

Article 13. Land Use Board Applications

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13.1 LAND USE BOARD APPLICATIONS SUMMARY TABLE

A. Table 13-A: Land Use Board Applications Summary summarizes the recommendations and approval authority of the land use board applications of this Article.

B. Subdivision applications are regulated by Article 14.

Table 13-A: Land Use Board Applications Summary		
Application	Recommendation	Approval
PLANNING BOARD APPLICATIONS		
Special Use	--	Planning Board
Site Plan Review (Full)	--	Planning Board
Administrative Site Plan Review	--	Chair of Planning Board with City Planning Department staff
Watercourse Activity Permit	--	Planning Board
Land Disturbance Activity Permit	--	Planning Board
Temporary Use Permit - Planning Board Approval	Zoning Officer	Planning Board
DESIGN REVIEW BOARD APPLICATIONS		
Design Review: Historic Review and Architectural Review	--	Design Review Board
ZONING BOARD OF APPEALS APPLICATIONS		
Use Variance	--	Zoning Board of Appeals
Area Variance	--	Zoning Board of Appeals
Zoning Interpretation	--	Zoning Board of Appeals
ZONING OFFICER APPLICATIONS		
Zoning Determination	--	Zoning Officer
Sign Permit	--	Zoning Officer <i>(Building Inspector releases permit)</i>
Temporary Use Permit - Zoning Officer Approval	--	Zoning Officer
CITY COUNCIL APPLICATIONS		
Text or Map Amendment	Planning Board	City Council
Planned Unit Development: Development Plan	Planning Board	City Council
Planned Unit Development: Final Site Plan	Planning Department Staff	Planning Board

13.2 APPLICATION

A. Filing, Pre-Application Conference, and Referrals

1. All land use board applications must be filed with the Planning Department Staff. The application must be on forms provided by the City and filed in such quantity as required by the instructions.
2. Prior to formal submittal of an application, the applicant may request a pre-application conference with Planning Department Staff. The purpose of a pre-application conference, is to provide informal advice and assistance to the applicant. Any opinions or advice provided are not binding with respect to any official action that may be taken on the formal application.

B. Completeness

1. An application must include all information, plans, and data as specified in the application requirements. Any required plans must be at a scale sufficient to permit a clear and precise understanding of the proposal, unless specifically required to be at a set scale.
2. The Planning Department Staff will examine all applications for completeness, If the application does not include all the submittal requirements for the application, Staff will reject the application and provide the applicant with the reasons for the rejection. Staff take no further steps to process the application until all deficiencies are remedied.
3. After an application is determined to be complete, any substantive change made by the applicant to the application requires resubmittal of the entire application and a new completeness review.
4. Once the application is under consideration by the appropriate body, additional information, or revisions are not subject to this provision.

C. Fees

Each application must be accompanied by the required filing fee as established and modified, from time to time, by the City Council. The failure to pay such fee when due is grounds for refusing to process the application and renders the application incomplete. If an application is submitted by the City Council or other official City board, then fee requirements are waived.

D. Applicant Withdrawal of Application

An applicant has the right to withdraw an application at any time prior to the final decision on the application by a board or official, including the ability to withdraw the application if it has been tabled by a board or official. The applicant must submit a request for withdrawal in writing or on the record. There will be no refund of fees.

E. Default Withdrawal of Application

Following a request for an applicant to submit a revised application when under review by the applicable Board, if the applicant has not submitted a revised application within six months, and he/she has not asked for an extension of time, the application will be considered withdrawn by default. There will be no refund of fees.

F. Acting Upon Submitted Application

The applicable land use board may act upon the information available to them at any time once an application comes before them. This includes acting upon applications where a revision has been requested by the Board but not get submitted.

G. Consideration of Successive Applications

The same application, once denied, cannot be resubmitted unless the applicant can show there is substantial new evidence available or that changed circumstances exist.

13.3 NOTICE

A. Required Notice

Table 14-B: Required Notice indicates the types of notice required for Land Use Board applications as applicable.

Table 14-B: Required Notice			
Zoning Application	Notice Type		
	Published	Mailed	Posted On Property
Zoning Text Amendment Notice for Public Hearing	✓		
Zoning Map Amendment Notice for Public Hearing	✓	✓	✓
Special Use Notice for Public Hearing	✓	✓	✓
Planned Unit Development - Development Plan Notice for Public Hearing	✓	✓	✓
Variation - Area or Use Notice for Public Hearing	✓	✓	✓
Site Plan Review Notice for Public Meeting			✓
Historic Review - Demolition Notice for Public Meeting	✓	✓	✓
Architectural Review - Demolition Notice for Public Meeting	✓	✓	✓
Zoning Interpretation Notice for Public Hearing	✓	✓	✓
Subdivision Notice for Public Hearing <i>Subdivision applications are regulated by Article 14</i>	✓	✓	✓

B. Published Notice

1. When a published notice is required, the City will publish notice in a newspaper of general circulation within the City. Notice must be published at least five days in advance of the scheduled hearing date.
2. The applicant is responsible for payment for this notice. Prior to the hearing or meeting, the applicant is responsible for filing an affidavit with the City Clerk from the newspaper confirming payment for such publication. The notice must include the date, time, place, and purpose of the hearing or meeting, and the address of the subject property.
3. A zoning text or map amendment must be posted conspicuously at or near the office of the City Clerk for at least two weeks following published notice and a copy of the amendment or map must be made available for inspection at the office of the City Clerk.

C. Mailed Notice

When mailed notice is required, it must be in accordance with the following provisions:

1. The applicant will mail via first class mail notice no less than seven and no more than 20 days in advance of the scheduled hearing or meeting date to all property owners within 250 feet of all lot lines of the subject property, with the exception of area variances where notice will be mailed to all property owners within 100 feet of all lot lines of the subject property..
2. The notice must include the date, time, place, and purpose of such hearing or meeting, and the address of the subject property. When a zoning map amendment is proposed by the City, notification must also be mailed to the owner of the subject property.
3. Nothing in this section is intended to prevent the applicant or the City from giving additional notice as he/she may deem appropriate. Applicants are encouraged to provide additional courtesy notice to the tenants of all properties noticed in item 1 above.

4. Prior to the public hearing or meeting, the applicant must submit a confirmation of the mailed notice by obtaining a certificate of mailing provided by the US Postal Service.

D. Posted Notice

When posted notice is required, it must be located on the subject property in accordance with the following provisions:

1. The applicant must install a required sign, in compliance with City standards for such posted notice. Prior to the hearing or meeting, the applicant is responsible for filing an affidavit with the City Clerk confirming posting of notice.
2. The required posting period must be no less than seven days and no more than 20 days in advance of the scheduled hearing date.
3. The sign must be posted at a prominent location on the property, near the sidewalk or public or private right-of-way so that it is visible to pedestrians and motorists.
4. Properties with more than one street frontage are required to post one sign visible on each street frontage.
5. Posted signs may be removed the day following the scheduled hearing date.

E. Agency Notice

1. Intermunicipal Notification

Pursuant to General Municipal Law Section 239-nn, if the land involved in an application listed in this section lies within 500 feet of the boundary of another municipality, the City Clerk must submit a copy of the official notice of the public hearing to the municipal clerk of the other municipality at least ten days prior to the public hearing. These applications are as follows:

- a. Special use
- b. Amendment
- c. Planned unit development: development plan
- d. Site plan review
- e. Subdivision
- f. Variances – Use and Area

2. Housing Authority Property

For land use board applications affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law, written notice must be given to the Housing Authority at least 30 days prior to the public hearing. These applications are as follows:

- a. Amendment
- b. Planned unit development: development plan
- c. Site plan review

F. Substantial Compliance

Failure to provide notice in exact conformance with these requirements does not invalidate a decision, provided that the Land Use Board finds that substantial compliance has occurred.

Part I: Planning Board Applications

13.4 SPECIAL USE

A. Purpose

This Ordinance is based upon the division of the City into districts. Within each district the use of land and structures are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in a particular district or districts without consideration of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

B. Initiation

A petitioner may file an application to use his/her land for one or more of the special uses authorized within the zoning district. A petitioner may only propose a special use for property under his/her control.

C. Authority

The Planning Board will take formal action on special use applications.

D. Procedure

1. Referral to Saratoga County Planning Board

a. Any proposed special use application that meets the referral requirements of General Municipal Law Section 239-m will be referred to the Saratoga County Planning Board for its review prior to the public hearing. No action will be taken by the Planning Board 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 denial of a proposed action, the Planning Board cannot act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

2. Action by Planning Board

a. Upon receipt of a complete application, the Planning Board will consider the special use at a public hearing.

b. The Planning Board may request an advisory opinion of the Design Review Board or any administrative department or agency in its evaluation of a special use permit.

c. The Planning Board must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section.

d. Site plan review is required as part of special use permit review and approval as follows:

i. The Planning Board will conduct site plan review as part of special use approval. Such review may occur concurrent with or subsequent to special use permit review. Separate applications and application fees are required for site plan review.

ii. 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.

e. In rendering its decision on any application, the Planning Board must comply will all applicable provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

f. Within 62 days of the close of the public hearing, unless extended by mutual consent of the applicant and Planning Board, the Planning Board will render its decision on the special use permit. The Planning Board must either approve, approve with conditions, or deny of the special use. Four affirmative votes are required to pass a motion regarding an application before the Planning Board.

g. Every special use permit decision must be signed and dated by the Chairperson and must document the circumstances of the application and the findings on which the decision is based.

h. Every special use decision must 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.

