



# SUBDIVISION REVIEW

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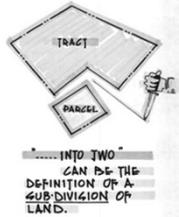
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## Subdivision Defined

Division of any parcel of land into a number of lots, blocks or sites as specified in local ordinance, law, rule or regulation with or without streets or highways for purpose of sale, transfer of ownership or development



- Village Law §7-728 & § 7-730
- Town Law §276 & §277
- General City Law §32 & §33

Local governing boards adopt subdivision regulations by local law or ordinance

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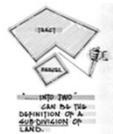
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## Subdivision Defined by APA Regs

1. Any division of land into two or more lots, parcels, or sites
2. "...where land is divided into sites by lease, license or separate occupancy without any formal conveyance of fee title or other interest in realty"  
(This includes development without creating a new lot to consider changes in density)



Adirondack Park Regulations  
NYCRR Section 570.3  
Definitions

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### Regulates Design and Improvements

- Lot configuration
- Landscaping
- Street pattern
- Service access
- Street lights
- Drainage
- Stormwater
- Utilities
- Emergency vehicle access



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### Subdivision Review Does Not .....

- Establish minimum lot size
- Change pre-determined dimensional requirements of zoning
- Control uses placed upon property
- Regulate building style or design
- Eliminate need for Health Department approval

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### Subdivision and Open Space

- Subdivision review is much more effective with other tools such as zoning
- Creates options for incentives for property owners (farmers) and developers to:
  - Protect prime farmland
  - Maintain open space and wildlife habitats
- Reduce conflicts with agricultural uses
- Reduce infrastructure costs not always offset by tax base



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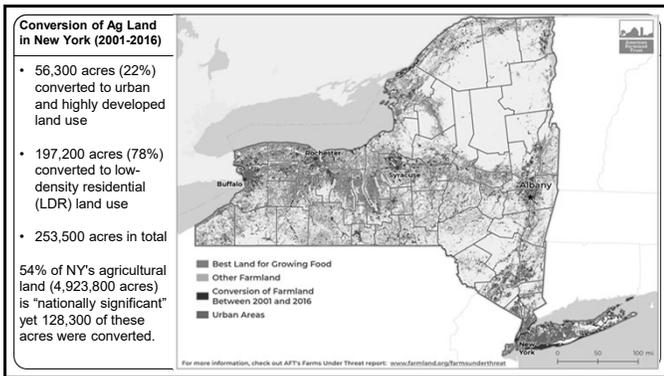
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**'Major' or 'Minor' Subdivisions**

Defined and delineated by local regulation:

- "Minor" often single stage review
- "Major" often two-stage review

**Typical thresholds for classification**

- Size of proposed lots
- Number of proposed lots
- Use of new or existing streets
- Extension of municipal facilities

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**Boundary or Lot Line Adjustment**

- Alteration of lot lines or dimensions of any lots in which no additional lots are proposed
- Often afforded expedited review.
- Sometimes considered minor subdivisions

**Examples**

- Correct physical encroachment
- Legal settlement of dispute requires transfer of property
- Enlarge or improve substandard lot to meet minimum standards for buildable lots

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### Realty Subdivision

- 5-5-3 or division of land into:
    - 5 or more residential lots
    - 5 acres or less
    - within 3 year period
  - Applies with or without zoning
  - Applicant needs Health Department approvals to ensure safe water & sewage disposal
- Public Health Law Article 11, Title 2
  - Environmental Conservation Law Article 17, Title 15

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### CLUSTER AND CONSERVATION DESIGN

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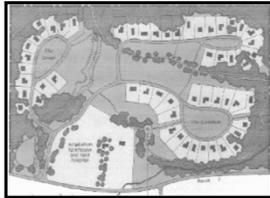
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### Cluster Subdivision

- Local governing board may permit or require planning board review of cluster subdivision
- Zoning identifies districts where clustering is required or an option of the planning board
- Same number of units as underlying zoning allows



- Village Law §7-738
- Town Law §278
- General City Law §37

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## Clustering Benefits

- More efficient use of land reduces street and utility length and cost of maintenance
- Increases & protects open space, which should be protected by conservation easements
- Open space often increases value of nearby properties



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## Conservation Subdivision

### How to Create Conservation Subdivisions

- Step 1**  
Require a map of the open space system for the parcel and surrounding area.
- Step 2**  
Conventional sketch layout determines maximum lot count under existing three-acre zoning.
- Step 3**  
The same number of houses can fit in to the landscape while preserving 80 percent of the open space.



