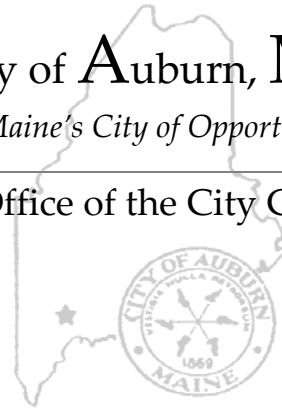


City of Auburn, Maine

"Maine's City of Opportunity"

Office of the City Clerk



Council Meeting Agenda Packet

April 7, 2008

This packet contains the City Council Agenda and supporting documents. The items in this packet are bookmarked in Adobe Acrobat .pdf format. You may need to click on the Bookmark tab on the left to open the Bookmark window. If you do not see a Bookmark tab on the left, you may need to select the Show/Hide Navigation Pane button in your icon toolbar above or update your version of the Adobe Reader. You can download the free Adobe Reader application at www.adobe.com.



City Council Meeting and Workshop April 7, 2008

Agenda

5:00 p.m. Dinner

5:30 p.m. Budget Workshop – Auburn Hall

Finance Department Budget
Property Budget
Debt Service Budget
Legal Budget

7:00 p.m. City Council Meeting - Central Maine Community College

Pledge of Allegiance

* **Consent Items** – All items listed with an asterisk (*) are considered as routine and will be approved in one motion. There will be no separate discussion of these items unless a Councilor or citizen so requests. If requested, the item will be removed from the consent agenda and considered in the order it appears on the agenda.

Minutes

*040708-00 Minutes of March 17 & 31, 2008 Council Meetings

Reports

Mayor

City Councilors

- **Michael Farrell:** Water Dist., L/A Jt. City Council Planning, Audit and Procurement
- **Bob Hayes:** Railroad, Library, Audit and Procurement
- **Dan Herrick:** MMWAC, Auburn Housing
- **Bruce Bickford:** A-L Airport, ABDC, L/A Joint City Council Planning, AVCOG
- **Ray Berube:** LAEGC, Planning Board, L/A Joint City/School
- **Bob Mennealy:** Sewer District, University of Maine L-A,
- **Ron Potvin:** School Committee, 9-1-1, LATC, L/A Joint City/School

City Manager

Communications and Recognitions

Public Hearing - Proposed Municipal/Education Budget FY 2008-09

Open Session – Members of the public are invited to speak to the Council about any issue directly related to City business which is *not* on this agenda

Unfinished Business

040708-01 Ordinance – Amendment to Chapter 29, Article 7, Site Plan, Special Exception and Subdivision Review (2nd Reading)

New Business

- 040708-02 Resolve – Accepting Forfeited Funds/Property
- 040708-03 Resolve – Mayor’s Coalition Proposal of Increase in Sales, Meals and Lodging Tax
- 040708-04 Public Hearing and action on Special Amusement Permit Application for Midnight Special, Inc. d/b/a Down Under, 34 Court Street, Auburn
- 040708-05 Public Hearing and action on Special Amusement Permit and Bottle Club Applications for Berenyi Enterprises, Inc., d/b/a Last Stop, 179 High Street, Auburn
- 040708-06 Appointments – Water District, Sewer District and Board of Assessment Review
- 040708-07 Order – Advisory-Non Binding Question for May 6 Special Municipal Election

Open Session - Members of the public are invited to speak to the Council about any issue directly related to City business which is *not* on this agenda

Future Agenda/Workshop Items

ADJOURNMENT

Executives Sessions: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda.

The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405. Those applicable to municipal government are:

1. Discussion of personnel issues
2. Discussion or consideration of the condition, acquisition, or the use of real or personal property or economic development if premature disclosure of the information would prejudice the competitive or bargaining position of the body or agency.
3. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators.
4. Consultations between a body or agency and its attorney
5. Discussion of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute.
6. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes
7. Consultations between municipal officers and a code enforcement officer relating to enforcement matter pending in District Court.

**CITY OF AUBURN
MARCH 17, 2008
CITY COUNCIL MEETING**

PRESENT

Mayor John T. Jenkins, Councilors Robert P. Hayes, Daniel R. Herrick, Bruce A. Bickford, Raymond C. Berube, Ronald W. Potvin and Robert C. Mennealy (arrived late), Acting City Manager Laurie Smith, Finance Director Denise Brown and City Clerk Mary Lou Magno. Councilor Michael J. Farrell was absent. There were 35 people in the audience.

Mayor Jenkins called the meeting to order at 7:00 p.m. in the Council Chambers of Auburn Hall with a salute to the flag.

The National Anthem was performed by the Auburn Middle School Chorus under the direction of Elizabeth Rollins.

CONSENT AGENDA

Councilor Berube moved to accept, approve and place on file the items marked with an asterisk. Seconded by Councilor Bickford. Vote: 6 Yeas, No Nays.

***MINUTES OF MARCH 3, 2008**

Approved under consent agenda.

REPORTS OF THE MAYOR

BUSINESS APPRECIATION PROGRAM – COMMUNITY CREDIT UNION

Mayor Jenkins noted that Saturday, March 22nd from 7 am until 11 am, the Auburn Democratic City Committee will serve breakfast to all emergency services personnel and their families and guests at the Central Fire Station.

BUDGET COMMITTEE

Mayor Jenkins named the following people to the Budget Committee: Robert Cavanagh and Andy Titus.

Councilor Potvin moved to approve the Budget Committee Members. Seconded by Councilor Berube. Vote: 6 Yeas, No Nays.

REPORTS OF CITY COUNCILORS

Councilors reported on their respective Council Committee Assignments.

REPORTS OF THE CITY MANAGER

FINANCE REPORT – MONTH OF FEBRUARY

Councilor Bickford moved to accept and place on the file the Finance Report for the month of February as prepared and presented by Denise Brown, Finance Director. Seconded by Councilor Hayes. Vote: 6 Yeas, No Nays.

PUBLIC VISIONING – COMPREHENSIVE PLAN

David Galbraith, Director of Planning and Permitting and Richard Trafton, Chair of the Comprehensive Plan Committee, both invited the Mayor and Councilors to attend the Public Vision Workshops that will take place during the month of April. This is an opportunity for the citizens to share ideas for Auburn's future as it relates to growth and development.

COMMUNICATIONS AND RECOGNITIONS

***COMMUNICATION FROM AUBURN SCHOOL DEPARTMENT RE: WAIVE FEE FOR DAY CARE LICENSES**

Approved under consent agenda.

PRESENTATION BY FRANK NORMAND – FUTURE FUEL TECHNOLOGY

Councilors suggested that Mr. Normand meet with Bob Belz to discuss possible use of this product.

OPEN SESSION

Dick Bussiere, 9 Winter Street; Ann Parker, 69 Summit Street; and Dan Bilodeau, 207 No. Auburn Road.

CLOSED OPEN SESSION

UNFINISHED BUSINESS

None

NEW BUSINESS

1. RESOLVE – AMENDMENT TO THE 2007-08 ACTION PLAN OF THE COMMUNITY DEVELOPMENT AND HOME INVESTMENT PARTNERSHIPS PROGRAM

Councilor Bickford moved for passage of the resolve. Seconded by Councilor Hayes.