3. Conditions on Special Uses

a. The Planning Board has the authority to impose such reasonable conditions and restrictions as are directly related, and incidental, to the proposed special use permit. Upon its granting of said special use permit, any such condition must be met in connection with the issuance of permits by the City.

b. As a condition of approval of a special use permit, the Planning Board may require a letter of credit or equivalent security approved by the City to guarantee satisfactory performance of all required improvements or conditions.

c. As a condition of approval of a special use permit, the Planning Board may assign a timeframe for renewal of the special use permit.

E. Approval Standards

The listing of a use as a special use within a zoning district does not constitute an assurance or presumption that such special use will be approved. Rather, each special use must be evaluated on an individual basis, in relation to all applicable standards of this Ordinance. Such evaluation will determine whether approval of the special use is appropriate at the particular location and in the particular manner proposed. The Planning Board will consider in its decision:

1. The special use in the specific location proposed is consistent with the Comprehensive Plan and associated adopted land use policies, and the spirit and intent of this Ordinance.
2. The proposed special use will not endanger the public health, safety, or welfare.
3. The density, intensity and compatibility of the use with the neighborhood and community character.
4. Safe and efficient pedestrian and vehicular access, circulation and parking.
5. Existing and future demand on infrastructure, public facilities and services.
6. The environmental and natural resources of the site and neighboring lands including any potential erosion, flooding or excessive light, noise, vibration and the like.

F. Modifications to Approved Special Uses

Any amendment to an approved special use permit must follow the application, hearing, and approval process required for a new special use permit. However, the Planning Board Chairperson has the authority to approve minor modifications to existing special use 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 must issue all administrative approvals in writing and report them to the Planning Board in a timely manner.

G. Expiration

A special use approval expires if any one of the following conditions occurs and no request for an extension of the special use approval is pending.

1. When an approved special use is changed to another use.
2. For special uses approved in conjunction with new construction or additions or enlargements to an existing structure, the special use approval expires within 18 months of the date of approval if a building permit has not been issued.
3. For special uses approved in conjunction with an existing structure or on lot where no structure is planned, the special use approval expires within 18 months of the date of approval if the licenses or permits required for the operation or maintenance of the use have not been obtained.

4. When the special use has been abandoned for a continuous period of 12 months and has not been actively marketed for sale during that period. To be considered actively marketed, all equipment, building design, and similar use infrastructure must be maintained in working condition during the marketing period.

13.5 SITE PLAN REVIEW

A. Purpose

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 site plan review 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.

B. Authority

The Planning Board will conduct site plan review as required by this Section.

C. Required Site Plan Review

No zoning approval or building permit may be issued until site plan approval has been granted. In addition, all other requirements of all other applicable City codes and ordinances must be met. This Ordinance provides for two types of site plan review.

1. Exemptions

Single-family and two-family dwellings are exempt from site plan review.

2. Administrative Site Plan Review

Administrative site plan review requires the approval of the Chair of the Planning Board, or his/her designee, with the Planning Department Staff. The Chair of the Planning Board has the ability to forward an application for administrative site plan review to the full Planning Board for approval. The following may be subject to administrative review:

- a. Additions or expansions of existing developments of 25% or less of the total gross floor area for townhouse, multi-family, and nonresidential developments. This does not include parking structures, which are subject to site plan review by the Planning Board.
- b. A change of use for a permitted use that creates an increase in intensity. An increase in intensity is defined in this circumstance as an increase in required parking or a development action that will increase the amount of impervious surface on the site.
- c. Co-location of telecommunication facilities.
- d. Parking lots of less than 20 spaces.
- e. The installation of bicycle parking spaces when not part of another application, such as special use.

3. Site Plan Review

Site plan review requires the approval of the Planning Board. The following are subject to Planning Board site plan review:

- a. Special uses, unless waived by the Planning Board as part of special use approval.
- b. Use variances.
- c. New construction or demolition of townhouse, multi-family, and nonresidential developments, including parking structures.
- d. Additions or expansions of existing developments of more than 25% of the total gross floor area for townhouse, multi-family, and nonresidential developments.
- f. Any additions or expansions to parking structures.
- g. Development, including additions or expansions, in steep slope areas per Section 9.2.

- h. Utilization of the height bonus provisions within the NC and UC Districts.
- i. Food truck parks when a permitted use.
- j. Outdoor dining when a permitted use.
- k. Parking lots of 20 or more spaces.
- l. Amendments to prior site plan approvals.

D. Referral to Saratoga County Planning Board

1. Any proposed site plan that meets the referral requirements of General Municipal Law Section 239-m will be referred to the Saratoga County Planning Board for its review prior to the public hearing. No action will be taken by the Planning Board 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.
2. If the Saratoga County Planning Board recommends modification or denial of a proposed action, the Planning Board cannot act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

E. Administrative Site Plan Review Procedure

1. The Chair of the Planning Board with Planning Department Staff will review and evaluate the application, pursuant to the standards of this section and the Ordinance, and approve, approve with conditions, or deny the plan.
2. If the Chair approves the site plan subject to certain conditions, all plans and drawings to be submitted as part of the application for a building permit or zoning approval must include those conditions.
3. If the Chair denies site plan approval or approves with conditions, the applicant may appeal the decision to Planning Board within 30 days of the date of the final decision.
4. Every site plan notice of decision must be signed and dated by the Chair and must document the circumstances of the application and the findings on which the decision is based.
5. Every site plan review decision must 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.

F. Site Plan Review Procedure

1. 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. The applicant may attend a Planning Board meeting to discuss the proposed project and satisfaction of the requirements of this Ordinance. Unless authorized by the Planning Board, the applicant is limited to two sketch plan discussions.
2. The Planning Board will review and evaluate the application, pursuant to the standards of this section and the Ordinance, and approve, approve with conditions, or deny the site plan. The Planning Board will approve, approve with conditions, or deny the site plan within 62 days of the final public meeting conducted by the Planning Board on the application.
3. The Planning Board may request an advisory opinion of the Design Review Board or any administrative department or agency in its evaluation of a site plan application.
4. In rendering its decision on any application for site plan review, the Planning Board must comply will all applicable provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
5. The Planning Board has the authority to approve, approve with conditions, or deny site plans and may impose such reasonable conditions, easements, covenants, and restrictions as are directly related, and incidental, to the proposed site plan.

6. The Planning Board may recoup from an applicant costs incurred by the City for consultation fees, special studies, or other expenses in connection with the review of a proposed site plan.
7. Four affirmative votes are required to pass a motion regarding an application before the Planning Board.
8. Every site plan notice of decision must be signed and dated by the Chairperson and must document the circumstances of the application and the findings on which the decision is based.
9. Every site plan review decision must 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. Public Improvements and Public Realm Design

1. The following public improvements are required, as applicable, and must be constructed and designed in accordance with Article 15 of this Ordinance.
 - a. Section 15.3 (Natural Land Characteristics)
 - b. Section 15.6 (Infrastructure Improvements)
 - c. Section 15.7 (Utilities and Utility Easements)
2. Stormwater management is required per Article 17 of this Ordinance.
3. If required, improvements to the public realm must be constructed and designed in accordance with Article 18 of this Ordinance.

H. Landscape Plan

1. Landscape Plan Required

A landscape plan is required as part of site plan review unless exempted by the Chair of the Planning Board or the Planning Board. A landscape plan for a planned unit development and or parking lot of 15 or more spaces must be prepared by a licensed architect or landscape architect.

2. Content of Landscape Plan

The following is required within the landscape plan, unless waived by the Chair of the Planning Board or the Planning Board prior to submittals of the site plan application. For areas of landscape plans within the right-of-way, those requirements to be waived require Department of Public Works approval.

- a. The location and dimensions of all existing and proposed structures, lot lines, easements, parking lots and drives, rights-of-way, refuse disposal and recycling areas, pedestrian and bicycle paths, fences, mechanical equipment, overhead utility wires, underground utilities within the right-of-way, traffic signs, fire hydrants, and drainage facilities.
- b. The location, quantity, size, name, and condition, both botanical and common, of all existing plant materials on-site, indicating plant material to be retained and removed. The location, quantity, size, and name, both botanical and common, of all proposed plant material.
- c. A separate list of trees being retained, removed, and proposed to be planted within the right-of-way.
- d. The existing and proposed grading of the site indicating contours at one foot intervals. Proposed berming must also be indicated using one foot contour intervals.
- e. Elevations of all proposed fences, stairs, and retaining walls.
- f. Any other details as determined necessary by the Chair of the Planning Board or the Planning Board.

3. Changes to Approved Landscape Plans

Changes to an approved landscape plan that do not result in a reduction in the net amount of required plant material may be approved by the Zoning Officer. Any changes within the right-of-way require Department of Public Works approval.

