

Moratorium on Actions requiring Site Plan or Subdivision Review

An overview* of a proposed local law

*please refer to full text of proposed law and to text of Site Plan Review and Subdivision laws for details.

March 6th, 2017

Purpose

Allow the Town time to review and, if needed, revise our local Site Plan Review and Subdivision Laws to promote

- Water conservation
- Energy efficiency
- Greenhouse gas reduction
- Renewable energy development

2006 Comprehensive Plan

- Concerning Open Space and Environmental Protection: “Preservation of water quality and quantity and protection against environmental degradation.”
- Concerning Housing: “Widespread implementation of low-impact and energy-efficient building practices.”

2006 Comprehensive Plan

- Concerning Infrastructure and Services:
“Increased energy conservation and use of renewable energy sources.”
- Concerning Business Development:
“Encouraging businesses to protect air and water quality, reduce impact on traffic density and road quality, use clean and renewable sources of energy, and embrace sustainable business practices.”

SEQRA

- New York State's Environmental Quality Review Act is founded upon and includes important considerations pertaining to public health, building safety, energy efficiency, and overall impacts on the environment, and SEQRA mandates solutions and mitigation plans whenever any such impact has the potential to have any moderate or significant negative environmental impact.

SEQRA

- SEQRA mandates the consideration of energy use, energy conservation, and the impacts of energy consumption as significant matters to be considered when weighing the overall impact of any project upon the environment.

SEQRA

- The Town thus seeks to examine its review and approval process and standards for Actions to help assure that due consideration is given to all environmental impacts, from traffic to public health, and from building design and density to sustainable development initiatives or alternatives.

Why is review needed?

- Actions of the types subject to review in the Town of Caroline's Site Plan Review and/or Subdivision local laws can place heavy demands on energy use, public services, infrastructure and natural resources.

Why is review needed?

- Guidelines to conserve **groundwater resources** are important, timely, prudent and serve the immediate and long-term interests of the public.
 - We're all on wells
 - Aquifer Protection Committee work shows need to revise water quantity protection methods in current Site Plan Review law.

Why is review needed?

- Desire clearer guidelines to promote energy efficiency, greenhouse gas emission reductions and renewable energy generation
 - align actions in the Town with the climate protection goals of New York State and Tompkins County,
 - provide a timely response to a request from our local utility and
 - serve the immediate and long-term interests of the public.
 - align with vision/goals in our comprehensive plan and commitment to be Climate Smart Community

Why is review needed?

- It will serve the interests of the Town and developers wishing to undertake Actions here to have clear recommendations and design guidelines that detail the Town's expectations with respect to groundwater conservation, energy efficiency, greenhouse gas reduction, and development of renewable energy resources.

Why a moratorium?

- The Town Board is concerned that protection both of the Town's interests, and the public health and welfare interests could be damaged or subverted if Actions were to be entertained or approved before the Town Board considers modifications to address these land use and public health and welfare issues.

Why a moratorium?

- The Town is not targeting any project. We feel that there is room for improvement in our site plan review and subdivision laws and that it is prudent to insure that going forward, for the sake of the community at large, any qualifying actions should receive the benefit of those improvements.
- We intend to address any revisions in a timely manner so as not to impede potential projects.

What type of Actions does this moratorium apply to?

- Actions requiring Subdivision review
- Actions requiring Site Plan Review

Prohibited Actions

For a period of one hundred eighty (180) days from the effective date of this local law, the Town Board hereby declares a moratorium prohibiting each of the following actions in the Town, regardless of the submittal or receipt of any application prior to the effective date of this local law, unless such Action is exempt (as described below):

Prohibited Actions

- The consideration by the Town Board or Site Plan Review Board of any site plan or special use permit, or the review thereof, for or in relation to any Action.

Prohibited Actions

- Acceptance, consideration, preliminary approval or final approval by the Town of Caroline Subdivision Review Board of any Action or any application for a waiver or variance in connection with any Actions prohibited herein.
- The issuance of any permit by the Town of Caroline for highway utility work in connection with any Actions prohibited herein.

Actions Requiring Site Plan Review

- Commercial uses having Gross Floor Area of 10,000 square feet or more and/or Site Disturbances greater than one acre.
- Commercial uses of any size having a Drive-Through Facility, excepting home occupations.
- Institutional uses, including schools, educational uses, churches, museums, and nursing homes, having Gross Floor Area of 10,000 square feet or more and/or Site Disturbances greater than one acre.
- Heavy Industrial Uses of any size, including temporary and permanent facilities.
- Light Industrial Uses having Gross Floor Area of 25,000 square feet or more and/or Site Disturbances greater than one acre.

Actions Requiring Site Plan Review

- Staging, storage or parking areas for vehicles, equipment, or materials, whether temporary or permanent, that are established as the result of a Land Use Activity that falls within the jurisdiction of the Site Plan Review Law.
- Waste disposal and Waste storage, processing, or bulk transfer areas.
- Wind Energy Facilities greater than 80 feet in height.
- Mixed Uses of any size, involving a combination of two or more of the uses listed in this section on a single Site.
- Any Development activity involving the handling, storage, placement, or transfer of hazardous substances or Hazardous Materials.