Reine Mynahan, Community Development Block Grant Administrator, answered Councilors questions.

Vote: 6 Yeas. No Nays.

2. ORDINANCE – AMENDMENT TO CHAPTER 29, ARTICLE 7, SITE PLAN, SPECIAL EXCEPTION AND SUBDIVISION REVIEW

Councilor Hayes moved for acceptance of first reading. Seconded by Councilor Potvin. Vote: 6 Yeas, No Nays.

3. RESOLVE – DISPOSITION OF TAX ACQUIRED PROPERTY ON GARFIELD ROAD (TAX PARCEL 216-062)

Councilor Mennealy moved for passage of the resolve. Seconded by Councilor Herrick.

Fred Schumacher, 143 Garfield Road; Gail Phoenix, Community Development Block Grant Program Coordinator, answered Councilors questions; and Jennifer Turner, 143 Mill Street.

Vote: 6 Yeas, No Nays

Note: Councilors expressed concerns regarding abutters drainage; Staff assured the abutters and Councilors that City Engineering staff would not issue a fill permit if it would adversely impact neighboring properties.

4. PUBLIC HEARING – BROWNFIELD ASSESSMENT GRANT

Mayor Jenkins opened the public hearing.

Roland Miller, Director of Economic Development, introduced Kelly Race of Weston & Samson Engineering Firm, who presented a PowerPoint regarding Brownfield Sites, and the activities that will take place under the grant.

Mayor Jenkins closed the public hearing.

5. APPOINTMENT TO THE LEWISTON/AUBURN RAILROAD BOARD UNTIL APRIL 2011

Councilor Bickford moved to re-appoint Joseph H. Theriault to the Lewiston/Auburn Railroad Board until April 2011. Seconded by Councilor Berube. Vote: 6 Yeas, No Nays.

OPEN SESSION

Chris Thompson, Hilton Garden Inn;

OPEN SESSION CLOSED

FUTURE AGENDA/WORKSHOP ITEMS

- Consolidating Auburn/Lewiston Assessing and placing under County Government
- Advisory Question – School Budget Referendum
- Water and Sewer District becoming City Department
- Economic Development Update
- Tax Acquired Property

ADJOURNMENT – 10:10 P.M.

Councilor Berube to adjourn. Seconded by Councilor Bickford. Vote: 6 Yeas, No Nays.

A TRUE RECORD

ATTEST: _____
CITY CLERK

**CITY OF AUBURN
MARCH 31, 2008
SPECIAL CITY COUNCIL MEETING**

PRESENT

Mayor John T. Jenkins, Councilors Michael J. Farrell, Robert P. Hayes, Daniel R. Herrick (arrived late), Bruce A. Bickford, Raymond C. Berube, Ronald W. Potvin and Robert C. Mennealy, Acting City Manager Laurie Smith, Finance Director Denise Brown and City Clerk Mary Lou Magno. There were 16 people in the audience.

Mayor Jenkins called the special meeting to order at 5:00 p.m. in the Council Chambers of Auburn Hall indicating that the purpose of the meeting was to act on the following two items:

1. RESOLVE – AUTHORIZE JOINT SERVICES COMMISSION TO RESEARCH THE POSSIBILITY OF A REGIONAL ASSESSING OFFICE

Councilor Berube moved for passage of the resolve. Seconded by Councilor Farrell. Vote: 6 Yeas, No Nays.

2. RESOLVE – APPOINTMENT OF CITY MANAGER

Councilor Berube moved for passage of the resolve. Seconded by Councilor Mennealy.

Councilor Herrick joins the meeting.

Vote: 6 Yeas, with Councilor Hayes voting Nay (as a challenge).

Glenn Aho signs his contract.

ADJOURNMENT – 5:10 P.M.

Councilor Berube to adjourn. Seconded by Councilor Hayes. Vote: 7 Yeas.

A TRUE RECORD

ATTEST: _____
CITY CLERK

PUBLIC HEARING

Proposed Municipal/Education Budget FY 2008-09

The complete proposed Municipal budget can be viewed on the City of Auburn website: www.auburnmaine.org halfway down the front page.

The complete proposed School budget can be viewed on the Auburn School Department website: www.auburnschl.edu then click on the link: “2008/2009 Budget Workshop” on the bottom right hand part of the page.

City Council

Agenda Information Sheet

Council Meeting Date 4/7/2008

Agenda Item No. 1

SUBJECT:

**ORDINANCE – AMENDMENT TO CHAPTER 29, ARTICLE 7, SITE PLAN
SPECIAL EXCEPTION AND SUBDIVISION REVIEW
(2ND READING)**

INFORMATION:

Amendment to Chapter 29, Article 7, of the city of Auburn Ordinances be consistent with state stormwater requirements for the purpose of maintaining local delegated authority for developments requiring review under the Site Location of Development Law and to regain delegated review authority for developments requiring review under Chapter 500 Stormwater Management, pursuant to Article 8 of Chapter 29 of the City of Auburn Ordinances.

STAFF COMMENTS/RECOMMENDATION:

A copy of the March 11, 2008 Planning Board Report is attached for some background information. Since the report, the Maine DEP has approved the language changes with some minor alternations. The suggested changes, incorporating the DEP alterations are attached. Below is a summary of the changes:

Page 7.1-3 & 4, replaces the existing language with the new State Standards.

Page 7.1-6, references the denial of project if the above standards are not met.

Page 7.1-9, requires the same of special projects.

Page 7.1-12, requires the same of subdivisions.

On March 11, 2008 the Planning Board reviewed this item and voted 4/0 to send a favorable recommendation to the City Council. Staff continues to support the proposed changes.

REQUESTED ACTION:

Motion for acceptance of second reading and final passage.

VOTE:

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

Memorandum

To: Honorable Mayor and City Council
From: David C.M. Galbraith, Director of Planning & Permitting
Roland Miller, Director of Community and Economic Development
Date: March 13, 2008
Re: Zoning Ordinance Text Amendment for Delegated Review Authority

The City of Auburn was one of the first communities in the State of Maine to satisfy the eligibility requirements and be authorized to exercise delegated review authority over small and moderately sized development projects occurring within its jurisdiction. This authorization was made because we were able to demonstrate local capacities sufficient to satisfy statutory permitting requirements. Before having delegated review authority all projects had to seek permits from numerous state agencies. This process was very time-consuming and unpredictable.

Having delegated review authority is one of the reasons the City of Auburn has experienced so much success in attracting new investments to our community. We have prevailed in winning competitions for investment projects because of our project review and permitting process under delegated review authority. If we desire to continue as the leader in Maine in attracting new firms to our community and creating new jobs for our citizens it is imperative that we continue to be able to bring efficiency and predictability to the project review process. Efficiency and predictability reduces costs and risks for investors. The City of Auburn has capitalized on the competitive advantage of delegated review authority.

With delegated review authority project processing by the City takes significantly less time than State review (120 days). This often has made the difference of constructing a development in the current year's construction season or needing to wait until the following year. The proposed ordinance changes would allow Auburn to continue to enjoy the benefits of responsiveness to investment and business entities. Below is the explanation of individual ordinance changes that are required by the State of Maine in order for the City of Auburn to retain and potentially expand its delegated review authority.

