

Question 4 for town meeting: shall the town repeal existing Zoning Bylaw Subsections 13.3 (Site Plan Review) and 13.4 (Special Permits) and replace them with new sections as follows?

§ 13.3. Site Plan Review.

(A) Purposes and Scope

(1) Site plan review provides oversight of uses and structures which have the potential for substantial impact on the town, and examines primarily the details of site and building design.

(2) The review aims to protect the natural, environmental, scenic and aesthetic qualities of the town and the health, safety and general welfare of its residents. The review assesses the functioning and design of the lot or site and the likely impacts on nearby properties and the town at large.

(3) This section describes procedures used by the Planning Board during site plan review. It does not apply to reviews under the town's subdivision regulations, which prescribe separate review procedures.

(B) When Required

(1) A site plan review is required whenever another provision of this bylaw so states.

(2) In addition, a site plan review is also required for any nonresidential use in the R-20, R-30, RA-40, RM, BM, CR, RB, OPLI, I or PCVC Zoning Districts that involves any of the following:

(a) At least 10,000 square feet of new construction or expansion of existing construction.

(b) A use that generates at least 500 vehicle trips per day, calculated in accordance with the Institute of Traffic Engineers traffic standards.

(c) A use that generates at least 2,000 gallons of sewer flow per day, calculated in accordance with the standards established by Title V of the State Sanitary Code.

(d) The direct alteration of 25 or more acres of land for new nonresidential construction (other than utility lines).

(3) In addition, a site plan review is required for any new nonresidential business (with or without construction or alteration) in the Commercial Business Corridor (CBC) District or the Downtown Commercial Business Corridor (DCBC) District.

(C) Applications

(1) An applicant for site plan review shall file either a Minor Site Plan Review Application (Minor Site Plan) or a Major Site Plan Review Application (Major Site Plan).

(2) A Major Site Plan is required if, in the judgment of the Planning Board, the project has the potential for substantial effect on nearby uses. An example of a Minor Site Plan is

a plan that proposes to transfer ownership of an existing restaurant or retail store with no outside changes to the building or lot. An example of a Major Site Plan is a proposal to build a structure larger than 10,000 square feet.

(3) A Minor Site Plan shall include the following information:

- (a) The applicant's name, contact information and signature.
- (b) The property owner's name, contact information and signature.
- (c) The current and intended uses.
- (d) The zoning district.
- (e) A brief narrative explanation or summary of the project including recent uses and proposed uses.
- (f) A plan or statement describing existing and proposed exterior lighting.
- (g) A plan or statement describing proposed ongoing waste disposal and refuse removal.
- (h) A plan or drawing approximately to scale showing the location and dimensions of the following:
 - (i) Site boundaries.
 - (ii) Existing and proposed buildings, structures, parking spaces, pedestrian walks, driveways, and natural areas.
 - (iii) Existing and proposed easements (or other use restrictions), watercourses and wetlands, if any.

(4) A Major Site Plan shall include all the information required for a Minor Site Plan application and the following additional information.

- (a) The name, signature and contact information of a licensed professional architect, landscape architect, registered professional engineer or registered professional land surveyor who has certified the site plan information.
- (b) A site plan drawn to scale on one or more sheets that show the location and dimensions of the following:
 - (i) Site boundaries and natural features.
 - (ii) Topography, with elevation lines at no more than ten-foot intervals, as measured using the nearest United States Coast and Geodetic Survey bench mark [National Geodetic Vertical Datum (NGVD)].
 - (iii) Existing and proposed buildings and structures, parking spaces, pedestrian walks, driveways, internal roads, access and egress points, loading areas, external storage areas, dumpsters, service areas and natural areas.
 - (iv) Existing and proposed landscaping, including fencing, walls, planting areas, screening, surface treatments and other vegetation.

(v) Existing and proposed drainage and utility systems, including water and sewer, natural gas, electric, street lighting and entertainment and telecommunications systems.

(vi) Existing and proposed freestanding signs.

(vii) Existing and proposed exterior lighting, indicating height, size, design, LUX (lumens per square meter) of lit areas, and materials.

(viii) Existing and proposed easements (or other use restrictions), watercourses and wetlands, if any.

(ix) Existing and proposed open spaces, common areas, pedestrian amenities available to the public, other recreational uses and land to be left in or restored to its natural state.

(x) Any unusual historical considerations affecting the area.

(c) Facade elevations of any new construction and/or alteration to any existing building or structure.

