

## **7.2 SITE PLAN REVIEW**

### **7.2.1 INTENT AND DELEGATION TO PLANNING BOARD**

The City finds that a safe, well-planned and attractive natural and man-made environment is essential to the economic health of the community and to the general safety and welfare of its residents. Therefore, the intent of this Article is to set forth the process by which to review the site characteristics to ensure consistency with the goals and objectives of the City's Comprehensive Plan and to regulate the preservation, conservation and efficient use of City resources. The Planning Board is hereby authorized to administer and carry out the intent established in this Article.

### **7.2.2 APPLICABILITY AND EXEMPTIONS**

#### **A. Applicability**

Site Plan Review shall be conducted for the following actions:

1. Any use so required by Article 2.2.
2. To construct, modify or demolish any structure other than a single-family or two-family residence and associated residential accessory structures in any district.
3. To implement a use variance except for 1- or 2-family structures.
4. To amend a prior site plan approval.

#### **B. Exemptions**

An action otherwise requiring site plan review may be exempt if the following two conditions are met:

1. The action does not result in an increase in the required number of parking spaces as set forth in Article 6.2; and
2. The action does not alter, either individually or in combination, the impermeable or building coverage by more than 2% or 1200 sf, whichever is less, from the most recent, approved site plan.

Neither of these exemptions shall permit the alteration of any specific conditions of prior site plan approvals without Planning Board approval.

### **7.2.3 SPECIAL USE PERMIT AND SITE PLAN REVIEW**

#### **A. Review**

The Planning Board shall conduct site plan review independently or in conjunction with special use permit as required by Article 2.2. Such review may occur concurrent with or subsequent to special use permit review. Separate applications and application fees are required for each review.

#### **B. Waiver**

The Planning Board may waive site plan review as a condition of a special use permit if the Planning Board determines that considerations customarily evaluated under site plan review have been appropriately considered as part of the special use permit process.

### **7.2.4 EVALUATION CRITERIA FOR SITE PLAN REVIEW**

To ensure that the development of a proposed site will not adversely impact surrounding properties, community character or the general health, safety and welfare of the community, the Planning Board's evaluation of Site Plan Review applications shall include the following:

1. Location, arrangement, size, design and general site compatibility of buildings and sign structures.
2. Adequacy and arrangement of vehicular traffic access and circulation including intersections, road widths, pavement surfaces, dividers and traffic controls.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
5. Adequacy of storm water and drainage facilities with attention to impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
6. Adequacy of water supply including pressure and quantity.
7. Adequacy of sanitary sewer including size and inverts, or adequacy of sewerage disposal facilities including soil borings, percolation tests, soil characteristics and professional certification of system adequacy.
8. Adequacy and arrangement of on-site and off-site illumination.
9. Adequacy, type, size, and arrangement of trees, shrubs and other landscaping. Parking, service areas, and loading and maneuvering areas shall be reasonably landscaped and screened from neighboring areas.
10. Adequacy of fire lanes and other emergency zones; location and arrangement of fire hydrants, stand pipes, and other fire safety facilities.

**B. Design and Construction Standards**

The Planning Board shall adopt and maintain a set of design and construction standards which shall apply to all actions that require site plan review. They will be available in the Office of Planning and Economic Development and on the City's website.

**7.2.5 APPLICATION PROCEDURES**

- A. For all uses that require site plan review, as identified in Article 2.2, application may be made directly to the Planning Board, or as a referral by the Zoning Officer.
- B. The Planning Board shall not accept any application for site plan review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer that is not the subject of the application.
- C. An eligible applicant for site plan review must be the owner, lessee or purchaser under contract for the involved parcel. A lessee and purchaser under contract must have written permission of the current property owner(s) to submit an application for site plan review.

D. Applications for site plan and sketch plan review shall be on forms prescribed by the Planning Board and shall be accompanied by a fee as established by the City Council.