At the February 11, 2008 Council workshop, staff asked the Council for direction to draft the necessary amendments and bring them to the Planning Board for a review and recommendation. The changes have since been drafted and can be summarized as follows:

Page 7.1-3 & 4, replaces the existing language with the new State Standards.
Page 7.1-6, references the denial of project if the above standards are not met.
Page 7.1-9, requires the same of special exception projects.
Page 7.1-12, requires the same of subdivisions.

On March 11, 2008 the Planning Board reviewed this item and voted 4/0 to send a favorable recommendation to the City Council. Staff continues to support the proposed changes. It is important to note that the standards proposed for adoption already apply to development projects in Auburn. The change really allows for Local vs. State control, allows a shorter review period to attract businesses and may also be an opportunity for a small revenue collection in line with the State permitting fees. This change would also be consistent with the City of Lewiston.

David C.M. Galbraith
Director of Planning & Permitting Services

Roland Miller, Director
Department of Community and Economic Development

City of Auburn

City Council, Auburn, Maine

Date: March 17, 2008

TITLE: ORDINANCE – AMENDMENT TO CHAPTER 29, ARTICLE 7, SITE PLAN, SPECIAL EXCEPTION AND SUBDIVISION REVIEW

Be It Ordained by the Auburn City Council, That Chapter 29, Article 7, Site Plan, Special Exception and Subdivision Review be amended as attached.

Motion for acceptance of first reading: Robert Hayes Seconded by: Ronald Potvin

Vote: 6 Yeas, No Nays

Motion for acceptance of second reading and final passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

**ARTICLE 7
ADMINISTRATION AND ENFORCEMENT**

Sections

- 7.1 Site Plan Review
- 7.2 Special Exceptions
- 7.3 Subdivision
- 7.4 Appeals and Applicability
- 7.5 Enforcement

7.1 Site Plan Review

A. **Purpose**

The purpose of site plan review is to ensure that the design and layout of certain developments permitted by special exceptions, or other developments noted herein, will constitute suitable development and will not result in a detriment to City, neighborhood or the environment.

B. **Objective**

In considering a site plan, the Planning Board shall make findings that the development has made provisions for:

1. Protection of adjacent areas against detrimental or offensive uses on the site by provision of: adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air; and
2. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas; and
3. Adequacy of the methods of disposal for wastes; and
4. Protection of environment features on the site and in adjacent areas.

C. **Projects Requiring Site Plan Review**

1. All uses permitted by Special Exception.
2. Any other uses for which site plan review is required by any other provision contained in this or other ordinances.

D. **Procedure**

1. An applicant for site plan review shall file with the Department of Community Development and Planning a completed site plan application along with an original and twenty (20) copies of the site plan and the required processing fee. Such plans shall be filed not less than thirty (30) days prior to a regularly scheduled meeting. Plans shall be folded at a size not to exceed 8-1/2 by 11 inches.
2. The original plan shall be drawn on reproducible Mylar at a scale of no more than 100 feet to the inch. Each site plan shall contain the following information:
 - a. Name and address of owner and developer and interest of the applicant if other than the owner or developer.
 - b. Name of development, scale and meridian arrow, with specific definition of representation, date of plan and legend.
 - c. Names and addresses of all owners of record of all adjacent property as appear on Assessor's records.
 - d. Current zoning boundaries and 100-year flood plain boundaries including surrounding areas to a distance of 300 feet from the perimeter of the site.
 - e. Easements; rights-of-way, existing, planned or proposed; or other reservations adjacent to or intersecting the property.
 - f. Topographic map of the site.
 - (1) Existing contours: where the slope of existing ground surface is generally 2 percent or more, the topographic map shall show contours at intervals of five feet of elevation (or lesser intervals as the Planning Board or Engineering Department may prescribe). Where the slope of the existing ground surface is generally less than 2 percent, contour intervals of 1 foot shall be shown. These contours shall not be copied from the City topographic

maps and shall be determined from an on-site survey certified by a registered land surveyor.

- (2) Proposed contours: shall be shown at intervals to be determined by the City Engineer.
 - g. Location of watercourses, wetlands, marshes, surface water, rock outcroppings, wooded areas, single trees with a diameter of 10 inches measured 3 feet from the base of the trunk.
 - h. Location of buildings existing on the tract to be developed and on adjacent tracts within a distance of 100 feet from the property line, indicating whether existing buildings on the tract are to be retained, modified or removed.
 - i. Locations of water mains, sewer mains, wells, fire hydrants, culverts, drains, pipe sizes, grades and direction of flow, existing within 200 feet of the subject property.
 - j. Existing soil conditions and soil suitability test results.
 - k. Locations of proposed buildings and uses thereof.
 - l. Proposed traffic circulation system including streets, parking lots, driveways and other access and egress facilities, curb lines, sidewalk lines and existing streets, including the projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.
 - m. Location of existing and proposed public utility lines, indicating whether proposed lines will be placed underground.
 - n. ~~A storm drainage study certified by a professional engineer and a proposed drainage system plan, both surface and subsurface, showing measures proposed to prevent pollution of surface or ground water, soil erosion, increased runoff, changes in ground water level and flooding.~~ Site Developments requiring stormwater permits pursuant to Title 38 MRSA Section 420-D shall include the required plan and to the extent permitted under 38 MRSA Section 489-A, be reviewed under the procedures of Article 7 of this Ordinance; and, they shall

meet and comply with 38 MRSA 484(4-A) and those Rules promulgated by the Maine Department of Environmental Protection pursuant to the Site Law and Section 420-D, specifically Rules 500 and 502, as last amended December 21, 2006. Adopted September 22, 2005, said Rules taking effect November 16, 2005, as enacted by Legislative Resolve, Chapter 87, Public Laws of 2005 (LD 625/HP 458). (Amended 3/20/06).

If a project proposes infiltration and the standards in Chapter 500, Appendix D are not met, then a waste discharge license may be required from the Maine Department of Environmental Protection. An infiltration system serving a development regulated under the Site Location of Development Act may be required to meet standards in addition to those in Appendix D.

- o. Location and design of proposed off-street parking and loading areas indicating number and size of stalls.
- p. Proposed location and direction of and time of use of outdoor lighting.
- q. Existing and proposed planting, fences and walls, including all landscaping and screening and indicating existing trees to be retained and areas to be left undisturbed, including design features intended to integrate the proposed new development into the existing landscape to enhance aesthetic assets and to screen objectionable features from neighbors.
- r. Location, size, design and manner of illumination of signs.
- s. Disposal of sewage, trash, solid waste, oily waste, hazardous waste or radio-active waste showing disposal facilities, receptacles or areas.
- t. Perimeter boundaries of the site giving complete descriptive lot data by bearings, distances and radii of curves including the name and seal of the registered land surveyor who prepared the plan.
- u. Description and plan of capacity and location of means of sewage disposal together with approval of Sewer District Engineer or evidence of soil suitability for such disposal

(test pit locations shall be shown on the plans) similarly approved by the City Engineering Department.