(d) The existing and proposed floor area of all structures and the number of residential units proposed

(e) The number and location of proposed parking areas, including those reserved for handicapped individuals.

(f) Whether existing buildings will be reused.

(g) A table indicating, for each zoning classification, the applicable required and proposed setbacks; and side and rear yard distances.

(h) A description of the use, ownership and zoning of adjacent land within 200 feet of the site boundaries and the use of any buildings thereon.

(i) Photographs of the site, identifying any existing structures to be altered and the relationships to adjacent properties.

(j) Proposed covenants, deed restrictions or similar land use restrictions, if any.

(k) Plans for drainage and dust and erosion control.

(l) Where gravel or loam removal or filling is proposed, the location of extraction or filled areas and the approximate volume in cubic yards.

(m) Whether the project affects significant visual corridors.

(n) Where a site will generate more than 500 vehicle trips per day, a study showing projected pedestrian movement and vehicular traffic flow within the site and in relation to adjacent areas or roads and an estimation of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

(o) Other information that the Planning Board deems necessary in order to perform a complete analysis.

(5) Application Waivers. On request of an applicant, the Planning Board may waive some or all content required in a Site Plan application.

(D) Filing Procedure, Copies

(1) A Minor Site Plan application shall be filed with a paper original plus six paper copies. A Major Site Plan application shall be filed with a paper original plus 14 paper copies. In all cases the applicant shall also provide an electronic copy in a commonly used format.

(2) Before filing, an applicant for a building permit which might require a prior site plan review may discuss the application and all plans and supplemental documents with a designee of the Planning Board. If the applicant so requests, the designee shall advise the applicant of any need for a site plan review, as to whether the filing appears sufficiently complete, and as to the required fees.

(3) Thereafter, the applicant shall file the application and all plans and supplemental documents with the Town Clerk, who shall stamp the date and time of submission. The Town Clerk shall then forward the filing to the Planning Board or its designee.

(E) Fees and Costs

(1) The Planning Board shall adopt and may amend a fee schedule sufficient to cover the routine cost of site plan reviews, including the costs associated with public input meetings. Before accepting the filing of an application for a site plan review, the Planning Board or its designee shall require the applicant to pay the fee prescribed.

(2) The Planning Board may require an additional deposit sufficient to cover any extraordinary expenses connected with review of the application, such as for consultant services, which it deems necessary for a thorough review.

(F) Acceptance for Review

(1) The Planning Board or its designee shall determine whether each application complies with the requirements of this section and is sufficient for review.

(2) If the Planning Board determines that a project has the potential for substantial effect on nearby uses, and if the applicant has filed a Minor Site Plan, then the Planning Board may determine that the application is not sufficient for review. Thereafter, the applicant may file a Major Site Plan for the same project.

(G) Review by Other Town Boards and Agencies

(1) When it accepts an application for site plan review as sufficient for review, the Planning Board may seek comment from some or all of the following town boards and officers:

- (a) Conservation Commission;
- (b) Board of Health;
- (c) Department of Public Works;
- (d) Board of Selectmen;
- (e) Traffic Commission;
- (f) Building Commissioner; and
- (g) Town Clerk.

(2) Whenever the Planning Board seeks comment from other town boards and officers, it shall request comment by a specified date. For a Major Site Plan, the other boards shall normally be allowed at least 35 days for comment.

(3) Any town board or officer may submit written recommendations to the Planning Board, whether or not the Planning Board has requested that comment.

(4) If an officer or board fails to provide a timely response, the Planning Board shall deem that the application is unopposed by that officer or board.

(H) Public Input Meeting.

(1) The Planning Board, in its discretion, may hold a public input meeting regarding any site plan review. Any public input meeting will, as required by state law, be conducted as a public meeting and with the primary purpose of accepting comments and answering questions from the public regarding the site plan.

(2) Notice of Public Input Meeting.

(a) Required notice. The Planning Board shall give notice of any Public Input Meeting as follows:

(i) By posting notice in a conspicuous place in the town hall.

(ii) By posting notice on the town's internet website.

(b) Additional notice. The Planning Board, in its discretion, may give or require additional notice as follows:

(i) Where a proposal affects a property on or near a town boundary, by mailing notice to the Planning Board of the adjacent municipality.

(ii) By mailing written notice to other neighboring landowners.