Locate Development Pocket      Typical Superimposed Subdivision      Conservation Subdivision

Source: Dutchess County Planning, Greenway Guides

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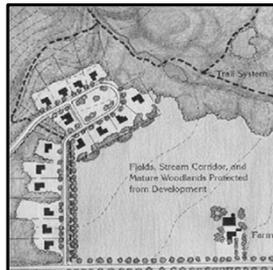
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## Conservation Subdivision Steps

1. Sketch plan, informal conference
2. Conservation analysis with professional
3. Conservation subdivision waiver?
4. SEQR
5. Review of preliminary plat
6. Details of easement determined
7. Review of final plat



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**DESIGN REVIEW**

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**Paying for Project Review Services**

**Local officials may seek professional assistance**

- Review costs may be charged to applicant, if locally authorized
- Local regulations can specify pre-established fees
- Municipality may have engineers, planners, attorneys on retainer or on staff



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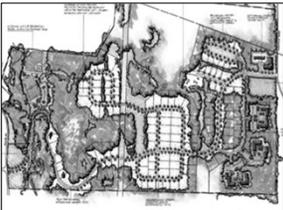
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**Design Considerations**

- Comprehensive Plan and other adopted plans
- Water bodies
- Steep slopes
- Prime farmland/soils
- Forested areas
- Viewsheds
- Roads and walkability
- Water supply and sewage disposal



Graphic Credit: Elan Planning and Design

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## Sample Lot Area Standards

Minimum land area per dwelling (square feet)	R-1
With central sewer & central water	20,000
With central sewer only	30,000
Without central water or sewer	40,000
Units per acre	1.11--2.17
Minimum width of lot at front building line (feet)	100
Front yards (feet)	50
Rear yards (feet)	25
Side yards, each (feet)	10
Minimum floor area (square feet)	960

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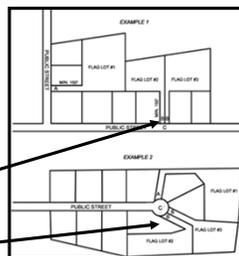
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## Flag Lot Development

- Flag Lot: large parcel served by minimum road frontage
  - At least 15 feet Town Law §280-a (5)
  - Local zoning may set minimum requirement
- Municipal option to permit or prohibit

- Characterized by:
- Narrow frontage
  - Long strip connecting rear property



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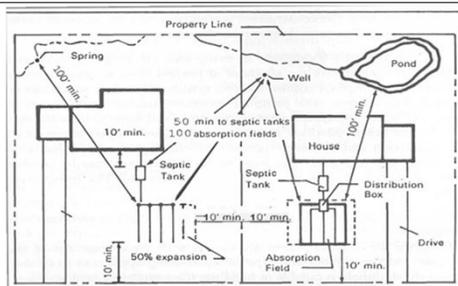
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## Separation Distances



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## Septic Tank Effluent Pump “Step” Systems

### Pros

- ¼ to ½ cost of conventional gravity sewer systems
- Needs less land than leach fields
- Treated effluent may be reused for irrigation

### Cons

- Separation still needed from treatment
- Power needed for pumping



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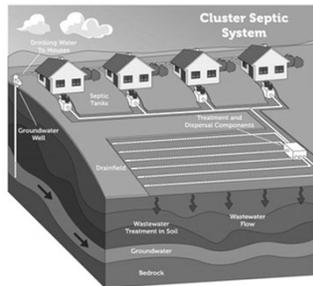
## Community Drain-Field

### Pros

- Homes clustered on smaller lots
- Grey water reused for landscaping

### Cons

- Limited number of hook-ups
- Acreage needed for proper dispersing of treated water



