteria set forth in Subsection 5.2.9.C(4)~~5.2.7.C(4)~~~~5.2.6.C(4)~~ (Demolition and Relocation).

C. Review Standards

(1) General Standard

a. All Certificates of Appropriateness for new construction, additions, alterations, relocations or demolition shall be in accordance with applicable requirements of this Ordinance.

b. In meeting the standards of this Ordinance the applicant ~~and~~ and Village Review Board in its review shall be informed by guidance from the U.S. Secretary of Interior's Standards for Rehabilitating Historic Buildings and the Village Review Zone Design Guidelines.

(2) New Construction and Additions and Alterations to Existing Structures

a. In approving applications for a Certificate of Appropriateness for new construction or additions or alterations to contributing resources, the Review Authority shall make findings that the following standards have been satisfied:

i. Any additions or alterations shall be designed in a manner to minimize the overall effect on the historic integrity of the contributing resource.

ii. Alterations shall remain visually compatible with the existing streetscape.

iii. Concealing of distinctive historic or architectural character-defining features is prohibited. If needed, the applicant may replace any significant features with in-kind replacement and/or accurate reproductions.

iv. New construction or additions shall be visually compatible with existing mass, scale and materials of the surrounding contributing resources.

v. When constructing additions, the applicant shall maintain the structural integrity of existing structures.

b. In approving applications for a Certificate of Appropriateness for new construction, additions or to commercial, multifamily, and other non-residential structures, the Review Authority shall make findings that the following additional standards have been satisfied:

i. Parking lots shall be prohibited in side and front yards, ~~except if~~unless the application involves the renovation of existing structures where such a configuration currently exists and no other placement alternative exists. In cases where such parking configurations exist, the parking area shall be screened from the public right-of-way with landscaping or fencing.

Comment [AB208]: Added.

ii. Site plans shall identify pedestrian ways and connections from parking areas to public rights-of-way.

iii. All dumpsters and mechanical equipment shall be located no less than 25 feet away from a public right-of-way, unless required by a public utility, and shall be screened from public view.

iv. Roof-top-mounted heating, ventilation, air conditioning and energy producing equipment shall be screened from the view of any public right-of-way or incorporated into the structural design to the extent that either method does not impede functionality. Parapets, projecting cornices, awnings or decorative roof hangs are encouraged. Flat roofs without cornices are prohibited.

v. The use of cinder-block, concrete and concrete block is prohibited on any portion of a structure that is visible from the building's exterior, with the exception of use in the building's foundation.

vi. The use of vinyl, aluminum or other non-wood siding is permitted as illustrated in the Village Review Board Design Guidelines. Asphalt and asbestos siding are prohibited.

vii. Buildings with advertising icon images built into their design ("trademark buildings") are prohibited.

viii. No building on Maine Street shall have a horizontal expanse of more than 40 feet without a pedestrian entry.

ix. No building on Maine Street shall have more than 15 feet horizontally of windowless wall.

x. ~~For property not located in the GM6 zoning district, a~~All new buildings and additions on Maine Street must be built to the front property line. This may be waived if at least 60~~%~~ percent of the building's front facade is on the property line, and the area in front of the setback is developed as a pedestrian space.

xi. ~~For property not located in the GM6 zoning district,~~ If more than 50~~%~~ percent new floor area is added to a structure located on Maine Street, the addition shall be at least two stories high and/or not less than 20 feet tall at the front property line.

xii. The first floor facade of any portion of a building that is visible from Maine Street shall include a minimum of 50~~%~~ percent glass. Upper floors shall have a higher percentage of solid wall, between 15~~%~~ and 40~~%~~ percent glass.

c. Proposed additions or alterations to noncontributing resources shall be designed to enhance or improve the structure's compatibility with nearby contributing resources as compared to the existing noncontributing resource~~s~~.

(3) Signs

Signs shall comply with Section 4.13~~4.13~~~~4.12~~ (Signs) with consideration given to the Village Review Zone Design Guidelines.

(4) Demolition and Relocation

a. Demolition or partial demolition or relocation of a contributing or, if visible from a public right-of-way, a noncontributing resource, excluding incidental or noncontributing accessory buildings and structures not visible from the public right-of-way, located on the same property, shall be prohibited unless the application satisfies at least one of the following criteria:

i. The structure poses an imminent threat to public health or safety. An application must be accompanied by a report from a qualified structural engineer for review by the Codes Enforcement Officer and photographs depicting the current condition of the building.

ii. The condition of the structure is such that it cannot be adapted for any other permitted use, whether by the current owner or by a purchaser, resulting in a reasonable economic return, regardless of whether that return represents the most profitable return possible, provided that the applicant can document he/she has not contributed significantly to the deterioration of the structure. An opinion shall be provided from an architect, licensed engineer, developer, real estate consultant or appraiser or from a professional experienced in historic rehabilitation, as to the

economic feasibility for restoration, renovation, or rehabilitation of the contributing resource versus demolition or relocation of same.

iii. The proposed replacement structure or reuse of the property is deemed to be as appropriate and compatible with the existing streetscape and surrounding contributing resources.

b. Demolition, partial demolition or relocation of a noncontributing resource visible from a public right-of-way, shall be approved by the Village Review Board if it is determined that the proposed replacement structure or reuse of the property is deemed more appropriate and compatible with the surrounding contributing resources than the resource proposed for demolition.

D. Expiration of Certificate of Appropriateness

If two (2) years after issuance of a Certificate of Appropriateness, the approved work is not found to be complete by the Codes Enforcement Officer, the approval shall lapse. The applicant may, at any time before the date of approval expiration, make a written request to the Village Review Board for an approval time extension. This request shall explain the reasons why the improvements have not been completed and indicate how the applicant expects to complete the project if the Board grants an extension. The Board may consider any changes to this Ordinance or any other new information relevant to the application when considering an extension request.

~~5.2.6.~~5.2.10. Development Review

A. In General

(1) Development review includes Subdivision and Site Plan review, and certain changes of use and other procedures as outlined in Subsection 5.2.10.B(2)~~5.2.8.B(2)~~~~5.2.7.B(2)~~ (Development Activities Subject to Development Review).

(2) All time frames for Development Review expressed in this section are minimums. The Town's staff and reviewing entities shall make every effort to conduct reviews as expeditiously as possible.

B. Applicability

(1) Development Activities Not Subject to Development Review

Development Review does not apply to:

a. 1- or 2-family dwellings, and uses or structures accessory to 1- or 2-family dwellings.

b. Agricultural land management practices, including farm and woods roads developed in accordance with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices," as amended, unless located within the Shoreland Protection Overlay Resource Protection District.

Comment [AB209]: Jared to verify.

c. Unpaved trails and paths developed in accordance with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices," as amended, unless located within the Shoreland Protection Overlay Resource Protection District. (Groups or individuals planning such trails and paths are encouraged to consult with the Planning and Development Department prior to construction).

d. The initial non-military re-occupancy of a building in the Brunswick Landing area existing as July 20, 2009, provided all of the following are met:

i. The new use is a permitted use in the zoning district in which it is located.

~~i.~~ii. In addition to the use restrictions contained in the Permitted Use Tables and related Supplemental Use Standards (Chapter 3 – Property Use Standards), development of former Brunswick Naval Air Station (BNAS) lands shown in Appendix G shall comply with all existing covenants and deed restrictions as contained in conveyance documents issued by the US Navy at the time of transfer and subsequently recorded. Such covenants and deed restrictions may include, but shall not be limited to, groundwater extraction, soil disturbance, and the ongoing maintenance of hazardous material remediation monitoring facilities as needed. Development of transferred former BNAS lands identified by the US Navy as being within Soils and Groundwater Management Zones shall comply with Land Use Controls established for specific sites with mapping and land use controls, as amended, provided as reference material to this Ordinance.

Comment [AB210]: Added.

~~ii.~~iii. The re-occupancy maintains the pre-existing pattern of use of the site including the general location of the building and parking and service areas.

~~iii.~~iv. The usable floor area of the building is not increased by more than 2,000 square feet, within the existing building footprint.

~~iv.~~v. The amount of impervious surface on the project site is not increased by more than 2,000 square feet.

~~v.~~vi. There is adequate parking available for the new use in accordance with Section 4.94~~.94.8~~ (Parking and Loading).

~~vi.~~vii. The re-occupancy of the building will not change the primary use of the building from residential to non-residential or from non-residential to residential.

~~vii.~~viii. The initial non-military re-occupancy of a building shall not be considered a Change of Use even if it does not meet the vacancy time limits of Subsection 5.2.1.B(1) (Change of Use Defined). All subsequent re-occupancy of buildings in the Growth Districts applied to former BNAS lands shall be subject to the Change of Use review requirements of Subsection 5.2.1.B (Change of Use Permit~~Change of Use Permit~~~~Change/Expansion of Use Permit~~) as applicable.

e. The Change of Use of a building in the Brunswick Landing area with less than 10,000 square feet of floor area, provided that the new use does not significantly intensify the use of the property compared to its previous use. A new use that increases the required off-street parking required by Section 4.94~~.94.8~~ (Parking and Loading) by more than 20 percent, or that increases the number of peak hour vehicle trips based upon the current edition of the ITE Trip Generation Manual, as amended, by more than 20 percent, or that meets any of the review thresholds of Subsection 5.2.10.B(2)~~5.2.8.B(2)~~~~5.2.7.B(2)~~ (Development Activities Subject to Development Review) shall be considered to significantly intensify the use. If the Codes Enforcement Officer determines that there will be a significant intensification of the use, the activity shall be deemed to be a minor development subject to Development Review.