(I) Approval, Conditions, Disapproval

(1) Before approving a site plan, the Planning Board may require modifications or impose conditions and safeguards that are reasonable in relation to the interests of the town and public health, safety and welfare and for the protection of neighboring uses or otherwise serving the purposes of this chapter. Any conditions, safeguards or limitations shall be in writing and shall be made part of the building permit, if any.

(2) Conditions may be imposed for the following purposes:

(a) To ensure adequate parking.

(b) To ensure adequate interior circulation and minimal conflict between vehicles and pedestrians.

(c) To ensure safe and adequate access to and from public rights of way.

(d) To ensure adequate access, travel and on-site movement for fire, and police equipment and other emergency services.

(e) To ensure reasonably adequate underground electric, telephone, cable television, internet, and other communications and other such utilities.

(f) To ensure compliance with the sign bylaw.

(g) To provide landscaping and screening sufficient to establish buffers between incompatible land uses, including measures to reduce the visual impact of potentially unsightly uses such as storage areas, machinery, service areas, truck loading areas, dumpsters, and utility buildings.

(h) To ensure that exterior and site lighting will be compatible with the neighborhood, will not inconvenience neighbors, and will not add unreasonably to overall light pollution in the town.

(i) To make adequate provisions for storage, refuse storage and removal, drainage, dust and erosion control, water supply, wastewater disposal and power supply.

(j) To ensure that the project is reasonably compatible with abutting properties or any special features in the area.

(k) To protect significant visual corridors.

(l) To make reasonable accommodations to any significant historical considerations affecting the area.

(m) If the project is in the Industrial (I), Commercial Business Corridor (CBC) or Downtown Commercial Business Corridor District (DCBC) zones, to encourage reasonable reuse of existing buildings.

(3) Conditions may also be imposed for the following purposes when a site plan involves construction or substantial expansion of a structure:

(a) To better match the architectural style of the proposed building(s) to the prevailing character of and scale of buildings in the neighborhood and the town.

(b) To make the height of any proposed alteration compatible with the style and character of the surrounding buildings.

(c) To make the proportions and relationships between windows and doors compatible with the architectural style and character of the surrounding area.

(d) To improve the compatibility of the structure to the open space between it and adjoining structures.

(e) To improve the compatibility of the design of the roof with the architectural style and character of the surrounding area.

(f) To improve the compatibility of the landscaping with the character and appearance of the surrounding area.

(g) To improve the compatibility of the scale of the structure with its architectural style and the character of the surrounding buildings.

(h) To better blend the facades with other structures in the surrounding area with regard to the dominant vertical or horizontal expression.

(i) To improve the compatibility of architectural details, including signs, materials, colors and textures with the original architectural style and to preserve and enhance the character of the surrounding area.

(J) Written Decision

(1) The Planning Board shall cause to be made a detailed record of its proceedings. The record of proceedings shall state the planning board's decision and the authority for and reasons for that decision. It shall also indicate the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The record shall also include written recommendations received from other town officers and boards. Copies of the record shall be filed in the office of the Town Clerk and shall be a public record.

(2) After approving a site plan, or any extension, modification or renewal thereof, the Planning Board shall issue a written decision memorandum stating its official actions, including any conditions imposed.

(3) A copy of decision memorandum shall be mailed to the owner (and to the applicant if other than the owner), containing the name and address of the owner, identifying the land affected, and stating that copies of the decision and all plans referred to in the decision have been filed with the Town Clerk. Copies of the decision shall also be mailed to every person who was present at the public input meeting and who requested that notice be sent to him or her and who provided a mailing address. A copy shall also be filed in the town's records of land use decisions.

(K) Time Limits for Town Actions

(1) Once accepted for review by the Planning Board, an application for site plan review shall be deemed approved without condition if the Planning Board has neither scheduled a public input meeting nor taken final action within 120 days of the original filing with the Town Clerk.

(2) Time limits for Planning Board actions may be extended with written or verbal recorded consent of the applicant.

(L) Post-Decision Events

(1) Site plan approval shall lapse two years following the issuance of the associated building permit if a substantial use or construction has not occurred.

(2) A Site Plan that is disapproved may be revised and resubmitted without prejudice.

(3) Any approved site plan may be revised by following the same procedure as required for original approval. Nevertheless, the Planning Board may accept minor revisions to an approved site plan without collecting fees, notifying other boards or officers or conducting a public input meeting.

§ 13.4 Special Permits

(A) Purpose and Scope

(1) Special permit review provides detailed oversight of uses and structures which have the potential for substantial impact on the town or are likely to create conflicts with surrounding uses. Special permits are also required for other land regulation purposes, such as construction in flood hazard areas and expansion of nonconforming uses.

