



Town of Scarborough, Maine

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To: Town Councilors and Tom Hall, Town Manager

From: Dan Bacon, Planning Director

Subject: Proposed Ordinance Amendments to enable Municipal Capacity of DEP's Site Law Review

Date: February 28, 2014

In an effort to streamline the development review and permitting process for larger development projects; to eliminate some of the duplicative review that currently occurs between the Planning Board and the Maine Department of Environmental Protection (DEP) permitting; and as an incentive to encourage and direct new development to our growth areas in Town, the Planning Department has applied to DEP for "municipal capacity" of the DEP Site Location of Development Review (also known as Site Law).

DEP's Site Law is the State level permitting that is required with larger development projects of 3 acres or greater of new development or larger subdivisions of 15 lots and 30 acres and greater or amendments to such projects. This DEP review covers much of the same review criteria as our local zoning, site plan review and subdivision review standards and can be an expensive and time consuming process for applicants (Site Law can take up to 6 months and cost \$20,000 to \$50,000 in fees and soft costs). Given the comprehensive nature of our local land use standards, we felt we were in a good position to apply for and receive "municipal capacity" of this State level review, which essentially means that Town and its local ordinances, Planning Board and staff have the "capacity" to review these larger projects and that DEP Site Law review would no longer be required in the Town's growth areas.

Since we applied to DEP for this capacity back in September of 2013 we've been working with the State and outlining our ordinances, standards and review processes to them. After their thorough review, they've determined that we will be entitled to municipal capacity if we make a few addition ordinance amendments that add more scrutiny of historic and archeological resources and give the Maine Historic Preservation Commission and the Maine Inland Fisheries and Wildlife Departments opportunities to review and comment on the larger projects that would have been

under their jurisdiction through Site Law. The need for additional review and emphasis on historic preservation also dovetails nicely with the current efforts by the Town's Historic Preservation Committee.

To this end, we're proposing amendments to the Zoning Ordinance, Site Plan Review Ordinance and Subdivision Ordinance that add a clear step in the development review process to identify whether there is a historic structure or landmark present and explore ways for preservation, but not make it a requirement. Further, these amendments add the step for larger development projects to send an application to the Maine Historic Preservation Commission and the Maine Inland Fisheries and Wildlife Departments for review and comment before any local approvals are issued. We these changes, we've been assured approve for municipal capacity.

This initiative has also been reviewed by the Long Range Planning Committee and has received their endorsement. Given that municipal capacity has only been granted to a few other communities in our region, this streamlining can be a further incentive in attracting new commercial development and continuing our efforts to be comprehensive, fair and efficient in our development review process.

As a final note, it should also be made clear that this municipal capacity does not substitute for any State-level Natural Resource Protection Act reviews, which is required when wetlands are proposed to be filled or habitat of endangered species infringed on. So this capacity will not bypass critical State level environmental reviews that are important to the protecting the Marsh, our rivers and streams, critical wildlife areas, etc.

Thank you.