(2) **Development Activities Subject to Development Review**

a. The activities listed in Table 5.2.7.B shall be subject to Development Review based on the applicable thresholds.

b. Activities that do not meet the thresholds may still require additional review and/or permitting by the Codes Enforcement Officer or as required within applicable zoning overlay zones.

c. A Certificate of Appropriateness from the Village Review Board is required if the proposed development is within the Village Review Overlay Zone.

d. Thresholds for development review apply only to new or "add-on" construction, except as indicated in Subsection 5.2.10.C~~5.2.8.C~~~~5.2.7.C~~ (Cumulative Development and Amendments). If development is proposed on two (2) or more lots and the Director finds that the development functions as a single project, thresholds for development review shall be applied to the project as though the lots on which it is located is a single lot.

Table 5.2.7.B
Development Review Threshold Criteria

Impact Criteria	Threshold	Zoning District	Level of Review	Reviewing Authority
Construction of New Floor Area	Less than 1,000 sq. ft.	All GR, GC and Rural Districts; GM1, GM2, GM5, GM6, GM8	Building Permit	Codes Enforcement Officer
	Less than 2,000 sq. ft.	All Other Zoning Districts		
	1,000 - 5,000 sq. ft.	All GR, GC and Rural Districts; GM1, GM2, GM5, GM6, GM8	Minor Development Review	Staff Review Committee
	2,000 - 10,000 sq. ft.	All Other Zoning Districts		
	Over 10,000 sq. ft.	All Zoning Districts	Major Development Review	Planning Board
Change of Use	Less than 10,000 sq. ft.	All Zoning Districts	Change of Use Permit	Codes Enforcement Officer
	Over 10,000 sq. ft.	All Zoning Districts outside of Brunswick Landing Area	Major Development Review	Planning Board
	10,000 – 20,000 sq. ft.	GM7, GA, GI, GO Districts within Brunswick Landing	Minor Development Review	Staff Review Committee
	Over 20,000 sq. ft.	GM7, GA, GI, GO Districts within Brunswick Landing	Major Development Review	Planning Board
	Conversion of single or two-family residence to any other use	All Growth Residential Districts	Major Development Review	Planning Board
Net New Impervious Surface	Less than 1,000 sq. ft.	All GR, GC and Rural Districts; GM1, GM2, GM5, GM6, GM8	Building Permit	Codes Enforcement Officer
	Less than 2,000 sq. ft.	All Other Zoning Districts		
	1,000 - 5,000 sq. ft.	All GR, GC and Rural Districts; GM1, GM2, GM5, GM6, GM8	Minor Development Review	Staff Review Committee
	2,000 - 10,000 sq. ft.	All Other Zoning Districts		
	Over 10,000 sq. ft.	All Zoning Districts	Major Development Review	Planning Board
	Development Subject to Conditional Use Permit or Special Permit creating less than 5,000 sq. ft.	All Zoning Districts	Minor Development Review	Staff Review Committee

Table 5.2.7.B
Development Review Threshold Criteria

Impact Criteria	Threshold	Zoning District	Level of Review	Reviewing Authority
	Development Subject to Conditional use Permit or Special Permit creating 5,000 or more sq. ft.	All Zoning Districts	Major Development Review	Planning Board
Net Cumulative Total of New Floor Area and New Impervious Surface	Less than 1,500 sq. ft.	All GR, GC and Rural Districts; GM1, GM2, GM5, GM6, GM8	Building Permit	Codes Enforcement Officer
	Less than 3,000 sq. ft.	All Other Zoning Districts		
	1,500 – 7,500 sq.ft.	All GR, GC and Rural Districts; GM1, GM2, GM5, GM6, GM8	Minor Development Review	Staff Review Committee
	3,000 – 15,000 sq. ft.	GM1, GM3, GM4, GM5, GI		
	3,000 - 20,000 sq. ft.	GR1, GM7, GA, GI, GO		
	20,000 sq. ft. or more	All Zoning Districts	Major Development Review	Planning Board
Construction of Multi Family Dwelling Units that does not create a subdivision	Between 3-5 units	All Zoning Districts	Minor Development Review	Staff Review Committee
	Over 5 units	All Zoning Districts	Major Development Review	Planning Board
Mobile Home Park development or expansion	All	All Zoning Districts	Major Development Review	Planning Board
Traffic	An activity generating more than 100 peak hour vehicle trips, based on ITE Trip Generation Manual, as amended, unless previously addressed as part of an approved plan, or upon recommendation by the Town Engineer.	All Zoning Districts	Major Development Review	Planning Board
Development on a Road with a Level of Service of "F"	Construction of new floor area of 2,000 sq. ft. or more, creation of new impervious surface of 2,000 sq. ft. or more or cumulative total of new floor area and impervious surface of 3,000 sq. ft. or more	All Zoning Districts	Major Development Review	Planning Board
New Road Construction	New private or public Road proposed as part of development application	All Zoning Districts	Major Development Review	Planning Board
Subdivision	Subdivision as defined by 30-A M.R.S.A. Section 4401, as amended	All Zoning Districts	Major Development Review	Planning Board
Mineral Extraction	Pursuant to Subsection 3.4.1.T	All Zoning Districts	Major Development Review	Planning Board
Ultra-Light	All	All Zoning Districts	Major Development	Planning Board

Comment [AB211]: Added from supplemental use section 5/11/16

Table 5.2.7.B Development Review Threshold Criteria				
Impact Criteria	Threshold	Zoning District	Level of Review	Reviewing Authority
Airpark			Review	
Hours of Operation	Non-residential use with operating hours between 11am and 7am	Residential Districts	Major Development Review	Planning Board

C. Cumulative Development and Amendments

(1) Development Review thresholds shall be based upon cumulative development totals over a five (5) -year period. If any threshold is exceeded during any five (5) year period, all development within that time period shall be subject to review.

(2) Amendments to approved plans shall be subject to the appropriate level of review.

D. Joint Meeting, Hearing, and Application

If a Development Review application includes both Subdivision and Site Plan review, the Planning Board shall consider the Subdivision and Site Plans together and hold a joint meeting or hearing. A single application may be filed, provided that it contains all necessary information for both approvals.

E. Effect of Violations on Application

No application shall be approved by the Review Authority as long as the property is in violation of any requirements of this Ordinance or of any previous conditions of approval imposed upon the property. This provision does not apply if the application is made in whole or in part for the purpose of bringing the development into compliance with those requirements or conditions.

F. Restrictions on Activities During Review

(1) Pending Application

An application for Development Review approval shall be considered to be pending from the submittal date of a Development Review application through the date of Final Plan application denial, approval, or conditional approval. An application shall not be considered to be pending upon the following:

a. The expiration of Sketch Plan approval, in accordance with Subsection _____~~which shall be one year from the date of approval~~;

b. The receipt of the applicant's written statement withdrawing the application submitted to the Director; or

c. The failure of the applicant to respond to requests for additional information, appear at Board meetings or hearings, or otherwise maintain~~s~~ the application in an active state for a period of four (4) months or more.

(2) Regulation of Activities While Application is Pending

a. While an application is pending, the following activities are prohibited and the Codes Enforcement Officer shall not issue permits for: demolition, excavation, filling, grading, removal of topsoil, and clearing of vegetation on any portion of the subject property. Failure of the applicant to comply with these activity prohibitions, as determined by the Codes Enforcement Officer, may cause the application to be denied. If an application is denied pursuant to this Subsection 5.2.10.F(2)~~5.2.8.F(2)5.2.7.F(2)~~, the application process shall be terminated. If the

applicant chooses to reapply for the same proposal or submit a new application for a different proposal, the applicant must submit a detailed plan for remediation of any adverse impacts of the prohibited activity.

b. While an application is pending, the following activities are permitted and, if necessary, the Codes Enforcement Officer may issue permits for:

i. Activities related to the development of a lot not included in a subdivision or proposed subdivision, unless such lot is subject to a pending Development Review, Change of Use, Conditional Use Permit, or Special Permit application;

ii. Activities required for the routine maintenance of existing structures or uses or to remedy a safety hazard;

iii. Activities incidental to the gathering of information needed for the pending application for Development Review (e.g., land surveying, soils testing and mapping, etc.), provided that such activities be undertaken in a manner that minimizes disruption of the site;

iv. Activities ~~that are~~ unrelated to the pending application, as determined by the Codes Enforcement Officer.

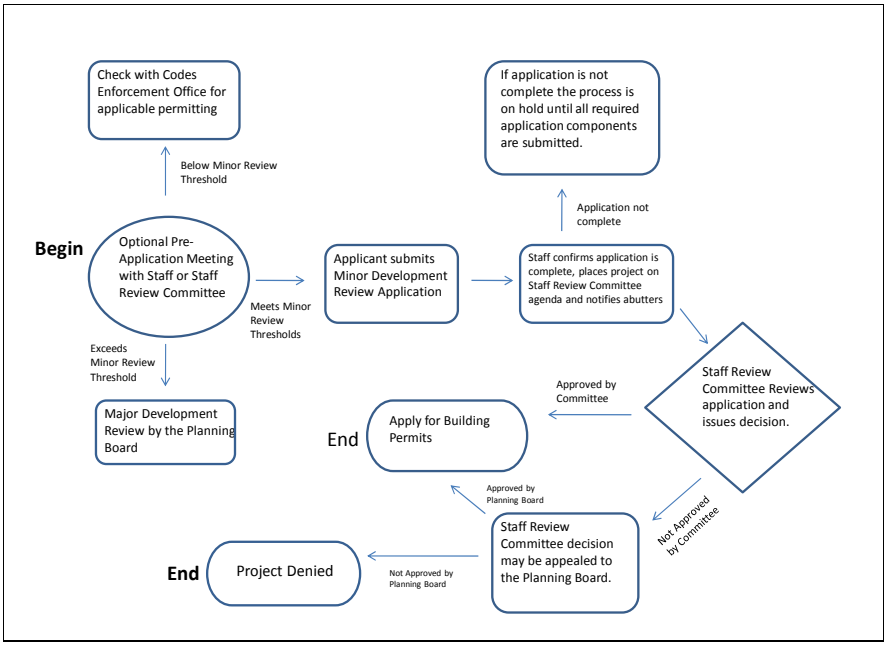
G. Minor, Major and Streamlined Major Development Review Procedures

This section outlines the review procedures for Minor Development Review, Major Development Review, and the Streamlined Major Development Review process required for Subdivision or Site Plan approval.

