

ARTICLE 12: SITE PLAN REVIEW

SECTION 12.01 PURPOSE

The Site Plan Review provisions set forth in this section are intended to protect the public health and safety, promote the general welfare of the community, preserve the environment, and minimize the improvements that must be paid for by the City's taxpayers by ensuring that nonresidential, multi-family residential, and similar facilities are designed and developed in a manner that ensures that adequate provisions are made for traffic safety and access; emergency access; pedestrian access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment; minimizing the adverse impact on adjacent properties; and fitting the project harmoniously into the fabric of the community.

SECTION 12.02 APPLICABILITY [amended October 28, 2009]

Site Plan Approval from the appropriate Review Authority must be obtained prior to undertaking any alteration or improvement of the site, including grubbing or grading, cutting of trees, obtaining construction permits for the activities, and commencing any activity that requires Site Plan Approval. Site Plan Approval is required for:

- A. the construction of any building or building addition for a use designated by the Land Use Table (see Section 9.02) as one requiring Site Plan Approval
- B. changes of use from a use not requiring Site Plan Approval to a use designated by the Land Use Table (see Section 9.02) as one requiring Site Plan Approval
- C. any change of a use designated by the Land Use Table (see Section 9.02) as one requiring Site Plan Approval if that change requires changes to the site, such as additional parking or loading spaces, or screening
- D. any change to or site development on the site of a use designated by the Land Use Table (see Section 9.02) as one requiring Site Plan Approval, such as a change to or the addition of parking; access drive(s); drainage; stormwater management; erosion or sedimentation control; exterior lighting; outdoor storage or display; pedestrian walkway; exterior lighting; a drive-up or walk-up service window; or motor vehicle fuel pumps
- E. additions to any structure, change to the site, or change of any condition of approval of any project that previously received Conditional Use or Site Plan Approval
- F. the expansion of a nonconforming use

G. any other activity or use requiring Planning Board review by this Code

The change from one use to another Permitted Use does not require Site Plan Approval unless required in items A-G, above.

SECTION 12.03 REVIEW AND APPROVAL AUTHORITY

- A. The Staff Review Committee is authorized and required to review and act on all site plans for development if the proposal will result in less than 500 square feet of new or additional gross floor area or less than 1,000 square feet of new or additional impervious surface.
- B. The Planning Board is authorized and required to review and act on all other site plans for development requiring Site Plan Review.
- C. The applicable Review Authority is required to review the site plan and must approve, approve with conditions, approve subject to additional information, or deny the application based on the application's and site plan's compliance with the standards in Section 12.09, and any other applicable standards.

SECTION 12.04 PRE-REVIEW PROCEDURES

A. Application

Application for Site Plan Approval must be made at the City Planning Office. The application must include the following:

- 1. 15 copies of the site plan and all supporting information (See Section 12.08)
- 2. the application fee
- 3. a list of owners of contiguous properties, property directly across the street, and property within 100 feet of the applicant's property

The City Planning Office will give the applicant a dated receipt for the application if it includes these items.

B. CEO Review

As soon as practical, the Planning Director must forward the application to the CEO, who must review the application to determine whether:

1. the use proposed is allowed in the zone, or is part of an application for a zoning-map amendment in accordance with an architect's plan, as allowed in Section 1.07, G
2. the Space and Bulk Regulations of the zone are met
3. the site plan must be reviewed by the Staff Review Committee or the Planning Board

The CEO must report his/her determination in writing to the Planning Director as soon as practical. If the CEO finds that Item 1 or 2, above, has not been met, the applicant also must be notified in writing, and processing of the site plan application will stop.

