

Subdivision, Site Plan and Special Use Permit Review Process



Five Administrative Processes

- major subdivision
- minor subdivision
- special use permit
- site plan review
- appeal
 - use variance
 - area variance
 - interpretation

Focus of this presentation:

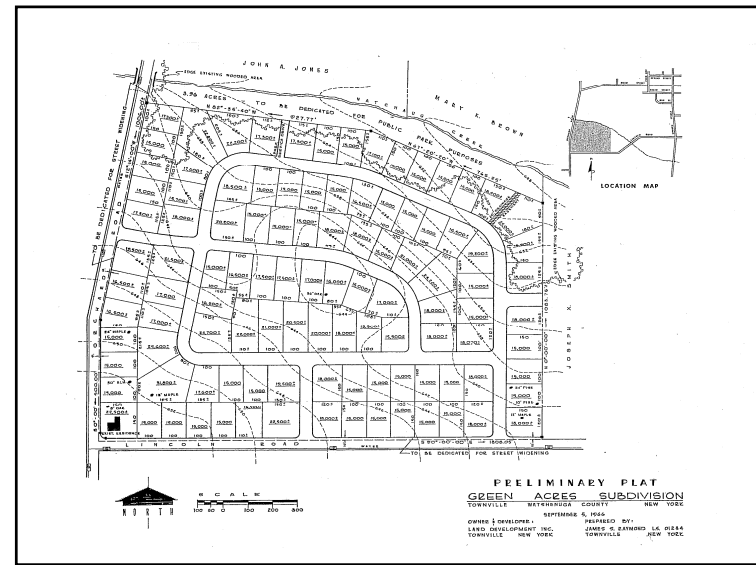
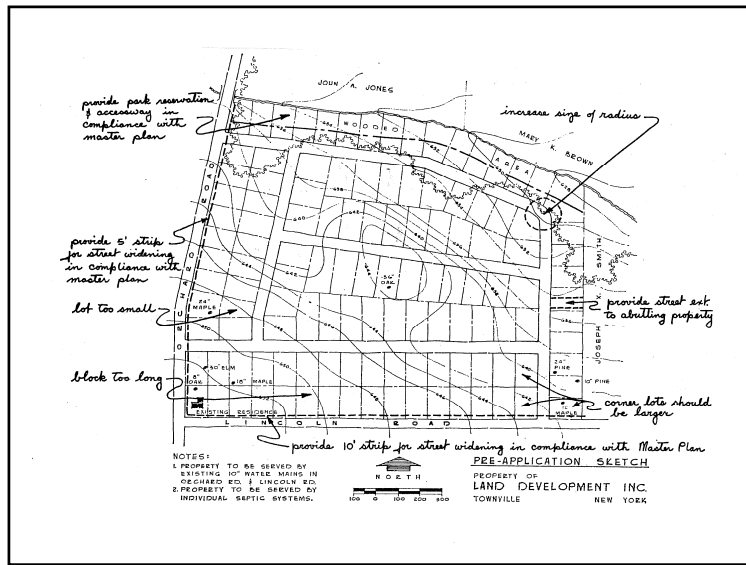
- Process under NYS statutes
 - Local variations
 - Stricter requirements take precedence
- Most common SEQR scenario
 - Uncoordinated review
 - Negative declaration

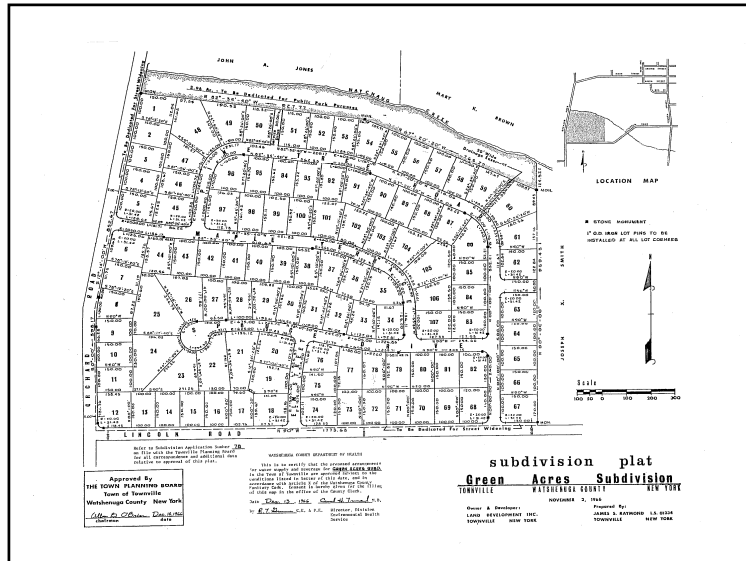
Major Subdivision

Default Subdivision Approval

- “In the event a planning board fails to take action on a preliminary plat or final plat within the time prescribed therefor after completion of all requirements under the state environmental quality review act, or within such extended period as may have been established by the mutual consent of the owner and the planning board, such ... plat shall be deemed granted approval.”
 - Village Law Section 7-728 (8)
 - Town Law Section 276 (8)
 - General City Law Section 32 (8)