(1) Minor Development Review Procedure

Figure 5.2.7.G.1: Minor Development Review Procedures

This flowchart is for informational purposes only. The standards in the Zoning Ordinance regulating this flowchart are found in Section 5.2.8.G.1.



a. This section outlines the review procedures for Minor Development Review Applications~~.~~. Development R~~r~~eview shall be conducted ~~in one step: Final Plan~~in accordance with the Development Review Time and Processing Requirements, Table 5.2.7.I and further illustrated by Figure 5.2.7.G.1. In reviewing the application, the Staff Review Committee shall first determine whether or not to grant any requested submission waivers, based upon criteria set forth in Subsection 5.2.10.M(2)~~5.2.8.M(2)~~~~5.2.7.M(2)~~ (Waiver Criteria). The Director shall make recommendations concerning any requested waiver. If a waiver request is denied, the application shall be deemed incomplete at which time the applicant may either revise or withdraw the pending application.

b. When Staff makes a preliminary determination that an application for Minor Development Review is complete, the Director shall so notify the applicant. The Director shall also request the applicant to submit ten (10) additional copies of the complete application materials to the Department of Planning and Development for distribution to Staff Review Committee members. Such materials shall be received at least fourteen (14)~~10 working~~ days prior to the Staff Review Committee meeting.

c. In issuing its decision to deny or approve the application, the Staff Review Committee shall make written findings of fact in accordance with the criteria in Subsection 5.2.10.O~~5.2.8.O~~~~5.2.7.O~~ (Review Criteria). The date of plan approval, denial or conditional approval shall be the date of Staff Review Committee action.

d. The Staff Review Committee shall take public comment at its meeting for all applications under its consideration.

e. The applicant or an abutter may appeal the decision of the Staff Review Committee to the Planning Board by submitting an appeal application to the Director within 30

days of the date of the action. The Planning Board shall render its decision following the procedures in Subsection 5.2.10.N~~5.2.8.N~~~~5.2.7.N~~ (Findings of Fact by Review Authority~~Findings of Fact by Review Authority~~~~Findings of Fact by Review Authority~~).

f. All references to the Staff Review Committee shall be construed to be the same as references to the Planning Board if the Planning Board conducts the Minor Development Review.

(2) **Major Development Review Procedures**

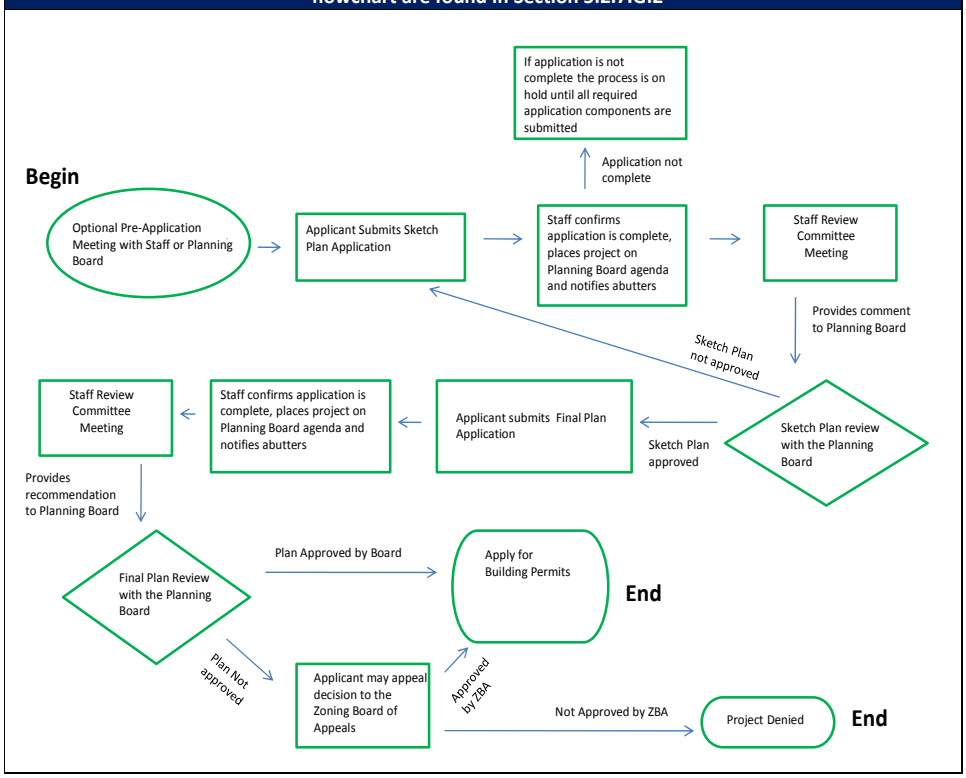
This section outlines the review procedures for Major Development Review Applications. Major Development Review shall be conducted in accordance with the Development Review Time and Processing Requirements, Table 5.2.7.I and further illustrated by Figure 5.2.7.G.2.~~in two steps: Sketch Plan and Final Plan.~~ An applicant may submit a site plan application using the Streamlined Major Development Review procedure (Subsection 5.2.10.G(3)~~5.2.8.G(3)~~~~5.2.7.G(3)~~); however, for larger projects, an applicant is strongly encouraged to use the two-step Major Development Review procedure.

a. **Sketch Plan**

The Planning Board shall review the sketch plan and provide direction to the applicant in accordance with all pertinent provisions of this Ordinance. After completing its review of the application, the Planning Board shall vote to deny, approve, or approve the application with conditions. The date of Sketch Plan approval, denial or conditional approval shall be the date that the Planning Board takes action on the application.

Figure 5.2.7.G.2: Major Development Review Procedures

This flowchart is for informational purposes only. The standards in the Zoning Ordinance regulating this flowchart are found in Section 5.2.7.G.2



b. **Final Plan**

i. The Planning Board shall review the final plan application. After completing its review of the application, the Planning Board shall vote to deny, approve or approve the application with conditions. The date of Final Plan approval, denial, or approval with conditions shall be the date that the Planning Board votes on a Final Plan application.

ii. If an application for Major Development Review is denied, the Planning Board's decision may be appealed in accordance with Subsection 1.1.1~~1.1.15.1.8~~.

Comment [AB212]: Should be 5.1.8

c. **Public Hearings**

The Planning Board shall conduct a public hearing for any residential development containing more than 20 units, and for any non-residential development resulting in the new development of 30,000 or more square feet of impervious coverage.

i. When a public hearing is to be conducted, the Director shall prepare a notice of the date, time and place of the hearing with a brief description of the application and its location.

ii. This notice shall be distributed to the applicant and the owners of all property located within a 200 foot radius of the boundaries of the parcel containing the proposed development.

iii. This notice shall be published at least two times in a newspaper having general circulation in Town. The date of the first publication must be at least seven days before the hearing.

d. **Public Comment**

The Planning Board shall take public comment electronically until noon of the day of the Public Hearing and/or at its meetings for all development review applications under its consideration.

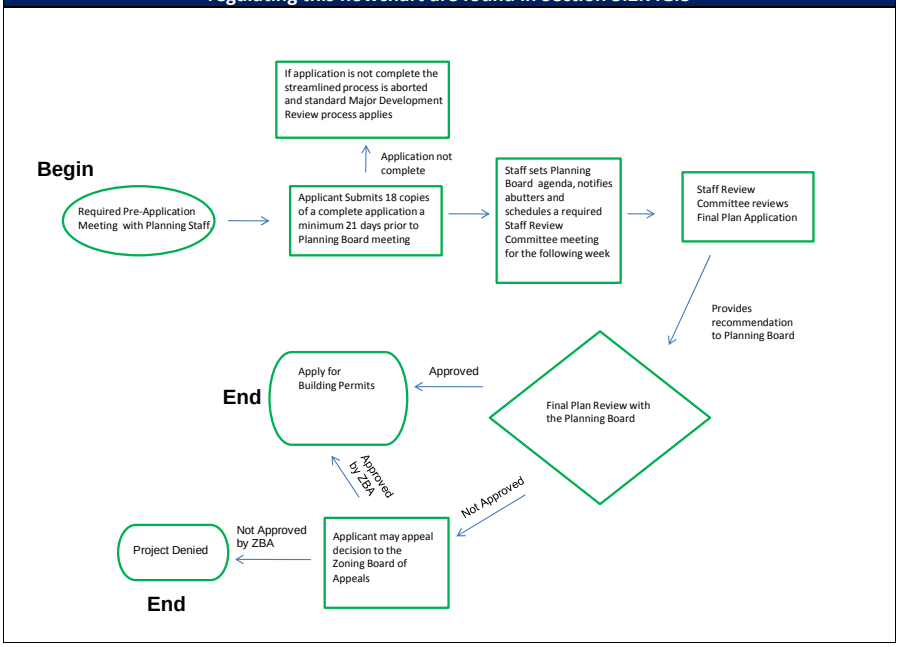
(3) **Streamlined Major Development Review Procedures**

The following outlines the review procedure for Streamlined Major Development Review. Development review shall be conducted in accordance with this subsection and further illustrated by Figure 5.2.7.G.3.

