

**TOWN BOARD OF THE TOWN OF LIBERTY
SPECIAL MEETING
June 16, 2015**

At a Special Meeting of the Town Board of the Town of Liberty held on June 16, 2015 at 4:00 p.m. at Town Hall, 120 North Main Street, Liberty, New York, the following Town Board Members were present:

Present:

Supervisor Charlie Barbuti
Councilperson Thomas Hasbrouck
Councilperson Dean Farrand
Councilperson Russell Reeves
Councilperson Brian McPhillips

Recording Secretary:

Deputy Town Clerk Sara Sprague

Also present:

Daniel Shearer
Matthew Rogers

After the Pledge of Allegiance, Supervisor Barbuti called the meeting to order at 4:00 p.m.

**Town of Liberty Land Use Law Update
Draft Site Plan and Special Use Permit Language
June 13, 2015**

The following is proposed to replace Article VIII Special Uses and Site Plan Review

§147-26 Special Use Permits

- A. Authority.** The Town of Liberty Planning Board is, pursuant to § 274(a) of the Town Law, authorized to approve, disapprove or approve with modifications the establishment (by special permit) of certain uses which shall, throughout this chapter, be identified as special uses.
- B. Purpose.** Pursuant to the land use policies and goals of the Town of Liberty, it is the policy of the Town of Liberty to balance the allowance and encouragement of a variety of uses of land and to foster economic opportunities within the municipal boundaries of the Town, provided that such uses do not unreasonably and adversely affect neighboring properties, the natural environment, the rural and historic character of the Town or the long-term development of the Town. Certain uses are, therefore, permitted only upon issuance of a Special Use Permit by the Planning Board in order to

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ensure that these uses are appropriate to their surroundings and satisfy ~~specific review performance~~ criteria ~~as set-forth herein, on a case-by-case basis.~~

C. Applicability. Uses requiring Special Use Permits are listed in the Schedule of District Regulations referenced in § 147-8 of this Chapter. Accessory uses or structures used in connection with a Special Use Permit use shall be subject to the same Special Use Permit approval requirements as the principal structure or use.

D. Site Plan Review. All uses requiring special use permits also require site plan review. 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. Alternatively, the applicant may request that the procedures for the Special Use Permit and Site Plan approval be run concurrently and such request will not be unreasonably denied.

E. Required Plans and Submittals. Because the impact of Special Use Permit uses varies greatly, the information required to be submitted for a Special Use Permit may vary depending upon the scale, intensity, nature of the proposed use and its proposed location. An applicant for a Special Use Permit shall submit at least [1 original and 10 copies] of the following together with whatever other information the Planning Board deems appropriate:

- (1) Town of Liberty Special Use Permit application form.
- (2) A plot plan drawn to scale with accurate dimensions providing information sufficient to enable the Board to make an informed decision, and an agricultural data statement as defined below.
- (3) A narrative describing the proposed use and operation.
- (4) A short-form or long-form SEQRA Environmental Assessment Form (EAF) with Part 1 fully completed by the applicant (a long-form EAF is required for all SEQRA Type I actions, but the Planning Board may require a long-form EAF for unlisted actions if the Board deems that the additional information contained on the long-form would be helpful and appropriate under the circumstances of the project proposal).
- (5) The application fee as established by the Town Board, and an escrow deposit for reimbursement of cost of Town consultants (if required) pursuant to [----- of this Chapter].
- (6) The Planning Board may waive or add any requirements for an application submission if it deems appropriate in order to accomplish the purposes set forth herein. **[NOTE: Clarification is necessary for Local Law No. 3 of 2012]**

F. Procedure

(1) Application

- (a) Multiple Uses.** If an application is for a parcel or parcels on which more than one use requiring a Special Use Permit is proposed, the applicant may submit a single application for

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all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of reviewing an application (and for SEQRA compliance) all proposed uses on a single parcel or on contiguous parcels shall be considered together.