**7.2.5.1 SKETCH PLAN REVIEW**

A. The submission of a sketch plan to the Planning Board is a non-binding option available to the applicant prior to formal site plan review with the intent to seek advice and direction. Sketch plan submission shall be in conformance with the requirements contained in Appendix B.

B. The applicant, or authorized representative, shall attend the Planning Board meeting to discuss the proposed project and satisfaction of the requirements of this Article.

C. Unless authorized by the Planning Board, the applicant will be limited to 2 sketch plan discussions.

**7.2.5.2 FORMAL SITE PLAN REVIEW**

A. Formal site plan submission shall be in conformance with the requirements contained in Appendix B.

B. The official submission date of the site plan shall be the first meeting at which the site plan is discussed by the Board.

C. The applicant, or authorized representative, shall attend the meeting of the Planning Board to discuss the site plan.

D. The Planning Board may recoup from an applicant costs incurred by the Planning Board for consultation fees, special studies or other expenses in connection with the review of a proposed site plan.

**7.2.6 PUBLIC HEARING NOTICE**

A. The Planning Board may hold a public hearing on any site plan at the direction of the Chair or upon a majority vote of the Planning Board.

B. In the event a public hearing is scheduled, the Planning Board shall advertise the hearing in a Saratoga Springs newspaper of general circulation at least five days prior to the date thereof. The applicant shall be responsible for payment for this notice. Prior to the hearing, the applicant shall be responsible for filing with the Planning Board an affidavit from the newspaper confirming such publication and payment.

**7.2.7 PROPERTY OWNER NOTIFICATION**

In the event a public hearing is scheduled, the applicant shall provide notice of a hearing to neighboring property owners as follows.

- A. The applicant shall obtain from the City the names and addresses of property owners within a 250 foot geographic radius from the applicant's subject property boundary.
- B. The applicant shall receive from the Planning Board a property owner notification notice and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 7 days, but not more than 20 calendar days prior to the scheduled hearing.
- C. Prior to the public hearing, the applicant shall submit to the Planning Board confirmation of the property owner notification by obtaining a "certificate of mailing" from the U.S. Postal Service.
- D. Failure to provide notice in exact conformance with these provisions shall not invalidate a Planning Board determination provided the Planning Board finds that substantial compliance has occurred and the public has been fairly apprised of the fundamental character of the proposed action.

**7.2.8 SARATOGA COUNTY PLANNING BOARD REFERRAL**

- A. Any application for site plan review that meets the referral requirements of General Municipal Law Section 239-m shall be referred to the Saratoga County Planning Board for its review prior to the public hearing, if required, or final action if no public hearing is required. No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from the County Planning Board or 30 calendar days have passed from when the County Planning Board received the full statement.
- B. If the Saratoga County Planning Board recommends modification or disapproval of a proposed action, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

**7.2.9 INTERMUNICIPAL NOTIFICATION**

Pursuant to General Municipal Law Section 239-nn, if the land involved in an application for site plan review lies within 500 feet of the boundary of another municipality, the Planning Board shall submit a copy of the official notice of the public hearing to the municipal clerk of the other municipality at least 10 days prior to the public hearing.

**7.2.10 ADVISORY OPINION**

The Planning Board may request an advisory opinion of the Design Review Commission or any administrative department or agency in its evaluation of a site plan application.

### **7.2.11 DECISIONS**

A. In rendering its decision on any application for site plan review, the Planning Board shall comply will all applicable provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

B. The Planning Board shall issue a written decision on an application within 62 days of the close of the public hearing, if scheduled, or of the official submission date. This time frame may be extended by mutual consent of the applicant and Planning Board.

C. Four affirmative votes are required to pass a motion regarding an application before the Planning Board.

D. The Planning Board shall have the authority to approve, approve with modifications or disapprove site plans and may impose such reasonable conditions, easements, covenants and restrictions as are directly related, and incidental, to the proposed site plan.

E. Every site plan notice of decision shall be signed and dated by the Chairperson and shall document the circumstances of the application and the findings on which the decision is based.