Figure 5.2.7.G.3: Streamlined Major Development Review Procedures

This flowchart is for informational purposes only. The standards in the Zoning Ordinance regulating this flowchart are found in Section 5.2.7.G.3

Comment [AB213]: Went back to 21 days prior to PB meeting



a. For a proposed development to qualify for Streamlined Major Development Review it must be within the Town's designated Growth Area as defined by the Comprehensive Plan.

b. The applicant shall meet with Department staff prior to submitting an application.

c. Applicant shall follow the Major Development Review Procedures in Subsection 5.2.10.G(2)~~5.2.8.G(2)5.2.7.G(2)~~ except that no Sketch Plan is required.

d. If application is not complete at Staff's determination of completeness under Subsection 5.2.10.K(2)~~5.2.8.K(2)5.2.7.K(2)~~ (Determination by Staff of Completeness of Application) the streamlined process is terminated and the standard Major Development Review process applies.

H. Common Development Plan

The Planning Board may designate and approve a development proposal as a Common Development Plan if it meets the criteria of this Subsection. A Common Development Plan may involve a development proposal for multiple new buildings or structures on a single lot, or a proposal for multiple new buildings or structures on multiple lots. Application requirements are summarized in Appendix D - Summary of Development Application Requirements.

(1) Criteria for Designation as a Common Development Plan

In considering a development proposal to be designated as a Common Development Plan, the Planning Board shall find that all of the following criteria are met:

a. The proposed development shall be located within the Town's designated growth area as defined by the Brunswick Comprehensive Plan, as amended.

b. All buildings and structures shall be part of, and consistent with, a common pattern of development. The relationship of the buildings to public and private streets and to parking areas shall result in a unified pattern;

c. The development shall incorporate private or public amenities that enhance the development's pedestrian friendly environment;

d. There shall be common vehicular and pedestrian circulation systems that create a pedestrian friendly environment for the entire development and that integrate the individual buildings into an overall pattern; and

e. There shall be an overall design theme or treatment of site improvements including lighting, signs, paving, site furniture, and landscaping.

(2) Designation Approval Process

A Common Development Plan designation shall be optional and voluntary, except in the case of village center type development as defined in the Cook's Corner Design Standards. If designated, all applicable zoning dimensional standards shall be established for the development by the Planning Board as part of the Major Development Review process and shall be consistent with the Comprehensive Plan, as amended. Any property owner or applicant for development review may request that a development be designated as a Common Development Plan in accordance with the following process:

a. An application requesting ~~for~~ a development to be designated as a Common Development Plan shall be submitted ~~made in writing~~ 21 days prior to the Planning Board meeting ~~on forms provided for that purpose~~ and shall be accompanied by the materials set forth in Appendix D: Submission Requirements.

b. A request may be made by the owner of the property or by any party having valid right, title or interest in the property including an option to purchase or a purchase and sale agreement.

c. The request to be designated as a Common Development Plan shall be submitted prior to any applications for development

d. Within 60 days of the date on which a complete request is submitted, the Planning Board shall decide if the proposed development conforms to the criteria and shall be designated as a Common Development Plan. If the Board finds that the criteria are met, it shall approve the designation. If not, the Board shall deny the designation and indicate the reasons for its denial.

(3) **Post-Designation**

a. Once a development has been designated as a Common Development P~~p~~lan, all subsequent applications for D~~d~~evelopment ~~r~~Review for buildings or structures within the area covered by the designation shall be consistent with the Common Development Plan reviewed by the Planning Board in making the determination.

~~b. The approved dimensional standards for the Common Development Plan shall remain in effect unless and until such time that the Development Review approval expires per Section 5.2.7.Q (Expiration of Development Review Approval).~~

Comment [AB214]: ZORC discussion

~~c.~~b. An owner or applicant may request that a project that has been designated as a Common Development Plan be revised based upon new information using the same procedure as used for the initial designation. If a project is revised, the revised project must be consistent with any existing development approval and the Town of Brunswick Comprehensive Plan.

~~d.~~c. Prior to the start of construction of the first building or structure within a designated Common Development Plan, the owner or applicant may request that the designation be vacated and no longer apply to the project. Once construction is started on the first building under the designation of a Common Development Plan, the designation may not be vacated but may be revised.

I. Development Review Time Requirements

Table 5.2.10.I~~5.2.8.I~~~~5.2.7.I~~ details the required time limits for Development Review applications. All time limits are expressed in calendar days. In cases where the date prescribed in this Table is a legal holiday, all deadlines shall apply to the previous working day.

Table 5.2.7.I: Development Review Time and Processing Requirements

Timing	Minor Development Review (Staff Review Committee)	Standard Major Development Review (Planning Board)	Streamlined Major Development Review (Planning Board)
21 days prior to Review Authority Meeting		Deadline for filing one (1) copy of application for Planning Board consideration.	No less than 21 days prior to Planning Board consideration, applicant shall meet with Department staff to discuss application.

Table 5.2.7.I: Development Review Time and Processing Requirements

Timing	Minor Development Review (Staff Review Committee)	Standard Major Development Review (Planning Board)	Streamlined Major Development Review (Planning Board)
~~10~~ No less than 14 days prior to Review Authority meeting	Deadline for filing one (1) copy of application for Staff Review Committee consideration. Staff confirms that application is complete and all owners of property within a 200 ft. radius of the proposed development are notified. The applicant then supplies 18 copies of all application materials and one (1) electronic copy.	Staff confirms that application is complete and all owners of property within a 200 ft. radius of the proposed development are notified. The applicant then supplies 18 copies of all application materials and one (1) ~~electronic copy~~.	Deadline for filing one (1) copy of application for Planning Board consideration. [1] Staff confirms that application is complete and all owners of property within a 200 ft. radius of the proposed development are notified. The applicant then supplies 18 copies of all application materials and one (1) electronic copy.
No less than seven (7) days prior to Review Authority meeting	~~The application shall be brought before the Staff Review Committee for comments and recommendation.~~	The application shall be brought before the Staff Review Committee for comments and recommendation. If a Public Hearing is required, the first of two required notices shall appear in a newspaper of general circulation no less than 7 days prior to the hearing.	The application shall be brought before the Staff Review Committee for comments and recommendation. If a Public Hearing is required, the first of two required notices shall appear in a newspaper of general circulation no less than 7 days prior to the hearing.
No less than 3 days prior to Review Authority meeting	The Director shall issue preliminary Findings of Fact based on Subsection 5.2.10.O~~5.2.8.O~~~~5.2.7.O~~ and shall issue a draft set of conditions of approval, if any. This material shall be mailed, emailed, faxed, or hand delivered to the Staff Review Committee and the applicant.	The Director shall issue preliminary Findings of Fact based on Section 5.2.10.O~~5.2.8.O~~~~5.2.7.O~~ and shall issue a draft set of conditions of approval, if any. This material shall be mailed, emailed, faxed, or hand delivered to the Planning Board and the applicant.	The Director shall issue preliminary Findings of Fact based on Section 5.2.10.O~~5.2.8.O~~~~5.2.7.O~~ and shall issue a draft set of conditions of approval, if any. This material shall be mailed, emailed, faxed or hand delivered to the Planning Board and the applicant.
No more than seven (7) ~~D~~days ~~or less~~ after decision by Review Authority	The Staff Review Committee shall transmit its written decision and Findings of Fact to the applicant.		
No more than 30 d~~D~~ays ~~or less~~ after decision by Review Authority if Public Hearing held, or no more than 60 days ~~or less~~ if no public hearing held		The Planning Board shall transmit its written decision and Findings of Fact to the applicant.	The Planning Board shall transmit its written decision and Findings of Fact to the applicant.
No more than 30 days after application is deemed complete by the Review Authority	The Review Authority shall consider an application unless postponement is requested or agreed to by applicant.		

NOTES:
1. If application lacks any required submittal materials, the streamlined process shall be terminated and the application shall revert back to the Major Development Review process.

Comment [AB215]: Confirm quantity for all submittals

BRUNSWICK ZONING ORDINANCE REWRITE COMMITTEE WORK SESSION

APRIL 3, 2015

MEMBERS PRESENT ZONING ORDINANCE REWRITE COMMITTEE: Charlie Frizzle, Chair; Margaret Wilson, Vice Chair; Anna Breinich, Director of Planning and Development; Jeremy Doxsee, Town Planner; and Jeff Hutchinson, Code Enforcement Officer

MEMBERS ABSENT ZONING ORDINANCE REWRITE COMMITTEE: Richard Visser

CONSULTANT ABSENT: Don Elliott of Clarion Associates

Mr. Frizzle opened the meeting.

Mr. Frizzle opened the meeting to public comments on items not included on the agenda.

Carol Liscovitz, 11 Berry Street, asked about the Neighborhood Protection Standards that is on the agenda, and Ms. Breinich stated it would be just the beginning of discussions about this item.

Seeing no other citizens with comments, Mr. Frizzle closed the public comment section of the meeting. He did invite the public to comment on any of the other matters the Committee would be discussing at this meeting.

Recreation Requirements (update):

Ms. Breinich gave an update on this item. She and Mr. Hutchinson have gotten a list of tasks from Mr. Eyerman based on last meeting's discussion. Ms. Breinich has researched other communities and how they deal with recreation impact fees, and she stated Brunswick is in the minority in that the Town is only assessing them for Development Review. More times than not, it is assessed at building permit stage, even for single family homes, and she strongly believes the Committee should move in that direction because it's fair and across the board. The language will be ready for the next meeting, and will also be given to the Recreation Commission. The Committee will be able to review what staff has drafted at the ZORC meeting of the 13th.