- (b) **Scheduling.** In order for a Special Use Permit application to be placed on the Planning Board's meeting agenda, the required application materials shall be submitted to the Town of Liberty Planning Board Secretary at least 10 days prior to the date of the Planning Board's meeting. In order for a pre-application conference, as described herein below [Paragraph 2], Optional Pre-application Conference, to be scheduled, a request for such conference shall be in writing identifying the subject property, its owner and the proposed use, and shall be submitted 10 days prior to the meeting at which the conference is requested to be scheduled.
 - (c) **Completeness Review.** At the first meeting at which an application is first presented as an agenda item, the Planning Board shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Planning Board shall notify the applicant in writing as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Planning Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Planning Board that the application is complete.
- (2) **Optional Pre-Application Conference.** Prior to submitting a completed application, the applicant may elect to attend a Planning Board meeting to discuss the nature of the proposed use and to determine the information that will need to be submitted. The purpose of this meeting is for the applicant and the Board to informally discuss the proposal and the relevant issues involved before the applicant expends significant time or money in application submittals.
- (3) **Application for Area Variance.** Where a proposed Special Use Permit application contains one or more features which do not comply with the dimensional regulations of this Chapter, application may be made to the Zoning Board of Appeals for an Area Variance pursuant to this Chapter without a decision or determination by the Code Enforcement Officer. The Planning Board shall decide whether such area variance application and Zoning Board of Appeals decision on same must occur as a condition to the issuance of the Special Use Permit, as a prerequisite for a complete Special Use Permit application, or in conjunction with the Special Use Permit process.
- (4) **SEQRA Compliance.** Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days of its acceptance of a completed application, EAF and other supporting materials.
- (5) **Referral to County Planning Department.**
- (a) **§239-m.** Upon receipt of application materials it deems to be complete, the Planning Board shall refer to the County Planning Board any application for a Special Use Permit affecting real property within 500 feet of the boundary of the Town of Liberty, the boundary of any

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existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.

- (b) **Recommendation of County Planning Department.** No action shall be taken by the Town on applications referred to the County Planning Department until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Department's review.
 - (c) **County Disapproval.** A majority-plus-one vote of the Planning Board shall be required to grant any Special Use Permit which receives a recommendation of disapproval from the County Planning Department because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.
- (6) **Agriculture Data Statement.** An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of an agricultural district.
- (a) If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Special Use Permit application to all owners of land within five hundred (500) feet of the project property within an agricultural district and containing farm operations as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.
- (7) **Notice and Hearing**
- (a) The Planning Board shall hold a public hearing on a complete Special Use Permit application within 62 days from the determination of the Planning Board that the application is complete. The time in which a public hearing must be held may be lengthened only upon consent of the Applicant and Planning Board.
 - (b) At least 5 days prior to the date of such hearing, the Planning Board shall give public notice by causing the publication of a notice of such hearing in the official newspaper.
 - (c) In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board must give notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law § 239-m.
- (8) **Review Criteria.** In considering and acting on uses requiring a Special Use Permit, the Planning Board shall consider the public health, safety, and general welfare. The Board shall also consider potential environmental impacts and the comfort and convenience of the public in general, the

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residents of the proposed development, and the residents of the immediate surrounding area. The Board may prescribe such appropriate conditions and safeguards as may be necessary in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the criteria set forth below. A Special Use Permit shall not be granted until the Planning Board finds that the following criteria, -applicable supplementary regulations as set-forth in Article VI of this Chapter and all Special Use Permit Conditions have been met:

- (a) [Harmony] with the Comprehensive Plan. The use shall be in harmony with and promote the goals and objectives of the current Comprehensive Plan for the Town, and shall be in compliance with this Chapter and shall promote the health, welfare and safety of the public.
- (b) Compatibility. The proposed use shall be compatible with the character of the surrounding neighborhood, the zoning district and the community surrounding the location of the proposed use and will not unduly prohibit or discourage future planned growth in the area.
- (c) Access, Circulation and Parking. The proposed use shall have safe and efficient access for pedestrians and vehicles, shall provide for appropriate off road parking and loading areas. The interior circulation system must be adequate to provide safe accessibility to all parking spaces and that adequate and safe integration of pedestrian and vehicular movement is provided.
- (d) Infrastructure and Services. There shall be sufficient infrastructure and services, including utilities, public facilities and services, available for the proposed use or that the project extends or provides infrastructure and services for the area where the proposed use is located. There shall also be facilities and services implemented by the applicant to appropriately control any potential nuisances from the operation of the use such as control of litter or trash, loitering and crime prevention, and any other features or aspects of the operation of the proposed use that may affect the public safety, health and general welfare.
- (e) Environment and Natural Features. That the proposed use is compatible with, and appropriately protects environmental and natural resources, including the environmental and physical suitability of the site for development and that the general landscaping, screening and buffering is in character with the surrounding areas, and that the risk of fire, flood or erosion and impacts such as dust, light, vibration or noise detrimental to the public health, safety and welfare is minimized to the maximum extent practicable.
- (f) Long Term Effects. The proposed use provides positive or beneficial effects on the long-term economic stability, environmental integrity and community character of the town and surrounding properties, districts and uses.
- (g) Compliance with Supplement~~ary~~ Regulations. The proposed use is compliant with any applicable supplementary regulations as set-forth in Article VI of this Chapter. ~~[special use permit criteria or supplemental regulations established in this Chapter.]~~

(9) Action

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- (a) ~~The Planning Board shall grant, deny, or grant subject to conditions the application for a Special Use Permit within 62 days after the hearing.~~ [NOTE I removed this paragraph because it is addressed below under Findings Required.] Any decision by the Planning Board shall contain written findings explaining the rationale for the decision in light of the general criteria contained in this Article as well as any special criteria for the particular type of use as established in this Chapter.
- (b) In granting a Special Use Permit, the Planning Board may impose conditions that it considers necessary to protect the health, safety, and welfare of the Town and to achieve the purposes contained in this Chapter and the Town's Comprehensive Plan. These conditions may include increasing dimensional or area requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening; requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space, requiring the protection of open space of conservation value using conservation easements, and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

(10) Expiration, Change or Use, Revocation and Enforcement

- (a) A Special Use Permit shall expire if the Special Use Permit use or uses cease for more than [12 consecutive months] for any reason, if the applicant fails to obtain the necessary Certificate of Compliance or fails to comply with the conditions of the Special Use Permit within [12 months of its issuance], or if its time limit specified in the Special Use Permit expires without renewal.
- (b) A Special Use Permit shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Special Use Permit (as determined by the Code Enforcement Officer in issuing a Building Permit or Certificate of Occupancy/Compliance) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by Special Use Permit shall require the granting of a new Special Use Permit or a Special Use Permit amendment.
- (c) A Special Use Permit may be revoked by the ~~Town CEO~~ Code Enforcement Officer if the permittee violates the conditions of the Special Use Permit or engages in any construction or alteration not authorized by the Special Use Permit.
- (d) Any violation of the conditions of a Special Use Permit shall be deemed a violation of this Chapter, and shall be subject to enforcement action as provided herein.

G. Findings Required. In granting or denying Special Use Permits, the Planning Board shall take into consideration the type, scale and intensity of the proposed project, the surrounding area, the possible impact of the proposed project on nearby properties and uses, the criteria set forth in § 147-26(F)(8) "Review Criteria" of this Article, ~~[subsection 8, Review Criteria]~~, applicable supplementary regulations as set forth in Article VI of this Chapter, any ~~app~~ other applicable requirements and

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purposes of this Chapter, and the policies and goals of the current Comprehensive Plan. The Planning Board shall set forth its findings in writing as part of its decision-making process.

H. Amendments. The terms and conditions of any Special Use Permit may be amended in the same manner as required to grant a Special Use Permit, following the criteria and procedures in this Article. Any enlargement, alteration, or construction of accessory structures subject to a valid ~~S~~pecial ~~U~~se ~~P~~ermit shall require a Special Use Permit amendment.

§147-27 Site Plan Review

A. Purpose and Intent. The purpose and intent of Site Plan review is to promote the health, safety and general welfare of the town. A clean and attractive environment is declared to be of importance to the health and safety of the inhabitants of the town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants. It is further the intent of site plan review to ensure that optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the town, by regulating land use activity within the town through review and approval of site plans. It is not the intent of this local law to prohibit per se any land use activity but to allow all land use activities which will meet the standards set forth herein.

