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TOWN MEETING ACCEPTANCE MAY 1, 2012
In effect unless overturned by the Attorney General

Article 30. I move that the Town Meeting vote to adopt an amendment to the Town of Auburn Zoning By-Law, Section 9.4 (Site Plan Approval) to read as printed in the May 1, 2012 Annual Town Meeting Warrant.

Motion by Charles Olson

Seconded by Loretta Hall

Vote on Article 30, YES 50, NO 1, in favor

9.4 Site Plan Approval (SPA)

The Planning Board may approve a Site Plan in accordance with the standards of this by-law. (5/6/93, 5/13/99, 5/1/08)

9.4.1 Applicability – Site Plan Approval shall be required in all instances for the development of land in Section 3, Table of Principal Uses as requiring Site Plan Approval and for all accessory uses thereto. Additionally, any expansion of an existing use which now requires Site Plan Approval shall be subject to the requirements of this by-law. Furthermore, any development that requires a Special Permit, or a Variance from the Zoning Board of Appeals authorizing a use not specifically allowed by the By-law, shall also be subject to a Site Plan Approval by the Planning Board. Site Plan Approval shall not be granted prior to a final affirmative vote on the Special Permit or Variance by the Zoning Board of Appeals. The Planning Board may waive this requirement. The requirements that follow for granting Site Plan Approval may be waived in part or in total at the discretion of the Planning Board. (5/13/99, 1/28/91)

9.4.2 Rules and Regulations and Fees – The Planning Board shall adopt, and from time to time amend, Rules and Regulations not inconsistent with the provisions of this by-law or Chapter 40A of the General Laws or other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a Site Plan.

9.4.3 Application – Any person who desires to build where a site plan is required shall submit a written application therefor to the Planning Board. Each such application shall be accompanied by the following:

9.4.3.1 A written statement detailing the proposed use, the extent of the building coverage and open space as a percentage of the lot, drainage calculations and calculations of the volume of earth to be removed, if any.

9.4.3.2 Site Plan(s), prepared by a Registered Professional Engineer or Registered Land Surveyor, shall contain the following data:

- a. The name and address of the property owner and the applicant (if different)
- b. All lot lines and setbacks;
- c. Zoning district boundaries including floodplain;
- d. All wetlands and wetland buffer zones;
- e. All areas designated as open space;
- f. All existing and proposed topography at two-foot intervals;
- g. Buildings, structures, signs, parking and loading spaces and the limits of all paving and open storage areas as existing and proposed on separate plan sheets;
- h. All facilities for sewage, waste disposal and drainage;
- i. That portion of any adjacent land owned or used by the applicant on which the use is similar to or connected with the use for which permission is sought;
- j. Abutting properties with map and lot number and the name of the property owner.

9.4.3.3 A Landscaping Plan shall be prepared in accordance with Section 11 of these Bylaws.

9.4.3.4 A Building Elevation Plan shall be prepared by a Registered Architect or Registered Professional Engineer in all cases where the plan specifies a facility of 10,000 square feet or more of gross floor area. In any case, a Building Elevation Plan shall show the front elevation of the building and its height; and floor plan(s) for the building(s) showing the layout of each floor with a tabular summary of the net floor area use to calculate the required parking, the proposed uses to be conducted on each floor, and a list of the materials proposed for the construction of the building facades.

9.4.3.5 Such other information as the Board may reasonably require including

special studies or reports, such as traffic or hydrological impact studies.

- 9.4.4 Reports from Town Boards or Agencies – The Planning Board shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it deems necessary or appropriate for their written reports. Any such board or agency to which petitions are referred shall make such recommendation or submit such reports as they deem appropriate and shall send a copy thereof to the Planning Board and to the applicant. Failure of any such board or agency to make a recommendation or submit a report within 35 days of receipt of the petition shall be deemed a lack of opposition.
- 9.4.5 Public Hearing and Decision – The Planning Board shall hold a public hearing no later than 65 days after the filing of an application. The Planning Board shall have the power to continue a public hearing under this section if it finds that such continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of the special permit application. The Planning Board shall issue a decision no later than 45 days following the close of the hearing. Failure by the Planning Board to take final action upon an application for a special permit said 45 days following the close of the public hearing shall be deemed to be a grant of the permit applied for.
- 9.4.6 Performance Standards for Site Plan Approval – Plans submitted for Site Plan Approval in any zoning district shall conform to the following standards.
- 9.4.6.1 No fire and explosion hazards shall exist such as to produce dangerous exposure to adjacent property.
- 9.4.6.2 No objectionable odors shall be observable beyond the property line to a greater degree than those generally existing in the community.
- 9.4.6.3 No noxious, toxic or corrosive fumes or gases shall be emitted.
- 9.4.6.4 No residue of dust or smoke shall be detectable beyond the property line.
- 9.4.6.5 No exterior lighting shall shine directly on adjacent properties, or in such a manner as to create a nuisance on such properties or a hazard on public ways. To ensure exterior lighting conforms to this provision the following conditions shall be met.
- a. For the proposed use all lighting installed shall conform to the standards outlined in The Illuminating Engineering Society of North America Lighting Manual.
 - b. All lighting, with the exception of security lighting, shall be turned on no earlier than one half hour prior to the business opening and turned off no later than one half hour after the business closing.