Use Table:

The Staff is making some recommendations for changes in the Use Table. Ms. Breinich has made changes based on the conversations she had been having and comments she had received. There are some changes highlighted in gray that will need to be discussed further by the Committee. Ms. Breinich went through Table 3.2 and pointed out the staff's recommended changes, of which some were just oversights. The notes dealing with supplementary uses and protections that are in the existing CU Tables will be kept.
Catherine Ferdinand, Bowdoin College, asked the Committee to again review the definition of residence halls, since future plans for student housing could include residence halls which are

more like assisted living facilities, and may not technically meet the dwelling unit requirements. Her other issue with the Use Table as it exists is that there is still a conditional use in GC-2, which is inconsistent with the notes and the Committee's discussion. The "C" is problematic for them, unless it would be "C" north of Longfellow Avenue and "P" south of Longfellow Avenue, as has been done in other districts. Ms. Breinich believed it was part of the notes, but Ms. Wilson said it was not there now. Ms. Breinich replied that they would want to have a footnote for "P" in CU-5, but Mr. Frizzle recommended that using south of Longfellow might be a better way to say it.

Carol Liscovitz, 11 Berry Street, said her concern with the residence halls is the impact of the density and the parking on the neighborhood areas.

Ms. Ferdinand responded that if they needed a higher density in the residence halls, it would go through Major Development Review and be well vetted. The parking lot requirements are more stringent than parking requirements for multi-unit dwellings.

Ms. Liscovitz would like to have a greater depth of discussion of the impact, recognizing it is a significant issue now, instead of taking what they have now and seeing how it works out in the future.

Mr. Frizzle asked Ms. Breinich to work on some new language for the CU-5 and CU-6 difference, taking into account what the Committee has heard today, and seeing if some level of protection can be had without totally limiting the college in terms of newer design-type residence halls in the future.

The Committee decided to delete the category College Facility Use Not Listed under the Community, Cultural and Educational uses because they felt that it shouldn't be treated differently than a use that is omitted in the ordinance, and it would have to go through Special Permit.

Ms. Breinich and the Committee reviewed staff changes by page and corrected some inconsistencies in the Use Table between districts. The Committee accepted Ms. Liscovitz's suggestion and will delete School from permitted uses in GR-2 and conditional in CR-5 and CR-6.

An audience member had a question about a platform left on a site at Brunswick Landing. The height restriction they have is because of the FAA's restriction on the airport. He would like to know if the platform is an accessory to the tower, because the platform is what the radar array sat on. They have retained that site specifically for communications. The Committee responded that it is conditional, and his situation is fine.

The Committee will rework language and definitions regarding bus stops.

Catherine Ferdinand, Bowdoin College, asked about boat storage, which is not permitted in GC-4, where Bowdoin is planning on constructing a warehouse to likely store boats. She believes the definition may not have described the type of boats Bowdoin will be storing. Mr. Hutchinson replied that boat storage is allowed as a conditional use in GC-3 as long as it's not in the setbacks, and prohibited in GC-4, but the Committee will review it to make sure. Ms. Ferdinand asked why they were not permitted as an accessory use in GC-4, and Ms. Breinich replied that it was not allowed in the current ordinance. The Committee agreed to allow boat storage as a conditional use in GC-4.

The Committee decided to add a note to allow industrial as permitted south of the Route 1 corridor, which came up via public comment, and made sense to the Committee.

Don Elliott joined the meeting.

An audience member had a question on accessory use and asks why warehousing and storage is allowed in GM-6, as it is inconsistent with the other residential areas. Ms. Breinich replied that it is permitted now as a special requirement because of some of the buildings that are currently present in that district. Warehouses are permitted as an accessory use for a permitted use. They are prohibited as a primary use in any new structure. The Committee will revise this section to change some accessory uses to prohibited uses. Mr. Elliott gave guidance to the Committee on this issue. Mr. Elliott answered questions from Ms. Breinich about utilities with respect to the ordinance. The Committee decided to add helipad as an accessory use to districts the GI and GM-3 industrial districts, because as an accessory use the applicant would have to prove it is needed. Mr. Elliott suggested conditional accessory use for another level of protection, and the Committee agreed.

Catherine Ferdinand, Bowdoin College, spoke regarding the Committee's generalization of use terms for the draft ordinance to apply across the districts, but as they thought of potential uses that had not been listed, they ended up adding more items, which seemed counterproductive. As an alternative, Ms. Ferdinand and the college would like to suggest some language that broadens the college definition to some degree. Most of the uses that would have potential external impacts appear in the Use Table, such as residence halls, dining facility and museum, but the definition of college is currently tied to buildings with classroom space. She believes it is conceivable in the not too distant future academic facilities may not be defined by classroom space as we know it today. They will share their language with the Committee, which includes the definition in the Use Table that had been added for the appendix for the acquired property at the former base. They had a line that included "*things that were consistent with the education and cultural mission of the college"*. They would like to propose some language that takes away the tie with classroom space and broadens the definition of college to some degree, but still requires them to meet the standards for development review, and dimensional and density requirements. That, coupled with the Neighborhood Protection Standards, would give the college some flexibility within the college core to come up with uses that are consistent with the economic health and well-being of the college going forward in the future. Mr. Frizzle asked Mr. Elliott for the common practice in this regard, and if a definition for college is needed in the Use Table. Mr. Elliott responded there is usually a definition of college, but from the beginning of this process he has argued that they need a lot of flexibility, so he would not object to broadening the definition. Mr. Frizzle agreed, and asked Ms. Breinich to allow the college to submit the language for the Committee to review, and they will proceed from there.

<u>Density Standards:</u>

Ms. Wilson spoke about the intention of the changes to the zoning ordinance they were tasked with as directed by the Comprehensive Plan, which includes increasing density. The main new proposal in the draft is that minimum lot sizes in residential areas are dropped to 7500 sq. ft. Ms. Wilson and the staff discussed the possible effects. She has three different documents detailing the different scenarios. The first is called the *"The Comparison of the Types of Housing That Can be Built Under the Current Brunswick Zoning Ordinance and the Proposed"*. She has analyzed the differences between the current ordinance and the proposed due to different size lots and density. She found that in the current zoning ordinance, one cannot even build to the density allowed. They believed they were allowing people to build 5 single family homes per acre, when the actual amount of homes allowed varied in different districts from 2 to 4. Ms.

Wilson asked if the proposed zoning ordinance improves this situation, and does it mean the town can build closer to the density it wants to build to. In most of the districts slightly more single family homes could be built, and her summary of results for each district is included under the title of each page. Mr. Frizzle asks if dropping the minimum lot sizes in the residential areas do enough with regard to the Comprehensive Plan's directive that density be increased. It has a slight effect on single family homes and no effect in any of the TR zones or zones 1 and 8. Ms. Wilson created alternative scenarios because she did not believe the Committee did what it had set out to do, which was to increase slightly, where possible, densities. Alternative 1 dropped lot sizes to 7500 sq. ft., but also increased density in general by a factor of one dwelling unit. Alternative 3 increases the density from the current ordinance and eliminated the concept of minimum lot size for residential purposes. The density factor will always give a minimum for lot size. She believes if the minimum lot size is eliminated, the Committee would accomplish more of what they set out to do.

An audience member said she sees the biggest impact in TR-1, and believes the minimum lot size must be kept there or there could be 10 single family homes on a one-acre area. She would not like to see a change for the TR-1 district, and would like to keep the Alternative 1 Plan, with the 7500 sq. ft. lot size. The Committee discussed the belief that they wouldn't want a smaller lot size than 7200 sq. ft.

Mr. Elliott was pleased with Ms. Wilson's analysis. Most cities run into this problem with two different measures of density. When they have to choose between one and the other to avoid conflicts most towns choose lot size rather than density. However, he thinks there is merit in what Ms. Wilson is suggesting because what it will do is open up more creativity. He thinks it's a good solution with the inconsistencies they currently have. His only caveat is that it will probably result in an non-suburban, more of an older town infill pattern, because people will be able to get creative about how they fit the extra single family houses in. That is, in his opinion, the way towns like Brunswick have developed. They haven't developed where every lot is the same size. Mr. Doxsee believes this is also an incentive for single family homes, and wonders if that's what the town is trying to encourage. Ms. Wilson stated in her summary that more single family, duplexes, and multi-family dwelling units are accomplished in Alternative 3. Mr. Frizzle believes the Committee should go back to the two standards; minimum lot size and density. However, they need to drop the minimum lot size down to something that is practical for a single family home, given setbacks, impervious surface, etc., and it looks like somewhere in the vicinity of 7200 sq. ft. kind of defines the smallest lot that you'd want to build a single family home on. He suggests keeping that as the minimum lot size, and let the density determine how many duplexes, apartment buildings or units can be built in the same area. Mr. Doxsee asked Mr. Elliott if any communities measured density separately for single family and multi-units. Mr. Elliott said he's seen that done, but he thinks what the Committee is trying to do is to gently allow increases in densities in single family neighborhoods, which is what the Comprehensive Plan advocates, in the way that will change the character of the existing neighborhoods the least. Getting rid of minimum lot size is a fairly painless way of accommodating more growth, in his mind. As a response to an audience member's question, the Committee stated the ordinance did not restrict the amount of people in a dwelling unit, only the number of dwelling units. Some of the Committee would like to try Alternative 3 and to keep lot sizes in the 7200 sq. ft. vicinity except in the case of the higher densities, but Ms. Breinich felt they should not set a minimum lot size. Ms. Wilson said Mr. Hutchinson would only use the minimum lot size in the case of lots that were really too low.