4. Enforcement

a. No final certificate of occupancy will be issued until all the requirements of this Article and the landscape plan have been fulfilled. Failure to implement the landscape plan, or to maintain the lot in conformance with the landscape plan, may result in the application of fines and penalties, as established in this Ordinance. All landscape is subject to periodic inspection.

b. If weather prohibits the installation of landscape at the time a final certificate of occupancy is applied for, a temporary certificate of occupancy may be issued for a six month period with provision of a letter of credit or escrow for 125% of the estimated amount, including installation.

H. Approval Standards

The following will be evaluated in the review of site plans:

1. Conformity with the regulations of this Ordinance and any other applicable regulations of the City Code, and the City's Comprehensive Plan and adopted land use policies.
2. Location, arrangement, size, design and general site compatibility of buildings and sign structures.
3. Adequacy and arrangement of vehicular traffic access and circulation including intersections, road widths, pavement surfaces, dividers and traffic controls.
4. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
5. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
6. Adequacy of stormwater and drainage facilities with attention to impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.
7. Adequacy of water supply including pressure and quantity.
8. 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.
9. Adequacy and arrangement of on-site and off-site illumination.
10. Adequacy, type, size, and arrangement of trees, shrubs and other landscaping. Parking, service areas, and loading and maneuvering areas must be landscaped and screened from neighboring areas.
11. Adequacy of fire lanes and other emergency zones; location and arrangement of fire hydrants, standpipes, and other fire safety facilities.

I. Final Site Plan Approval and Expiration

1. No site disturbance may occur prior to signature of the final plans by the Planning Board Chairperson.
2. The following requirements must be satisfied prior to the review and approval of final site plans by the Planning Board Chairperson:
 - a. Review and approval of construction details and final site plans by the City Engineer.
 - b. When required, submittal of a performance guarantee as required by Section 16.10.
 - c. Documentation of conformance with all required approval conditions.
 - d. Proof of payment for all required fees.
3. 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 filing date of the Board's written decision. The signed site plan must be filed in the Office of Planning and Economic Development.

4. Regardless of the terms of any properly issued building permit, final site plan approval expires 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.

5. 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.

J. Effect of Approval

1. After site plan approval, the property must be developed in accordance with the approved site plan. Violation of any condition is a violation of this Ordinance.
2. Site plans may be subject to performance guarantees as per Section 15.9.
3. Inspections are required as per Section 15.10.

K. Modifications to Approved Site Plans

The Planning Board Chairperson has 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 must issue all administrative approvals in writing and report them to the Planning Board.

13.6 WATERCOURSE ACTIVITY PERMIT

A. Purpose

A watercourse activity permit is required within the Watercourse Protection District, as defined in Section 7.1.E, to protect City watercourses and adjacent lands to enhance recreational and visual amenities, minimize sedimentation and erosion, reduce excessive flooding, prevent degradation or loss of stream-related wetlands, flora and fauna, and control watercourse pollution.

B. Authority

For all activities that require a watercourse activity permit, application will be made directly to the Planning Board or as a referral by the Zoning Officer. To the extent practicable, the Planning Board will coordinate review of the watercourse activity permit with associated subdivision or site plan review applications.

C. Procedure

1. Applications for watercourse activity permits must be on forms prescribed by the Planning Board, and include required plans and details, accompanied by the required fee.
2. In its review, the Planning Board may approve the application if it finds that there is no reasonable alternative, and that issuance of the permit will not violate the intent of the Watercourse Protection District.
3. The Planning Board may require a performance guarantee to ensure that all necessary erosion and sediment control measures are completed and maintained adequately.

D. Expiration and Extensions

1. Unless otherwise specified or extended by the Planning Board, a watercourse activity permit expires 18 months following the decision if the applicant has not complied with any required conditions and has not begun actual construction, or otherwise implemented this approval.
2. The Planning Board may grant up to two 18 month extensions for an approved watercourse activity permit provided that the application was properly submitted prior to the expiration date of either the original watercourse activity permit or the first extension. When requesting an extension, it is 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.

13.7 LAND DISTURBANCE ACTIVITY PERMIT

A. Purpose

This section is intended to protect the City's natural environment by minimizing the adverse effects which site preparation and associated construction activities may have on soil, water, and vegetative resources.

B. Authority

For all activities that require a land disturbance activity permit, application may be made directly to the Planning Board or as a referral by the Zoning Officer. To the extent practicable, the Planning Board shall coordinate review of the land disturbance activity permit with associated subdivision or site plan review applications.

C. Applicability

A land disturbance activity permit is required before undertaking the following activities:

1. Within the RR District: Any activity affecting 1.5 or more acres that changes the natural topography, removes or disturbs the topsoil, or removes more than 15% of trees over four inches in diameter at breast height (dbh).
2. Other Districts: Any activity affecting 0.5 or more acres that changes the natural topography, removes or disturbs the topsoil or removes more than 15% of trees over four inches in diameter.
3. The following activities are exempt from permit:
 - a. Agricultural activities directly related to the production of crops or livestock, excluding timber harvesting.
 - b. Forest management practices or noncommercial tree cutting for firewood that does not remove more than 15% of trees over four inches in diameter.
 - c. Authorized governmental activities.
 - d. Bona fide emergencies.

D. Procedure

1. Applications for land disturbance activity permits must be on forms prescribed by the Planning Board, and include a soil erosion and sediment control plan (basic SWPPP - see Section 18.5.A) accompanied by the required fee. The Planning Board may waive the fee if review is conducted in association with subdivision or site plan review.
2. In its review, the Planning Board may approve the application if it finds that the soil erosion and sediment control plan will adequately minimize the impact of the proposed land disturbance activity upon the City's land and water resources.
3. A soil erosion and sediment control plan must include a sketch plan that fully identifies the proposed activity, extent of soil and vegetative alterations or tree harvesting, and the land protection and structural soil conservation measures to minimize soil erosion and sediment loss. Such plan should be at a scale of 1" = 100' and include the following:
 - a. General topographic data, soil conditions, and vegetative cover type.
 - b. All watercourse, wetlands, rock outcrops and other important land features (including all 100 year federally designated flood hazard and New York State regulated wetlands).
 - c. The location of all proposed public utilities including water supply, sewerage, and stormwater drainage facilities to be constructed.
 - d. Any other information that the Planning Board may deem necessary for review of the project.
4. The Planning Board may require a performance guarantee to ensure that all necessary erosion and sediment control measures are completed and maintained adequately. The amount of the letter of credit, or other financial security, will not exceed \$1,000 per acre.

5. Unless waived by the Planning Board, construction inspections by the Storm Water Management Officer, or designee, are required for all land disturbance activity permits.

6. Unless waived by the Planning Board, upon completion of the approved activity an as-built drawing must be filed with the Planning Board.

E. Expiration and Extensions

1. Unless otherwise specified or extended by the Planning Board, a land disturbance activity permit expires 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started the activity, or otherwise implemented this approval.

2. The Planning Board may grant up to two 18 month extensions for an approved land disturbance activity permit provided that the application was properly submitted prior to the expiration date of either the original land disturbance activity permit or the first extension. When requesting an extension, it is 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.

13.8 TEMPORARY USE PERMIT - PLANNING BOARD APPROVAL

A. Purpose

1. A temporary use permit allows for the short-term use and/or placement of temporary structures on a lot. There are two levels of approval of temporary use permits - approval by the Planning Board and approval by the Zoning Officer, as stated within Section 8.5.

2. The temporary use permit regulates temporary uses that occur entirely on and within a lot. Temporary uses located within the public right-of-way are regulated separately by the City Code.

B. Authority

The Planning Board, based upon a recommendation of the Zoning Officer, will review and make final decisions on temporary use permit applications as required by Section 8.5.

C. Procedure

The Planning Board will render a decision on the temporary use permit within 30 days of the date of receipt of the Zoning Officer's recommendation. The Planning Board must review and evaluate the application, pursuant to the standards of this section, and approve, approve with conditions, or deny the application.

D. Approval Standards

All temporary uses must comply with the requirements of this Ordinance, including the temporary use standards of Section 8.5, and the following standards:

1. The temporary use does not adversely impact the public health, safety, and welfare.
2. The temporary use is operated in accordance with any restrictions and conditions as the Police and Fire District, or other City officials, may require.
3. The temporary use does not conflict with another previously authorized temporary use.
4. The temporary use provides adequate parking if needed. If located on a lot with an operational principal use, does not impact the parking and site circulation of the principal use.

E. Expiration

The temporary use permit is valid for the time period granted as part of the approval.

Part II: Design Review Board Applications

13.9 DESIGN REVIEW

A. Historic Review and Architectural Review Overlay Districts

This section provides the process for Design Review Board review within the Historic Review and Architectural Review Overlay Districts.

B. Purpose

1. Historic Review

It is hereby declared that the protection, enhancement, and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural, educational, and general welfare of the public. The City of Saratoga Springs has many significant historic, landscape, architectural, and cultural resources that constitute its heritage, therefore the historic review process is intended to:

- a. Protect and enhance the landmarks and historic districts which represent distinctive elements of the City's historic, architectural and cultural heritage.
- b. Foster civic pride in the accomplishments of the past.
- c. Protect and enhance the City's attractiveness to visitors thereby providing support and stimulus to the economy.
- d. Ensure the harmonious, orderly and efficient growth and development of the City.

