



CITY of AUGUSTA, MAINE
OFFICE of ECONOMIC and
COMMUNITY DEVELOPMENT

MEMORANDUM

Michael A. Duguay
Director

TO: William R. Bridgeo
FR: Michael A. Duguay *MD*
DT: December 21, 2010
RE: Significant business expansion project requires a modification to the Land Use Ordinance

The principals of J.S. McCarthy Printers, Rick Tardif and Conrad Ayotte, have indicated that they have an opportunity to make a substantial investment in their Augusta location which would strengthen their existing employment base and increase the likelihood of adding additional jobs. Due to the need for a quick turn around to accommodate the sequencing of required actions critical to the project, an amendment to the Land Use Ordinance (LUO) is needed.

At the present time, the City's LUO requires that commercial buildings proposed in excess of 20,000 square feet trigger the 'Major Development' level of review. This level of review requires two (2) separate Planning Board hearings, held 30 days apart from one another, before an approval can be granted. On this time line, the company would not be able to receive approval for this project until sometime in March of 2011.

In review of the current LUO requirements, City Planner Matt Nazar was not able to identify any substantive distinction as to why 20,000 square feet is the threshold for Major Development projects. When this threshold requirement was added to the LUO to identify projects requiring Major Development review, this figure was arbitrarily chosen as a cut-off point. As such, this threshold could be something other than what it currently is without creating any adverse impact.

As Matt Nazar points out in his attached memo, building size being the trigger for a more intensive review is not always the best threshold. As an example, the J.S. McCarthy project is proposing to add 22,000 square feet of building to an existing structure and regulated development site. However, this addition will not require any additional parking nor will it require any substantive site alterations other than those needed to facilitate the building addition's footprint. In addition, it is located within a business park with similar commercial facilities on a lot that is already operating under a Site Location of Law permit from DEP. As such, this is a very straight forward development proposal posing very little impact to the environment or neighboring properties.

On behalf of the J.S. McCarthy project, I respectfully ask that the City Council initiate action to amend the current Major Development review trigger within the LUO from 20,000 square feet to 25,000 square feet. In order to allow this project to move forward on its needed time frame, it would be critical that City Council initiate this change on or before December 27, 2010.

City of Augusta, Maine

DEPARTMENT OF CITY SERVICES

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MEMO

To: Mike Duguay, Director of Development Services

From: Matt Nazar, Deputy Director of Development Services

Date: December 20, 2010

Re: Modifying the definition of Major Development

Under the current LUO, developers in the Industrial (IA) zoning district must get a Major Development approval for any project that creates more than 20,000 square feet of new floor space. Major Development review requires two meetings at the Planning Board with at least 30 days between them. In the same zoning district, any project that creates between 5,000 and 20,000 square feet of new floor space requires a Minor Development review by the Planning Board, which requires one meeting at the Planning Board.

There is no magic to the 20,000 square foot size. It's simply a typical number used in ordinances and state laws around the country for various cut offs because it's a nice round number that's roughly 1/2 acre in size, which is generally agreed to be a project of substantial size with potential substantial impacts. If the city were to change that number to 25,000 square feet of new floor space as the cut off between Major and Minor Development review, it would have little or no impact on the public's or city's ability to comment on and influence the design of sizable projects in Augusta. All this would do is reduce the number of required Planning Board hearings from two to one. This one change would help developers interested in constructing projects under 25,001 square feet, particularly on previously developed site, which presumably would have less impact than projects on undeveloped sites. For previously undeveloped sites, the secondary trigger for Major Development of "disturbing more than 43,560 square feet" of land, which is one full acre, would kick in.

To achieve this change to the LUO, the process outlined in the LUO for amendments would apply. Section 1.6.1.2 of the LUO requires that the Planning Board hold a public hearing on

any proposed amendment to the LUO and report their recommendation to the City Council within 30 days of that hearing. Then City Council can take up the issue of the amendment as an ordinance change in any way they are allowed to by the Charter.

To achieve this, the following would have to happen:

1. City Council initiates a change per a Council Order on or before December 27;
2. A notice is published in the KJ on December 28 just meeting the procedural requirements of Section 1.6.1.2.B of the LUO for public notification;
3. Planning Board holds a public hearing on January 11;
4. Planning Board recommendation forwarded to City Council on January 12;
5. City Council Informational discussion on issue on January 13;
6. City Council vote on emergency action on January 20, with ordinance effective immediately;
7. City Council votes on regular action on January 20 and February 3 to make the change permanent.

Additionally, a number of other changes have been discussed, but I suggest leaving them to a later date to reduce any concerns about this change and simplify the proposal currently under consideration. The additional changes that have been discussed are 1) eliminating the 30 days between meetings required for Major Development review 2) or, collapse the "major" and "minor" development review process into a single "development review" process that never requires more than a single meeting.

Eliminating the 30 day requirement would reduce the problems that occur when there aren't 30 days between project review meetings from one month to the next. For example, the January 11 meeting is only 28 days before the February 8 meeting. So any developer would have to get a special meeting with the Planning Board at the second meeting in February, or wait to March. I believe the better solution is to only require a single meeting for all development projects and have more meetings as necessary depending on the complexity and difficulty of the project. Size is not a good proxy for complexity. Some 10,000 square foot projects can be very complex and require extra meetings, which currently can occur. But some 35,000 square foot projects might be very simple and not need a second meeting, yet under the current ordinance they are required to have one.