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## Steep Slopes

- Steepest should be avoided
- Affect emergency access to property
- Erosion control may be needed



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## Stormwater Pre- and Post-Construction

- Integrate stormwater facilities into site design:
  - Show location of drainage facilities (ditches, detention ponds, catch basins)
  - Consider impervious surfaces (roads, curbs, sidewalks, parking lots)
- General SPDES permit needed for disturbance over one acre where discharge can reach State surface waters; otherwise, greater than 5 acres

- Technical Assistance**
- Municipal Engineer
  - County Planning Agency
  - Soil & Water Conservation District
  - Private Planning Consultant
  - Highway Superintendent
  - Trained Board Members



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## Stormwater Pollution Prevention Plan

- SWPPP needed for larger subdivision developments (when 5 or more acres is disturbed or 1+ acres in an MS4)
- Includes site description and sources of stormwater discharges
- Identifies and reduces discharges using structural and nonstructural measures



[www.epa.gov/npdes/pubs/sw\\_swppp\\_guide.pdf](http://www.epa.gov/npdes/pubs/sw_swppp_guide.pdf)

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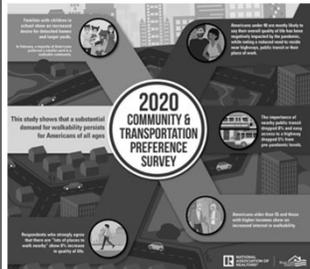
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## Walkability Preferences



- Respondents who strongly agree that there are "lots of places to walk nearby" show an **8%** increase in quality of life
- Families with school children showed **increased** desire for detached homes and larger yards
- Age 55+ and those with higher incomes show **increased interest in walkability**

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### Design

<p><b>Conventional Suburban:</b></p> <ul style="list-style-type: none"> <li>• Large lots</li> <li>• Expansive setbacks</li> <li>• No sidewalks</li> <li>• No street lighting</li> <li>• Dead ends and cul-de-sacs</li> </ul>	<p><b>Traditional Urban/Village:</b></p> <ul style="list-style-type: none"> <li>• Compact lots</li> <li>• Narrow or no setbacks</li> <li>• Sidewalks</li> <li>• Street lighting</li> <li>• Interconnected streets</li> </ul>
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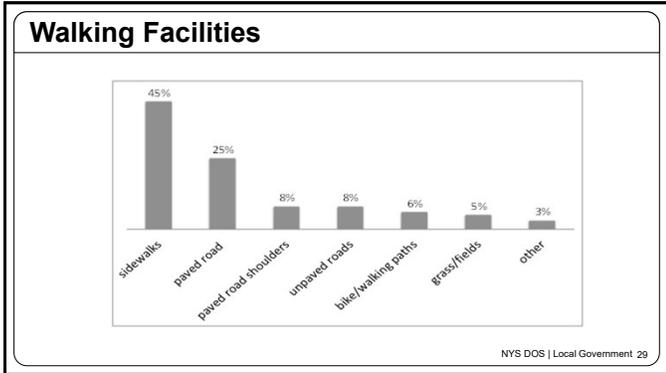
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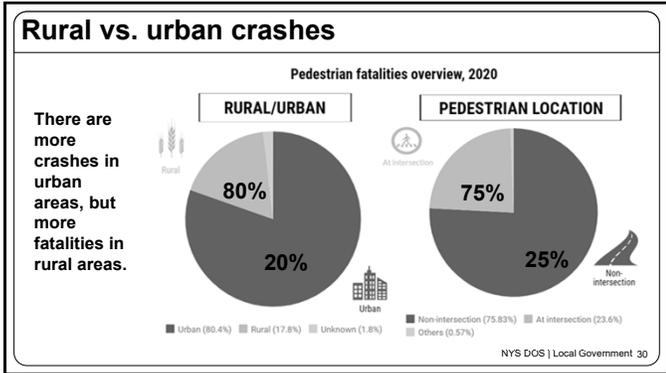
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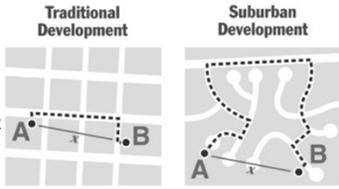
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## Well Linked Streets and Trails