In keeping with this intent, the City hereby establishes a coordinated and comprehensive approach to preserve City Landmarks and Historic Districts, and the procedure for maintaining architectural standards in the construction, alteration and removal of buildings and landscapes within these areas.

2. Architectural Review

The City finds that appropriate architectural design and the consistent quality of building exteriors directly contribute to the positive value of real property, the enhancement of community character, and the health, safety, and general welfare of the City's residents. Therefore, the intent of this section is to provide architectural standards for the construction, maintenance, and enhancement of structures within designated areas of the City.

C. Authority

1. The Design Review Board reviews and approves historic review and architectural review applications.
2. The Design Review Board will promote the following objectives in the Historic Review Overlay District:
 1. To prevent the demolition or destruction of significant structures, terrain, landscape, or scenic views.
 2. To eliminate existing incongruous structures or other blighting factors and prevent the creation of any new such conditions.
 3. To preserve and enhance the historic context and setting within the Historic District.
 4. To assure architectural compatibility such as aesthetic, historical and architectural values, architectural style, design, arrangement, texture, material, and color.
 5. To encourage and maintain appropriate protective restrictions such as easements, covenants, or similar agreements.
 6. To improve the integrity of the Historic Districts through economic and other incentives.

D. Applicability

1. Historic Review Applicability

The following actions are subject to historic review when occurring on City Landmarks and within Historic Review Overlay Districts:

- a. Construction, rehabilitation, alteration, or exterior change to a structure that requires the issuance of a building or demolition permit.
- b. Installation of an awning, sign, or sign structure that requires a building or sign permit, or such modification with respect to size, materials, illumination, method of attachment, and color.
- c. Installation of telecommunications facilities.
- d. Regardless of the requirement for a building or demolition permit, any material change to the exterior appearance of a structure that affects the historical characteristics and context of the district including:
 - i. Addition or removal of exterior architectural features.
 - ii. Installation, removal, or change of materials on exterior building elements including but not limited to roof, siding, windows, doors, porches, and the like.
 - iii. Enclosure or screening of building openings including but not limited to windows, doors, porches, and the like.
 - iv. Installation of accessory utility, mechanical or miscellaneous structures to the exterior of a building including but not limited to mechanical equipment, solar panels, wind turbines, radio or satellite transmission/reception devices, and the like.
- e. The following actions within a front yard setback:
 - i. Installation, removal, or change in material of driveways or walkways
 - ii. Installation or removal of architectural, sculptural, or vegetative screening that exceeds three feet in height.
 - iii. Installation of accessory utility structures or radio/satellite transmission/reception devices of two feet or more in diameter.
- f. Change of the exterior color of any structure within a nonresidential zoning district.
- g. Additional actions as set forth in item 1.4 below occurring on or to a City Landmark.
- h. The following actions are exempt from historic review:
 - i. Ordinary maintenance or repair of any exterior feature that does not involve a change in design, material, color, or outer appearance.
 - ii. Installation of accessory freestanding objects including but not limited to sculpture, tree houses, play equipment, clocks, fountains, flagpoles, basketball hoops, and the like.
 - iii. Installation of Individual air conditioning units, and radio or satellite antennas/receivers less than two feet in diameter.

2. Applicability

The following actions are subject to architectural review by the Design Review Board when occurring within the Architectural Review Overlay District:

- a. Construction, renovation, alteration, or exterior change to a structure that requires the issuance of a building or demolition permit.

- b. Installation of an awning, sign or sign structure that requires a building or sign permit, or such modification with respect to size, materials, illumination, method of attachment, and color.
- c. Change of the exterior color of any structure within a nonresidential district.
- d. Installation of telecommunications facilities.
- e. The following actions are exempt from architectural review:
 - i. Ordinary maintenance or repair of any exterior feature that does not involve a change in design, material, or outer appearance.
 - ii. Any action having received historic review approval.

E. Procedure

1. General

- a. The Planning Department Staff will refer to the Design Review Board all actions identified in this Article that require historic or architectural review approval. The Design Review Board will not accept any application for review that includes a lot for which there is an outstanding, unresolved written violation from the Staff that is not the subject of the application.
- b. An eligible applicant for historic or architectural review approval must be the owner, lessee or purchaser under contract for the involved parcel. A lessee and purchaser under contract must have the permission of the current property owners to submit an application for historic or architectural review approval.
- c. All applicable fees must be paid.
- d. In rendering its decision on any application, the Design Review Board must comply with all applicable provisions of the State Environmental Quality Review Act (SEQRA) and its implementing regulations.

2. Process

- a. Within 62 days of the determination by the Design Review Board that the application is complete, or the close of the public hearing, a written decision must be issued. This time frame may be extended by mutual consent of the applicant and the Design Review Board.
- b. Four affirmative votes are required to pass a motion regarding an application before the Design Review Board. If four affirmative votes cannot be attained on a motion within this 62day period, unless extended by mutual consent of the applicant and the Design Review Board, the application is denied by default.
- c. The Design Review Board may request an advisory opinion of the Planning Board or any administrative department or agency in its evaluation of an application for historic review.
- d. The Design Review Board may approve as submitted or approved with conditions. The Design Review Board may impose appropriate conditions in connection with its approval including those related to nature and quality of building materials, manner of construction, and design and other building elements. The Design Review Board may also deny an application provided the Board finds that such construction, alteration, or demolition would be in opposition to the intent and objectives of this section, and that the finding is not based on personal preference as to taste or choice of architectural style.
- f. Prior to the granting of final approval by the Design Review Board, an applicant may seek preliminary approval for the general mass and scale of a proposed structure. This preliminary approval is subject to a SEQRA determination and constitutes approval of the footprint and proportions of the proposed structure, including any proposed rooftop structures, and its compatibility with the surrounding neighborhood. Preliminary approval does not constitute approval of elevations and other façade and roofline details. Unless noted within the preliminary approval, an applicant must obtain final approval by the Design Review Board prior to issuance of a building permit.
- g. Every Design Review Board decision must be signed and dated by the Board Chairperson and document the circumstances of the case and the findings on which the decision is based.

h. The Design Review Board decision will be filed in the Office of the City Clerk within five business days of the decision and a copy provided to the applicant and to the Building Department.

i. The Design Review Board Chairperson has the authority to approve minor modifications to existing Design Review Board 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 Design Review Board Chairperson must issue all administrative approvals in writing and report them to the Design Review Board.

3. Permits

a. Upon approval of historic or architectural review and confirmation of compliance with any required conditions, the Building Department may issue building, sign, or demolition permits associated with the application. No building, sign, or demolition permit will be issued in the event of a denial.

b. For actions subject to historic or architectural review but not requiring a building, sign, or demolition permit, the Building Department will perform inspections as necessary to confirm compliance with Design Review Board approval and any required conditions.

c. Upon confirmation of the completion of an approved action requiring historic or architectural review, and any required conditions, the Building Department may issue a certificate of occupancy.

F. Historic Review Approval Standards

1. Historic Review

The following standards apply to review of historic review applications:

a. Preserve Rather Than Remove

Distinguishing original features of a structure or site are essential to the historic quality and character of that site. Distinguishing original qualities or character of a structure, site, and/or its environment must be preserved and protected to the maximum extent possible. Destruction or alteration of any historic material or distinctive architectural feature should be avoided.

b. Repair Rather Than Replace

Distinctive architectural features that characterize a structure or site must be repaired rather than replaced whenever possible. If replacement is necessary, the replacement materials should match the original in composition, design, color, texture, and other visual qualities.

c. Promote Historical Accuracy

Repair or replacement of architectural features should be based on historical evidence rather than on conjectural designs or the incorporation of elements from other structures.

d. Recognize Significance of Historical Time Periods

Structures and sites should be recognized and preserved as products of specific historical period(s). Changes that occurred over time are evidence of the history and development of a structure or site and may have acquired historical significance in their own right.

e. Compatible Contemporary Design

Contemporary design for alterations and additions to existing properties may be encouraged provided it does not destroy significant historical, architectural, or cultural material and is compatible with the size, scale, color, material, and character of the site or surrounding neighborhood. Incompatible alterations shall be discouraged.

f. Structures and Sites Treated with Sensitivity

Archaeological resources affected by any project must be protected and preserved to the maximum extent possible. Activities that will damage historic building materials or site features shall be discouraged. Historic structures are to be cleaned with the gentlest means possible.