- “The certificate of the [municipal] clerk as to the date of submission of the ... plat and the failure of the planning board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.”
- MUST know when clock starts
- MUST track process





Step 1: Discuss Application Informally

Name _____ Date: _____
 Address _____
 Name and Location of Project: _____

Statement of Understanding

I _____ understand that this meeting held with the _____ board of the Town/Village of _____ is not intended to constitute an application to said board as required by _____ not withstanding that any papers relevant to the project may have been left or may be left with said board previous to or pursuant to this meeting. Further it is understood that this meeting is merely an informal conference to obtain preliminary input from the above mentioned board with reference to a future application for the above mentioned project.

Signature _____ Date _____

Step 2: Determine SEQR Type

- Statute
 - Environmental Conservation Law Article 8
(ECL Article 8)
- DEC Administrative Regulations
 - 6 NYCRR Part 617
 - <http://www.dec.ny.gov/regs/4490.html>

SEQR Types

- Type I (presumed significant)
 - 6 NYCRR Part 617.4 (b)
- Type II (exempt)
 - 6 NYCRR Part 617.5 (c)
- Unlisted (all other things)

Determine Type of Form

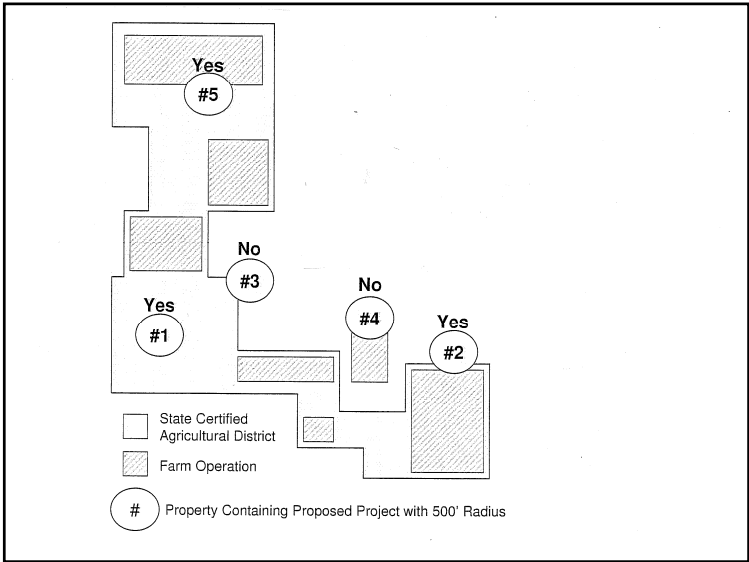
- Short EAF (for most things)
- Long EAF (for all Type 1 Actions)
- Applicant fills out Part 1 of the EAF
- <http://www.dec.ny.gov/permits/6191.html>

Step 3: Accept Preliminary Application

- Items from technical checklist
- Resolution addressing items waived from technical checklist
- EAF part 1

Step 4: Agricultural Data Statement

- “Any application...that would occur on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an agricultural district.”
- Information needed for Step 5 (*GML 239-n county referral*)



Step 5: County Referral

- Only in counties with GML Section 239-n
- Only Part 1 of EAF necessary to refer

Project within 500 feet of...

- Boundary of city, village or town
- Boundary of county, state park or any recreation area
- County or state parkway, thruway, expressway, road or highway
- County owned stream or drainage channel
- County or state owned land containing a public building or institution
- Farm operation in an agricultural district

Step 6: Complete SEQR

- 6 NYCRR Part 617.3 General Rules
 - (c) An application for agency funding or approval of a Type I or Unlisted action will not be complete until:
 - (1) a negative declaration has been issued; or
 - (2) until a draft EIS has been accepted by the lead agency...

Subdivisions Only...

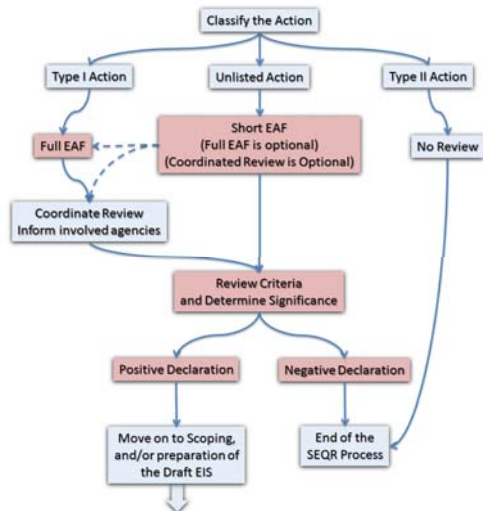
- "A preliminary plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of a draft environmental impact statement has been filed..."
- "The time periods for review of a preliminary plat shall begin upon filing..."
 - *Town Law Section 276 (5)(c)*
 - *Village Law Section 7-728 (5)(c)*
 - *City Law Section 32 (5)(c)*