- Streets are block form, grid or other highly connected patterns
- Cul-de-sac or other fractured patterns generally consume more land and result in collector roads
- Collector roads reduce travel options. When streets interconnect traffic volume can be diffused
- Update official map and zoning to discourage long, disconnected streets



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## Road Construction

- Public and private
- Today's private road may become tomorrow's public street

### Standards may address:

- Design life
- Right-of-way
- Drainage facilities
- Thickness of base & surface course
- Design speed

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## Private Road Maintenance

- Municipalities not responsible for maintenance or snow removal for private roads
- Private road or right-of-way held in some form of common ownership by purchasers
  - Developer must file offering plan with AG's Office or seek exemption from requirements of Martin Act
  - Informs purchasers of any road maintenance liabilities incurred when property includes private roads



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### Burying Electric Lines

Title 16 of Codes, Rules and Regulations of NY (16 NYCRR)

- Part 98 – Distribution lines & extensions
- Part 100 – Lines in residential subdivisions
  - Required in new subdivisions if
    - No more than 200 trench feet per dwelling
    - Utility's tariff provides for underground service
    - Government has required undergrounding
    - Applicant requests undergrounding
- Part 101 – Underground electric facility construction

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### Burying Electric Lines

#### Advantages:

- Aesthetics <sup>Pros</sup>
- Fewer power outages
- Safer
- Not subject to damage from wind, limb, or wayward cars

#### Disadvantages:

- More expensive to install <sup>Cons</sup>
- More expensive to locate problems & repair
- Takes longer to fix problem
- Rodents, ground settling, uprooting trees & water

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### Excerpt, Town of Parish Subdivision Law

Underground utilities shall be placed, wherever possible, in right-of-way between paved roadway and road line to simplify location and repairs of utilities. Underground service connections shall be installed to lot line of each lot for all required utilities prior to road pavement. Where topography is such as to make impractical inclusion of underground utilities within road right-of-way, perpetual unobstructed easements at least 15 feet wide shall be provided with satisfactory access to road. Such easements shall be cleared and graded where required.

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### Subdivision Plat

- Lots with dimensions
- Metes and bounds
- Lot numbers
- Road layout
- Title block
- Drawing scale
- North arrow
- Project Location Map
- Zoning / Other data
- Notes



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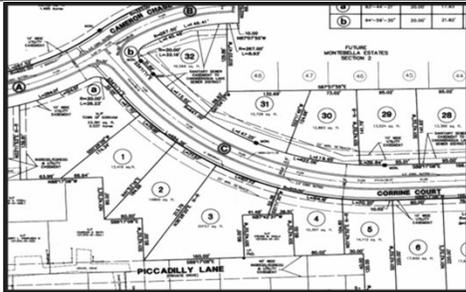
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### Subdivision Plat



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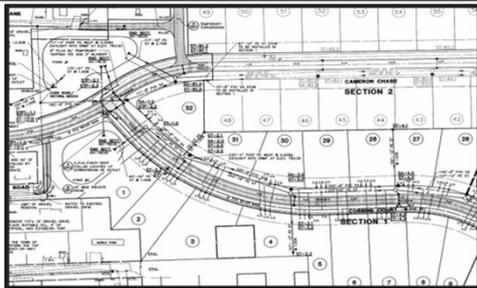
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### Utilities Plan



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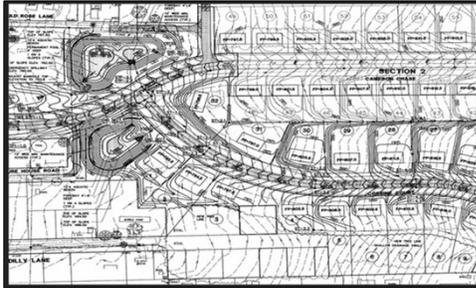
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## Grading Plan



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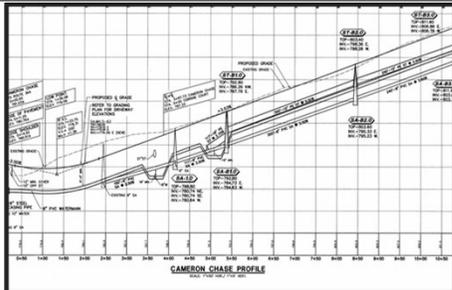
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## Profile



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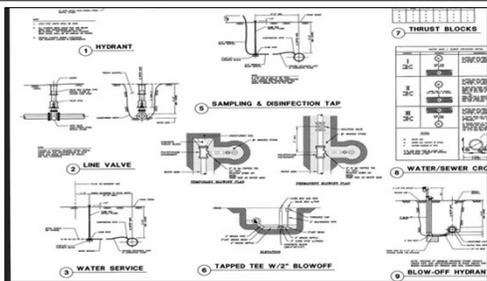
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## Details



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# PROCEDURES

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### Area Variances

- Direct appeal to ZBA for lots that do not meet dimensional requirements of zoning
- ZBA shall request written recommendation from Planning Board



*Example: Relief from minimum frontage on a curved street*

- Town Law §277(6)
- Village Law §7-730(6)
- General City Law §33(6)

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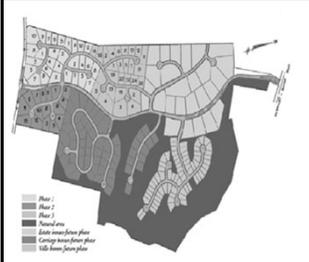
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### Stages of Review

- Sketch Plan
  - Not a statutory requirement
  - Local option
- Preliminary Plat
  - Generally used for more complex proposals but not always for simpler applications
- Final Plat
  - Required and sometimes the only review for the most straightforward subdivisions



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### Sketch Plan Review

- Determine conformance to zoning and subdivision requirements
- Make suggestions about design and layout
- Determine if major/minor
- Identify necessary permits
- Discuss SEQRA implications
- Initiate preparation of EAF



- Optional but may be required by local law
- No time periods or specific procedures for this stage
- Planning board not bound by its comments

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### Application

- Local governing board may establish submission requirements
- Environmental Assessment Form (EAF) required
- Full statement GML §239-n
  - Submission materials and Part I EAF

**EAF Information**

- Description of proposed action
- Consistency with zoning & comprehensive plan
- Amount of land disturbance
- Traffic projections
- Noise/sound
- Physical resources
- Endangered species
- Historic resources

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### Contents of Preliminary and Final Plats

<p><b>Preliminary Plat</b></p> <ul style="list-style-type: none"> <li>• Proposed street layout</li> <li>• Proposed lot layout</li> <li>• Lot size</li> <li>• Lot dimensions</li> <li>• Proposed easements</li> <li>• Existing streets</li> <li>• Location map</li> <li>• General contours</li> <li>• Significant vegetation</li> </ul>	<p><b>Final Plat</b></p> <ul style="list-style-type: none"> <li>• Final street layout</li> <li>• Final lot layout</li> <li>• Final lot dimensions</li> <li>• Lot number</li> <li>• Permanent easements</li> <li>• Final grading plans</li> <li>• Final utilities plans</li> <li>• Street names</li> <li>• Lands to be dedicated</li> <li>• Vegetation to be preserved &amp; added</li> </ul>
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## Waiver of Requirements

- Planning board may waive any requirement as part of subdivision approval if board determines the requirement:
  - Is not needed in the interest of public health, safety or general welfare
  - Is appropriate for that particular property
- Must be authorized by governing board
- Can apply to:
  - Submission requirements
  - Permit requirements in subdivision section of zoning



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## Agricultural Data Statement

- For review board to evaluate potential impacts on nearby farm operations
- **Trigger:** Subdivision, site plan, special use permit, use variance application within a State Agricultural district or within 500 ft. of a farm operation in an Agricultural District
- Include map showing project and farm operation(s)
- NYS Agriculture & Markets Law Article 25 AA, Section 305-a; Town Law 283a; Village Law §7-739



*Tax map and data from real property services used to gather and present information*

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## SEQR

- Planning board, as Lead Agency, classifies action as Type I or Unlisted
- SEQR is part of the application and must be completed prior to holding a public hearing on the subdivision
- Receipt of complete application\*
  - Negative declaration has been filed\*; or
  - Positive declaration
    - Notice of completion of Draft Environmental Impact Statement (DEIS) has been filed\*

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## Public Hearing Pursuant to SEQRA

- Hearing is only for acceptance of DEIS (Positive Declaration)
- **Optional:** If DEIS hearing held, schedule concurrently with hearing required by subdivision statute
- Additional hearing held earlier in process is permitted if noted to be above and beyond statutory requirements



Negative Declaration may be amended or rescinded prior to final decision if: substantive changes proposed; new information discovered; changes in circumstances

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## Public Hearings

- Public hearing required by statute within 62 days of a complete application, and cannot last longer than 120 days
  - Timeframes adjusted if EIS required
- Legal notice in newspaper of general circulation
  - At least 5 days prior if only for preliminary or final approval
  - At least 14 days prior if for both approval & draft EIS
- Notice to clerks of adjacent municipalities (GML § 239nn)  
At least 10 days prior by mail or email if subject property located 500' from municipal boundary

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## Default Approval

Can occur if:

- Planning board fails to hold a public hearing within 62 days of a complete application (application AND a negative declaration for SEQRA or acceptance of DEIS if pos dec)
- Planning board fails to make a decision within 62 days of close of public hearing
- Applies to both preliminary and final plat reviews

Village Law §7-728(8)  
Town Law §276(8)  
General City Law §32(8)

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## Procedural Summary

- Agricultural Data Statement
- County referral if authorized under General Municipal Law § 239n (if authorized by county legislative body)
- SEQR determination of significance
- Public hearing within 62 days of neg dec or DEIS
- Revisions of plat
- Public hearing on final plat if substantial changes
- Decision within 62 days of close of public hearing

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## DECISIONS AND CONDITIONS

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## Parkland

- Land-or money in lieu of parkland- can be required to address recreational needs created by approved subdivision
- Must make a finding that a "proper case" exists for requiring parkland



- Village Law § 7-730(4)
- Town Law §277(4)
- General City Law §33(4)

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### Timing of Decision

- If preliminary plat approval required, applicant must submit plat in final form within 6 months of preliminary approval
- If final plat not submitted, approval of preliminary plat may be revoked by planning board
- Final plat decision must be made within 62 days after close of hearing
- Decision must be filed with municipal clerk within 5 business days after decision is rendered

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### Findings

- Describe reasons for decision
- May also support why condition was imposed
- Based on analysis which applies law to facts, leading to conclusions
- Should be able to support decision if challenged in court
- Insert into Record/Application File

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### Final Plat Approval

- Boards make decisions by majority vote (majority of whole membership of board, not just those present):
  - Approve
  - Approve with modifications
  - Deny
- Once approved, plat must be signed by authorized Planning Board member
- **Signed final plat filed in the County Clerk's Office within 62 days of final approval or approval will expire**

**Remind applicant that they must file the signed plat with the County!**

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## Security Agreements

If plat is to be signed and filed prior to installation of required improvements, security agreement must be executed:

- Cash in escrow
- Letter of credit
- Performance bond

### City of Saratoga Springs

- Cost estimates submitted with application; city staff reviews
- PB decides requirements
- Financial security filed with city atty.
- Making reductions or extensions during construction (optional)
- Canceling financial security

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## Enforcement

- Authorize zoning or code enforcement officer to enforce approval conditions
- Could be stated in:
  - Subdivision Law
  - Zoning law statement of CEO/ZEO duties
- Require conditions be met before issuing building permit or certificate of occupancy



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## Appeals

Decisions are appealed to NYS Supreme Court in Article 78 proceeding

- Supreme Court
- Appellate Division
- Court of Appeals



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 **Department of State**  
Local Government

**Division of Local Government Services**  
(518) 473-3355  
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<https://dos.ny.gov/training-assistance>

**Publications:**  
<https://dos.ny.gov/publications>



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Local Government

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