B. Applicability. Site Plan approval is required for certain uses pursuant to the Schedule of District Regulations referenced in § 147-8 of this Chapter. For such uses, the Code Enforcement Officer shall not issue a building permit or certificate of occupancy/compliance until a ~~S~~ite ~~P~~lan has been approved in accordance with this Chapter. Until such site plan has been approved along with any other permit or approval required, including necessary building permit(s), no building shall be erected, moved, structurally altered, added to or enlarged and no excavation or site preparation activities shall commence, unless such requirements are otherwise waived in accordance with this Chapter.

B.C. Special Use Permit and Site Plan Review

(1) **Review.** The Planning Board shall conduct site plan review independently or in conjunction with their review of a special use permit application. Such review may occur concurrent with or subsequent to special use permit review. Separate application and application fees are required for each review.

(2) **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.

C.D. Application Procedures

(1) **Placement on Agenda.** In order for a Site Plan matter to be placed on the Planning Board's meeting agenda, the required application materials pursuant to [paragraph (5), "Application for Site Plan Approval,"] below shall be submitted to the Town of Liberty Planning Board Secretary at least 10 days prior to the date of the Planning Board's meeting. In order for a sketch plan conference, as described in paragraph [(4), "Sketch Plan,"] to be scheduled, a request for such conference shall be

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in writing identifying the subject property, its owner and the proposed use, and shall be submitted [10 days prior to the meeting] at which the conference is requested to be scheduled. [NOTE: A new site plan application will need to be prepared by the Town for applicant use]

- (2) **Completeness Review.** At the first meeting at which a Site Plan application is first presented as an agenda item, the Planning Board shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Planning Board shall notify the Applicant in writing as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Planning Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Planning Board that the application is complete. As such, the scheduling of a sketch plan conference may resolve confusion and thereby save time by allowing an opportunity for the applicant and the Planning Board to identify what documentation will be expected in order to constitute a complete application.
- (3) **Multiple Uses.** If an application is for a parcel or parcels on which more than one use requiring Site Plan approval is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of reviewing an application (and for SEQRA compliance) all proposed uses on a single parcel or on contiguous parcels shall be considered together.
- (4) **Sketch Plan.** The applicant may elect to hold a sketch plan conference with the Planning Board prior to the preparation and submission of a formal site plan. The use of the sketch plan conference is strongly encouraged since it may provide for a more efficient and predictable review process and avoid unnecessary costs. The intent of such a conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed site plan, and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. As such, an applicant is encouraged to schedule and attend the sketch plan conference. In order to accomplish these objectives, the applicant should provide the Planning Board with as much information as is practicable; the following is suggested:
- (a) A sketch plan showing (to an approximate scale) the locations and dimensions of existing and proposed principal and accessory structures, parking areas, and other planned features;
 - (b) 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;
 - (c) A statement or sketch showing significant environmental features such as streams, wetlands, forested areas, and flood plain areas; and
 - (d) A topographic or contour map of adequate scale and detail to show site topography.
- At the sketch conference, [or within 31 days] after the sketch conference has been held, the Planning Board shall provide the applicant with a list of information to be submitted with the site plan application as well as any recommendations that the Planning Board may have with respect to the proposed application. The list of information may be drawn from the checklist set forth in

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[paragraph (5), "Application for Site Plan Approval,"] as determined necessary by the Planning Board.

- (5) ~~Application for Site Plan Approval.~~ [NOTE: The following has been copied from § 147-28(B) of your current code] An application for site plan approval shall be made in writing to the Planning Board ~~Secretary~~Chairman [NOTE: All other applications reference the Planning Board Secretary. We should be consistent on who the applications are mailed to]. on forms supplied by the Town and shall be accompanied by the required fee, a site plan map (prepared by a licensed surveyor, professional engineer, architect, landscape architect, planner or other professional with competency in site design) and such other materials that includes the information contained on the following checklist. If a sketch plan conference was held, the information accompanying the site plan shall include any items that the Planning Board indicated at the conference would be required. The following is a Site Plan Checklist:

- (a) Title of drawing, including name ~~and~~ address of applicant and person responsible for preparation of such drawing;
- (b) North arrow, graphic scale and date;
- (c) Boundaries of the property plotted to scale;
- (d) Existing watercourses;
- (e) Grading and drainage plan, showing existing and proposed contours;
- (f) Location, design, type of construction, proposed use and exterior dimensions of all buildings;
- (g) Location, design and type of construction of all parking and truck loading areas, showing access and egress;
- (h) Type and volume of traffic expected to be generated;
- (i) Provision for pedestrian access;
- (j) Location of outdoor storage, if any;
- (k) Location, design and construction materials for all existing or proposed site improvements including drains, culverts, retaining walls and fences;
- (l) Description of the method of sewage disposal and location, design and construction materials of such facilities;
- (m) Description of method of securing public water and location, design and construction materials of such facilities;
- (n) Location of fire and other emergency zones, including the location of fire hydrants;

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- (o) Location, design and construction of materials of all energy distribution facilities, including electrical, gas and solar energy;
- (p) Location, size, design and type of construction of all proposed signs;
- (q) Location and proposed development of all buffer areas, including existing vegetative cover;
- (r) Location and design of outdoor lighting facilities;
- (s) Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- (t) General landscaping plan and planting schedule;
- (u) An estimated project construction schedule;
- (v) Record of application for and approval status of all necessary permits from state and county officials;
- (w) Identification of any state or county permits required for the project's execution;
- (x) A short-form or long-form SEQRA Environmental Assessment Form (EAF) with Part 1 fully completed by the applicant (a long-form EAF is required for all SEQRA Type I actions, but the Planning Board may require a long-form EAF for unlisted actions if the Board deems that the additional information contained on the long-form would be helpful and appropriate under the circumstances of the project proposal);
- (y) Stormwater Pollution Prevention Plan (SWPPP) for all land development activities (excluding agricultural activities) on the site that results in land disturbance of 1-acre or more. A SWPPP shall comply with NYSDEC requirements for stormwater discharges from construction activities; and

(z) Other elements integral to the proposed development as considered necessary by the Planning Board.

~~(z)~~(aa) Agriculture Data Statement. An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of an agricultural district.

- i. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Site Plan application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

(6) Waivers to Application Requirements. - [NOTE: Clarification is necessary for Local Law No. 3 of 2012]

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D.E. Site Plan Review Criteria

• **(1) Review General Criteria of Site Plan.** The Planning Board shall review the site plan to promote the health, safety, and general welfare of the Town and its citizens. The review shall include, as appropriate, but is not limited to, ~~the applicable~~ criteria set forth in this Chapter as well as the following general considerations:

☉ **(a)** Location, arrangement, size, design and general site compatibility of buildings, lighting and signs. Signs and lights will be compatible and in scale with building elements and will not dominate the overall visual impact of the project and neighborhood.

☉ **(b)** Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

☉ **(c)** Location, arrangement, appearance and sufficiency of off-street parking and loading.

☉ **(d)** Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

☉ **(e)** Adequacy of storm water and drainage facilities.

☉ **(f)** Adequacy of water supply and sewage disposal facilities.

☉ **(g)** 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 the existing vegetation.

☉ **(h)** Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

☉ **(i)** Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

☉ **(j)** Adequacy of open space areas, if any, for its intended use.

☉ **(k)** Protection of adjacent or neighboring properties against noise, glare, unsightliness, odors, smoke, dust or other objectionable features.

☉ **(l)** Adequacy of setbacks in regard to achieving maximum compatibility and protection to adjacent properties and residential districts.

☉ **(m)** Compatibility of structures with existing and planned uses of adjacent properties.

☉ **(n)** Consistency with Town Comprehensive Plan.

☉ **(2) Reservation of Parkland**

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(a) For any site plan containing residential units, the Planning Board may require the reservation of parkland or payment of a recreation fee pursuant to NYS Town Law, Section 274-a(6), or its successor legislation.