Complete EAF Parts 2 and 3

- Identify the relevant areas of environmental concern
- Take a “hard look” at them
 - 6 NYCRR Part 617.7
- Make a “reasoned elaboration” of the basis for your determination (positive or negative declaration)

SEQR Records

- File appropriate resolutions and papers
 - Copy of EAF
 - Type of action
 - Positive or negative declaration
 - ENB for Type 1 actions
- Forms for recording determinations on-line
 - <http://www.dec.ny.gov/permits/6191.html>



Type 1 Notes

- Coordinated review of involved agencies
- Long EAF form Part 1, B. Governmental Approvals
- Send Part 1 to other involved agencies
- 30 days to establish lead agency
- 20 days to make determination of significance

Step 7: Refer Area Variance to ZBA

- Stop clock by mutual agreement
- Record the conditions for resumption
- ZBA must request written recommendation from planning board

Step 8: Provide Notice of Hearing

- Newspaper in general circulation
- 5 days before hearing
- Notice to adjacent clerks 10 days before hearing when project is 500 feet from boundary

Step 9: Hold Hearing

- Hold within 62 days of starting of clock
- May be held open for 120 days

Step 10: Act on Preliminary Plat

- Act within 62 days of closing of hearing
- Approve with or without modifications or disapprove
- Action contrary to county recommendation requires supermajority
- Address county referral and reasons for contrary action

Step 11: Certifications, notifications, filings

- Applicant: decision must be mailed
- Planning board clerk: decision and certified plat must be filed within 5 business days
- Municipal clerk: decision must be filed within 5 business days

Step 12: Submit Final Plat

- Must be submitted within 6 months of preliminary plat approval or may be revoked
- Clock starts upon application

Step 13: Second Hearing

- Determine whether plat is substantially in compliance with preliminary plat
- Same notification requirements as initial hearing

Step 14: Hold Second Hearing

- Hold within 62 days of accepting application
- May be held open for 120 days

Step 15: Act on Final Plat

- Act within 62 days of close of hearing
- Act within 62 days of submission of application where no hearing
- Approve, conditionally approve with or without modifications or disapprove plat

Step 16: Certifications, notifications, filings

- Applicant: decision must be mailed
- Planning board clerk: decision and APPROVED certified plat must be filed within 5 business days
- Municipal clerk: decision must be filed within 5 business days
- County planning board: final action and reasons for contrary action reported within 30 days
- County clerk: approved plat must be filed within 62 days by applicant

Step 17: Sign Conditionally Approved Final Plat

- Types of performance guarantees
 - Performance bond
 - Letter of credit
 - Escrow account
- Conditional approval prior to completion of improvements

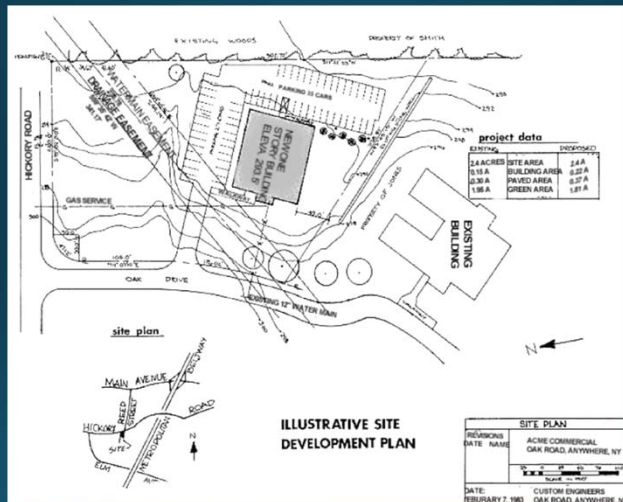
Signing Conditionally Approved Final Plat

- 180 days with 90 day extensions
- Filed with either planning board or municipal clerk (as determined by municipal board)

Minor Subdivision

- Submission step through hearing step of preliminary plat
- Final action steps of final plat
- Omit steps 10-14

Site Plan Review/Special Permit



Procedural Differences

- One-step process
- Site plan review MAY not require hearing
- Special permit always requires hearing
- County referral (including notice of hearing) 10 days before hearing
- No required written recommendation to ZBA
- No established period for holding hearing opened

Filings

- Applicant: decision must be mailed
- Municipal clerk: decision must be filed within 5 business days
- County planning board: final action and reasons for contrary action reported within 30 days