Actions Requiring Site Plan Review

- Concentrated Animal Feeding Operations (CAFOs)
- Any proposed Land Use Activities that negatively affect important Agricultural Resources.
- Any modification of any existing Site or facility on the above list for which no previous Site Plan review and approval had occurred.

Actions Requiring Site Plan Review

- In any of the above use categories, any: (i) expansion of existing buildings or structures which involves an increase in the Gross Floor Area of an existing building or structure by more than 10 % in the aggregate since any previous Site Plan approval; (ii) expansion of outdoor inventories that includes new products or materials or that increase gross storage area volumes by more than 10% in the aggregate since any previous Site Plan approval; or (iii) any new outdoor Land Use Activity that was not previously subject to Site Plan review or that was not issued any Site Plan approval.

Actions Requiring Site Plan Review

- Multi-Family Residential uses as defined below:
 - A building or group of buildings on one lot containing 3 or more dwelling units. Also includes all types of congregate housing such as boarding houses, whether or not intended for medical or mental health purposes, substance abuse treatment, or other social welfare or public health reasons.

Actions Requiring Subdivision Review

- Subdivision = the division of any parcel of land into a number of lots, blocks or sites for the purpose of sale, transfer of ownership, or development... including the development on one lot of more than three separate, independent residential units.

Subdivision – Exemptions:

- Lot Line Adjustments
- Rural Land Divisions – 5 acres each, no new road needed, not more than 4 units per lot, or for agricultural operations
- Small-Scale Residential Subdivisions – up to five lots <5 acres each, single family or 2 family residential, along an existing road, build w/in 3 yrs. No new road, no community water or sewer.
- Multiple Residential Units on One Lot - Without actually subdividing a lot, the development of a single lot with not more than three separate, independent residential units.

Site Plan Review – Exemptions:

- Agricultural uses, except for uses identified in Site Plan Review law.

Moratorium – Exemptions:

- Any Action that has received final approval or conditional final approval from the Town Board, the Site Plan Review Board, or the Subdivision Review Board prior to the effective date of this local law.
- Any traditional Agricultural Action that is protected under Article 25-AA of the Agriculture and Markets Law by being exempt under the Town of Caroline's subdivision or site plan review procedures and laws.
- Traditional single family residences and accessory buildings on an existing lot that are of a size, character, and design as to not trigger review under the Town of Caroline's subdivision or site plan review procedures and laws.

Moratorium – Exemptions:

- Any other building or permit action that does not trigger review under Town of Caroline's subdivision or site plan review procedures and laws.
- Any appeal or review seeking a variance or waiver in relation to an Action that has already been approved and which meets the requirements above.
- Any Action or matter for which a waiver is granted.

WAIVER

In determining an application for a Waiver the Town Board shall consider the following factors:

- Whether there is or will be an unnecessary hardship to the petitioner which is not self-created and which meets the following requirements:
 - (i) the alleged hardship relating to the property in question is unique and does not apply to other applicants or lands or areas of the Town generally; and
 - (ii) the harm to the applicant is not outweighed by the harm to the public generally should the Waiver be granted; and

WAIVER

- (iii) the Waiver, if granted, will not alter the essential character of the neighborhood or other area in the vicinity of the Action in any materially adverse manner; and
- (iv) whether the petitioner can clearly demonstrate by detailed written “dollar and cents” proof the inability to obtain a reasonable return for the entire parcel (and not just the site of the Action) unless the applicant is granted a Waiver.

WAIVER

The Town shall consider whether the Waiver will:

- (i) result in the loss of irreplaceable recreation, scenic, and other natural resources and sites; or
- (ii) impair specific public health factors such as air and water emissions, traffic, noise, dust, odors, solid waste generation, and any other nuisance which may produce a moderate or substantial adverse environmental impact; or
- (iii) cause or contribute to a loss of property values; or
- (iv) not cause any extraordinary public expense, such as, but not limited to the opening of public highways or the extension of utility infrastructure, including non-traditional single private single-user residential wells or septic systems as approved by the Tompkins County Department of Health.

WAIVER

The Town shall also consider whether the Action proposes to:

- (i) implement best management practices to **mitigate greenhouse gas emissions from water and space heating**, such as use of **efficient electric-sourced heating appliances**; and
- (ii) **conserve groundwater resources**, such as **grey-water recycling** and use of **low-flow fixtures** that exceed current building code requirements; and

WAIVER

- (iii) maximize opportunities for **on-site renewable energy** design or generation in a manner as may or will offset at least 50% of the anticipated electric consumption demand for the site or Action; and
- (iv) **reduce overall energy use and ensure high energy efficiency**, such as using **building envelope** and insulation measures that exceed current building code requirements by at least 15%; and
- (v) **mitigate transportation related greenhouse gas emissions**, such as providing **electric vehicle charging stations**, public access **park-and-ride spaces**, or other **mode-share transportation** designs or facilities.

Effective Date

- This local law shall take effect immediately upon passage.