2. Design Considerations

For actions subject to review, the Design Review Board will evaluate whether the proposed alteration or construction is compatible with the subject structure, site, and neighboring properties in the historic district with regard to:

a. Height

The Design Review Board must consider whether the height of the proposed structure is compatible with the historic form and context of the site and neighboring properties and with any specific zoning district intent.

b. Scale

The Design Review Board must consider whether the scale of the proposed structure is compatible with the relationship of the building and its architectural elements to neighboring structures, and character of historic setting.

c. Mass and Open Space

The Design Review Board must consider whether the relationship of the dimension and mass of a building to the open space between it and adjoining buildings is compatible with the character of the neighboring area and with any specific zoning district intent.

d. Proportion

The Design Review Board must consider whether the proposed structure and its architectural elements, including front façades, windows, doors, and bays, are consistent with the dominant proportion of neighboring structures and site.

e. Directional Expression

The Design Review Board must consider whether the directional expression of a building and its architectural elements are compatible with the dominant horizontal or vertical expression of the neighboring buildings.

f. Architectural Rhythm

The Design Review Board must consider whether the architectural, rhythmic pattern resulting from repeated elements such as window and door openings, columns, arches, and other facade elements is consistent within the subject structure and consistent with neighboring structures.

g. Front Setback

The front setback for the building line of all new construction must be compatible with neighboring buildings and any specific zoning district intent.

h. New Construction and Additions

New construction and additions should be undertaken such that their removal will not impair the original historic form and integrity of the structure and site.

i. Treatment of Major Building Elements

i. Doors

Existing historic doors and door openings must be retained and rehabilitated whenever possible. Restoration of historic openings is encouraged where previously altered. Where doorways must be altered to meet current building code and safety requirements, doors and entrance ways must be designed to respect the exterior architectural character of the building.

ii. Windows

Existing historic windows and window openings must be retained and rehabilitated whenever possible. Restoration of historic openings is encouraged where previously altered.

iii. Roofs

Features that give a roof its essential historic and architectural character must be retained and rehabilitated whenever possible. Roof designs for new structures must be compatible with neighboring buildings. Exterior mechanical equipment must be minimized and screened from view.

j. Materials

Materials used in new construction must be compatible with those traditionally used in the neighboring area. Contemporary materials are acceptable provided that the overall texture, color, and details of the building are compatible with neighboring buildings.

k. Colors

Architectural features of historic buildings must be restored with colors and finishes appropriate to the nature of the materials and to the historic character of the building. Where historically documented colors are not used, colors must be appropriate to the building's predominant architectural style(s). Colors used in new construction must be compatible with neighboring buildings.

G. Architectural Review Approval Standards

the Design Review Board must evaluate whether the proposed alteration or construction is compatible with the subject structure, site, and neighboring properties in the architectural review overlay district with regard to:

1. Height

The Design Review Board must consider whether the height of the proposed structure is compatible with the historic form and context of the site and neighboring properties and with any specific zoning district intent.

2. Scale

The Design Review Board must consider whether the scale of the proposed structure is compatible with the relationship of the building and its architectural elements to neighboring structures and community character.

3. Mass and Open Space

The Design Review Board must consider whether the relationship of the dimension and mass of a building to the open space between it and adjoining buildings is compatible with the character of the neighboring area and with any specific zoning district intent.

4. Proportion

The Design Review Board must consider whether the proposed structure and its architectural elements, including front façades, windows, doors, and bays, are consistent with the dominant proportion of neighboring structures and site.

5. Directional Expression

The Design Review Board must consider whether the directional expression of a building and its architectural elements are compatible with the dominant horizontal or vertical expression of the neighboring buildings.

6. Architectural Rhythm

The Design Review Board must consider whether the architectural, rhythmic pattern resulting from repeated elements such as window and door openings, columns, arches, and other facade elements is consistent within the subject structure and consistent with neighboring structures.

7. Front Setback

The front setback for the building line of all new construction must be compatible with neighboring buildings and any specific zoning district intent.

8. New Construction and Additions

New construction and additions should be undertaken such that their removal will not impair the original historic form and integrity of the structure and site.

9. Treatment of Major Building Elements

a. Doors

Existing historic doors and door openings must be retained and rehabilitated whenever possible. Restoration of historic openings is encouraged where previously altered. Where doorways must be altered to meet current building code and safety requirements, doors and entrance ways must be designed to respect the exterior architectural character of the building.

b. Windows

Existing historic windows and window openings must be retained and rehabilitated whenever possible. Restoration of historic openings is encouraged where previously altered.

c. Roofs

Features that give a roof its essential historic and architectural character must be retained and rehabilitated whenever possible. Roof designs for new structures must be compatible with neighboring buildings. Exterior mechanical equipment shall be minimized and screened from view.

10. Materials

Materials used in new construction must be compatible with those traditionally used in the neighboring area. Contemporary materials are acceptable provided that the overall texture, color, and details of the building are compatible with neighboring buildings.

11. Colors

Colors used in new construction must be compatible with neighboring buildings. Architectural features of historic buildings must be restored with colors and finishes appropriate to the nature of the materials and to the historic character of the building. Where historically documented colors are not used, colors must be appropriate to the building's predominant architectural style(s).

H. Demolition

1. General

- a. The Design Review Board must determine whether the proposed structure has architectural or historic significance.
- b. Significance includes having particular important associations within the context of the architecture, history, or culture of Saratoga Springs or region and may include listing as contributing on the State and National Registers of Historic Places.

2. Structures with No Architectural or Historic Significance

The Design Review Board may approve an application for demolition if it finds that the demolition is consistent with the intent and objectives of this Section and that the structure proposed to be demolished has no historic or architectural significance.

3. Process (Demolition of Structures with Architectural or Historic Significance)

- a. For the proposed demolition of a structure with architectural or historical significance, the applicant must demonstrate good cause as to why such structure cannot be preserved. The applicant must provide the following:
 - i. The applicant must document good faith efforts in seeking an alternative that will result in the preservation of the structure including consultation with the Design Review Board and the Saratoga Springs Preservation Foundation. The relocation of structures may be permitted as an alternative to demolition.
 - ii. The applicant must document efforts to find a purchaser interested in acquiring and preserving the structure.
 - iii. The applicant must demonstrate that the structure cannot be adapted for any other permitted use, whether by the current owner or by a purchaser, which would result in a reasonable return.
 - iv. The applicant must submit evidence that the property is not capable of earning a reasonable return regardless of whether that return represents the most profitable return possible. "Dollars and cents proof" is required to demonstrate such hardship.
 - v. Application for demolition of a structure with historic or architectural significance must include acceptable post-demolition plans for the site. Such plans include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project. The Design Review Board may condition the issuance of a demolition approval on the applicant's receipt of all other necessary approvals and permits for the post- demolition plan.
- b. The Design Review Board will schedule a public hearing on an application for demolition of a structure with historic or architectural significance. Notice is required as follows.

3. Determination of Jeopardy to Health, Safety and Welfare of Community

- a. In cases where an applicant has sought demolition approval on the basis that a structure represents an imminent danger to the health, safety, and welfare of the community, the Design Review Board will refer the application to the Building Inspector for review and report pursuant to City Code Section 118 Unsafe Structures.
- b. The Building Inspector's report is advisory to the Design Review Board.
- c. The Design Review Board will review the Building Inspector's report and make a determination that the structure can or cannot reasonably be repaired in such a way as to remove the imminent danger.

4. Demolition of Historic Structures by City

- a. The City, through its Code Enforcement Officers or other appropriate municipal officials, may seek demolition of a structure listed individually or as a contributing structure in an historic district on the National Register of Historic Places in New York Supreme Court under N.Y. Executive Law 382.
- b. Prior to filing such an application, the matter must be referred to the Design Review Board for an advisory opinion as to whether the structure can or cannot be reasonably repaired in such a way as to remove the cause for demolition.
- c. The Design Review Board has 30 days to render a written advisory opinion unless extended by mutual consent. The City may also seek advisory recommendations from local preservation organizations.

5. Emergency Demolition

Should the Building Inspector determine that a structure is unsafe or hazardous and an imminent hazard to public safety for a reason such as being in danger of imminent collapse from damage caused by human action or an act of God, a committee consisting of the Building Inspector, Fire Marshal, Planning Department Staff, and the Chair of the Design Review Board, or his/her designee, will convene immediately to evaluate whether the structure should be demolished. The committee will evaluate all pertinent information including, but not limited to, the structural condition of the structure, the historic value of the structure, and the danger to the public. The Building Inspector may order partial or full demolition based on the consensus of the committee. If the Building Inspector, in consultation with on-site life safety officials, determines that the structure is in danger of imminent collapse or is an immediate danger to public safety and there is no time to convene the committee, he/she may order the structure demolished immediately. The Building Inspector will issue a report to the Design Review Board stating the reasons for the order.

6. Court Action

The Design Review Board has no authority to act otherwise in cases where an appropriate legal action or procedure has resulted in a judgment or order by a Court of competent jurisdiction that a structure endangers the health, safety, and welfare of the public and must be demolished.

I. Designation of Landmarks and Historic Districts

1. Designation

Any proposed designation of landmarks or historic districts constitutes an amendment to this Ordinance and is subject to all public hearing, property owner notification, and other applicable provisions of this Ordinance.

- a. Once the City Council has accepted for review a proposed designation, no building or demolition permits will be issued until the City Council has made its designation determination.
- b. Prior to action on a proposed designation, the City Council must request an advisory opinion from the Design Review Board. The Design Review Board has 30 days to render a written advisory opinion unless extended by mutual consent. The opinion must contain a favorable recommendation only if the Design Review Board finds that the proposed revision is not contrary to the intent and objectives of this Article.

2. City Landmark Criteria

The City Council may designate an individual property as a landmark if it meets one or more of the following:

- a. Possesses special character or archeological, historic, or aesthetic interest or value as part of the cultural, political, economic, or social history of the locality, region, state, or nation.
- b. Is identified with historically significant individuals.
- c. Embodies the distinguishing characteristics of an architectural style.
- d. Is the work of a designer whose work has significantly influenced a particular architectural period or era.
- e. Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.