(2) Special permit review aims to protect the natural, environmental, scenic and aesthetic qualities of the town and the health, safety and general welfare of its residents. The review assesses the impacts on abutting and nearby properties, and also on traffic, town services and the general environment.

(3) This section describes procedures used by the “special permit granting authority” in reviewing special permit applications. Depending on the case, that may be the Planning Board, the Zoning Board of Appeals or the Board of Selectmen.

(B) **Applications.** An applicant for a special permit shall file an application that includes:

(1) All the information required for a Major Site Plan Review application under section 13.3. Nevertheless, the Planning Board may waive one or more of those requirements and accept a site plan for review if, considering the scale and impact of the project, meeting the requirement would be unduly burdensome.

(2) A statement describing any conditions, easements or limitations which the applicant is willing to accept to mitigate possibly harmful impacts on the neighborhood or town.

(3) A narrative statement explaining facts which the applicant believes can assist the special permit granting authority in making the findings required below to approve the special permit.

(4) Application Waivers. On request, the special permit granting authority may waive some or all content required in a Special Permit application.

(C) **Filing Procedure, Copies**

(1) A Special Permit application shall be filed with a paper original, 14 paper copies, and an electronic copy in a commonly used format.

(2) Before filing, an applicant may discuss the application and all plans and supplemental documents with a designee of the Planning Board. The designee shall advise the applicant: of any need for a special permit and the identity of the special permit granting authority; whether the filing appears sufficiently complete; and the required fees.

(3) Thereafter, the applicant shall file the application, including all plans and supplemental documents, with the Town Clerk, who shall stamp the date and time. The Town Clerk shall then forward the site plan portion of the filing to the Planning Board or its designee and the remainder of the filing to the special permit granting authority or its designee.

(4) If a project requires two or more special permits from different boards, on request of the applicant, the boards may hear the project in a joint hearing, collect a single fee, and provide a single notice to the public.

(D) Fees and Costs

(1) The Planning Board shall adopt (and from time to time amend) a fee schedule sufficient to cover the routine cost of special permit reviews, including the costs associated with public hearings. Before accepting the filing of an application for a special permit, the special permit granting authority or its designee shall require the applicant to pay the fee prescribed.

(2) The special permit granting authority may require an additional deposit sufficient to cover any extraordinary expenses connected with review of the application, such as for consultant services, which it deems necessary for a thorough review.

(3) Fee Waivers. On request, the special permit granting authority may waive some or all fees and costs in cases of demonstrated hardship or in cases where an applicant makes a minor revision to a special permit within one year of its effective date.

(E) Acceptance for Review

(1) The special permit granting authority (or its designee) shall determine whether each application complies with all appropriate requirements of this section and is sufficient for review. An application that is not sufficient for review shall be deemed rejected, without prejudice to refiling.

(F) Review by Other Town Boards and Agencies

(1) When it accepts a Special Permit application as sufficient for review, the special permit granting authority may seek comment from some or all the following town boards and officers:

- (a) Conservation Commission;
- (b) Board of Health;
- (c) Department of Public Works
- (d) Board of Selectmen;
- (e) Traffic Commission;
- (f) Building Commissioner;
- (g) Town Clerk;
- (h) School Committee; and
- (i) Planning Board.

(2) Whenever the special permit granting authority seeks comment from other town boards and officers, it shall request comment by a specified date, which shall normally be at least 35 days hence.

(3) Any town board or officer may submit written recommendations to the special permit granting authority that it deems appropriate, whether or not the special permit granting authority has requested that comment.

(4) If an officer or board fails to provide a timely response, the special permit granting authority may deem that the application is unopposed by that officer or board.

(G) Coordination with Site Plan Review

(1) When the special permit granting authority is the Planning Board, that board shall conduct a consolidated proceeding to decide both the site plan review and the special permit.

(2) When the special permit granting authority is the Zoning Board of Appeals or the Selectmen:

(a) The Planning Board shall conduct an advisory site plan review. The special permit granting authority shall give the Planning Board at least 30 days to conduct that review before approving the special permit.

(b) The special permit granting authority may approve, approve with conditions or disapprove the special permit.

(H) Public Hearing

(1) When required by state law, the special permit granting authority shall hold a public hearing on each special permit application that has been found sufficient for review.

(2) Notice of Public Hearing.

(a) The special permit granting authority shall give notice of the public hearing as follows:

(i) By posting notice in a conspicuous place in the Town Hall for at least 14 days in advance.

(ii) By posting on the town's internet website.

(iii) By publication in a newspaper of general circulation in the town once in each of two successive weeks, the first time at least fourteen days in advance.

(iv) By first class mail to all parties in interest.

(b) Additional notice. The special permit granting authority, in its discretion, may give additional notice by mailing written notice to other neighboring landowners.

(I) Mandatory Findings. Before granting a special permit, with or without conditions, the special permit granting authority shall find that the proposed structure or use satisfies all of the following standards:

(1) The structure and/or use is in compliance with all provisions and requirements of this chapter and in harmony with its general intent and purpose.

(2) The structure and/or use is essential or desirable to the public convenience or welfare at the proposed location.

(3) The structure and/or use will not be detrimental to adjacent uses or to the established or future character of the neighborhood.

(4) There will not be undue traffic congestion or undue impairment to pedestrian safety.

(5) The structure and/or use will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting public health, safety or general welfare.

(J) Approval, Conditions, Disapproval

(1) Before approving a special permit, the special permit granting authority may impose conditions and safeguards.

(2) Any conditions shall be reasonable in relation to the interests of the town and public health, safety and welfare, for the protection of neighboring uses or otherwise serving the purposes of this chapter. Any conditions, safeguards or limitations shall be in writing and shall be made part of the special permit and of the building permit, if any. The special permit granting authority may impose the following conditions, safeguards or limitations:

(a) Conditions recommended by the Planning Board after consideration of the site plan.

(b) Front, side and rear yards greater than the minimum required by this chapter and screening buffers or planting strips, fences or walls as specified by the authority.

(c) Limitations upon the size, number of occupants, method and time of operation, time duration of the permit or extent of facilities.

(d) Regulation of the number and location of driveways or other traffic features and off-street parking or loading or other special features beyond the minimum required by this chapter.

(K) Voting requirements

(1) Supermajority. As required by state law, approval of a special permit, with or without conditions, requires a vote of at least four members of any five-member board and a unanimous vote of any three-member board. Where a motion to grant a special permit fails to obtain the required majority, the special permit is denied.

(2) Associate Members. The Board of Selectmen may appoint an associate member of the Planning Board. The associate member may participate in all meetings of the Planning Board. The associate member may vote only on questions regarding a special permit and only when the board has either a vacancy, an absent regular member, or a regular member disqualified due to conflict of interest.

(L) Written Decision

(1) The special permit granting authority shall cause to be made a detailed record of its proceedings. The record of proceedings shall state the special permit granting authority's decision and the authority and reasons for that decision. It shall also indicate the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The record shall also include written recommendations received from other town officers and boards, including any recommended decision from the Planning Board after a site plan review. Copies of the

record shall be filed within fourteen days in the office of the Town Clerk and shall be a public record.

(2) After granting a special permit, or any extension, modification or renewal thereof, the special permit granting authority shall issue a written decision memorandum stating its official actions, including any conditions imposed. The decision memorandum shall also specify which appeals, if any, may be made under state law and this bylaw.

(3) A certified copy of decision memorandum shall be mailed to the owner (and to the applicant if other than the owner), containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of that special permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and the Town Clerk. Copies shall also be mailed to other parties in interest. Copies of the decision shall also be mailed to every person who was present at the public hearing and who requested that notice be sent to him or her and who provided a mailing address. A copy shall also be filed in the town's records of land use decisions.

(M) **Recording.** No special permit shall take effect until a copy of the decision by the special permit granting authority, to which is attached a certification of the Town Clerk regarding the filing of an appeal, is recorded by the applicant in the Registry of Deeds.

(N) **Time Limits for Town Actions**

(1) Public hearings on special permit applications shall be held within 65 days of the original filing of the application with the Town Clerk.

(2) An application for special permit shall be deemed approved without condition if the special permit granting authority has not taken final action within 90 days of concluding the public hearing.

(3) In accord with state law, time limits for board actions prescribed in this section may be extended by written agreement between the applicant and the special permit granting authority.

(O) **Post-Decision Events**

(1) Special permits shall lapse two years following the issuance of the associated building permit if a substantial use or construction has not begun under the permit by such date.

(2) A special permit application that is disapproved may be revised and resubmitted without prejudice.

(3) Any special permit may be revised by following the same procedure as required for original approval. Notwithstanding, the special permit granting authority may accept minor revisions to any special permit without public hearing.