- v. A statement of the amount of area of land involved in the site, the percentage of the site proposed to be covered by buildings, the total number of dwelling units proposed per acre, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, the total number of parking spaces required by the Zoning Ordinance for the uses proposed, the number of employees expected per shift and the total floor area of proposed commercial or industrial uses.

 - w. Description and plan of a “phase development concept” detailing the areas and sequence of phasing.

 - x. A statement by the developer assuring that he has the financial capabilities to fully carry out the project and to comply with the conditions imposed by the Planning Board.
3. Upon request, the Planning Board, or the Planning Director, acting for the Board, may waive the necessity of providing any of the foregoing planning information which is not relevant to the proposed development.

 4. The Planning Director shall, within five (5) days of receipt, transmit copies of the application and site plan to the department that in his view requires such information. The agencies receiving these copies shall have up to fifteen (15) days to make recommendations to the Planning Board.

 5. The Planning Board shall, within thirty (30) days of receipt of a completed application, hold a Public Hearing. Notice of a hearing shall be given in the manner provided for in Article 8, Section 8.2 of this Chapter. The Planning Board will take final action on the site plan within sixty (60) days of receiving a completed application, or within such other time limit as may be mutually agreed to. Such final action shall consist of either: (1) a finding and determination that the proposed project will constitute a suitable development and will not result in a detriment to the neighborhood or the environment, or (2) a

written denial of the application stating the reasons for such denial, upon a finding that:

- a. The provisions for vehicular loading, unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will create hazards to safety.
 - b. The bulk, location or operation of proposed buildings and structures will be detrimental to and adversely affect the use and values of existing development in the neighborhood or the health or safety of persons residing or working therein.
 - c. The provisions for on-site landscaping are inadequate to screen neighboring properties from unsightly features of the development.
 - d. The site plan does not adequately provide for the soil and drainage problems which the development may give rise to in accordance with Section 7.1.n. of this ordinance.
.
 - e. The provisions for exterior lighting create safety hazards for motorists traveling on adjacent streets, or are inadequate for the safety or occupants or users of the site, or will create a nuisance affecting adjacent properties.
 - f. The proposed development will unduly burden off-site sewer drainage or water systems.
 - g. The proposed development will create a fire hazard by failing to provide adequate access to the site, or to buildings on the site, for emergency vehicles.
 - h. The proposed development violates provisions of the zoning regulations applicable to the site or other applicable laws, regulations or ordinances.
 - i. The proposed development will unduly impact the ability to provide municipal services.
6. Approval may be made subject to conditions, modifications and restrictions as the Planning Board may deem necessary; and any construction, reconstruction, alteration or addition shall be carried on only in conformity to such conditions, modifications or restrictions and in conformity with the application and site plan.

7. If no action is taken within sixty (60) days after submittal of a completed application, the site plan shall be deemed to have been approved. An original of the approved plan signed by the Planning Board and one signed copy shall be delivered to the applicant, the Assessor's Department, the Engineering Department and to the Building Inspector on which basis building permits may be issued when all other required plans have been approved.
8. The findings of the Planning Board shall be in writing with a copy being forwarded to the applicant. The Planning Board's written report shall also include a statement as to how any deficiencies in the site plan might be resolved and what conditions, modifications and restrictions are to be complied with in executing the plan.
9. Approval of a site plan shall expire one year after the date of approval unless all building permits have been obtained to begin construction in accordance with the approved site plan. Any site plan that contains a phase concept approved by the Planning Board shall not be required to obtain all building permits within the time sequence established for completion of each phase. No building permits or other permits shall be issued until all improvements are substantially completed for the preceding phase. A single one-year extension may be given upon a showing of good cause in writing by the applicant to the Planning Board not less than thirty (30) days before the expiration of approval of his existing plan. The Planning Board shall approve or disapprove the requested extension at its next regular meeting.
10. No permit shall be issued for the construction of any building in an area included in the site plan or in any development for which a site plan is required until such site plan has been approved by the Planning Board and unless the construction plans and specifications presented to the Building Inspector with the application for the permit are consistent with the approved site plan.

No certificate of occupancy shall be issued with respect to any building until all construction called for by the site plan is completed, except by special permission of the Planning Board granted upon a showing of special circumstances warranted the issuance of the certificate and that the remaining construction will be completed within a reasonable time.

11. The Planning Board may require the applicant with the submission of the site plan to tender a certified check payable to the City of Auburn and issued by a surety company or secured by deposits issued by institutions authorized to issue the same by the Laws of the State of Maine or the United States or irrevocable letters of credit issued by said banking institutions in an amount of money determined by the City Planner, with the advice of the various City Departments and Agencies concerned, to be sufficient to ensure compliance with the approved site plan.
12. For those developments subject to site plan review (Section 7.1 of this Chapter) the relaxation of the dimensional requirements of any use district shall be reviewed by the Planning Board. The modifications of the dimensional requirements shall be allowed as the Planning Board may deem necessary to carry out the objectives and intent of site plan review as specified in Section 7.1 of this Chapter.
13. The Planning Board shall have the right to require the developer, at his expense, to correct any off-site deficiencies either created or aggravated by the developer's proposed project.

7.2 **Special Exception**

A. **Approval Required** – The Planning Board may approve for development those land uses listed as Special Exceptions under the terms of the Zoning Ordinance. The determinations of the Board shall be in harmony with the expressed intent of the Zoning Ordinance and with the expressed major purpose of the Auburn Master Development Plan. Special exceptions shall be allowed only when they will substantially serve public convenience and welfare and will not involve dangers to health or safety.

B. **Conditions**

1. As conditions prerequisite to the granting of any Special Exceptions, the Board shall require evidence of the following:
 - a. That the Special Exception sought fulfills the specific requirements, if any, set forth in the Zoning Ordinance relative to such exception;
 - b. That the Special Exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.
 - c. That the Special Exception sought will not block or hamper the Master Development Plan pattern of highway circulation or of planned major public or semi-public land acquisition;
 - d. That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.
 - e. That reasonable provisions have been made for adequate land space, lot width, lot area, ~~drainage~~, stormwater management in accordance with Section 7.1.n. of this ordinance, green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to

assure all such areas will be maintained in a satisfactory manner.

- f. That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the Auburn Building Code and by the provisions of this Chapter.
 - g. That essential City services which will be required for the project are presently available or can be made available without disrupting the City's Master Development Plan.
- 2. As part of the granting or the denial of any such petition for a Special Exception, the Board shall show by written statements filed in its records of such application and by a statement in the minutes of the Board how the Special Exception sought fulfills the foregoing conditions. An applicant may request the Board to make a statement as to how the Special Exception may be granted without danger to health and safety and without substantially derogating from the essential intents and purposes of the Zoning Ordinance or of the Auburn Master Development Plan.
- 3. Approval of a Special Exception may be made subject to such conditions, modifications and restrictions on the proposed land use as the Planning Board may deem necessary to carry out the foregoing objectives and conditions. Any development of the land uses allowed by Special Exception shall be carried out only in conformity to such conditions, modifications and restrictions in addition to those that may be called for by an approved site plan for the same site and shall be enforced by the municipal officer charged with enforcement in the same manner as specified for approved site plans. Any change, addition or enlargement of a use allowed by Special Exception shall require approval of the Planning Board in the same manner as specified for the original Special Exception.