C. Planning Director's Review [amended February 23, 2005]

1. Once the CEO has reported his/her determination to the Planning Director, the Planning Director must begin review of the site plan and supporting information. If the Planning Director makes a preliminary determination that the application is complete and it is a site plan that must be reviewed by the Planning Board, it is placed on the agenda of the next available Planning Board meeting. If the Planning Director makes a preliminary determination that the application is not complete, he/she must notify the applicant in writing and must list the materials or information that must be submitted to complete the application. The applicant may appeal the Planning Director's determination in writing; the application then will be placed on the agenda of the next available Planning Board meeting.
2. Action taken by the Planning Director with respect to reviewing a site-plan application does not result in an application being deemed pending for the purposes of 1 M.R.S.A. Section 302.
3. The Planning Director may, if the City's staff are not available or qualified, because of the complexity or magnitude of the proposed development, to review the plans and supporting materials, and after notification to and at the expense of the applicant, employ 1 or more independent consultants to review the plans and supporting materials. The estimated costs of such consultant must be deposited with the City Treasurer prior to employing the independent consultant. If the cost of the review exceeds the amount deposited, the applicant must deposit additional funds with the City Treasurer before Site Plan Approval may be granted. Any money not spent must be reimbursed to the applicant.

D. Notification of Abutters

At least 7 days prior to the date when the Review Authority is to review a site plan, the Planning Office must send notice by first-class mail of the Review Authority meeting to owners of contiguous properties, property directly across the street, and property within 100 feet of the applicant's property, as shown by the most recent tax record of the City. Notice must indicate the time, date, and location of the Review Authority meeting. The Planning Office must maintain a written certificate indicating those persons to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed, and from what location it was mailed. Failure to notify as required herein does not invalidate any action of the Review Authority, nor does it require the Review Authority to reconsider the application, unless a property owner can demonstrate to the ZBA that he/she was materially prejudiced by the lack of knowledge of the Review Authority meeting. Such appeal must be processed as an Administrative Appeal.

SECTION 12.05 PLANNING BOARD REVIEW

A. Pre-application Workshop

Prior to submitting a formal application, the applicant may schedule a pre-application workshop with the Planning Board. The pre-application workshop is informal and informational in nature and does not result in any formal action. There is no fee for a pre-application review, and it does not cause the plan to be a pending application. No decision on the substance of the plan may be made at the pre-application workshop. The applicant is encouraged to meet informally with the Planning Director prior to the workshop.

1. Purpose

The purposes of the pre-application workshop are to:

- (a) allow the Planning Board to understand the nature of the proposed development and the issues involved in the proposal
- (b) identify issues that need to be addressed in future submissions

2. Information Required

There are no formal submission requirements for a pre-application workshop. However, the applicant should be prepared to discuss the following items with the Planning Board:

- (a) the proposed site, including its location, size, and general characteristics

- (b) the natural characteristics of the site that may limit its use and development
- (c) the nature of the proposed use and development, including a conceptual site plan
- (d) any issues or questions about existing municipal regulations and their applicability to the project
- (e) any requests for waivers from the submission requirements

B. Determination of Completeness

1. The Planning Board must begin review of the site plan by determining if the application is complete according to the submission requirements (See Section 12.08). The Planning Board has 35 days to determine if the application is complete; this time may be extended by mutual agreement of the Planning Board and the applicant.
2. If the application is not complete, the Planning Board may not continue its review and must notify the applicant in writing of the information that is missing.
3. If the Planning Board determines that the application is complete, it must begin reviewing the application to determine if it conforms to the approval criteria.

C. Procedure

The Planning Board must use the following procedure when reviewing the application to determine whether it conforms to the approval criteria:

1. The applicant or his/her duly authorized agent or representative presents the application and explains how the proposed development will conform to all application provisions of this Code.
2. Questions and comments from those present, including Planning Board members, the public, the City staff, may be made through the Planning Board Chair.
3. The Planning Board will review the information presented and determine if the proposed development will conform to all applicable provisions of this Code. If the Planning Board determines that the application conforms to the approval criteria, the Planning Board must grant Site Plan Approval. If the Planning Board determines that the application does not conform to the approval criteria, it must deny Site Plan Approval and state in writing the reasons for the denial.