- c. The Planning Board or its designee shall inspect the site with a light meter within fourteen (14) days after the issuance of a Certificate of Occupancy and as warranted in the future to ensure that the exterior lighting continues to abide by these requirements. Failure to do so may result in fines as detailed in Section 10.
- 9.4.6.6 No persistent noise shall be detectable beyond the property line in excess of the average level of street and traffic noise generally heard at the point of observation, and no noise below such level shall be objectionable with respect to intermittence, beat frequency or shrillness.
- 9.4.6.7 No inherent or recurrently generated vibration shall be perceptible beyond the property line.
- 9.4.6.8 No dangerous radiation shall be detectable at the property line.
- 9.4.6.9 No waste disposal of a type or quantity which the State Division of Sanitation or the Auburn Board of Health deems objectionable at that location shall be discharged into any body of water not completely contained within the property line.
- 9.4.6.10 Stormwater management systems shall be designed and maintained to discharge drainage from a site at a rate of flow equal to or less than pre-development conditions for all storm events (e.g., 2-, 10-, and 100-year events). (11/19/01)
- 9.4.6.11 Snow storage areas shall be shown on the site plan and shall not interfere with sight distances at points of ingress/egress to a site or pedestrian/vehicle circulation, nor shall it adversely impact surrounding water bodies, streams, wetlands, or other resource areas as defined in Chapter 131 section 40 Massachusetts General Laws, as amended. (11/19/01)
- 9.4.6.12 No outside loud speakers or paging systems shall be used in the conduct of business on any property. (11/19/01)
- 9.4.6.13 Speakers used in conjunction with drive-thru service windows are allowed provided the sound emanating from such devices conforms to the standards required in Section 9.4.6.6 of this Bylaw. Appropriate measures shall be taken (e.g., landscaping, fencing, sound-proofing or sound-reducing materials) to mitigate any noise impacts to surrounding properties. (11/19/01)
- 9.4.6.14 Architecture should demonstrate cohesive planning in relation to the

surrounding area and present a clearly identifiable design. Rather, cohesive planning can be demonstrated in:

- a. Similar building scale or mass;
- b. Consistent use of facade materials;
- c. Similar ground level detailing, color or signage;
- d. Consistency in functional systems such as driveway or pedestrian way surfaces, signage, or landscaping;
- e. The framing of outdoor open space and linkages, or
- f. Recognition of the importance of various buildings and features on the site.

It is not intended that buildings be totally uniform in appearance or that designers and developers be restricted in their creativity.

9.4.6.15 To allow for the least disruption in the flow of traffic on roadways in the Town of Auburn reducing the number of curb cuts on roadways is desired. To alleviate the disruption of traffic it is preferred that adjoining parcels share a common driveway.

- a. Site plans shall include provisions for interior driveways linking neighboring parcels, presently developed or that could be developed, to a common access point. These provisions shall include an easement of 20 feet at the side property lines to allow for the construction of joint access should the opportunity arise.
- b. The Planning Board may approve provisions for interior driveways utilizing joint access and/or egress, recognizing that the final design and permitting of access may need further approvals from the Massachusetts Highway Department (for State roads) or the Auburn Highway Surveyor (for Municipal roads).

9.4.7 Final Action

9.4.7.1 The Planning Board's final action shall consist of either:

- a. A determination that the proposed project is in compliance with the criteria set forth in this By-Law;
- b. ~~A written denial of the application stating the reasons for such denial~~
The Board may deny an application for Site Plan Approval [SPA in the Table of Uses] if:

1. The project does not comply with one or more of the criteria set forth in these bylaws and reasonable conditions cannot be

imposed to ensure compliance with one or more of these criteria,
or

2. The applicant has not provided information sufficient for the
Planning Board to determine compliance with these bylaws. ; or

- c. Approval subject to any conditions, modifications, and restrictions as the Planning Board may deem necessary.
- d. Approval shall require 3 affirmative votes.

9.4.7.2 Record of the Planning Board's Final Action

In each and every instance, the Planning Board shall make a detailed record of its proceedings, indicating the vote of each member and setting forth clearly the reason or reasons for its decision and of its official actions including any vote on waivers. Copies of all shall be filed within forty five (45) days after the close of the public hearing with the office of the Town Clerk of Auburn, and shall be a public record.

9.4.8 Enforcement (1/28/91)

- 9.4.8.1 If after inspection by the Town Planner it is determined that work subject to Section 9.4 is not completed in accordance with the approved site plan(s) or any related conditions have not been satisfied at the time an individual seeks an Occupancy Permit from the Building Inspector, the Planning Board shall require the posting of a bond or other type security deemed acceptable by the Board to assure compliance with the approved plan(s) and any conditions. The amount of security shall be a multiple of one and one half times the cost of completing any remaining improvements (either on site or off site) or to satisfy any conditions placed upon the site plan approval as certified to the Planning Board by a professional engineer to be engaged by the Town at the expense of the individual seeking the occupancy permit. Prior to the Board determining the amount of security the petitioner shall notify the Planning Board in writing as to the remaining items to be completed, as well as the expected completion date of the work. The Planning Board shall notify the Building Inspector in writing once the security has been posted with the Town. (11/15/01)
- 9.4.8.2 Except for a good cause, Site Plan Approval issued under this section shall lapse within two (2) years if a substantial use thereof has not commenced sooner except for a good cause.