3. Historic District Criteria

The City Council may designate a group of properties as a Historic District if it meets one or more of the following:

- a. Contains properties that meet one or more of the criteria for designation of a landmark
- b. By reason of possessing such qualities, constitutes a distinct section of the City.

4. Designated City Landmarks

The City Council hereby establishes and designates the following City Landmarks:

- a. "Bryan House", 123-125 Maple Avenue, Tax I.D. 165.44-I-31
- b. "Drink Hall", 297 Broadway, Tax I.D. 165.67-I-24
Additional actions requiring review: removal or alteration of any interior feature. Only ordinary maintenance or repair of any interior feature is excluded from review.
- c. "Canfield Casino", East Congress Street, Tax I.D. 165.00-4-1
Additional actions requiring review: removal or alteration of any interior feature. Only ordinary maintenance or repair of any interior feature is excluded from review.
- d. "City Hall", 474 Broadway, Tax I.D. 165.52-4-37
Additional actions requiring review: removal or alteration of any interior feature. Only ordinary maintenance or repair of any interior feature is excluded from review.
- e. "Congress Park", Broadway, Tax I.D. 165.00-4-1
Additional actions requiring review: removal, addition or alteration of any park feature such as, but not limited to: Spit 'n' Spat, Italian Gardens, Thorsvalden vases, Spirit of Life and surrounding stonework and landscaping, Trask stairway, War Memorial and Pavilion, Civil War monument, Brackett gates, Congress Spring Pavilion, Columbian Pavilion, Deer Park Spring Pavilion, Morrissey Rose Garden Fountain, reservoir, iron fencing, wrought iron fence surrounding park, configuration of ponds, walks and roadways, topography, Colonial Revival information booth, 1920s era gateposts, street lights, the Grotto (including sundial, pillars and statuary), informational signage, urns by northern pond, trout pond, benches and other park furniture. Only ordinary maintenance or repair is excluded from review.
- f. "High Rock Park", High Rock Avenue, Tax I.D. 165.52-1-76, 165.44-2- lots 6, 22, 23, 24 and 25
Additional actions requiring review: removal, addition or alteration of any park feature such as structures, sculptures, monuments, pavilions, benches, topography, ponds, vegetation, fences, lights, walkways and roads. Only ordinary maintenance or repair is excluded from review.
- g. "Central Fire Station", 60 Lake Avenue, Tax I.D. 165.60-2-3
Additional actions requiring review: removal or alteration of any interior feature. Only ordinary maintenance or repair of any interior feature is excluded from review.
- h. "Gideon Putnam Cemetery", South Franklin Street, Tax I.D. 165.66-2-38

Additional actions requiring review: removal, addition alteration, or cleaning of any cemetery feature such as grave markers, structures, sculptures, monuments, pavilions, benches, topography, fences, lights, walkways and roads. Only ordinary maintenance or repair is excluded from review.

J. Prevent Deterioration in Historic Districts

No owner or person with an interest in real property designated as a city landmark or included within a historic district may permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Design Review Board, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include:

1. Deterioration of exterior walls or other vertical supports.
2. Deterioration of roofs or other horizontal members.
3. Deterioration of exterior chimneys.
4. Deterioration or crumbling of exterior stucco or mortar.
5. Ineffective waterproofing of exterior walls, roofs or foundations including broken windows or doors.
6. Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for the public safety.

K. Expiration and Extensions

1. Unless otherwise specified or extended by the Design Review Board, Board approvals expire 18 months following the filing date of the Board's written decision if the applicant has not complied with any required conditions and started actual construction, or otherwise implemented this approval. 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.
2. The Design Review Board may grant up to two 18 month extensions for historic review approval provided that the application for extension was properly submitted prior to the expiration date of either the original historic review approval or the first extension. When requesting an extension, it is the applicant's responsibility to demonstrate that there have been no significant changes to the site or neighborhood, and that the circumstances and findings of fact by which the original historic review approval was granted have not significantly changed.

Part III: Zoning Board of Appeals Applications

13.10 VARIANCES - AREA AND USE

A. Purpose

The purpose of the variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships.

B. Initiation

A petitioner may only propose a variance for property under his/her control.

C. Authority

The Zoning Board of Appeals will take formal action on variances.

D. Procedure

1. Action by Zoning Board of Appeals

- a. Upon receipt of a complete application, the Zoning Board of Appeals will consider the variance at a public hearing.
- b. The Zoning Board of Appeals must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section.
- c. In rendering its decision on any application, the Zoning Board of Appeals must comply with all applicable provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
- d. Within 62 days of the close of the public hearing, the Zoning Board of Appeals must either approve, approve with conditions, or deny the variance.
- e. The Zoning Board of Appeals, in granting a use or area variance, will grant the minimum variance it deems necessary and adequate while, at the same time, preserving and protecting the character of the neighborhood and the health, safety and welfare of the community.
- f. Every variance must be signed and dated by the Chairperson and must document the circumstances of the application and the findings on which the decision is based.
- g. Every variance decision must 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.

2. Conditions

The Zoning Board of Appeals, in granting a use or area variance, has the authority to impose such reasonable conditions and restrictions as are directly related, and incidental, to the proposed use of the property. Such conditions must be consistent with the spirit and intent of this Ordinance and are imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

E. Variance Types and Approval Standards

1. Area Variance

- a. An area variance provides relief from the dimensional or physical requirements imposed by the applicable zoning regulations. An area variance does not authorize any change in the type of use of the property.
- b. In making its determination whether to grant an area variance, the Zoning Board of Appeals will take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination, the Zoning Board of Appeals will also consider:

- i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- ii. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.
- iii. Whether the requested area variance is substantial.
- iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- v. Whether the alleged difficulty was self-created, which is relevant to the decision of Zoning Board of Appeals, but does not necessarily preclude the granting of an area variance.

2. Use Variance

- a. A use variance provides relief to allow the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations.
- b. The Zoning Board of Appeals will not grant a use variance unless the applicant has demonstrated that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove unnecessary hardship, the applicant must demonstrate that for each and every permitted use for the particular district where the property is located:
 - i. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
 - ii. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - iii. The requested use variance, if granted, will not alter the essential character of the neighborhood.
 - iv. The alleged hardship has not been self-created.

F. Expiration of Variance

1. Unless otherwise specified or extended by the Zoning Board of Appeals, a variance approval expires 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started actual construction, or otherwise implemented this approval. 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.
2. The Zoning Board of Appeals may grant up to two 18 month extensions for an approved variance provided that the application for extension was properly submitted prior to the expiration date of either the original variance or the first extension. When requesting an extension, it is 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.

13.11 ZONING INTERPRETATION

A. Purpose

The interpretation process is intended to provide appropriate checks and balances on the administrative authority of the Zoning Officer.

B. Initiation

An aggrieved party may file an interpretation seeking to overturn a determination made by the Zoning Officer charged with the enforcement of this Ordinance.

C. Authority

The Zoning Board of Appeals will take formal action on interpretation applications.

D. Procedure

1. The Zoning Board of Appeals will conduct a public hearing on the interpretation application.
2. Within 62 days of receipt of a complete application, unless an extension of time is agreed to by the applicant and the Zoning Board of Appeals, the Zoning Board of Appeals will make a decision.
3. The Zoning Board of Appeals must evaluate the application based upon the evidence presented at the public hearing.
4. The Zoning Board of Appeals must affirm, modify, impose restrictions, or overrule the initial decision.
5. Every decision must be signed and dated by the Chairperson and must document the circumstances of the application and the findings on which the decision is based.
6. Every decision must 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.

Part IV: Zoning Officer Applications

13.12 ZONING DETERMINATION

A. Purpose

The determination authority is intended to recognize that the provisions of this Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific zoning issue. However, this zoning determination authority is not intended to add or change the essential content of the Ordinance.

B. Initiation

The City Council, Planning Board, Design Review Board, or a petitioner may initiate a zoning determination application.

C. Authority

The Zoning Officer will review and make final decisions on written requests for zoning determination.

D. Procedure

1. The Zoning Officer must review a written request for a determination and render the determination in writing.
2. The Zoning Officer may request additional information prior to rendering a determination. Until such additional material is received, review is temporarily suspended.

E. Appeal by Interpretation

A determination of the Zoning Officer may only be appealed if an application is filed within 60 days of the date the decision is filed in the Building Department.

13.13 SIGN PERMIT

A. Applicability

No sign, except those identified as exempt from a sign permit by this Ordinance, may be erected, constructed, altered, or relocated without first obtaining a sign permit.

B. Authority

The Zoning Officer is responsible for determining compliance with this Ordinance and will forward a compliant application to the Building Inspector to release a sign permit.

C. Process

1. Plans and a sign permit application must be filed with the Zoning Officer showing the dimensions, materials, and required details of construction, including loads, stresses, anchorage, and other pertinent data.
2. Prior to issuance of a sign permit in the Historic Review and Architectural Review Overlay Districts, the Design Review Board will review all signs for compatibility per Section 12.2.B. In addition, all permanent window signs in any district required review by the Design Review Board prior to issuance of a sign permit.
3. The permit application must be accompanied by the written consent of the owner of the premises upon which the sign is to be erected.
4. Once the application is complete, the Zoning Officer will examine the plans and specifications and the premises upon which the proposed sign is to be erected for compliance with this Ordinance.
5. Once the compliance is determined, the Building Inspector will release a sign permit.

