

Appendix 3 Site Plan Review Law

Town of Wilmington Site Plan Review Law

ARTICLE ____ Site Plan Review

1. Purpose of article.

The purpose of this article is to allow the proper integration of uses into the community. Because of their characteristics, or the special characteristics of the area in which they are to be located, these uses require special consideration so that they may be properly located and planned with respect to:

- (1) The objectives of the Town of Wilmington Land Use Code, Comprehensive Plan and Local Waterfront Revitalization Plan.
- (2) Their effect on surrounding properties.
- (3) The ability of the Town to accommodate the growth resulting from the proposed use without undue adverse effect on the Town and its citizens and taxpayers, and the protection of the environment, health, safety and welfare of the Town and its citizens.

2. Applicability.

Uses requiring site plan approval.

- (1) All new commercial development activities within the Town shall require site plan review and approval before being undertaken.
- (2) All projects exceeding Type I thresholds of Part 617 of the New York State Environmental Quality Review Act (SEQRA) shall be subject to Site Plan Review and referred to the APA for Class A regional project review concurrent with the Site Plan review process.

3. Site Plan Review Procedure.

- A. Application shall be made to the Planning Board using forms supplied.
- B. Prior to formal submission of a detailed site plan, applicants may schedule an optional Sketch Plan conference.

- C. The purpose of the sketch plan conference is to allow the Planning Board to review the basic site design concept, provide the applicant with constructive suggestions, and generally, to determine the information to be required for the site plan. In order to accomplish these objectives, the applicant shall provide 10 copies of the following:
 - (1) A brief narrative and preliminary concept showing the locations and dimensions of principal and accessory structures, parking areas, and other planned features and any anticipated changes in the existing topography and natural features.
 - (2) A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within 200 feet.
 - (3) A topographic or contour map of adequate scale and detail to show site topography.
- D. If the Planning Board determines that the information submitted for the sketch plan is sufficient, it may, at its discretion, conduct site plan review at the sketch plan meeting without requiring additional information or scheduling a separate site plan meeting.
- E. If additional information is requested by the Planning Board after the sketch plan conference, a complete application shall be submitted to the Code Enforcement Officer. The Code Enforcement Officer shall notify the Planning Board and the Adirondack Park Agency within 10 days and shall provide a copy of the application to each interested body.

4. Application content.

- A. The Planning Board may request that the applicant provide the same information requested at the Sketch Plan conference and may further request any of the items listed under “D” below. The Planning Board is not limited to this list and may request any additional information it deems necessary or appropriate. In determining the amount of information it will require, the Planning Board will consider the type of use, its location, and the size and potential impact of the project.
- B. At least two weeks in advance of the scheduled Planning Board meeting date at which a site plan is to be considered, 10 copies of the application for site plan approval shall be submitted to the Code Enforcement Officer.
- C. The proposed site plan shall show the information requested by the Planning Board.
- D. Site plan checklist:
 - (1) Existing conditions.
 - (a) Legal data.

- [1] Name and address of applicant and authorization of owner, if different from applicant.
 - [2] Name and address of owner(s) of record, if different from applicant.
 - [3] Name and address of person or firm preparing the plan and map.
 - [4] Ownership intentions, such as purchase options.
 - [5] Current zoning classification of property, including exact zoning boundary if in more than one district.
 - [6] Property boundary line plotted to scale. Distances, angles and area should be shown.
 - [7] North arrow, scale and date.
 - [8] Locations, widths, elevations and names of existing and proposed adjacent streets.
 - [9] Property lines and names of owners of adjoining parcels.
 - [10] Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within and adjoining the property.
 - [11] Description of all existing deed restrictions or covenants applying to the property.
 - [12] The identification of any state or county permits required for execution of the project.
 - [13] Other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.
- (b) Natural features.
- [1] Geological features, such as depth to bedrock and the location of rock outcrops.
 - [2] Topographic features, including a map showing existing slope at two-foot contour intervals.
 - [3] Vegetative cover, including existing wooded areas, significant isolated trees and similar features.
 - [4] Soil characteristics, such as load bearing capacity and drainage capacity.