Dimensional and Density Table:

The Committee will hold off on any further discussions of density until the next meeting due to time constraints, but Ms. Breinich will discuss the dimensional table. A note was added that building frontage in GM-6 does not apply to the Park Row area, because it will not work there. Mr. Elliott agrees. The Committee also decided to delete the lot width from GM-7, as Ms. Breinich explained that it was not working with those restrictions. The Committee discussed the build-to zone and need for a definition for this, and the fact that Park Row is currently excluded and I-2 should be excluded, as it is in the draft twice. Ms. Breinich stated if the Committee is talking about a different look and feel for that area of town, then the build-to should not be used. The Committee decided to delete the build-to, as it was taken out of the Common Development Plan also, and the only place it will appear is downtown. Ms. Breinich building height in CU-4 (35 ft.) and CU-7 (40 ft. except within 25 ft. of Longfellow) with Ms. Ferdinand from Bowdoin and the Committee. Ms. Breinich would like to go with 35 ft. as in CU-4 and note that it may exceed that height outside of the 25 ft. setback of Longfellow. The Committee agreed.
Catherine Ferdinand, Bowdoin College, questioned note 19, the building footprint for a multi-dwelling unit**,** as she thought it was being carried over for 10,000 ft. rather than 5,000 ft. in CU-4. The Committee agreed on 10,000 for a multi-family dwelling unit and 5,000 for a single family unit.
Note 20 was deleted from GC-3 column, and note 19 was moved to that column. Note 6 was also changed to read "north of Bath Road".
An audience member wanted information about the removal of footnote 8, which Ms. Breinich confirmed, and a few other stated recommendations, which Ms. Wilson confirmed were not on the table any longer. The Committee responded that they would craft some language about front setbacks, in response to the Village Review comments that the member brought up. Mr. Frizzle said they are definitely going in that direction; they just haven't set the boundaries yet. They would apply to all of GR-6.
Carol Liscovitz, 11 Berry Street, asked if a 30,000 sq. ft. facility will be allowed in R-1 and R-8. Ms. Breinich replied yes, but a note or supplemental use is needed to address footprints over 10,000 sq. ft. They would require a conditional use, so would go through stricter review. Mr. Frizzle said the Committee would check the State statute because they may not be able to discriminate against a care facility.
Ms. Wilson questions the impervious surface on Gurnet Road in GR-1 of 100, where it should be 35 like other residential zones. Ms. Breinich feels it should be closer to 50 because of the density being similar, if not more, than TR-1. The Committee agreed on bringing that down to 45.
Mr. Elliott signed out of the meeting.
Ms. Breinich mentioned that RP-1, which was a combination of CP-1 and FF-3, will revert to CP-1, due to all of the comments the Committee had received.
The Committee will come back to this table on the 13th in terms of the density after it is reworked.

Neighborhood Protection Standards:

Mr. Frizzle opened up the meeting to a discussion on Neighborhood Protection Standards. Ms. Breinich is asking whether the standards that are in place in the draft ordinance are adequate.

Mr. Frizzle added that the only significant change the Committee has discussed over the past couple of months is a ratcheting up of the building height as it moves away from the frontage. Ms. Breinich confirmed that the Committee talked about going to a sliding scale for height after 30 feet. The Committee had received numbers on the existing setbacks from Ms. Ferdinand of Bowdoin College. Mr. Frizzle said the Committee had decided to implement that sliding scale across the board on the edges of the college use zones for neighborhood protection, and Clarion is working on that, as well as the question from Bowdoin College about a fence, which was discussed at an earlier meeting. Ms. Wilson stated the Neighborhood Protection Standards do not particularly address noise, odors, traffic, or operating hours. She asks if the Neighborhood Protection Standards need to be stricter than the Performance Standards, which includes operating hours, and would like to hear the audience members' views on this. Mr. Frizzle stated that if they feel the noise coverage is adequate in the Performance Standards, than is there any reason to be stricter in the Neighborhood Protection Standards. The Committee read through the Performance Standards. Mr. Frizzle suggested adding standards for operating hours and traffic, since everything else seems to be well covered.
An audience member complained about noise caused from emptying dumpsters, but Mr. Frizzle stated that is dealt with by the Codes office by complaint. She would also like to see more concentration on pervious surface, perhaps a modification in the definition, rather than impervious, and Mr. Frizzle explained that that was done with the new Police Department using some pervious surface, and Mr. Hutchinson added that they were trying to give developers the incentive to use those new pervious materials and techniques.

Ms. Breinich stated the next meeting would pick up where this meeting left off, and it should be the last meeting before the next draft becomes available.

ZORC work session meeting schedule:

Monday, April 13, 2015, 2:00 pm in Town Hall Conference Room 206

Mr. Frizzle adjourned the meeting.

Attest

Debra L. Blum
Recording Secretary

BRUNSWICK ZONING ORDINANCE REWRITE COMMITTEE WORK SESSION

MAY 28, 2015

MEMBERS PRESENT ZONING ORDINANCE REWRITE COMMITTEE: Charlie Frizzle, Chair; Margaret Wilson, Vice Chair; Richard Visser; and Anna Breinich, Director of Planning and Development; and Jeff Hutchinson, Code Enforcement Officer

MEMBERS ABSENT ZONING ORDINANCE REWRITE COMMITTEE: Jeremy Doxsee, Town Planner;

CONSULTANT ABSENT: Don Elliott of Clarion Associates

Mr. Frizzle opened the meeting.

Mr. Frizzle opened the meeting to public comments on items not included on the agenda. Seeing no citizens offering public comments, he closed the public comments section of the meeting.

Mapping Review:

Ms. Breinich and Mr. Hutchinson have gone over specific comments that were given to ZORC since the first draft was given to the public. These comments were only about mapping, and they have included a few that were staff-based. The larger scale mapping comments that deal with consolidation will be discussed on June 10, 2015. She has a power point presentation, which will make it easier for the audience to follow the discussion.

- **Cedar Street area (comment-based):**

  Ms. Breinich has received numerous comments asking to include the Cedar Street neighborhood with Northwest Brunswick neighborhood zoning, which is GR-6, taking it out of GM-1, which is the mixed-use district that follows the rail corridor. The staff tried to include as much as they could in terms of what is primarily residential, looking at the north side of Cedar Street and also the southeast corner. Ms. Breinich agrees that they should be part of GR-6, but she is concerned about what is on Pleasant Street between Cedar and the rest of the Northwest Brunswick neighborhood because those lots and those uses are not anything like the rest of the district. The problem lies with the dimensional standards. St. John's is never going to conform, and maybe that takes care of it. They didn't get a chance to take another look at the area, but she believes that most of those lots are nonconforming. Mr. Frizzle noted that they were already in the GR-6 district, so staying in the GR-6 district to include these residential areas doesn't change their level of noncompliance. Since the Committee decided not to have a separate overlay for Pleasant Street, Ms. Breinich wonders if dealing with these properties correctly. Mr. Frizzle said let them go as is; they have been that way forever. He does not know that there's a convenient mechanism to change anything without upsetting the apple cart. Ms. Wilson asked if pretty much all the lots Ms. Breinich was hoping to add to GR-6 along the north side of Cedar Street were residential, and Ms. Breinich stated

yes, except for the corner of Cedar Street and Union Street, which is a mixed use. The idea sounded sensible to Ms. Wilson and Mr. Frizzle, and stated the Committee would recommend Ms. Breinich's suggestion.

- **Union Street between Mill and Pleasant (staff-based):**

  Ms. Breinich explained that there is an area east of Union Street that historically has been in GR-6, up against GM-6, and she's having a hard time looking at this area for some of the uses and thinking that you wouldn't know on the ground that there's a difference. Currently this area is in TR-1. There were no changes other than following parcel lines instead of a straight line up and down. Ms. Breinich is open to the Committee's thoughts about this area.

  Alison Harris, resident, mentioned that following the parcel lines instead of the street lines makes it quite difficult to tell what the district encompasses.

  In response to Ms. Wilson's question about the main difference between GM-6 and GR-6, Ms. Breinich stated that the main differences include GM-6 allowing 100% impervious, and no setbacks, while GR-6 allows 50% impervious and some setbacks. Union Street is identified by MDOT as being a minor collector road. Ms. Wilson thought that maximum flexibility in that area was important, to try to allow whatever commercial might happen. Ms. Breinich stated that GR allows for non-residential, like small-scale retail, restaurants, and offices, but conditionally. Mr. Frizzle said that thus far he hasn't heard an argument strong enough to make him want to change what exists, and added the fact that some conditional uses are allowed in GR-6 gives it flexibility. The Committee agreed to leave the districts as is.

- **GM-8 (Medical Use Zone) on Baribeau Drive (comment-based):**

  Ms. Breinich stated that GM-8 was going to be closely looked at in terms of performance standards, which will include some design standards, and recommend they be triggered by a certain number rather than using the total Cook's Corner Design Standards for this area.

  Ms. Wilson disclosed that her husband owns some property in GM-8.