D. Expiration

If construction is not commenced within 120 days from the date of issuance, the permit expires.

13.14 TEMPORARY USE PERMIT - ZONING OFFICER APPROVAL

A. Purpose

1. A temporary use permit allows for the short-term use and/or placement of temporary structures on a lot. There are two levels of approval of temporary use permits - approval by the Zoning Officer and approval by the Planning Board, as stated within Section 8.5.
2. The temporary use permit regulates temporary uses that occur entirely on and within a lot. Temporary uses located within the public right-of-way are regulated separately by the City Code.

B. Authority

The Zoning Officer will review and make final decisions on temporary use permit applications as required by Section 8.5.

C. Procedure

The Zoning Officer will render a decision on the temporary use permit within 30 days of the date of receipt of a complete application. The Zoning Officer must review and evaluate the application, pursuant to the standards of this section, and approve, approve with conditions, or deny the application.

D. Approval Standards

All temporary uses must comply with the requirements of this Ordinance, including the temporary use standards of Section 8.5, and the following standards:

1. The temporary use does not adversely impact the public health, safety, and welfare.
2. The temporary use is operated in accordance with any restrictions and conditions as the Police and Fire District, or other City officials, may require.
3. The temporary use does not conflict with another previously authorized temporary use.
4. The temporary use provides adequate parking if needed. If located on a lot with an operational principal use, does not impact the parking and site circulation of the principal use.

E. Expiration

The temporary use permit is valid for the time period granted as part of the approval.

F. Appeal by Interpretation

A decision of the Zoning Officer may only be appealed if an application is filed within 60 days of the date the decision is filed in the Building Department.

Part V: City Council Applications

13.15 ZONING TEXT AND MAP AMENDMENT

A. Purpose

The regulations imposed and the districts created by this Ordinance may be amended from time to time in accordance with this section. This process for amending the Ordinance text or the Zoning Map is intended to allow modifications in response to omissions or errors, changed conditions, or changes in City policy. Amendments are not intended to relieve particular hardships or confer special privileges or rights upon any person or party.

B. Initiation

The City Council, Planning Board, Design Review Board, Zoning Board of Appeals, or petitioner may propose a zoning text or map amendment.

C. Authority

1. The City Council will determine whether the Planning Board, Design Review Board, or Zoning Board of Appeals recommendation or petitioner's application has merit for review and if it will be considered.
2. No determination of merit is required if the owners of 50% or more of the frontage in any district, or part thereof, present a petition duly signed and acknowledged to the City Council requesting an amendment of the regulations prescribed for that district, or part thereof. The Council must vote on the petition within 90 days of filing with the Secretary of the City Council.
3. The City Council, after receiving a recommendation from the Planning Board and, if applicable, Design Review Board, will take action on requests for zoning text or map amendments.

D. Procedure

1. Referral to Saratoga County Planning Board

1. Any proposed amendment that meets the referral requirements of General Municipal Law Section 239-m will be referred to the Saratoga County Planning Board for its review prior to the public hearing. No action will be taken by the City Council 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.
2. If the Saratoga County Planning Board recommends modification or denial of a proposed action, the City Council cannot act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

2. Action by Planning Board

- a. Upon referral, the Planning Board will consider the proposed zoning amendment at a public hearing.
- b. The Planning Board must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. For zoning text amendments, the Planning Board must recommend approval, approval with modifications, or denial of the application. For zoning map amendments, the Planning Board must recommend approval or denial of the application.
- c. Within 60 days of receipt of a complete application, the Planning Board must forward its recommendation to the City Council, unless an extension is agreed to by mutual consent.

3. Action by Design Review Board - Design Review Process Amendments

For text or map amendments to the design review process, the Council must seek an advisory opinion from the Design Review Board.

- a. Upon receipt of a complete application, the Design Review Board will consider the proposed zoning amendment at a public meeting.
- b. The Design Review Board must evaluate the application and find that the proposed revision is not contrary to the intent and objects of historic review and architectural review. The Design Review Board must recommend approval, approval with modifications, or denial of the application.

- c. Within 60 days of receipt of a complete application, the Design Review Board must forward its recommendation to the City Council, unless an extension is agreed to by mutual consent.

4. Action by City Council

If the City Council makes a decision to take up the amendment application, they may take receipt of the Planning Board and, if applicable, Design Review Board recommendation. The City Council may take action in the form of approval, approval with modifications, or denial on applications for zoning text amendments, and approval or denial on applications for zoning map amendments.

E. Approval Standards

The Planning Board recommendation and the City Council decision on any zoning text or map amendment is a matter of legislative discretion. However, in making their recommendation and decision, the Planning Board and the City Council must consider the following standards. The approval of amendments is based on these standards and any additional relevant factors.

1. Approval Standards for Map Amendments

- a. The consistency of the proposed amendment with the Comprehensive Plan and associated adopted land use policies.
- b. The extent to which the proposed amendment promotes the public health, safety, and welfare of the City.
- c. The suitability of the property for the purposes for which it is presently zoned, i.e. the feasibility of developing the property in question for one or more of the uses permitted under the existing zoning classification.
- d. The extent to which the proposed amendment creates or eliminates nonconformities.
- e. Whether adequate public facilities are available including, but not limited to, schools, parks, police and fire protection, roads, sanitary sewers, storm sewers, and water lines, or are reasonably capable of being provided prior to the development of the uses, which would be permitted on the subject property if the amendment were adopted.

2. Approval Standards for Text Amendments

- a. The consistency of the proposed amendment with the Comprehensive Plan and whether the proposed amendment provides a more workable way to achieve the intent and purposes of this Ordinance and the Comprehensive Plan.
- b. The consistency of the proposed amendment with the intent and general regulations of this Ordinance.
- c. The extent to which the proposed amendment promotes the public health, safety, and welfare of the City.
- d. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.
- e. The extent to which the proposed amendment creates nonconformities.

F. Written Protest of Amendment

1. A protest against an amendment to this Ordinance must be signed by the owners of one or more of the following:
 - a. 20% or more of the land area included in the proposed amendment.
 - b. 20% or more of the land area immediately adjacent to and extending 100feet from the land area included in the proposed amendment.

- c. 20% or more of the land directly opposite thereto and extending 100 feet from the street, road, or highway frontage of such opposite land.
2. A protested amendment requires the favorable vote of at least four Council members.

13.16 PLANNED UNIT DEVELOPMENT

A. Purpose

Planned unit developments (PUD) are a special approval intended to encourage and allow more creative and flexible development of land than is possible under district zoning regulations and should only be applied to further those applications that provide compensating amenities to the City.

B. Initiation

The entire property proposed for the planned unit development must be in single ownership or under unified control. All owners of the property must be included as joint applicants on all applications and all approvals will bind all owners.

C. Authorization

A planned unit development is authorized in all zoning districts except the RR District.

D. Exceptions from District Regulations

1. A planned unit development is subject to the underlying zoning district regulations, including use, unless an exception is specifically granted. The Planning Board may recommend and the City Council may grant exceptions to the zoning district regulations, including use, for a planned unit development.
2. Exceptions from district regulations may be granted for planned unit developments, if the exceptions:
 - a. Enhance the overall merit of the planned unit development.
 - b. Promote the objectives of both the City and the development.
 - c. Enhance the quality of the design of the structures and the site plan.
 - d. Will not cause excessive adverse impact.
 - e. Are compatible with adopted City land use policies.
 - f. Provide a public benefit to the City, as described below.
3. In no case may an exception to district regulations be granted unless the applicant demonstrates a substantial benefit to the City. Design characteristics and amenities to be considered in this determination include, but are not limited to, the following examples. Additional benefits not listed below may be included. Dependent on the nature and scale of the PUD, a combination of different types of benefits may be required.
 - a. Community amenities including plazas, malls, formal gardens, public art, and pedestrian facilities.
 - b. Preservation of existing environmental features.
 - c. Preservation of historic features.
 - d. Open space and recreational amenities such as recreational open space, including accessory buildings, jogging trails and fitness courses, and playgrounds, dog parks, skate parks, and similar recreational features.
 - e. Reduction of impervious surface throughout the development below the threshold required by the district.
 - f. Adaptive reuse of existing buildings.
 - g. Affordable housing set-asides.

E. Public Improvements and Public Realm Design

1. If required, public improvements must be constructed and designed in accordance with Article 16 of this Ordinance
2. If required, improvements to the public realm must be constructed and designed in accordance with Article 19 of this Ordinance.

F. Procedure

The following procedures, requirements, restrictions, and conditions are required. The approval of a planned unit development includes a pre-application consultation, concept plan, development plan approval, and final site plan approval.