F. Every site plan review decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.

#### **G. Administrative Approval**

The Chairperson shall have the authority to approve minor modifications to existing site plan approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Planning Board.

### **7.2.12 EXPIRATION AND EXTENSION OF PLANNING BOARD APPROVAL**

A. In order to maintain Planning Board approval, the official signature of the Planning Board Chairperson must be placed on the final site plan no later than 18 months from the date of the Board's decision. The signed site plan shall be filed in the office of Planning and Economic Development.

B. The Planning Board may grant up to two 18-month extensions in addition to the initial 18 month period in which the applicant must obtain signature of the final plans provided such request is properly submitted prior to expiration of the initial 18 month period or the first extension. When requesting an extension, it shall be the applicant's

responsibility to prove that there have been no significant changes to the site or neighborhood and that the circumstances and findings of fact by which the original approval was granted have not significantly changed.

#### **7.2.13 FINAL SITE PLAN SUBMISSION**

- A. No site disturbance may occur prior to signature of the final plans by the Planning Board Chairperson.
- B. The following requirements shall be satisfied prior to the review and approval of final site plans by the Planning Board Chairperson:
  - 1. Review and approval of construction details and final site plans by the City Engineer. Final Plan submission shall be in accordance with the requirements identified in Appendix B.
  - 2. Submission of a performance guarantee properly issued to the City as set forth in Section 7.2.15.
  - 3. Documentation of conformance with all required approval conditions.
  - 4. Proof of payment for any and all required fees.

#### **7.2.14 FINAL SITE PLAN EXPIRATION**

- A. Regardless of the terms of any properly issued Building Permit, final site plan approval shall expire if actual construction has not commenced within 18 months of the signing of the final site plan. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement or the demolition or removal of any existing structure if no new construction is approved.

#### **7.2.15 PERFORMANCE GUARANTEES**

A letter of credit or acceptable equivalent security shall be delivered to the City to guarantee that the applicant shall construct and complete the required improvements as indicated on the approved final site plan. The Planning Board may waive the requirement for a performance guarantee if the estimated cost of site improvements is less than \$10,000.

- A. Establishment of Performance Guarantee
  - 1. The performance guarantee shall cover the full estimated cost of required off-site improvements within the public right-of-way and 25% of the full estimated cost of required on-site improvements. These improvements may include grading, curbs, sidewalks, utilities, street lighting, driveways, parking lots, plantings, signs, and the like.
  - 2. Estimates of construction costs are to be submitted to the Planning Board by the applicant's New York State licensed professional engineer/architect or landscape architect. The City Engineer shall review and revise estimated costs in accordance with current construction standards and practices or as modified by the Planning Board.

3. The performance guarantee shall identify the City of Saratoga Springs as the beneficiary and will state that funds may be collected at an institution/location within 40 miles of the Saratoga Springs municipal boundaries upon receipt of a written demand from the City Attorney of the City of Saratoga Springs. Legal and administrative costs incurred by the City associated with the collection of a performance guarantee will be reimbursed to the City.
4. The performance guarantee shall be valid for no less than 12 months and shall expire at quarterly intervals. Upon completion of all required construction, the City shall cancel the performance guarantee by written notice to the applicant.

**B. Amendment and/or Extension to Performance Guarantee**

An applicant may request to extend and/or amend the original performance guarantee. The Planning Board Chairperson, in consultation with staff, may act upon the request administratively and report such action to the Board [in a timely manner], or may refer the request to the Planning Board for its review. All applications for amendment or extension shall be accompanied by a fee as established by the City Council.

**7.2.16 CONSTRUCTION AND INSPECTIONS**

**A. Pre-construction Conference**

Following final site plan approval, a pre-construction conference shall be held with the City Engineer and relevant Departmental staff to discuss construction schedules, process and inspections.