  Ms. Breinich discussed the Medical Use Overlay Zone, which is over what is now TR-5, to the east of Baribeau, which is now GR-9, and R-4, which is now GR-4. She stated that uses could be either/or what was permitted in the base zone, and then whatever was permitted in the overlay zone. When parcel lines are used, the distance brings it into the residential areas of Peary, MacMillan and Dionne Circle. The comments relating to the changes that the Committee is going to be discussing, because she is making no recommendations at this time, discussed whether or not those properties should be included in the GM-8. They are totally residential, and she doesn't believe they will change into any medical use, except maybe an office use on Baribeau, but she doubts that looking at the homes that are there. Ms. Breinich says the same for the

Dionne Circle area. The red dots are nonresidential, and there are only a few here and there between Columbia and Peary, and they are doctors' offices. Between MacMillan and Pleasant Hill, there are much more nonresidential parcels, but again, they are clubs and offices and the like, and those uses would be permitted even if it was residential. The other request that was received asked to keep Pleasant Hill Road residential, and the parcel that is now being subdivided by deed is in question. The site plan was just approved, so they could follow the new lines. There is a single family home on the corner, which is a rental, but is for sale and listed as commercial, which is allowed in the Medical Use Overlay Zone currently. The request has been made by several neighbors to keep that residential. Ms. Wilson went to the PowerPoint slide to make sure she knew where Ms. Breinich was discussing, clarified that she would take the line back to Baribeau for part of it, and asked her what she would propose along Crystal Spring Farm and along the growth zone. Mr. Frizzle said that what would make sense as far as Baribeau is concerned would be to move the demarcation line between GM-8 and GR-9 out to the last lot on Peary and MacMillan, so that the four residential lots on Baribeau would remain in GM-8, in recognition of what's happening on Baribeau. Ms. Wilson mentioned a parcel that has a permanent conservation easement and can never be developed, so Ms. Breinich thought they should take it out of GM-8 because the zoning will not matter, and Ms. Wilson agreed. Ms. Breinich will put that section back into GR-4. Mr. Frizzle stated about the Dionne Circle area that he would do the same thing there. There are two lots off of Baribeau that are residential; that would be the line between GM-8 and GR-4. The lots on Baribeau would be left in GM-8, because the office/medical type of development is going on all along Baribeau, but the lots off Baribeau should remain in the residential zone. Mr. Frizzle said if it is the intent to keep Pleasant Hill residential, then they would have to take the two corner lots and put those into residential. The Committee discussed this issue and the issue of the one commercial lot, and suggested options. Ms. Wilson said to take the residential lots out as Mr. Frizzle suggested, and take out Crystal Spring farm, which can never be developed, but otherwise leave GM-8 as drawn. Mr. Frizzle said it recognizes Baribeau as essentially a development kind of an area. The lots that face Baribeau will stay GM-8. Ms. Breinich said the original TR-5 extends across the street, so she feels the properties there could easily go into GR-4. The Committee agrees that plan makes more sense.

Ms. Wilson asked about the medical overlay including Parkview, and Ms. Breinich said they need to take a look at that area also. Ms. Breinich said they could adjust that district the same way and using similar logic. Mr. Frizzle asked to table this item, and the Committee agreed.

Ms. Breinich expected that the Committee would be looking at building standards for Baribeau Drive after the second draft. The Committee discussed this briefly, and the approaches they would be taking when this item returns.

GM-8 currently, as proposed, follows Bath Road. Ms. Breinich said they had a comment request advocating including an area of GI (growth industrial) with GM-4, which is Cooks Corner. The uses in GM-8 had been changed so it reflected what is now in the Medical Use Overlay Zone, which meant that all the uses along Bath Road, like the car

dealerships and other uses there, were nonconforming. She is suggesting that an area along Bath Road revert to Cooks Corner, or as Ms. Wilson clarified, they are removing the overlay and returning the frontage lots to GM-4, which is the Cooks Corner area, and sequestering GM-8 into the back, where the more medical uses are. It really wasn't a change; the zoning is identical to what they have currently. Ms. Breinich said it also gives more flexibility along Bath Road. The Committee agreed.

- **Franklin Street (comment-based):**

  The comment Ms. Breinich received asks to bring Franklin Street into GR-7 from GR-8. Mr. Frizzle asked Ms. Breinich to explain the differences between the two districts, and Ms. Breinich stated the differences were only minor. There are some conditional uses in GR-8 that are not in GR-7. Mr. Frizzle asked why the individual desired a change in zoning district, and Ms. Breinich and Mr. Hutchinson responded that the development in GR-7 is more similar to the Federal Street development and follows the Village Review Zone. The Committee agreed that it made a lot of sense to change to GR-7. It will be a downzoning of one unit per acre, but all the dimensional standards are the same. There are a few changes in use.

- **Brunswick Sewer District request:**

  Brunswick Sewer District has requested to be added to GM-5, which is the Bath Road and Pleasant Street mixed use district. Ms. Breinich stated that GM-5 is a commercial zoning district, and she cannot recommend that change because it is directly behind all residential. Mr. Frizzle mentioned that just recently the Sewer District was allowed to build two garages, each 5,000 sq. ft., when they obviously would have preferred a single garage at 10,000 sq. ft., but they couldn't do it because of the residential zone that they are in. Given an adequate buffer, Mr. Frizzle thinks they should allow the Sewer Department some flexibility in that area. Ms. Breinich said if they could leave it in the residential district, but have an adequate buffering added to allow for larger buildings, that might be okay. The expansion of the treatment plant will be coming up in a few years, and this is an issue that the Sewer Department is concerned about. They are a utility; they are not considered a municipal facility. Mr. Frizzle asked why that approach was not taken when they wanted to build a garage, and they were forced to build two buildings instead of one. Ms. Breinich replied that their standards are such right now that they still have the footprint requirement, and Mr. Frizzle asked why that footprint requirement did not allow for extension of the treatment plant, because it seems like they received two sets of rules. Ms. Breinich said they needed to adequately address that, because right now the footprint reigns, and that's why they went with 5 and 5. Mr. Frizzle said it seems the easiest way to deal with it is to allow them to be part of GM-5, which gives them the bigger building footprint flexibility as well as other things, but provide adequate buffers to the residential area. Mr. Visser wondered what the advantage was to leaving them in the residential district, and Ms. Wilson replied that supposedly it protects the neighborhood better. Mr. Frizzle said they could put in the requirement for a 50-foot buffer or something like that, to all residential. Mr. Frizzle acknowledged Ms. Breinich's comment that they were a utility, but said that she treated them like a

residential development when forcing them to build two garages. Ms. Breinich said she couldn't do anything else, but is looking to change that, and she thinks the ordinance now looks at utilities differently. She explained there are two levels of utilities being proposed:

- Major, which is conditional
- Minor, which would be permitted

Ms. Breinich said perhaps they could say, as it's conditional anyway, that they may exceed the footprint based on their needs for the facility. Ms. Wilson added the statement "with adequate bufferage." Mr. Hutchinson added that they could add language about buffering similar to what is currently in GM-8. Ms. Wilson questioned the need for language to be similar in other districts with respect to buffering. Mr. Frizzle agrees with moving the Sewer District into 5 and applying neighborhood protection standards. The Committee agreed. Ms. Breinich disagreed, believing the neighborhood and Sewer District could coexist the way that it is, and it is a conditional use anyway. The Committee briefly discussing buffering and neighborhood protection standards.

Alison Harris, Cumberland Street, asked if the ordinance now had consistent neighborhood protection standards, and Mr. Frizzle answered in the affirmative.

- **<u>Town Commons Area:</u>**

  A request comes from a few members of the Town Commons Committee to put the Town Commons in the new Growth Conservation District, changing it from GR-3 to GN (Growth Natural Resources). Ms. Breinich pointed out the original Town Commons on the slide from a map provided by the Parks & Recreation Department, who oversee the Committee, and the Greater Commons area, which had been added to the Town Commons area as the years passed. This is town-owned land and cannot be developed. Ms. Breinich feels if it is going to be done, she would like to include the Greater Town Commons area, and the Committee agreed.

The Committee briefly discussed the property fronting Federal Street, which will be discussed in detail at another meeting, as it is not on the agenda for today. The request is for those properties to be reverted to residential zoning.

The other requests Ms. Breinich has received ask for an R-1 and R-8 consolidation, and a CU-1 and CU-2 consolidation. They will be discussed at another meeting.

<u>Other business:</u>

Ms. Breinich announced that the Department's Bowdoin fellow, Bridger Tomlin, starts work next week, and she is going to see if he is able to update their Wildlife Protection Overlay boundaries between 12/05 and 12/14 to make sure all parcels are still applicable, and prepare a Scenic Resources Overlay for the GIS using the inventory from the Gateway 1 study and the Parks, Recreation and Open Space Plan.

Ms. Breinich stated she still had some things to work on and get to Clarion, which might put the second draft back a week or two. Mr. Frizzle would like the second draft as complete as possible, even if it means a delay. He feels the changes made were fairly significant and should be reflected in the next draft. The Committee agreed. The second draft may be available to the Committee by the end of June. The plan is to have a few weeks to review the draft before scheduling meetings.

Ms. Breinich asked the Committee if they had any other areas that needed review. Parkview and Medical Use Overlays in 2 and 3 consistent with the other zones were brought up.

Ms. Wilson asked how they dealt with Cooks Corner standards in their draft, and where they apply. Ms. Breinich will review that section for content, clarity and footnotes.

The Committee discussed the Cooks Corner Design Standards and Village Review Zone Guidelines briefly.

ZORC work session meeting schedule:

Wednesday, June 10, 2015, 5:30 pm in Town Hall Conference Room 206
Wednesday, June 17, 2015, 3:00 pm in Town Hall Conference Room 206

There were no questions on mapping or comments from the audience so Mr. Frizzle adjourned the meeting.