1. Pre-Application Consultation

- a. Prior to formal submittal of an application, a pre-application conference with the Planning Department Staff is required.
- b. At a pre-application consultation, the applicant must provide:
 - i. A map (or maps) in general form containing the proposed land uses, the natural features of the development site, the character and approximate location of all roadways and access drives proposed, the location of all adjacent public streets, public utilities, and schematic drawings showing the size, character, and disposition of buildings on the site.
 - ii. A summary of the public benefits and amenities and any anticipated exceptions to this Ordinance.
 - iii. A written statement containing a general explanation of the planned unit development, including a statement of the present ownership of all the land within said development and the expected schedule of construction.
- c. The purpose of such pre-application consultation is to make advice and assistance available to the applicant before preparation of the development plan, so that the applicant may determine whether the proposed planned unit development is in compliance with this Ordinance and other applicable regulations, and whether the proposed planned unit development aligns with the adopted land use policies of the City.
- d. The pre-application conference does not require formal application, fee, or filing of a planned unit development application. Any opinions or advice provided by Planning Department Staff are in no way binding with respect to any official action that may be taken on the subsequent formal application. No decision will be made on the application.

2. Concept Plan

Before submitting a formal application for a planned unit development, the applicant must present a concept plan before the Planning Board for the purpose of obtaining information and guidance prior to formal application. The concept plan will be presented at a public meeting and no notice is required. At minimum, the concept plan must consist of the following:

- a. A map or maps in general form containing the proposed land uses, the natural features of the development site, the character and approximate location of all roadways and access drives proposed within the planned unit development, the location of all adjacent public streets, public utilities, and schematic drawings showing the size, character, and disposition of buildings on the site.
- b. A written statement containing a general explanation of the planned unit development, including a statement of the present ownership of all the land within said development and the expected schedule of construction.
- c. The Planning Board will review the concept plan and provide such information and guidance it deems appropriate. Any opinions or advice provided by the Planning Board is in no way binding with respect to any official action the Planning Board or City Council may take on the subsequent formal application.

3. Development Plan

a. Referral to Saratoga County Planning Board

i. Any proposed planned unit development that meets the referral requirements of General Municipal Law Section 239-m will be referred to the Saratoga County Planning Board for its review prior to the public hearing. No action will be taken by the City Council 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.

ii. If the Saratoga County Planning Board recommends modification or denial of a proposed action, the City Council cannot act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

b. Action by the Planning Board

i. Upon receipt of a complete application, the Planning Board will consider the proposed development plan at a public hearing.

ii. The Planning Board must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. The Planning Board must recommend approval, approval with modifications, or denial of the development plan.

iii. Within 60 days of the close of the public hearing, the Planning Board must forward its recommendation to the City Council, unless an extension is agreed to by mutual consent.

c. Action by the Design Review Board

i. For planned unit developments within the Historic and Architectural Review Overlay Districts, an advisory opinion from the Design Review Board is required.

ii. Upon receipt of a complete application, the Design Review Board will consider the proposed PUD at a public meeting.

iii. The Design Review Board must evaluate the application and find that the proposed revision is not contrary to the intent and objects of Historic and Architectural Review Overlay Districts and the design review process. The Design Review Board must recommend approval, approval with modifications, or denial of the application.

iv. Within 60 days of receipt of a complete application, the Design Review Board must forward its recommendation to the City Council, unless an extension is agreed to by mutual consent.

d. Action by City Council

If the City Council makes a decision to take up the PUD application, they will take receipt of the Planning Board and, if applicable, Design Review Board recommendation. The City Council will take action in the form of approval, approval with modifications, or denial on applications for zoning text amendments, and approval or denial on applications for planned unit developments.

e. Conditions

The Planning Board may recommend and the City Council may impose conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the planned unit development as may be deemed necessary for the protection of the public health, safety, and welfare. Such conditions and restrictions must be reflected in the final plan.

f. Approval Standards

The recommendation of the Planning Board and decision of the City Council must make a finding that the following standards for a planned unit development have generally been met.

- i. The proposed planned unit development meets the purpose of a planned unit development.
- ii. The proposed planned unit development will not impede the normal and orderly development and improvement of surrounding property.
- iii. There is provision for adequate utilities and infrastructure, drainage, off-street parking and loading, pedestrian access, and all other necessary facilities.
- iv. There is provision for adequate vehicular ingress and egress designed to minimize traffic congestion upon public streets. A traffic study may be required to provide evidence that the circulation system is adequate.
- v. The location and arrangement of structures, parking areas, walks, landscape, lighting, and other site design elements, are compatible with the surrounding neighborhood and adjacent land uses.

g. Expiration

- i. The development plan approval expires if a complete application for approval of a final plan has not been filed within one year after the date the City Council grants development plan approval. As part of the approval of the development plan, the City Council may extend this period of time including approval of a phasing plan where the validity period is longer than one year for the planned unit development.
- ii. An extension of this one year period may also be granted by the City Council if the applicant requests an extension in writing prior to the expiration date of the approval. A public hearing for an extension of time of a development plan is not required.

4. Final Site Plan

a. Action by Planning Department Staff

The Planning Department Staff will review the final site plan upon receipt of the complete final site plan application and take the following action:

- i. If the final site plan is in substantial compliance with the approved development plan, the Planning Department Staff will recommend approval of the final plan to the Planning Board. The Planning Department Staff will certify to the Planning Board that the final site plan is in substantial conformance with the previously filed development plan.
- ii. If the final site plan is not in substantial conformance with the approved development plan, the Planning Department Staff must inform the applicant as to specific areas found not to be in compliance, and the applicant must resubmit the final site plan to the Planning Department Staff with changes to those areas found not to be in substantial compliance and the validity of the development plan remains in effect. If the revised final site plan remains noncompliant with the development plan, the applicant may request that the Planning Department Staff render a decision to be forwarded to the Planning Board. In such case, the Planning Department Staff will recommend to the Planning Board that the final site plan be denied, and the plan and recommendation will be forwarded to the Planning Board.

b. Action by Planning Board

Upon receipt of the Planning Department Staff recommendation, the Planning Board must review the final site plan. The Planning Board must approve or deny the final plan. If denied, the applicant may reapply by submitting a new final site plan and the validity of the development plan remains in effect. Alternatively, the applicant may submit the final plan as a new development plan at the development plan stage.

c. Effect of Approval

After final site plan approval, the final site plan will constitute the development regulations applicable to the subject property. The planned unit development must be developed in accordance with the final plan, rather than the zoning district regulations otherwise applicable to the property. Violation of any condition is a violation

of this Ordinance and constitutes grounds for revocation of all approvals granted for the planned unit development.

d. Expiration

The final site plan approval expires if a building permit has not been issued within two years after the date of final site plan approval. As part of the Planning Board approval of the final site plan, the Planning Board may extend this period of time including approval of a phasing plan where the validity period is longer than two years for the PUD.

G. Modifications to Approved Final Site Plans

No adjustments may be made to the approved final site plan, except upon application to the City in accordance with the following.

1. Minor Modifications

The Planning Board may approve the following minor modifications to an approved final plan when it is determined by the Planning Board that such changes are in general conformance with the approved final plan. Any changes considered a major modification, as defined in this section, cannot be approved as a minor modification. The Planning Board, at its sole discretion, may choose to classify a modification that meets the criteria of this section as a major modification to be approved by the City Council. No notice is required for a minor modification. When calculating percentages, all fractions are rounded up to the nearest whole number.

- a. Changes required during construction when related to final engineering issues such as topography, drainage, underground utilities, structural safety, or vehicular circulation, to be confirmed by the City Engineer.
- b. Changes in building location of no more than ten feet that continue to meet the requirements of this Ordinance and any conditions of the final plan approval.
- c. Changes to a structure that do not increase the building footprint, gross floor area, or height.
- d. Changes in building design, including building materials, that continue to meet the requirements of this Ordinance and any conditions of the final plan approval.
- e. Modifications to the approved landscape plan that do not result in a reduction of the total amount of plant material required and conform with all landscape requirements of this Ordinance.
- f. An increase or decrease in building height of up to 10%.
- g. An increase or decrease in building coverage up to 10%.
- h. A change of in the location of walkways, vehicle circulation ways, and parking areas up to 20 feet.
- i. An increase or decrease in the number of parking spaces of up to 20 parking spaces.
- j. A change to the landscape plan that results in a reduction of plant material but does not violate the landscape requirements of this Ordinance.
- k. Altering any final grade by no more than 20% of the originally planned grade.

2. Major Modifications

- a. The City Council may approve any other changes to an approved final site plan that do not qualify as a minor modification. In addition, any of the following are considered major modifications:
 - i. Any request for an extension of time of the approved final site plan.
 - ii. Changes to any conditions imposed as part of the approved final site plan.
 - iii. Reductions or alterations in the approved public benefit and amenities to be provided.
 - iv. Any development action that does not comply with zoning district regulations.

b. All major modifications to the final plan must be approved by the City Council following a public hearing. The City Council may only approve changes to the final site plan if they find such changes are in general conformance with the approved final site plan, necessary for the continued successful functioning of the planned unit development, respond to changes in conditions that have occurred since the final site plan was approved, and/or respond to changes in adopted City land use policies.

c. Upon review of the proposed major modifications, the City Council may determine that the proposed modifications constitute a new planned unit development and the final plan must be resubmitted as a development plan and follow the procedures of approval in this Section. The applicant may submit the final site plan as a new development plan at the development plan stage.