



City of Auburn, Maine

Office of Planning & Permitting

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Auburn Planning Board

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Subject: Item # 8 Planning Board Public Hearing text amendment to Article XVI Administration and Enforcement

- I. **Proposal:** Public Hearing on City Council initiated amendment to Chapter 60, Article XVI, Division 2 Site Plan Review
- II. **Background:** Staff had a discussion with the planning board in 2023 related to the City of Auburn's ordained procedures to accept, review, and make a decision to approve or deny development review applications. Among the prompts for this ordinance text amendment were 1.) the longer timeline required between application and construction for solar energy generating systems, 2.) the occasional need to extend planning board review time due to reasonable delays, and 3.) the need to update Auburn's Ordinance to reflect city staff's practiced timeline and process of development review.

The text proposed text amendment is intended to address shortcomings in the ordinance that may result in automatic approvals being identified based on project reviews that may take more than one Planning Board Meeting. This amendment considers that the Planning Board is empowered to request more information if needed to make a final decision on a development review application.

The zoning text amendment extends the timeframe for initially accepting an application for processing to reflect the existing review schedule within the City of Auburn. The amendment also guides the process to communicate either the deficiency, conditional acceptance, or full acceptance of the application. This amendment clarifies the date of acceptance as the date the director verifies that all required submittals have been turned in and are satisfactory.

This zoning text amendment removes the provision that a project is automatically approved if no action's taken within 60 days after a complete application submittal in recognition that there are several occasions in which the period of review is reasonably extended or delayed. For example, they may request the applicant to provide a traffic analysis or other information pertaining to the safety and functionality of a site. Beyond the information required by the city, the applicant may also be required to get additional state permits depending on the size and impact of the project. Possible additional permitting may include

- Natural Resource Protection Act (NRPA)
- State review for anything outside of delegated review authority including projects with impervious area exceeding 10 acres and projects generating over 200 trips at peak hour,
- Review and approval by the Army Corps of Engineers,
- Air Emissions License.

Finally, this amendment also extends the timeline of approval for solar energy projects which frequently required approval extension due to delays in securing the CMP interconnection agreement.

Suggested Ordinance Amendments:

Sec. 60-1300. File for site plan review

- Replace "~~department of community development and planning~~" with "planning, permitting and code department"
 - Remove clause "~~such plans shall be filed not less than 30 days prior to a regularly scheduled meeting~~"
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Sec. 60-1303. Approval-Timeline for Review.

- Remove “~~planning, permitting and code enforcement~~” before “director”
- Extend the initial application completeness review time from ~~five~~ days to 10 business days and notify the applicant that either 1.) The application is not accepted for processing as it has not met the requirements of Sec. 60-1300 and Sec. 60-1301 and shall enumerate the materials that are missing; or 2.) The application has been conditionally accepted for processing as one or more required elements, as required by Sec. 60-1300 or 60-1301, are missing or inadequate and must be submitted within five business days or the application will not be accepted for processing; or 3.) The application has met the requirements of Sec. 60-1300 and Sec. 60-1301 and is accepted for processing.
- Clarify method for distribution and review within departments of the city. Options include 1.) Request additional information from the applicant in order to assist with the director’s review of the submitted site plan and/or 2.) Make recommendations to the applicant for changes to the submitted site plan that, in the director’s opinion, will cause the site plan to conform to city requirements.
- Specify that the director shall, upon completion of the director’s review of the site plan, but no later than 60 days after the notification to the applicant that the application is accepted for processing, request the planning board chair to schedule a public hearing by the planning board at a regularly scheduled planning bard meeting.

Sec. 60-1304. Same—Public hearing; findings.

- Establish a timeline of at least 15 days between the director’s request to schedule a public hearing, and the date of the public hearing scheduled by the planning board chair.
- Specify that the planning board shall not unreasonably delay taking final action on a site plan after the closure of the public hearing.

Sec. 60-1306. Signed copies.

- Remove the sentence, “~~if no action is taken within 60 days after submittal of a completed application, the site plan shall be deemed to have been approved.~~”
- Specify that the approved plan shall be signed by the planning board chair on behalf of the planning board.

Sec. 60-1307. Findings in writing

- Specify that the findings for the decision shall be signed by the planning board chair on behalf of the planning board.

Sec. 60-1308. Expiration of approval.

- Extends the date of expiration for solar energy generating systems from one year until two years after the date of approval.
- In the case that the project is litigated, specify that the approval will not commence until a nonappealable court judgement is issued.
- Replace “~~his~~” with “the developer’s”

Sec. 60-1313. Correction of off-site deficiencies.

- Replace “~~his~~” with “the developer’s”

III. **Staff Recommendation/ Planning Board Action:** Review the proposed text amendment, discuss, hold a public hearing, and forward a recommendation to the city council. Staff Recommends the Planning Board favor a favorable recommendation as the amendment gives the planning board, applicants and staff more flexibility in project review.

IV. **Potential Motion:** I make a motion to forward a favorable recommendation to the city council Chapter 60, Article XVI, Division 2 Site Plan Review to reflect the language specified in this meeting’s materials.