C. **Procedures**

Special exceptions shall be subject to the Site Plan Review procedure specified in Article 7, Section 7.1.D. The Planning Board shall, within thirty (30) days of receipt of a completed application, hold a Public Hearing. Notice of a hearing shall be given in the manner provided for

in Article 8, Section 8.2 of this Chapter. The Planning Board will take final action on the Special Exception within sixty (60) days after its

submittal or within such other time limit as may be mutually agreed to. The applicant shall accompany the application with the required fee stipulated by Article 9 of this Chapter.

7.3 Subdivision

A. Guidelines

1. When reviewing any subdivision for approval, the Planning Board shall consider the following criteria, and before granting either approval or denial, shall determine that the proposed subdivision:
 - a. Will not result in undue water, air or noise pollution. In making this determination it shall at least consider: the elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations, including stormwater management requirements in accordance with Section 7.1.n. of this ordinance;
 - b. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
 - c. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
 - d. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
 - e. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
 - f. Will provide for adequate sewage waste disposal;
 - g. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
 - h. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;

- i. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any;
- j. The subdivider has adequate financial and technical capacity to meet the above stated standards;
- k. The subdivision will not adversely affect the character of the surrounding neighborhood and will not tend to depreciate the value of property adjoining the neighboring property under application.
- l. The provisions for on site landscaping are adequate to screen neighboring properties from unsightly features of the development.
- m. The proposed development will not create a fire hazard and has provided adequate access to the site for emergency vehicles.
- n. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- o. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond phosphorus concentration during the construction phase and life of the proposed subdivision.

B. Minor Subdivision

1. General

The Planning Board may require where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the requirements specified for major subdivision.

2. Procedure

- a. The subdivider shall submit an application for approval of a minor subdivision plan at least thirty (30) days prior to a scheduled meeting of the Planning Board.
- b. The applicant shall secure approval from the Tax Assessor for a lot numbering sequence to insure compatibility with the existing tax system. The

numbering system will not be construed to indicate anything more than identification of parcels for taxation purposes.

- c. All applications for plan approval for minor subdivision shall be accompanied by a fee in the amount of \$250 and \$100 per lot payable by check to the City of Auburn.
- d. The subdivider or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the plan.
- e. Upon receiving an application, the municipal reviewing authority shall notify by mail all abutting property owners of the proposed subdivision, specifying the location of the proposed subdivision and a general description of the project. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.
- f. The Planning Board shall within thirty (30) days of receiving the complete application, hold a Public Hearing on such Plan. Notification shall comply with Article 8, Section 8.2 of this Chapter.
- g. Upon receipt of a complete application, the Planning Board shall take final action within thirty (30) days or within such other time limits which may be mutually agreed to by the developer. Such final action shall consist of approval, approval with conditions or disapproval of the final plan. The Planning Board shall specify its reasons for any such conditions or approval by its approved minutes. The Planning Board shall convey in writing to the developer their final action.

C. **Major Preliminary Subdivision**

1. **Procedure**

- a. The application for approval of the preliminary plan shall be accompanied by a fee in the amount of \$500 and \$100 per lot, up to 100 lots, payable by check to the City of Auburn.

- b. The applicant shall secure approval from the Tax Assessor for a lot numbering sequence that is compatible with the existing system.
- c. The subdivider, or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plan.
- d. Upon receiving an application, the Planning Department shall issue to the applicant a dated receipt. Upon receiving an application, the Planning Department shall notify by mail all abutting property owners of the proposed subdivision, specifying the location of the proposed subdivision and a general description of the project.
- e. The Planning Board shall within thirty (30) days of receiving the completed application, hold a Public Hearing on the preliminary plan. The City shall publish a Public Hearing notice in conformance with Article 8, Section 8.2 A. Abutters shall also be specifically notified of this hearing by the municipality. Failure of any petitioner or property owner to receive such mailed notice of such a zoning hearing shall not necessitate another hearing and shall not constitute grounds for objections by such petitioner or property owner and shall not invalidate any recommendation by the Planning Board.
- f. When granting preliminary approval to the preliminary plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
 - (1) The specific changes which it will require in the final plan;
 - (2) The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety and general welfare.
- g. Preliminary approval of a preliminary plan shall not constitute approval of the final plan, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for

approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the final subdivision plan, the Planning Board may require additional changes as a result of new information obtained at the public hearing. The Board by majority vote may determine if a Public hearing is necessary at this time for Final Plan Review.

D. **Major Subdivision Final Plan**

1. **Procedure**

- a. The subdivider shall, within six (6) months after the preliminary approval of the preliminary plan, file with the Planning Board an application for approval of the final subdivision plan in the form described herein. If the final plan is not submitted to the Planning Board within six (6) months after the approval of the preliminary plan, a single six (6) month extension may be given upon a showing of good cause in writing by the applicant to the Planning Board not less than thirty (30) days before the expiration of approval of his existing plan. The Planning Board shall approve or disapprove the requested extension at its next regular meeting. The Planning Board may refuse without prejudice to act on the final plan and require resubmission of the preliminary plan. All applications for final plan approval for major subdivisions shall be accompanied by a fee in the amount of \$500, payable by check to the City of Auburn.
- b. The Planning Board shall, within thirty (30) days after the public hearing on a final plan, conditionally approve, approve, approve with conditions, or disapprove the final plan. Any such decision of the Planning Board shall include findings of fact, and any approval with conditions or disapproval shall be accompanied by the reasons therefore in writing.
- c. In reviewing a subdivision, the Planning Board shall consider previous subdivision of the same applicant, subdivider or principals of such application. If the developer has failed to complete the public improvements shown on an approved plan to the satisfaction of the Planning Board, then this shall constitute conclusive evidence of technical capabilities of the applicant or

developer to comply with the terms of this chapter or to complete work required by a plan.

E. **Final Approval and Filing**

1. **Final Approval**

- a. One (1) Computer Aided Drafting Disk, three (3) reproducible Mylar copies and twenty (20) paper prints of each diagram plan and each sheet of all accompanying information shall be submitted by the subdivider or his agent to the Planning Board not less than thirty (30) days prior to a regular monthly meeting of the Planning Board. Any lack of required information or other deficiencies must be completed before such final plan can be reviewed by the Planning Board.
- b. The Planning Board, after such public hearing, may require the subdivider to incorporate in the final plan such changes as they deem advisable. The Planning Board may then vote final approval of such final plan. Notice of the date and substance of such vote shall be entered on the Mylar drawing of such final map, if one sheet, or on the sheet containing the index map, if more than one sheet; on the reproducible master of any subsequent sheets there shall be entered a reference to the notice on the index sheet. The reproducible master drawings, so endorsed, shall be returned to the subdivider at the time that the performance bonds have been submitted to the City Engineering Department.
- c. Such final approval of a final plan shall not be deemed the laying out or acceptance by the City of any way, easement or utility or other public area shown on such plan, nor shall such approval be deemed to constitute by itself any acceptance of liability by the City of Auburn for the use or maintenance of any streets, ways or other public areas indicated on such a final plan.