Attest

Debra L. Blum
Recording Secretary

BRUNSWICK ZONING ORDINANCE REWRITE COMMITTEE WORK SESSION
DECEMBER 2, 2015

MEMBERS PRESENT ZONING ORDINANCE REWRITE COMMITTEE: Charlie Frizzle, Chair; Vice Chair Margaret Wilson, Vice Chair; Richard Visser; Anna Breinich, Director of Planning and Development; Jared Woolston, Town Planner: and Jeff Hutchinson, Code Enforcement Officer

MEMBERS ABSENT ZONING ORDINANCE REWRITE COMMITTEE:

CONSULTANT PRESENT: Don Elliot

1. Public Comment

Mr. Frizzle opened the meeting.

Richard Fisco discussed his handout to the Committee referencing control of another's use of their property and the 5th Amendment.

Mr. Frizzle closed the meeting comment session.

2. Draft 2:

a. Review of Draft #2 Revisions Based on 11/10 Meeting Discussion (see packet): Anna Breinich reviewed the revisions made and noted the areas that staff and the Committee will still need to and review further.

Discussion over greenhouses as an accessory to use structure. Anna Breinich noted that staff needs to review accessory structure setbacks and neighborhood use setbacks. Staff to make sure that primary use setbacks follow the dimensional standards for that district.

Anna Breinich reviewed the Stormwater language changes that came about after further discussion with the Brunswick Topsham Water District. Anna noted that in terms of enforcement/monitoring, Jeff Hutchinson will be in contact with the Water District.

Discussion on oil and petroleum storage tanks and absorption into the soil; some language clarifications made.

b. Discussion Topics/Updates and Revised Text: Anna Breinich reviewed changes as outlined in the draft and included in the packet.

i. Nonconformities: Decision to allow expansion within the SPO for non-conforming structures only with the approval of a Special Permit. Jeff

Hutchinson briefly reviewed language that will be coming forth for the next meeting regarding nonconformities.

ii. Aquifer Protection Overlay: Changes reviewed under Draft #2 discussions.

iii. Floodplain Protection Overlay: Jeff Hutchinson reviewed the changes and Anna Breinich noted that this section is in good shape.

iv. Shoreland Protection Overlay: Jeff Hutchinson and Jeremy Woolston currently working on draft language due to State changes.

v. Wildlife Protection Overlay (disturbance criteria under review by Conservation Commission): Conservation Commission still reviewing. Margaret Wilson said that the conflict is attempting to allow agriculture while preserving wildlife.

vi. Airport Approach Overlay Uses (under review by MRRA)

~~vii. Telecommunications Overlay FAA Change Clarifications*~~

viii. Urban Agriculture Rewrite: Reviewed under Draft 2 revisions.

ix. Retail Classes I and II and Pedestrian/Bicycle Access Removal: Anna Breinich sad that she and Margaret Wilson tried applying the language from the current ordinance to the new ordinance, but that it does not make sense. Margaret pointed out that many were unaware of some of the Sections included in the Cooks Corner Design Standards and asked if they want to apply these standards around town or restrict them to Cooks Corner. Anna said that she would like to add a section to Chapter 4 that would reference VRZ, CC and Brunswick Landing. Anything after that, (all the GM's and GI Districts) with a building 10,000 sq. ft. or more would then have specifics developed using the CC Design Standards.

x. Design Standards for Nonresidential Structures: Anna Breinich to continue to rework and make sure that the change is made in CC to include redevelopment of a site.

xi. Protection of Natural Vegetation Discussion*: Jeremy Woolston reviewed what this section entails and its intent. Charlie Frizzle suggested limiting the definition for vegetative buffer to what is along Old Portland Road; define what you want to protect. Anna Breinich agreed that the definition should not be as broad as it currently is, but she would be more comfortable if they did not map where it would be. Discussion on the impact to bats. Jeremy to work on language for unreasonable environmental impact. Language changes made, staff to update for next work session.

xii. Stormwater Management: Jeremy Woolston reviewed the changes to Stormwater management. Staff to review where the information came from pertaining to monitoring stations.

Finish reviewing section at the next work session due to time constraints.

xiii. Complete Streets Update: Jeremy Woolston said that Bike Pedestrian Committee is waiting feedback from John Foster.

xiv. Signs (staff rework underway)

3. Public Information Updates

a. Use Comparison Table: Postponed to next work session.

3. Approval of Meeting Summaries

No summaries for review at this meeting.

4. Other Business: No other business.

5. Next Meeting: January 16th, 1:00 – 4:00 in the meeting room.

*Revised 11/30/15

Adjourn

This meeting was adjourned at 4:35 P.M.

Respectfully Submitted,

Tonya Jenusaitis

Recording Secretary

BRUNSWICK ZONING ORDINANCE REWRITE COMMITTEE WORK SESSION
JANUARY 7, 2016

MEMBERS PRESENT ZONING ORDINANCE REWRITE COMMITTEE: Chair Charlie Frizzle; Vice Chair Margaret Wilson; Richard Visser; Anna Breinich, Director of Planning and Development; Jared Woolston, Town Planner: and Jeff Hutchinson, Code Enforcement Officer

1. Public Comment

Charlie Frizzle opened the meeting.

Helene Hafferty asked when the public will be able to view neighborhood protection matrix and where will they be as noted in the 9/23/15 meeting summaries. Anna Breinich noted that the matrix has been handed out at least twice at other meetings and that this matrix is not meant to be part of this document. Anna said that some of the information on the matrix will be footnoted and some will be supplemental standards. Anna to make the matrix available for those who would like to review it. Helene asked what the red and the blue marks mean on the Use Tables. Anna replied that the color coded information can be found in the July 2015 footnotes.

Charlie Frizzle closed the meeting comment session.

2. Draft 2:

a. Review of Draft #2 Staff Revisions – Chapters 1-3 (Note: Shoreland Protection Overlay Standards work in progress – note added 1/5/16)

Anna Breinich stated that she was only going to review the substantive changes, but noted that there have been some non-substantive changes.

Jeff Hutchinson reviewed the reasons behind the insertion of the word *separately* regarding deeds in Section 1.6.3, page 1-6. Jeff reviewed the revisions and reasons behind the changes in expansion in the SPO District on page 1-8. Jeff explained his changes to Section 1.6.4.D and the reasons why his changes differed from what Clarion had proposed regarding relocation to a different parcel.

Anna Breinich noted that the definition of *footprint* is different in the SPO District as noted in the definition of expansion of use on page 1-19. Jeff Hutchinson pointed out that what the wording in parenthesis should be located after the word "ground" to make sense.

Jeff Hutchinson explained that the ordinance language for the definition of stream in the SPO District and said that this is more restrictive language then the State and provided a review of the DEP definition for comparison. Jared Woolston described how the USGS works. Decision to add the blue line on the map so that the area is better defined.

In reference to accessory use, Anna Breinich said that they sometimes have a difficult time in determining when a use is accessory and reviewed the proposed changes. Anna said that she does not want to include the 40% of the total floor area. Margaret Wilson stated that she does not feel that the proposed language provides more guidance then what is currently in the ordinance. Decision that Anna and Jeff Hutchinson will continue to work on this definition.

Chapter 2

Anna Breinich noted that in review of Performance Standards for Aquifer Protection Zones, Section 2.3.2.F, she and Jeff Hutchinson realized that some language was inadvertently deleted; this language has since been added back to the draft. Anna to review General Standards for Uses and Activities Subject to Development Review for inconsistencies.

Anna Breinich said that they would be skipping Section 2.3.3, Shoreland Protection Overlay District for the time as this language is still being researched.

Discussion over the removal of the 30 year minimum non-disturbance time period in the Wildlife Protection Overlay District, page 2-39. Charlie Frizzle said that he is OK with the removal, so long as there is still a path for applicants if they want to make a change.

Mobile Home Park Overlay District, Section 2.3.6, page 2-40, Jeff suggested that they include mobile home parks in their mapping.

Chapter 3

Catherine Ferdinand of Bowdoin College spoke to her suggested language changes made to section 3.4.1.C, Residence Halls as provided by Bowdoin College in the letter dated 12/21/15. Charlie Frizzle said his only concern was that the proposed new language would allow the college to take an office and change it into a residence hall. Catherine replied that they can already do this with a Change of Use permit. Anna Breinich replied that she would be fine with the proposed language so long as they define *currently* as the date of the adoption of the ordinance; Charlie Frizzle and Margaret Wilson agreed. Discussion regarding principal Uses and dwelling units. Staff to rework the language in Section 3.4.1.A. on page 3-7.

Members discussed the allowable decibel levels in Section 3.4.1.V. Jeff Hutchinson said that he did not agree with all the allowable levels as they are not all fair. Charlie Frizzle said that the type of wind mills that this would apply to do not make noise. Anna Breinich to research the noise levels of a nearby windmill.

Solar Energy Collection Facilities, Section 3.4.1.2 (page 3-18), staff to review further. Discussion on what is accessory and what is primary.

Jeff Hutchinson asked members how they felt about requiring those with Home Occupant to obtain a permit. Refer to Section 3.4.2.C, page 3-20. Language changes suggested and made.

b. Stormwater Management (previously provided material from Jared) (added 1/5/16) **Postponed.**

3. Approval of Meeting Summaries

MOTION BY RICHARD VISSER TO APPROVE THE MEETING SUMMARY OF SEPTEMBER 23, 2015 AS AMENDED. MOTION SECONDED BY MARGARET WILSON, APPROVED UNANIMOUSLY.

MOTION BY CHARLIE FRIZZLE TO APPROVE THE MEETING SUMMARY OF NOVEMBER 3, 2015 AS AMENDED. MOTION SECONDED BY MARGARET WILSON, APPROVED UNANIMOUSLY.

4. Other Business: No other business.

5. Upcoming Meeting Schedule: Dates to be determined.

Adjourn

This meeting was adjourned at 4:21 P.M.

Respectfully Submitted,

Tonya Jenusaitis

Recording Secretary