- [5] Hydrologic features should include drainage and runoff patterns, flood hazard areas, wetlands and depth to groundwater.
- (c) Existing development and infrastructure.
 - [1] Location and dimensions of major buildings and structures and their use.
 - [2] Location and width of roads and paths, including site access.
 - [3] Location, size and flow direction of sewers, water supply lines and culverts. Major electric, fuel and utility lines and appurtenances should also be shown.
 - [4] Location of other existing development and uses, including parking and loading areas, fences, and landscaping.
- (2) New conditions.
 - (a) Proposed development.
 - [1] Grading and drainage plan showing proposed topography at appropriate contour intervals. This information shall be combined with the map of existing topography.
 - [2] Location, proposed height and use of buildings and other structures, such as retaining walls, fences, outdoor storage tanks, air-conditioning units and waste disposal units.
 - [3] Location, proposed use, design and construction materials of improvements not requiring structures, such as parking, loading and outdoor storage areas.
 - [4] Location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials.
 - [5] Location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials.
 - [6] Location, design and construction materials of all energy distribution facilities, including electric, gas and solar energy.
 - [7] Location, size and design and construction materials of all outdoor signs.

- [8] General landscaping plan and planting schedule, including areas of natural vegetation to remain, the treatment of buffer areas and the location and type of trees to be planted.
- [9] Estimated project construction schedule with possible phasing plan for large projects.
- [10] Additional specifications for materials.
- [11] Performance bond, amount, completion schedule, public improvements covered, inspection and bond approval if required.
- [12] Any other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.
- [13] Environmental Review. Applications for site plan review and approval shall be accompanied by a short-form or a long-form Environmental Assessment Form (EAF) or a draft Environmental Impact Statement (EIS), as required by SEQRA.

NOTE: All plans shall be at a scale of one inch equals 40 feet or larger scale showing the proposed development and their immediate environs. When development is proposed for larger lots, those areas left undeveloped may be shown on a site location map at an appropriate scale and level of detail.

5. Planning Board Action.

- A. Following receipt of an application for site plan review, the Code Enforcement Officer shall notify the Planning Board and the Planning Board shall determine its completeness at its next scheduled meeting. The Code Enforcement Officer shall notify the Adirondack Park Agency of such receipt as required, and furnish to the Agency such pertinent information as the Agency may deem necessary.
- B. Notices. Applications that meet the criteria of General Municipal Law (GML) Section 239-m shall be sent to the Essex County Planning Board prior to the Planning Board decision. Applications that meet the criteria of 239–nn shall be noticed to neighboring municipalities.
- C. The Planning Board shall comply with Part 617 the SEQRA.
- D. Optional Public Hearings. Within 62 days following the determination of a complete application by the Planning Board, the Planning Board may hold a public hearing if a public hearing is deemed necessary. In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and the possibility of an eventual disapproval. Applicants may request a

public hearing. When an applicant requests a public hearing, no site plan review project may be disapproved without such a hearing.

- E. Public Hearing Notice. The Planning Board shall notice the public hearing by publication in the official newspaper at least five days prior to the date of the public hearing.
 - (1) A copy of the public notice shall be mailed to the Adirondack Park Agency. The Agency shall be a full party in interest with standing to participate in any and all proceedings conducted pursuant to this section.
- F. Planning Board Decision. The Planning Board shall render a decision within 62 days of receipt of a complete application or within 62 days of the close of a public hearing, if required. Said decision shall be in the form of an approval, approval with conditions, or disapproval based on the criteria of this Local Law. The decision shall incorporate the specific description and expiration date for any conditions imposed by the Planning Board.
- G. The Planning Board, in conjunction with its approval of any site plan review project, may impose such requirements and conditions as are allowable within the proper exercise of the police power. The Planning Board may impose reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project, and to ensure that the project will be completed in accordance with the requirements and conditions authorized under this Local Law. In addition, the Planning Board may require that the Code Enforcement Officer incorporate any such requirements and conditions in any permit issued with regard to such site plan review project.
- H. Filing of decision. The decision of the Planning Board shall be filed within five (5) days of a decision in the office of the Town Clerk and a copy thereof mailed to the applicant. The decision shall contain such findings of fact and conditions as are required by this Local Law. The decision shall also be mailed to the Adirondack Park Agency.