2. **Filing**

- a. As promptly as may be, and not more than thirty (30) days after the date of the vote of final approval, the subdivider at his expense shall furnish the Planning Board

with three (3) reproductions on Mylar of each sheet of the endorsed original Mylar drawing(s) of the final plan as approved together with three (3) paper prints of each sheet thereof, and each reproduction or print shall show any endorsement made on its original.

- b. The City Clerk shall attest and seal each of the aforesaid three (3) master reproductions and each of the aforesaid three (3) paper prints. The City Planner shall transmit one set of such paper prints, so attested, to the City Engineer, one to the Water District, and one set to the Sewer District if the subdivision be within the Sewer District limits, otherwise to the Planning and Permitting Services Department. In addition, the City Planner shall send one of the three sets of attested copies to the Planning Board, one set to the Assessor and one set to the subdivider to be recorded by him in the Androscoggin County Register of Deeds, and a CAD disk to Information Services.

3. **Plan Revisions after Approval**

No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Planning board and endorsed in writing on the plan, unless the plan is first resubmitted and Planning Department staff approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the municipal officers and the registry of deeds and/or to enjoin any development attempted or commenced pursuant to said plan, and for other appropriate relief.

4. **Improvement Completion Time**

- a. All required improvements shall be completed no later than two (2) years after approval of the final plan. Should the subdivider request an extension it shall be made in writing to the Planning Board. Should the Planning Board grant an extension it shall be for a period not to exceed six (6) months. Only one extension shall be granted. Should the subdivider not complete the required improvements within the time specified the subdivider

shall be in violation of this chapter. If a development is proposed to be phased then specific requirements for each phase shall be complete prior to issuing Building Permits for that phase.

F. **Enforcement**

1. No plan of a subdivision of land within the City of Auburn which would constitute a subdivision as defined herein shall hereafter be filed or recorded in the Registry of Deeds until a final plan thereof shall have been approved by the Planning Board in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in this chapter, Chapter 32, nor until such approval shall have been entered on such final plan by the Planning Board.
2. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.
3. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this section shall be punished by a fine as set forth by state law or in the Code of Ordinances, City of Auburn, Maine for each such conveyance, offering or agreement. The attorney general, district attorney or the City of Auburn or the appropriate municipal officers may institute proceedings to enjoin the violation of this section.
4. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Planning Board.
5. Not only is making a subdivision without Planning Board approval a violation of law, but so also within such a subdivision is grading or construction of roads, grading of land or lots, or construction of buildings until such time as a final plan of such subdivision shall have been duly prepared, submitted, reviewed, approved and endorsed as provided in these standards, and until the original copy of the final plan so approved and endorsed has been duly recorded in the Androscoggin County Registry of Deeds.
6. In the event that the subdivider shall fail to comply with the requirements of Article 7, or Chapter 32, the City Engineer may

issue a stop work order directing cessation of all work in the subdivision, or the Planning Board, after notice and hearing, may revoke its approval of the final plan, or both such steps may be taken.

G. **General Requirements**

1. In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances the burden of proof shall be upon the persons proposing the subdivision.
 - a. Subdivision plan shall conform to the comprehensive plan. Any proposed subdivision shall be in conformity with the Comprehensive Plan of Auburn and with the provisions of all pertinent state and local codes and ordinances.
 - b. Preservation of natural and historic features. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.
 - c. Lots
 - (1) The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
 - (2) Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.
 - (3) No person shall make a subdivision within the city unless all lots of the proposed subdivision have frontage, as regulated by the Zoning Ordinance, upon a way granting legal access. The following ways shall constitute legal access to a lot:

- (a) A way accepted by or established as belonging to the City, provided access is not specifically prohibited.
- (b) A public way shown on a plan approved in accordance with the provision of this Chapter and Chapter 32.
- (c) A private way (unaccepted street) existing prior to October 6, 1968, which way is shown on a plan recorded in the registry of deeds prior to such date and is deemed adequate by the Planning Board as evidenced by the Board's endorsement on a final plan for the subdivision of land. In its approval of an existing private way, the Board may make whatever requirements it feels necessary to improve the way commensurate with the projected use of same.
- (d) A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on the site while work authorized by the permit is being conducted.

H. **Staff Approvals and Waivers**

- 1. Where plans need to be modified after Planning Board approval due to changes beyond the developer's control, the Planning and Permitting Services Department staff will have the authority to approve any amendments that staff feels may be approved without detriment to the health, safety and welfare of the community. If staff feels the amendments must go back to the Planning Board the subdivision approval process must be followed.
 - a. A paper copy of the plan shall be submitted to the Planning and Permitting Services Department staff marked with all proposed changes in Red ink. An accompanying letter shall also be attached requesting all changes.
 - b. Staff shall circulate the plan to the proper departments for review.

- c. Once all review has been completed, Planning and Permitting Services Department staff shall write a letter to the developer explaining how to proceed with the proposed amendments.
2. If staff determines the amendments must go back to the Planning Board, the subdivision approval process must be followed.
3. Where Planning Board finds that extraordinary, unnecessary and financial hardships may result from strict compliance with the standards of a particular plan, it may vary these standards so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of the official map, the Comprehensive Plan or the Zoning Ordinance. Any variances or waivers granted by the Planning Board must be noted on the face of the recording plat.
4. Where the Planning Board finds that, due to special circumstances of a particular plan, provisions of certain required improvements are not requisite in the interest of public health, safety and welfare or are inappropriate because of inadequacy of lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

I. **Recreation Area/Open Space Standards**

1. Every developer of a residential subdivision shall include as part of a subdivision proposal a provision for recreational and open space which is adequate to meet the reasonably foreseeable needs of the residents of the subdivision.

The standard established by the City to satisfy this purpose is an area of not less than 43,560 contiguous square feet or one (1) acre of land for the first ten (10) lots or units. The amount of land required is increased at a rate of 5,000 square feet per unit for each unit over ten (10) units.

The standard noted above shall be used as a guideline by the Planning Board and may be varied for low impact developments.

2. In any case in which the developer chooses to develop in total or in part land area that could be used to satisfy the recreational land dedication for units/house lots of it is not feasible to dedicate

rights and land to meet the requirements due to topography, location or other limiting factors or if the developer can satisfy the Planning Board that a dedication of land is not required for recreational and open space needs, the developer may contribute to the City of Auburn, or to a condominium or homeowners' association, a Fee-in-Lieu amount in cash which is essentially equivalent to the value which such dedicated land rights in the area where the proposed subdivision is located would have had. This fee will be capped at and based on the average market value of similarly zoned land in the immediate area of the proposed development at the time of Final Subdivision approval as determined by the City Tax Assessor.

In reviewing the amount of money requested, the Board shall review the adequacy of existing facilities available to the inhabitants of the subdivision, improvements that may be needed by the existing facilities to make them adequate for the additional impact being created by the added units and any other factors which may influence the need for land dedication for a fee-in-lieu of.

3. A developer may choose to use both the land dedication provision and fee-in-lieu of land dedication provision in conjunction with each other. Any fee-in-lieu of amount of money used with a land dedication shall be used to develop, enlarge or enhance this recreational facility.