**B. Construction Notifications**

The owner or designated representative shall notify the City Engineer 48 hours prior to commencing any work and prior to resuming work if the contractor is absent from the site for more than 7 days. In addition, the City Engineer shall be notified prior to any of the following construction activities:

1. Site clearing
2. Sanitary sewer installation
3. Storm sewer installation
4. Waterline installation
5. Sub-grade preparation
6. Gravel installation
7. Asphalt binder and wearing courses and curbing
8. Blasting
9. Any special construction

Failure to notify the City Engineer of these activities prior to completion shall make the work subject to rejection, excavation and inspection at the applicant's expense.

**C.** The City Engineer, or designee, shall inspect the required construction activity. The applicant shall be responsible for all inspection fees as established by the City

Council. The inspection fees for the site plan shall not exceed 2% of the cost of the installation of the required improvements. If the City Engineer finds that the required improvements have not been constructed in accordance with approved plans and specifications, The City Engineer shall so report to the City Attorney, the Building Inspector and the Planning Board. The City Attorney shall then notify the applicant and, if necessary, the financial guarantor, and take all necessary steps to preserve the City's rights under the performance guarantee.

D. The City Engineer shall have the authority to suspend work on any site if it is found to be in violation of the approved site plan or conducted in an unsafe or dangerous manner. All unauthorized activity shall be suspended until the stop work order has been rescinded.

1. The stop work order shall be in writing and shall state the conditions under which the activity may resume.
2. The stop work order shall be presented to the person performing the work and, if different, the property owner in person or by certified or registered mail, and may be placed upon a conspicuous portion of the building or premises in use.

E. The City Engineer shall have the authority to direct or take immediate action to abate or remedy any hazard or imminent danger to the health, safety or general welfare of the public. Any documented costs incurred by such action shall be paid for by the owner of such property or person responsible. The City shall be authorized to institute a suit, if necessary, against the person liable for such expenses or to place a lien against the property in order to recover the said costs.

#### **7.2.17 POST-CONSTRUCTION COMPLETION**

Upon completion of all required improvements, the applicant shall submit proposed "as-built" drawings to the City Engineer for review and approval.

Such "as-built" drawings shall meet the requirements established by the City Engineer and as indicated in Appendix B.

#### **7.2.18 RECREATION LAND REQUIREMENTS FOR SITE PLANS CONTAINING RESIDENTIAL UNITS**

Upon finding that a proper case exists for requiring a park or other recreational facility within the City, the Planning Board shall require an offering of usable land, or fee in lieu of land, for this purpose. Such a finding shall include an evaluation of the present and anticipated future need for park and recreational facilities based on projected population growth to which the particular site plan will contribute.

A. Class A Type Usable Land

1. Class A Type usable land refers to developable land generally devoid of wetlands, drainage courses, steep slopes, and the like. The owner shall offer to the City Class A Type Usable Land equal in size to at least 10% of the subject parcel(s) for use as parkland. The Planning Board may specify which lands within the site plan shall be dedicated for parkland and may seek recommendations from the City Recreation Commission on such offers. The

Board may require that the owner suitably grade the offered land.

2. Class B Type Usable Land

Class B Type usable land refers to land not suitable generally for development except for passive open space. Unique and scenic areas and those areas bordering streams, lakes or other watercourses may be given special consideration by the Planning Board and, should they be deemed essential or desirable for public open spaces, the Board may instead request that the owner offer Class B Type Usable Land to the City to be defined and preserved as passive open space.

B. Payment of fee in lieu of Usable Land

In the event the authorized board makes a finding that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the authorized board may require a sum of money in lieu thereof to be established by the legislative body. The fee shall be required for each new residential unit created by the site plan and shall be used by the City exclusively for neighborhood park, playground or recreation purposes including the acquisition and improvement of property.

C. Combination of land and in lieu of fee

If the Planning Board determines that only a portion of the 10% area offered by the owner is acceptable for public use, then the owner shall dedicate the acceptable land and pay a fee equal to the difference in the percentage of land offered and the 10% required.

D. Prior land set aside for subdivision

If the land included in a site plan is a portion of a previously approved subdivision, the Planning Board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of re-subdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.