4. If the Planning Board needs more time to review the application and the information presented, or if the applicant needs more time to present additional information to show that the application meets the approval criteria, the Planning Board may vote to continue review of the application to another Planning Board meeting that is to be held within 35 days. This time may be extended by mutual agreement of the applicant and the Planning Board. The motion to continue must state the reason for the continuation of and the date, time, and location of the meeting to which it is continued.

D. Independent Consultants

If the Planning Board cannot judge that the proposed development will conform to all applicable provisions of this Code, the Planning Board, after notification to and at the expense of the applicant, may employ 1 or more independent consultants. The estimated costs of such consultants must be deposited with the City Treasurer prior to employing the independent consultant. Any money not spent must be reimbursed to the applicant. If the cost of the review exceeds the amount deposited, the applicant must deposit additional funds with the City Treasurer before Site Plan Approval may be granted.

SECTION 12.06 STAFF REVIEW COMMITTEE REVIEW

A. Determination of Completeness

The Staff Review Committee must begin review of the site plan by determining if the application is complete according to the submission requirements (see Section 12.08). The Staff Review Committee has 14 days to verify the Planning Director's determination of completeness; this time may be extended by mutual agreement of the Staff Review Committee and the applicant. If the application is not complete, the Staff Review Committee may not continue its review and must notify the applicant in writing of the information that is missing. If the Staff Review Committee determines that the application is complete, it must begin reviewing the application to determine if it conforms to the approval criteria.

B. Review Procedure

1. The applicant or his duly authorized agent or representative presents the application and explains how the proposed development will conform to all application provisions of this Code.
2. Questions and comments from those present, including Staff Review Committee Board members, the public, the City staff, may be made through the Staff Review Committee Chair.

3. The Staff Review Committee will review the information presented and determine if the proposed development will conform to all applicable provisions of this Code. If the Staff Review Committee determines that the application conforms to the approval criteria, it must grant Site Plan Approval. If the Staff Review Committee determines that the application does not conform to the approval criteria, it must deny Site Plan Approval and state in writing the reasons for the denial.
4. If the Staff Review Committee needs more time to review the application and the information presented, or if the applicant needs more time to present additional information to show that the application meets the approval criteria, it may vote to continue review of the application to another Staff Review Committee meeting that is to be held within 14 days. This time may be extended by mutual agreement of the applicant and the Staff Review Committee. The motion to continue must state the reason for the continuation of and the date, time, and location of the meeting to which it is continued.

C. Independent Consultants

If the Staff Review Committee cannot judge that the proposed development will conform to all applicable provisions of this Code, it may, after notification to and at the expense of the applicant, employ 1 or more independent consultants. The estimated costs of such consultants must be deposited with the City Treasurer prior to employing the independent consultant. Any money not spent must be reimbursed to the applicant. If the cost of the review exceeds the amount deposited, the applicant must deposit additional funds with the City Treasurer before Site Plan Approval may be granted.

SECTION 12.07 APPROVAL VOID [amended June 21, 2006]

Site Plan Approval is void 6 months from the date of the Review Authority approval if a building permit for the project has not been issued by the CEO. If the Site Plan Approval is contingent upon a rezoning by the City Council, the 6-month period begins 21 days following final City Council approval of such rezoning. Prior to expiration of the Site Plan Approval, the applicant may request an extension of up to 6 months from the Review Authority. Site Plan Approval remains valid if a building permit has been issued for the project prior to the expiration date. Expiration of the building permit prior to completion of the project renders the Site Plan Approval null and void. Failure to comply with conditions placed on Site Plan Approval or to comply with any other permitting process, renders the approval null and void, unless an extension is granted by the Review Authority.