In determining the adequacy of land dedication and/or fee-in-lieu of land dedication, the Board shall assess the projected needs of the inhabitants of the subdivision. If the Planning Board determines that full land dedication is necessary, then they may require such land dedication with no fee-in-lieu of land dedication.

In the situation when a fee-in-lieu of land dedication is supplied by the developer, then the developer may choose to request what uses or equipment the money will be used for. The Planning Board shall request an assessment of the developer's desires from the Parks and Recreation Advisory Board and if they agree with the developer, then all monies received will be earmarked for the purposes so chosen.

4. The proposal for land dedication may be in the form of a deed of a parcel of land within or contiguous to the subdivision, or contiguous to an existing public recreational facility within reasonable proximity of the subdivision. The Planning Board

shall use the Recreational/Open Space District Map, made a part of the Ordinance as a guide. Alternatively, the land dedication may be part of a condominium or homeowners' association or proposed in any other form acceptable to the Planning Board provided it serves the needs of the residents of the subdivision.

5. The Planning Board may decline to accept a proposed dedication of rights in land to serve the recreational needs of the residents of the subdivision in any case in which it determines that the public expense of maintaining the same would unduly burdensome compared to the recreational benefit which would be conferred or where the Planning Board determined that such recreational needs can more efficiently be served by applying a cash contribution from the developer to enlarge or enhance an existing recreational facility.
6. All funds contributed to the parks and recreation open space dedication will be allocated to the development of facilities located within zones as shown on the Recreational/Open Space District Map, made a part of this Ordinance, unless the Planning Board and/or developer have determined that a contribution to a facility which lies outside the zoned area would better serve the needs of the subdivision. Such funds shall be used within a five (5) year period. Funds not used after five (5) years shall be returned to the developer with interest. The interest amount shall be the average of yearly interest rates established by local banks. If for unforeseen reasons monies accumulated are not used as previously agreed upon within the five (5) year period, the Recreation Advisory Board may request the Planning Board to reallocate the funds for other recreational uses. Notice to the developer shall be given and input from the developer shall be used to determine whether or not these monies may be reallocated.
7. Before making any final determination about the recreational needs of the subdivision's residents, or how they can best be met, the Planning Board shall solicit input from the Parks and Recreation Advisory Board and shall carefully consider any recommendations in this regard which it received in response.
8. If a project is either proposed to be phased in, is a part of a unified development or is developed by the same developers on adjacent land to previously developed land, it shall be considered as one development and will be required to participate in the recreation open space dedication.

9. The approval by the Planning Board of a residential subdivision plan shall not be deemed to constitute an acceptance by the City of any open space shown on such plan. The Planning Board may also require the filing of a written agreement between the developer and the City covering future deed and title, dedication and provisions for the costs of grading, developing, equipping and maintaining recreation areas.

J. **Appeals**

1. An appeal from a decision of the Planning Board on any final plan may be taken to the Superior Court.

7.4 **Appeals and Applicability**

- A. **Appeals** – Appeals from decisions of the Auburn Planning Board or of the Auburn Zoning Board of Appeals shall be taken to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure. Where a record of the Board’s proceedings has been kept, the Board shall, at the request of the appealing party and at his expense, furnish him with a transcript of the record for use in connection with the appeal.

- B. **Applicability** – The provisions of this Article shall apply to any development subject to review under Section 7.1, the construction of which has not been commenced on the date on which they become effective.

7.5 **Enforcement**

- A. **Permit Required** – No building shall be erected, altered or moved in Auburn without first filing an application in writing with the Building Inspector. Such permits shall be applied for to the Building Inspector and he shall not approve an application for a building permit unless the plans for such a building and the intended uses thereof in all respects fulfill the provisions of this Chapter and all other applicable City Ordinance provisions.
- B. **Plan Required** – Each application for a permit to build, enlarge, alter or move a building shall be accompanied by a plot plan in duplicate drawn to scale showing and stating the dimensions in feet of the lot on which such building is proposed to be erected, enlarged, altered or moved, also the location and ground coverage dimensions of any building already existing upon such lot, and the location thereon and ground coverage dimensions on such lot of any building or structure proposed to be erected, or moved onto it. Such plot plan shall also show each street, alley or right-of-way on or adjacent to the lot in question. Upon request, the Building Inspector may waive the necessity of providing any of the foregoing information which is not relevant to the proposed project. One copy of each such application and plot plan shall be kept on file in the office to the Building Inspector. Submission of a plot plan in connection with permits for agricultural buildings need not be submitted unless deemed necessary by the Building Inspector.
- C. **Enforcement**
1. This Chapter shall be enforced by the Director of Land Use Planning and Enforcement and his duly authorized agents.
 2. The Director, Building Inspector, Zoning Officer or Police Chief, on their individual initiative, or on the request of any other municipal official or upon any well founded information in writing indicating possible violation of this Chapter, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation is said to exist.
 3. Whenever the municipal official charged with enforcement determines that there are reasonable grounds to believe that there has been a violation of any provisions of these Chapter, he shall initiate enforcement proceedings in accordance with the citation system established in Chapter 33 of these ordinances. Alternatively, he may initiate a land use complaint pursuant to 30 – A.M.R.S.A. Section 4452, in which case the penalties there provided shall apply.

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

Planning Board Report

To: Auburn Planning Board

From: Eric Cousens, City Planner

Re: **City Council Initiated Zoning Ordinance Amendment** – Amendment to Chapter 29, Article 7 of the City of Auburn Ordinances be consistent with state stormwater requirements for the purpose of maintaining local delegated review authority for developments requiring review under and Site Location of Development Law and to regain delegated review authority for developments requiring review under Chapter 500 Stormwater Management, pursuant to Article 8 of Chapter 29 of the City of Auburn Ordinances.

Date: March 11, 2008

I. PROPOSAL

The City of Auburn Planning Board currently has delegated review authority for issuing Site Location of Development (Site Law) Permits for developments of less than seven acres. The City's review authority is based on our site plan and special exception requirements being consistent with state requirements and accomplishing the same general purpose. The City review can take significantly less time (30 days) than the state review (120 days). This can often make the difference of constructing a development in the current year's construction season or needing to wait until the following year. When a developer is under pressures to expand services or turn down business this can make a difference in deciding to locate in Auburn in the current year or in a community without review authority next year. This is a major factor in attracting commercial development to Auburn. The proposed changes would allow Auburn to continue this delegated review.

Stormwater review pursuant to Chapter 500 currently falls under the States jurisdiction, however, the state can give delegated review authority to a municipality. This State review has slowed some developments and could be accomplished locally through peer review. This Department and the Engineering Department, like many other municipalities, do not have the staff to review all of the stormwater permits in house so peer review is a good option. This would help the State reduce their work load, give the developer the option of paying the City for a review by our consultants to speed the review process and we can gain some local control and ensure compliance with the standards.

I am still waiting for comments from the State on the attached language and hope to have more information by the hearing. The State is requiring delegated review of both types of permits or nothing going forward. If the State approves the modifications, then staff will be asking the Board for a positive recommendation to the City Council. The proposed changes are attached.