6. Criteria for Site Plan Review.

- A. The Planning Board shall not approve an application unless it first determines that such site plan review application meets the following site plan review objectives and guidelines;
 - (1) The application complies with all other requirements of this Local Law and the Town of Wilmington Land Use code, including the dimensional regulations of the zoning district in which it is proposed to be located;
 - (2) The project would be in harmony with the general purpose and intent of this Local Law and the Local Waterfront Revitalization Plan, specifically taking into account the location, character, and size of the proposed project and the

description and purpose of the district in which such project is proposed, the nature and intensity of the activities to be involved in or conducted in connection with the proposed project, and the nature and rate of any increase on the burden of supporting public services and facilities which will follow the approval of the proposed project;

- (3) The establishment, maintenance or operation of the proposed project would not create public hazards from traffic, traffic congestion, or the parking of automobiles or be otherwise detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to the property and improvements in the neighborhood or the general welfare of the town;
- (4) The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space to provide supporting facilities and services made necessary by the project - taking into account the commercial, industrial, economic, educational, residential, recreational or other benefits that might be derived from the project. In making this determination, the Planning Board shall consider those factors pertinent to the project contained in the development considerations set forth hereof, and in so doing, the Planning Board shall make a net overall evaluation of the project in relation to the development objectives and general guidelines set forth in this Local Law; and
- (5) The Planning Board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and residents of the immediate neighborhood.

B. In considering the approval of the site plan, the Planning Board shall find that the proposed development meets all the following standards and requirements.

- (1) Relationship to adjacent and nearby land uses both public and private.
- (2) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- (3) Visual compatibility with surroundings and aesthetics.
- (4) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- (5) Location, arrangement, appearance and sufficiency of off-street parking and loading.

- (6) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
- (7) Adequacy of stormwater and drainage facilities.
- (8) Adequacy of water supply and sewage disposal facilities including the relationship to existing and proposed water supply, sewage disposal.
- (9) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- (10) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- (11) Relationship to the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents and visitors.
- (12) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion. Effect on air and water quality standards applicable primarily to industrial site development plans.
- (13) Effect on energy consumption and conservation.

7. Additional APA Development Considerations.

- A. The following are those factors which shall be considered, which relate to the potential for adverse impact upon the park's natural aesthetic, ecological, wildlife, historical, recreational or open space resources before any site plan review project is undertaken in the town. Any burden on the public in providing facilities and services made necessary by such land use and development or subdivisions of land shall also be taken into account, as well as any commercial, industrial, residential, recreational or other benefits which might be derived there from.
- B. Natural resource considerations.
 - (1) Water.
 - (a) Existing water quality.
 - (b) Natural sedimentation or siltation.
 - (c) Eutrophication.

- (d) Existing drainage and runoff patterns.
- (e) Existing flow characteristics.
- (f) Existing water table and rates of recharge.
- (2) Land.
 - (a) Existing topography.
 - (b) Erosion and slippage.
 - (c) Floodplain and flood hazard.
 - (d) Mineral resources.
 - (e) Viable agricultural soils.
 - (f) Forest resources.
 - (g) Open space resources.
 - (h) Vegetative cover.
 - (i) The quality and availability of land for outdoor recreational purposes.
- (3) Air quality.
- (4) Noise levels.
- (5) Critical resource areas.
 - (a) Rivers and corridors of rivers designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservation Law.
 - (b) Rare plant communities.
 - (c) Habitats of rare and endangered species and key wildlife habitats.
 - (d) Alpine and sub-alpine life zones.
 - (e) Wetlands.
 - (f) Elevations of 2,500 feet or more.
 - (g) Unique features, including gorges, waterfalls, and geologic formations.
- (6) Fish and wildlife.
- (7) Aesthetics.

- (a) Scenic vistas.
 - (b) Natural and man-made travel corridors.
- C. Consideration of Historic site or Structures.
- D. Site development considerations.
 - (1) Natural site factors.
 - (a) Geology.
 - (b) Slopes.
 - (c) Soil characteristics.
 - (d) Depth to groundwater and other hydrological factors.
 - (2) Other site factors.
 - (a) Adjoining and nearby land uses.
 - (b) Adequacy of site facilities.
- E. Governmental considerations.
 - (1) Governmental service and finance factors.
 - (a) Ability of government to provide facilities and services.
 - (b) Municipal school or special district taxes or special district.
 - (2) In considering the approval of columbariums, the Planning Board shall require reasonable conditions or provisions to ensure the continued maintenance of the columbarium facility in perpetuity.
 - (3) Considerations of Conformance with other governmental controls