•(3) Review Criteria for Non-Residential Projects. The Planning Board, in reviewing non-residential site plans, shall consider the guidelines/criteria set forth below, when applicable.:

1.(a) Layout and Design

a.i. All structures in the plan shall be integrated with each other and with adjacent structures, shall have convenient pedestrian and vehicular access to and from adjacent properties, and shall, wherever possible, be laid out in a pattern consistent with the traditional forms found in the Town of Liberty.

b.ii. Individual structures on the site should be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials, and placement.

e.iii. Where feasible, setbacks shall maintain and continue the existing setback pattern of surrounding properties.

d.iv. The Planning Board shall encourage the creation of landscaped parks or plazas easily accessible by pedestrians where applicable and feasible.

2.(b) Landscaping

a.i. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.

b.ii. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape plants selected should be appropriate to the growing conditions of the Town's environment.

e.iii. Where feasible, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.

d.iv. If deemed appropriate for the site by the Planning Board, shade trees at least six feet tall shall be planted and maintained at 25- to 50-foot intervals along roads, at a setback distance acceptable to the Town Highway Superintendent.

3.(c) Parking, Circulation, and Loading

a.i. Roads, driveways, sidewalks, off-street parking, and loading space shall be safe, and shall encourage pedestrian movement.

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~~iii. **Holding a Public Hearing** If the Planning Board determines to hold a hearing, it shall be held within 62 days of the receipt of a complete application and the decision on the site plan shall be made within 62 days from the close of the public hearing. The time within which to hold a public hearing or which a decision shall be rendered may be extended by mutual consent of the applicant and Planning Board~~

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~~1. If the Planning Board determines that a public hearing is appropriate, the Planning Board shall hold a public hearing on a complete Site Plan application within 62 days from the determination of the Planning Board that the application is complete. The time in which a public hearing shall be held may be lengthened only upon consent of the Applicant and Planning Board.~~

~~2. The Planning Board shall mail notice of said hearing to the applicant at least 10 days prior to such hearing.~~

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~~3. At least 5 days prior to the date of such hearing, the Planning Board shall give public notice by causing the publication of a notice of such hearing in the official newspaper.~~

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~~4. In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board shall give notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law § 239-m.~~

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~~o **No Public Hearing.** If no public hearing is scheduled by the Planning Board for the receipt of public comments regarding the site plan, the Planning Board shall render a decision, file said decision with the Town Clerk, and mail such decision to the applicant with a copy to the Code Enforcement Officer within 62 days of the acceptance of a completed application for site plan approval.~~

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~~o **Discretion to Schedule Public Hearing.** The Planning Board has the discretion to hold a public hearing on the application if the Planning Board determines that there are factors involved (such as but not limited to potential public controversy, the desirability of input from adjoining property owners or the public at large) that warrant a public hearing. If the Planning Board determines to hold a hearing, it shall be held within 62 days of the receipt of a complete application and the decision on the site plan shall be made within 62 days from the close of the public hearing. The time within which to hold a public hearing or which a decision shall be rendered may be extended by mutual consent of the applicant and Planning Board.~~

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~~o **(b) Disapproval of Site Plan.** Upon disapproval of a site plan, the Planning Board shall notify the applicant in writing, within 5 business days, of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.~~

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• Notice and Hearing

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~~○ If the Planning Board determines that a public hearing is appropriate, the Planning Board shall hold a public hearing on a complete Site Plan application within 62 days from the determination of the Planning Board that the application is complete. The time in which a public hearing shall be held may be lengthened only upon consent of the Applicant and Planning Board.~~

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~~○ The Planning Board shall mail notice of said hearing to the applicant at least 10 days prior to such hearing.~~

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~~○ In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board shall give notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law § 239-m.~~

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•(c) **Reimbursable Costs.** Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan as well as its implementation and inspection shall be charged to the applicant.

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•(d) **Performance guarantee.** No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The Planning Board shall recommend the amount of the performance guarantee to the Town Board. The sufficiency of such performance guarantee shall be determined by the Town Board Planning Board and it may consult with the Code Enforcement Officer, Town Attorney and other appropriate parties in making such determination.