Eric Cousens
City Planner

City Council

Agenda Information Sheet

Council Meeting Date 4/7/2008 Agenda Item No. 2

SUBJECT:

RESOLVE – ACCEPTING CERTAIN FORFEITED FUNDS/PROPERTY

INFORMATION:

Federal Forfeiture Law permits the forfeiture of currency/property used to facilitate drug trafficking or which exists as the result of being the proceeds of drug trafficking. The law further permits the United States to distribute up to 90% of the value of forfeited property to State and local law enforcement agencies who participate in the underlying investigation. Justice Department policy dictates that local law enforcement agencies must use the monies for “law enforcement purposes”.

STAFF COMMENTS/RECOMMENDATION:

Staff recommends approval of this resolve.

REQUESTED ACTION:

Motion for passage of the resolve.

CITY OF AUBURN

CITY COUNCIL, AUBURN, MAINE

DATE: April 7, 2008

TITLE: RESOLVE – ACCEPTING CERTAIN FORFEITED FUNDS - PROPERTY

Be It Resolved by the Auburn City Council, that the City of Auburn agrees to accept \$516.00 and five firearms seized in connection with drug enforcement matters. The funds in question shall be made available to the Auburn Police Department for use in their law enforcement purposes.

Motion for passage:

Seconded by:

Vote:

ACTION BY COUNCIL:

DATE:

ATTEST:

CITY CLERK

City of Auburn

City Council, Auburn, Maine

Date: April 7, 2008

TITLE: RESOLVE – MAYOR’S COALITION PROPOSAL OF INCREASE IN SALES, MEALS AND LODGING TAX

Be It Resolve by the Auburn City Council That,

WHEREAS, the communities of Biddeford, Saco, Scarborough, South Portland, Westbrook, Portland, Freeport, Lewiston, Auburn, Augusta, Waterville, and Bangor represent a large percentage of the State’s core communities people come to access services and receive the help they need; and

WHEREAS, these communities are faced with high valuation and high mil rates and lower median incomes than our surrounding neighboring communities; and

WHEREAS, these core communities represent more than 25% of the population of the State of Maine, but greater than 50% of the jobs and 80% of where Mainers go to access health care, legal, financial, as well as shopping and leisure services; and

WHEREAS, these core communities have been given two choices, massive cuts or massive increases in property taxes; and

WHEREAS, these core communities have to maintain their extensive and expensive infrastructures to meet and serve the region’s needs because of their rolls as regional hubs; and

WHEREAS, because of the above, as the chief elected officials, the Mayor’s Coalition needs additional tools to respond to the changing economic realities the State and its municipalities face.

THEREFORE, the Mayor’s Coalition is seeking an opportunity to maintain its viability, yet still remain committed to the LD 1 spending controls by giving Maine’s largest municipalities the flexibility to continue to play the role as Maine’s economic engine, to continue attracting economic development, while maintaining Maine’s quality of place, and to shift our burden from the overused property tax to the under utilized sales, meals and lodging tax.

BE IT THEREFORE RESOLVED, that at this critical time in Maine's history, the Mayor's Coalition proposes a statewide 1% increase in the sales, meals and lodging tax in order to fund real property tax relief at the local level. This statewide 1% would be returned to the municipality of origin in order to realize meaningful property tax relief. In order to accomplish this, the Mayor's Coalition stands by the letter and intent of the controls of LD 1.

Motion for passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

Mayor John Jenkins,
City of Auburn

Mayor Roger Katz,
City of Augusta

Mayor Bruce Chuluda,
City of Westbrook

Mayor Joanne Twomey,
City of Biddeford

Mayor Edward Suslovic,
City of Portland

Chair, Rick DeGrandpre,
Town of Freeport

Mayor , City of Bangor

Mayor Laurent F. Gilbert Sr.,
City of Lewiston

Mayor James A. Soule,
City of South Portland

Chair Jeffrey Messer
Town of Scarborough

Mayor Paul Lepage,
City of Waterville

Mayor Roland Michaud,
City of Saco

City Council

Agenda Information Sheet

Council Meeting Date 4/7/2008

Agenda Item No. 4

SUBJECT:

**PUBLIC HEARING – SPECIAL AMUSEMENT PERMIT APPLICATION FOR
MIDNIGHT SPECIAL INC., D/B/A DOWN UNDER,
34 COURT STREET**

INFORMATION:

Currently the Midnight Special is located at 34 Court Street, (street level). The Hot Spot formerly located at the downstairs level of 34 Court Street closed in January. Midnight Special is moving to the downstairs level and will be assuming a new name, “Down Under”. This request is for a Special Amusement Permit, which will allow entertainment such as bands, DJ’s, and dancing, etc.

Dion Davis, owner of Down Under will be present to answer any questions Councilors may have.

STAFF COMMENTS/RECOMMENDATION:

Staff recommends approval of the license contingent upon all appropriate departments giving their approval, as work is still being completed at the above location.

REQUESTED ACTION:

Staff recommends approval of the license contingent upon all departments (Treasurer, Fire, Police and Planning & Permitting) giving their approval.

VOTE:

City Council

Agenda Information Sheet

Council Meeting Date 4/7/2008

Agenda Item No. 5

SUBJECT:

**PUBLIC HEARING – BOTTLE CLUB AND SPECIAL AMUSEMENT PERMIT
APPLICATIONS FOR BERENYI ENTERPRISES, INC., D/B/A LAST
STOP, 179 HIGH STREET**

INFORMATION:

Last Stop is a new business that will open within the next month at 179 High Street (formerly The Station located next to the Village Inn). These applications are for the approval of a Bottle Club application (which is a State License) and a Special Amusement Permit application (City License). All appropriate departments have given approval to these applications, however the Police Department is recommending that this license be issued for a 6 month period.

Frank Berenyi, owner of the business, will be present to answer any questions of Councilors.

STAFF COMMENTS/RECOMMENDATION:

Staff recommends approval of both applications, and that the Special Amusement Permit be issued for a 6 month period.

REQUESTED ACTION:

Motion to approve both applications and that the Special Amusement Permit be issued for a 6 month period.

VOTE:

City Council

Agenda Information Sheet

Council Meeting Date 4/7/2008

Agenda Item No. 6

SUBJECT:

**APPOINTMENTS TO THE WATER DISTRICT, SEWER DISTRICT AND
BOARD OF ASSESSMENT REVIEW**

INFORMATION:

The appointments sub-committee recommend the following re-appointments:

Bruce Rioux, Water District until March 2012

Patrick DeFilipp, Sewer District until March 2012

Walter Crites, Board of Assessment Review (Alternate Member) until January 2012

STAFF COMMENTS/RECOMMENDATION:

The appointments sub-committee (Councilors Hayes and Berube) recommend the above re-appointments.

REQUESTED ACTION:

Motion to approve appointments

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: April 7, 2008

**TITLE: ORDER – ADVISORY-NON BINDING QUESTION FOR
MAY 6TH MUNICIPAL ELECTION**

Be It Ordered by the Auburn City Council That the following non-binding advisory question be added to the May 6th Municipal Election Ballot:

If you voted No on the Budget Validation Referendum, should the school budget be increased or decreased?

_____Increased _____Decreased

Motion for passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk