

# **SITE PLAN REVIEW ORDINANCE**

**DRAFT – April 16, 2008**

## **6.6.4. SITE PLAN REVIEW**

The site plan review provisions set forth in this ordinance are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

### **6.6.4.1. APPLICABILITY OF SITE PLAN REVIEW**

- a) A person who has right, title, or interest in a parcel of land must obtain site plan approval for those uses listed as such in Section 4.12 Land Use Table prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:
- (1) The construction or placement of a new building or structure, including accessory buildings.
  - (2) The expansion of an existing building or structure including accessory buildings that increases the total floor area.
  - (3) The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use.
  - (4) The establishment of a new use even if no buildings or structures are proposed, including nonstructural nonresidential uses.
  - (5) The conversion of an existing use, in whole or in part, to another use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review described in Section 6.6.4.7 of this Ordinance.
  - (6) The construction of a residential building containing three (3) or more dwelling units.

- (7) The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.
  - (8) The conversion of an existing nonresidential building or structure, in whole or in part, into three (3) or more dwelling units within a five (5) year period.
  - (9) The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than two thousand five hundred (2,500) square feet within any three (3) year period.
- (b) The following activities shall not require site plan approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:
- (1) The construction, alteration, or enlargement of a single family or two-family dwelling, including accessory buildings and structures.
  - (2) The placement, alternation, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.
  - (3) Agricultural activities, including agricultural buildings and structures.
  - (4) Timber harvesting and forest management activities.
  - (5) The establishment and modification of home occupations that do not result in changes to the site or exterior of the building.
  - (6) Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this section.

#### **6.6.4.2. ADMINISTRATION AND ENFORCEMENT**

This ordinance shall be enforced by a Code Enforcement Officer (CEO) appointed by the Municipal Officers. It shall be the duty of the CEO to enforce the provisions of this ordinance. If the CEO finds that any provision of this ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions. The CEO is hereby authorized to institute or cause to be instituted, in the name of the municipality, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance. Any person, firm, or

corporation being the owner of or having control or use of any building or premises who violated any of the provisions of this ordinance, shall be fined in accordance with Title 30-A §4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Municipal Official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

#### **6.6.4.3 INTERPRETATION OF THE ORDINANCE**

The Code Enforcement Officer (CEO) shall be responsible for administering the provisions of this ordinance including interpreting the provisions hereof. Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance, may appeal such determination to the Board of Appeals as an administrative appeal. If the Board finds that the CEO erred in his/her interpretation of the ordinance, it shall modify or reverse the action accordingly.

#### **6.6.4.4 REVIEW AND APPROVAL AUTHORITY**

The Planning Board is authorized to review and act on all site plans for development requiring site plan review as defined above. In considering site plans under this provision, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.

#### **6.6.4.5 REVIEW PROCEDURES**

The Planning Board shall use the following procedures in reviewing applications for site plan review.

##### **6.6.4.5.1 Preapplication**

Prior to submitting a formal application, the applicant or his/her representative shall request a preapplication conference with the Planning Board. The preapplication conference shall be informal and informational in nature. There shall be no fee for a preapplication review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decision on the substance of the plan shall be made at the preapplication conference.

##### **6.6.4.5.2. Purpose**

The purposes of the preapplication conference are to:

- (1) Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal;
- (2) Allow the applicant to understand the development review process and required submissions;
- (3) Identify issues that need to be addressed in future submissions, and
- (4) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.
- (5) In addition, the Board may schedule a site inspection in accordance with subsection 6.6.4.5.4(5) if deemed necessary and resolve any requests for waivers and variations from the submission requirements.

#### **6.6.4.5.3. Information Required**

There are no formal submission requirements for a preapplication conference. However, the applicant should be prepared to discuss the following with the Board:

- (1) The proposed site, including its location, size, and general characteristics;
- (2) The nature of the proposed use and potential development;
- (3) Any issues or questions about existing municipal regulations and their applicability to the project, and
- (4) Any requests for waivers from the submission requirements.

#### **6.6.4.5.4. Application Submission and Review Procedures**

The applicant must prepare and submit a site plan review application, including the development plan and supporting documentation that meets the submission requirements set forth below. This material must be submitted to the Planning Board.

- (1) At the first meeting at which the application is considered, the Planning Board shall give a dated receipt to the applicant and shall notify by first-class mail all property owners within five hundred (500) feet of the parcel on which the proposed development is located. Written notice of the pending application shall be mailed to the Selectmen, Fire Chief, Sheriff's Office, Road Commissioner, and Code Enforcement Officer and other interested parties.
- (2) Within thirty (30) days of the receipt of a formal site plan review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make

the application complete and shall advise the applicant that the Board will not consider the application until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.

- (3) As soon as the Board determines that the application is complete, the Board shall: notify the applicant in writing of this finding, meet the notification requirements of subsection (4) below, and place the item on the agenda for substantive review within thirty (30) days of this finding.
- (4) The Planning Board shall give written notice of the date, time, and place of the meeting at which the application will be considered to the applicant.
- (5) The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board shall schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application as specified in (6) may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to the applicant.
- (6) To assist the Planning Board in determining if the proposed land use activity will conform to all applicable provisions of this Ordinance, and other applicable codes or Ordinances of the Town, the Planning Board may, after notification to the applicant and at the expense of the applicant, employ one or more independent consultants or attorneys to ensure compliance with all requirements of this Ordinance.
- (7) The Planning Board shall take final action on said application within ninety (90) days of determining that the application is complete. The Board shall act to deny, to approve or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval. In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town. The Board shall notify the applicant including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

#### **6.6.4.5.5. Final Approval and Filing**

Upon completion of the requirements of this Section and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and must be filed with the Code Enforcement

Officer. Any plan not so filed within thirty (30) days of the date upon which such plan is approved and signed by the Board shall become null and void. In addition, the signed plan must be recorded in the York County Registry of Deeds within thirty (30) days of the vote to approve the plan. The Planning Board, by vote, may extend the filing period for good cause.

#### **6.6.4.5.6. Application Fee**

An application fee must accompany an application for site plan review. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee must be paid to the municipality and evidence of payment of the fee must be included with the application.

#### **6.6.4.5.7. Technical Review Fee**

In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the municipality's legal and technical costs of the application review. This fee must be paid to the municipality and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board. The Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review. If the Planning Board elects to employ outside review in accordance with the review procedures in Section 6.6.4.5.4.(6), the estimated costs of such reasonable studies and services must be deposited with the Town Treasurer prior to their undertaking. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any money not spent must be reimbursed to the applicant.

The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes.

#### **6.6.4.5.8. Establishment of Fees**

The Municipal Officers may, from time to time and after consultation with the Board, establish the appropriate application fees and technical review fees following posting of the proposed schedule of fees and public hearing.

#### **6.6.4.6. SUBMISSION REQUIREMENTS**

Applications for site plan review must be submitted on application forms provided by the municipality. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Planning Board. The submission must contain at least the following exhibits and information unless specifically waived in writing. The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the preapplication conference or at the initial review of the application if no preapplication conference is held. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information is not required to determine compliance with the standards.

All applications for site plan review must contain the following information:

- (1) A fully executed and signed copy of the application for site plan review.
- (2) Evidence of payment of the application and technical review fees.
- (3) Eight (8) copies of written materials plus eight (8) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development:

##### **6.6.4.6.1. General Information**

The record owner's name, address and telephone number and applicant's name, address and telephone number if different.

- (2) The location of all required building setbacks, yards, and buffers.
- (3) Names and addresses of all property owners within five hundred (500) feet of any and all property boundaries.
- (4) Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.
- (5) Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
- (6) The tax map and lot number of the parcel or parcels on which the project is located.

- (7) A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
- (8) The name, registration number, and seal of the Maine surveyor who prepared the plan.
- (9) Evidence of the applicant's technical and financial capability to carry out the project as proposed.

#### **6.6.4.6.2. Existing Conditions**

- (1) Zoning classification(s), including overlay and/or subdistricts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or subdistricts or abuts a different district.
- (2) The bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.
- (3) Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, on abutting streets, or land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
- (4) Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.
- (5) The location, dimensions, ground floor, and floor plans, elevation of all existing buildings on the site.
- (6) The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
- (7) Location of intersecting roads or driveways within two hundred (200) feet of the site.
- (8) The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.
- (9) The direction of existing surface water drainage across the site.

- (10) The location, front view, dimensions, and lighting of existing signs.
- (11) Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
- (12) The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

#### **6.6.4.6.3. Proposed Development Activity**

- (1) Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.
- (2) The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
- (3) Provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities. In addition, the applicant will provide the Planning Board with a list of all chemicals and materials which will be used or stored on the site.
- (4) The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
- (5) Proposed landscaping and buffering.
- (6) The location, dimensions, ground floor, and floor plans, elevation of all proposed buildings or building expansion proposed on the site.
- (7) Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
- (8) Location and type of exterior lighting.
- (9) The location of all utilities, including fire protection systems.
- (10) A general description of the proposed use or activity.
- (11) An estimate of the peak hour and daily traffic to be generated by the project.
- (12) Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater

permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

#### **6.6.4.6.4. Approval Block**

Space must be provided on the plan drawing for the signatures of the Planning Board and date together with the following words, "Approved: Town of Acton Planning Board.

#### **6.6.4.7. APPROVAL STANDARDS AND CRITERIA**

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

##### **6.6.4.7.1. Utilization of the Site**

The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

##### **6.6.4.7.2. Adequacy of Road System**

Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development. If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the Town's adopted Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

A development not meeting this requirement may be approved if the applicant demonstrates that:

- (1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
- (2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.

#### **6.6.4.7.3. Access into the Site**

Vehicular access to and from the development must be safe and convenient.

- (1) Any driveway or proposed street must be designed to the current edition of the Town of Acton Subdivision Standards.
- (2) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- (3) The grade of any proposed drive or street must be not more than  $\pm 3\%$  for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- (4) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- (5) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.
- (6) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- (7) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- (8) The following criteria must be used to limit the number of driveways serving a proposed project:
  - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

- b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.
- c. Sight distances on town ways shall conform with the current edition of the Town of Acton Subdivision Standards.

#### **6.6.4.7.4. Accessway Location and Spacing**

Accessways must meet the following standards:

- (1) Private entrances/exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway.
- (2) Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

#### **6.6.4.7.5 Internal Vehicular Circulation**

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

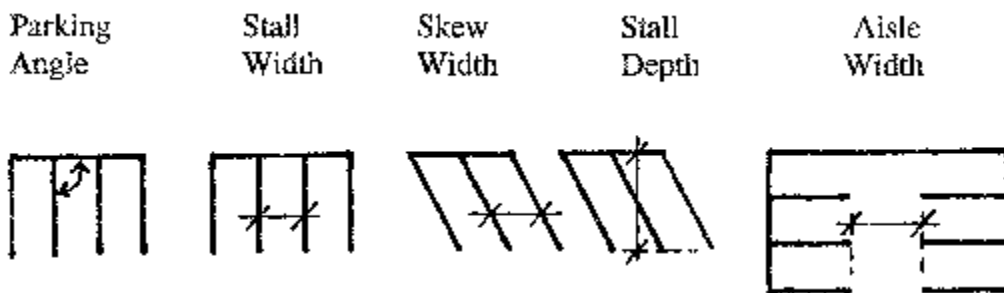
- (1) Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of WB-40 vehicles.
- (2) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- (3) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- (4) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

#### **6.6.4.7.6. Parking Layout and Design**

Off-street parking must conform to the following standards:

- (1) Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
- (2) All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.
- (3) Parking stalls and aisle layout must conform to the following standards:

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90 degrees	9'-0"	Not applicable	24'-0"	26' two way
60 degrees	8'-6"	10'-6"	18'-0"	16'-0 one way only
45 degrees	8'-6"	12'-9"	17'-6"	12'-0" one way only
30 degrees	8'-6"	17'-0"	17'-0"	12'-0" one way only



- (4) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- (5) Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.
- (6) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

#### 6.6.4.7.7. Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or

outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

#### **6.6.4.7.8. Stormwater Management**

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

- (1) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- (2) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- (3) The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- (4) All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- (5) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- (6) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
- (7) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

#### **6.6.4.7.9. Erosion Control**

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites

must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies shall be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 2003.

#### **6.6.4.7.10. Water Supply**

The development must be provided with a system of water supply that provides each use with an adequate supply of water for needed domestic use and fire protection.

If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

#### **6.6.4.7.11. Sewage Disposal**

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

- (1) All sanitary sewage from new or expanded uses must be discharged into a public or private sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.
- (2) If the public or private collection system is not at the lot line, but can be extended in the public or private right-of-way, the collection system must be extended by the owner and the new or expanded use connected to the public or private system. Such extension shall be required if the public or private system is within one hundred (100) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that connection to the public or private system will occur if and when the subsurface system needs to be replaced, which shall be confirmed by a licensed site evaluator or sanitary engineer.
- (3) If the public or private system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.

- (4) When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.
- (5) Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment shall be determined by the organization responsible for the operation of the sewerage system.

#### **6.6.4.7.12. Utilities**

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

#### **6.6.4.7.13. Natural Features**

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

#### **6.6.4.7.14. Groundwater Protection**

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

#### **6.6.4.7.15. Water Quality Protection**

All aspects of the project must be designed so that:

- (1) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

- (2) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
- (3) If the project is located within the watershed of a 'body of water most at risk from development' as identified by the Maine Department of Environmental Protection (DEP), the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

#### **6.6.4.7.16. Hazardous, Special and Radioactive Materials**

The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies. The Planning Board reserves the right to introduce more stringent standards based on independent scientific studies or other credible evidence.

No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location, which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

#### **6.6.4.7.17. Shoreland Relationship**

The development must not adversely affect the water quality or shoreline of any adjacent water body.

#### **6.6.4.7.18. Technical and Financial Capacity**

The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

#### **6.6.4.7.19. Solid Waste Disposal**

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

#### **6.6.4.7.20. Historic and Archaeological Resources**

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

#### **6.6.4.7.21. Floodplain Management**

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

#### **6.6.4.7.22 Fire Protection**

At a minimum, fire protection standards shall meet either one of the following:

- 1) NFPA-13 Installation of Sprinklers (including the most current revisions)
- 2) NFPA-1142 Standards on Water Supplies for Suburban and Rural Fire Fighting (including the most current revisions)

#### **6.6.4.8. POST APPROVAL ACTIVITIES**

##### **6.6.4.8.1 Limitation of Approval**

Substantial construction of the improvements covered by any site plan approval must be commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, or at a time period agreed to by the Board and the applicant, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

##### **6.6.4.8.2. Incorporation of Approved Plan**

One copy of the approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.

##### **6.6.4.8.3. Recording of the Approved Plan**

In addition to the final approval and filing procedures as set forth in Section 6.6.4.5.5, one copy of the approved site plan must be recorded in the York County Registry of Deeds within thirty (30) days of approval and the book and page number provided to the Code Enforcement Officer. Failure to record the plan within thirty (30) days shall void the approval. The Planning Board may extend this period for cause.

#### **6.6.4.9. Improvement Guarantees**

##### **6.6.4.9.1. Application**

- (1) **IMPROVEMENT GUARANTEE** - The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection 6.6.4.9.2 below as is reasonably necessary to ensure the proper installation of all on-site and off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.
- (2) Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to the appropriate Municipal Officials. The respective Municipal Officials shall inspect all improvements and must file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.
- (3) The Planning Board shall either approve, partially approve, or reject the improvements on the basis of the report of the Municipal Officials.
- (4) If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

#### **6.6.4.9.2. Form of Guarantee**

Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Board of Selectmen.

- (1) **SECURITY BOND** - The applicant may obtain a security bond from a surety bonding company licensed to do business in Maine.
- (2) **LETTER OF CREDIT** - The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution licensed to do business in Maine.
- (3) **ESCROW ACCOUNT** - The applicant may deposit cash, either with the municipality, or in escrow with a bank licensed to do business in the State of Maine. Any such account must require Town approval for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.

#### **6.6.4.9.3. Submission of As-Built Plans**

The applicant must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "as-built" plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

#### **6.6.4.9.5. Minor Changes to Approved Plans**

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer.

#### **6.6.4.9.6. Amendments to Approved Plans**

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval.

#### **6.6.4.10. APPEAL OF PLANNING BOARD ACTIONS**

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

#### **6.6.4.12. SEVERABILITY**

The invalidity of any section or provision of this ordinance shall not be held to invalidate any other section or provision of this ordinance.