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•(e) **Inspection of improvements.** [NOTE: The Town is currently amending similar language. Will need to incorporate.] The Code Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate. If the site is not being developed in strict compliance with the approved site plan and any conditions attached thereto, the Code Enforcement Officer shall issue a stop work order and demand compliance with the approved site plan and any conditions attached thereto. An approved site plan may not be modified except by the Planning Board upon application for such modification from the applicant.

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•(f) **Application for Area Variance.** Where a proposed Site Plan contains one or more features that do not comply with the dimensional regulations of this local law, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article 10 without a decision or determination by the Code Enforcement Officer. The Planning Board shall decide whether such area variance application and Zoning Board of Appeals decision on same shall occur as a condition to the approval of the site plan, as a prerequisite for a complete site plan application, or in conjunction with the site plan process.

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•(g) **SEQRA Compliance.** Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review (SEQRA) process (unless the process has been already commenced pursuant to the Special Use Permit process for the same project) by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days of its acceptance of a completed application, EAF and other supporting materials.

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•(h) **Referral to County Planning Department.** Upon receipt of application materials deemed to be complete by the Planning Board, the Planning Board shall refer to the Sullivan County Planning Department any application for a Site Plan affecting real property within 500 feet of the boundary of the Town of Liberty, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.

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i. No action shall be taken on applications referred to the County Planning Department until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Department's review.

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⊖
⊖ii. **County Disapproval.** A majority-plus-one vote of the Planning Board shall be required to approve any site plan which receives a recommendation of disapproval from the County Planning Department because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

⊖iii. In the case of a project proposal which also requires a Special Use Permit, every effort shall be made by the Planning Board to avoid duplication of the County referral process. However, such determination shall be made by the Planning Board in cooperation with the Sullivan County Planning Department, since the Site Plan application may contain issues not addressed in the Special Use Permit process.

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• **Agriculture Data Statement.** An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of an agricultural district.

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⊖ ~~If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Site Plan application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.~~

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~~E. **Guidelines.** The Planning Board, in reviewing non-residential site plans, shall consider the guidelines set forth below.~~

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~~5. Layout and Design~~

- ~~a. All structures in the plan shall be integrated with each other and with adjacent structures, shall have convenient pedestrian and vehicular access to and from adjacent properties, and shall, wherever possible, be laid out in a pattern consistent with the traditional forms found in the Town of Liberty.~~
- ~~b. Individual structures on the site should be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials, and placement.~~
- ~~c. Where feasible, setbacks shall maintain and continue the existing setback pattern of surrounding properties.~~
- ~~d. The Planning Board shall encourage the creation of landscaped parks or plazas easily accessible by pedestrians where applicable and feasible.~~

~~6. Landscaping~~

- ~~a. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.~~
- ~~b. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape plants selected should be appropriate to the growing conditions of the Town's environment.~~
- ~~c. Where feasible, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.~~
- ~~d. If deemed appropriate for the site by the Planning Board, shade trees at least six feet tall shall be planted and maintained at 25 to 50 foot intervals along roads, at a setback distance acceptable to the Town Highway Superintendent.~~

~~7. Parking, Circulation, and Loading~~

- ~~a. Roads, driveways, sidewalks, off-street parking, and loading space shall be safe, and shall encourage pedestrian movement.~~
- ~~b. Where feasible and appropriate, vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of service roads and new public streets to connect adjoining properties shall be required by the Planning Board, where appropriate and feasible.~~
- ~~c. Off street parking and loading requirements of this Chapter shall be complied with, and parking areas shall be located behind buildings wherever possible.~~

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~~d. Access from and egress to public highways shall be approved by the appropriate Highway Department, including Town, County, State, and Federal, to the extent that said Highway Department or Departments have jurisdiction over such access.~~

~~e. All structures shall be accessible by emergency vehicles.~~

~~**8. Miscellaneous Standards**~~

~~a. Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be attractive and easily maintained.~~

~~b. The site lighting shall limit glare on adjacent roads and properties.~~

~~c. Drainage of the site shall recharge ground water to the extent practical.~~

~~d. Surface waters flowing off site shall not degrade any streams or adversely affect drainage on adjacent properties or public roads.~~