SECTION 12.08 SUBMISSION REQUIREMENTS

The applicant must submit 15 copies of site plans (drawn to a scale of not less than 1 inch = 50 feet) and supporting information. Building elevations and other exterior building details may be required by the Planning Board for applications such as those for Historic District Approval, Setback Reduction in the NRPO district, and Contract Rezoning. The site plan and supporting submissions must include the following information: [amended August 6, 2003]

- A. the proposed use according to the Land Use Table
- B. evidence of right, title, or interest in the site of the proposed project
- C. a location map of the site with reference to surrounding areas and existing street locations
- D. the name and address of the owner and site-plan applicant, together with the names of the owners of all contiguous properties, and property directly across the street, as shown by the most recent tax records of all municipalities in which such properties lie [amended August 6, 2003]
- E. lot lines, including courses and distances, and existing monuments. [amended August 6, 2003]
- F. locations of all existing buildings and structures, streets, easements, driveways, entrances, and exits on the site and within 100 feet thereof
- G. locations and dimensions of proposed buildings and structures, roads, access drives, parking areas, and other improvements
- H. lines on the site plan indicating Setbacks and Yard Areas [amended August 6, 2003]
- I. all existing physical features on the site, including streams, watercourses, existing vegetated areas and an indication whether the vegetation will be removed or preserved, soil conditions (e.g., wetlands, rock ledge, and areas of high water table) as reflected by a medium-intensity survey also must be shown (the Review Authority may require a high-intensity soils survey where it deems necessary) [amended August 6, 2003]
- J. topography showing existing and proposed contours at 5-foot intervals for slopes averaging 5 percent or greater and at 2-foot intervals for land of lesser slope. A reference benchmark must be clearly designated. Where variations in the topography may affect the layout of buildings and roads or stormwater flow, the Review Authority may require that the topographic maps be based on an on-site survey.

- K. parking, loading, and unloading areas must be indicated with dimensions, traffic patterns, and curb radii
- L. improvements such as roads, curbs, bumpers, and sidewalks with cross sections, design details, and dimensions
- M. locations and designs of existing and proposed stormwater systems, sanitary waste-disposal systems, potable water supplies, and methods of solid-waste storage and disposal
- N. landscaping and buffering showing what will remain and what will be planted, and indicating botanical and common names of plants and trees, dimensions, approximate time of planting, and maintenance plans
- O. lighting details indicating type of standards, location, direction, wattage, radius of light, and intensity
- P. location, dimensions, and details of signs
- Q. demonstration of technical and financial capability to complete the project; sensitive, financial, and technical information may be submitted on a proprietary basis and will not be treated as public information
- R. evidence in site-plan, text, or report form explaining how the development meets the applicable general performance standards of Article 10 and applicable performance standards, specific activities and land uses, of Article 11
- S. where the applicant requests in writing and the Review Authority finds that due to special circumstances of a particular plan the submission of any information listed in this section is not required in the interest of public health, safety, and general welfare, or is inappropriate because of the nature of the proposed development, the Review Authority may waive such requirements, subject to appropriate conditions

SECTION 12.09 APPROVAL CRITERIA

The application must be approved and Site Plan Approval granted if the Review Authority determines that the applicant has demonstrated that the applicable general performance standards of Article 10 and the applicable performance standards, specific activities and land uses, of Article 11 are or will be met.

SECTION 12.10 SITE PLAN APPROVAL WITH CONDITIONS

The Review Authority may attach reasonable conditions to their Site Plan Approval if it determines that such conditions are necessary to carry out the purpose of this Code.

SECTION 12.11 APPROVAL SUBJECT TO ADDITIONAL INFORMATION

The Review Authority may grant Site Plan Approval subject to additional information. The applicant must provide that information and receive Site Plan Approval from the Review Authority or the Planning Director if so designated by the Review Authority in its motion to grant the Approval Subject to Additional Information within 35 days of said approval, or that approval is void.

SECTION 12.12 CHANGE IN OWNERSHIP

A change in the ownership of property does not affect the requirements of this section, including but not limited to requirements related to receiving Site Plan Approval and implementing a final construction schedule.

SECTION 12.13 AMENDMENTS

- A. Any alteration to a site that is inconsistent with the approved site plan requires an amendment to the site plan.
- B. Minor revisions to approved site plans may be permitted by the following procedure:
 - 1. Five copies of the plan showing the proposed revision must be submitted to the CEO.
 - 2. If the CEO determines that the revision does not violate applicable codes, the plan will be referred to the Planning Office for review by the Public Works Director, the Director of Planning and Development, and the Chair of the Planning Board.
 - 3. The Public Works Director, the Planning and Development Director, and the Chair of the Planning Board must agree that the proposed change is a minor revision and that it does not materially change a site plan approved by the Planning Board.
 - 4. If any of the 3 reviewers identified in Item 3 requests it, the proposed site-plan revision will be placed on the agenda of the next Planning Board meeting for the Planning Board's review.

5. Minor revisions to site plans may be approved, provided that such minor revisions will not materially alter the layout or scale of the development nor its impact on its surroundings, nor will it specifically:
 - (a) expand the size of a project by increasing the number of lots or dwelling units; by increasing the gross floor area of a primary-use structure; or by adding an accessory structure containing more than 200 square feet of gross floor area to the site
 - (b) violate the provisions of any City ordinance
 - (c) reduce the effectiveness of landscaping, screening, or buffering elements
 - (d) change the number of vehicular access points to the public street system or significantly alter the location of such access points
 - (e) reduce the number of parking spaces or significantly alter on-site vehicular circulation
 - (f) significantly alter drainage patterns
6. If the minor revision is not approved, the site-plan revision will be placed on the agenda of the next Planning Board meeting for the Planning Board's review.
- C. Any amendments to the design of an approved project, where specific design approval was part of the initial application, must include as part of the submission requirements for possible amendment, a copy of the original approved design as well as the proposed design. [amended September 24, 2008]

SECTION 12.14 CONDITIONAL CERTIFICATE OF OCCUPANCY FOR ANY USE THAT HAS RECEIVED SITE PLAN APPROVAL

- A. Any project, use, or activity that received Site Plan Approval must be completed according to the approved or amended site plan before a Certificate of Occupancy may be issued, except if a performance guarantee is provided by the applicant.
- B. The purpose of a performance guarantee is to ensure that the site plan, including all of the improvements proposed in the application, whether in narrative, report, or site-plan form, are completed as approved.
- C. A person requesting a Conditional Certificate of Occupancy covered by this section must apply to the Review Authority that granted approval by filing an application with the Planning Director. The Review Authority that granted approval will determine if circumstances (e.g., weather conditions) do not permit the completion of all

improvements of the approved site plan. The Review Authority also will determine the cost to complete the project according to the approved site plan. The Review Authority will require a report from the CEO regarding the safety of occupants and the public if the Certificate of Occupancy is granted before all improvements are completed. The Review Authority may not approve a conditional certificate of occupancy if the CEO reports that there may be a safety hazard to occupants or the public. [amended August 6, 2003]

- D. The performance guarantee may be a certified check payable to the City, an irrevocable letter of credit from a lending institution, or a passbook savings account in the name of the City. The performance guarantee must be in an amount adequate to cover the total costs of all required but not completed improvements, considering the time-span of the guarantee and the effects of inflation on costs.
- E. Prior to the release of any part of or the entire performance guarantee, the Review Authority must determine to its satisfaction that the improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any money plus any interest accumulated on any escrow account must be returned to the applicant after it has been determined that the proposed improvements meet all design and construction requirements.
- F. If the development is not completed within the time allowed by the Review Authority or is not completed according to the approved site plan, the Review Authority is authorized to use the funds in the performance guarantee to have the project completed in a reasonable and commercially viable manner.

SECTION 12.15 APPEALS

Appeal of an action taken by the Staff Review Committee is made to the Planning Board, it is processed as a Site Plan Review, and it must be filed within 30 days of the final action by the Staff Review Committee. Appeal of a final action by the Planning Board regarding Site Plan review is made to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.