~~e. Dispersal of construction and demolition wastes shall meet all applicable local, county, state, and federal requirements.~~

~~**(1) Reservation of Parkland**~~

~~(a) For any site plan containing residential units, the Planning Board may require the reservation of parkland or payment of a recreation fee pursuant to NYS Town Law, Section 274 a(6), or its successor legislation.~~

F. Action. The Planning Board shall approve, approve with modifications, or disapprove the Site Plan within 62 days after the determination by the Planning Board that the Site Plan and accompanying application is complete, or if a public hearing has been held, within 62 days after the close of the public hearing. Any decision by the Planning Board shall contain written findings explaining the rationale for the decision in light of the standards or guidelines contained in this Chapter.

(1) Approval of a Site Plan. In approving a Site Plan, with or without modifications, the Planning Board may impose conditions which it considers necessary to protect the health, safety, and welfare of the Town and to achieve the purposes contained in this Chapter. These conditions may include increasing dimensional or area requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space, requiring the protection of open space of conservation value using conservation easements, and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

(2) Disapproval of Site Plan. Upon disapproval of a site plan, the Planning Board shall notify the applicant in writing, within 5 business days, of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.

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G. Findings Required. In approving or disapproving Site Plans, the Planning Board shall take into consideration the applicable review criteria set-forth herein, the type, scale and intensity of the proposed project, the surrounding area, the possible impact of the proposed project on nearby properties and uses, the requirements and purposes of this law and the policies and goals of the Comprehensive Plan. The Planning Board shall set forth its findings in writing as part of its decision-making process.

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H. Filing of Decision. The written decision of the Planning Board on an application for site plan review shall be filed within five days from the date the decision was rendered in the office of the Town Clerk, with the Code Enforcement Officer and a copy mailed to the applicant. The site plans shall be signed as approved by the Chairman of the Planning Board and filed and mailed together with the decision.

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G.I. Expiration, Change of Use, Revocation, and Enforcement

(1) An approved Site Plan shall expire if the Site Plan use or uses cease for any reason and for more than 12 consecutive months, if the applicant fails to obtain the necessary building permit or Certificate of Compliance or fails to comply with the conditions of the Site Plan, or if its time limit expires without renewal. [NOTE: Discuss Need to confirm expiration time and 'renewal.']

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(2) ~~A Site Plan shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Site Plan (as determined by the Code Enforcement Officer in issuing a Zoning Permit or a Certificate of Compliance/Occupancy) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. [Any other change to a use allowed by Site Plan shall require the granting of a new Site Plan or an amendment.]~~

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(3) A Site Plan approval may be revoked by the ~~Planning Code Enforcement Officer~~ Board if the applicant or the applicant's successor or assign violates the conditions of the Site Plan approval or engages in any construction or alteration not authorized by the Site Plan approval.

(4) Any violation of the conditions of a Site Plan shall be deemed a violation of this Chapter, and shall be subject to enforcement action as provided herein.

~~● **Findings Required.** In approving or disapproving Site Plans, the Planning Board shall take into consideration the type, scale and intensity of the proposed project, the surrounding area, the possible impact of the proposed project on nearby properties and uses, the requirements and purposes of this law and the policies and goals of the Comprehensive Plan. The Planning Board shall set forth its findings in writing as part of its decision-making process.~~

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~~**H. Filing of Decision.** The written decision of the Planning Board on an application for site plan review shall be filed within five days from the date the decision was rendered in the office of the Town Clerk, with the Code Enforcement Officer and a copy mailed to the applicant. The site plans shall be~~

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~~signed as approved by the Chairman of the Planning Board and filed and mailed together with the decision.~~

I.J. Amendments. The terms and conditions of any Site Plan approval may be amended in the same manner as required to approve a ~~s~~Site ~~P~~lan, following the criteria and procedures in this Article. Any enlargement, alteration, or construction of accessory structures not previously approved shall require a site plan amendment.

ADJOURN

On a motion by Councilperson Russell Reeves, seconded by Councilperson Dean Farrand, the Town Board does hereby adjourn the meeting at 6:07 p.m.

Laurie Dutcher, Town Clerk