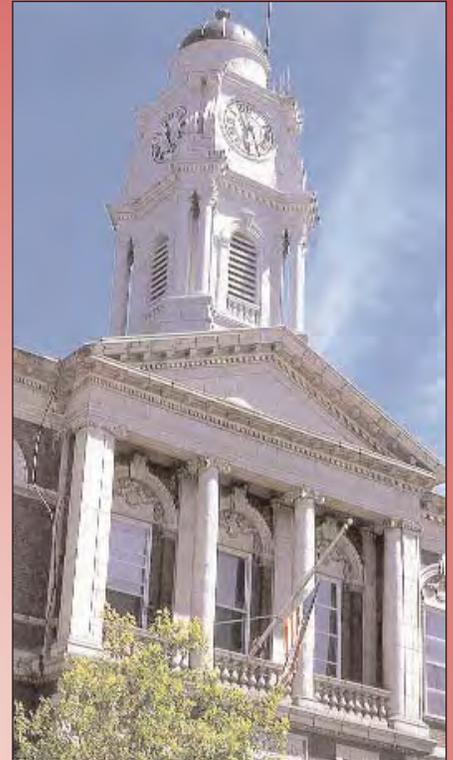


The Planning Board



New Rochelle City Hall



Irvington Village Hall

Somers Town House



Mamaroneck Village Hall





WESTCHESTER MUNICIPAL PLANNING FEDERATION
ROOM 432, 148 MARTINE AVENUE WHITE PLAINS, NEW YORK 10601

The **Westchester Municipal Planning Federation** is a voluntary association of officials from Westchester's forty-five local governments and the County of Westchester. Created in 1962, the Federation evolved from the efforts in the area of civic planning education organized by the late Hugh R. Pomeroy, Westchester's first Director of Planning, and conducted under the Westchester County Local Planning Program in the 1940s and 1950s. The theme underlying this earlier program was formalized in the statement describing the purpose of the Federation: "To create an effective and permanent countywide organization for the exchange of information on matters of planning interest."

The Municipal Planning Primer Series is provided as a service of the Federation in cooperation with the Westchester County Department of Planning as part of an educational program for local officials. The Municipal Planning Primer: The Planning Board is a revision of earlier editions and describes planning board powers, organization and procedures, as well as the legal framework that guides planning in Westchester County.

March 1999 /Updated March 2008

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MUNICIPAL PLANNING PRIMER
THE PLANNING BOARD
Updated March 2008

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I. INTRODUCTION

This publication provides information to new members of planning boards on the role of the local planning board and on the legal framework that guides the work of these boards in New York State and in Westchester County. Newly appointed members will find this primer booklet to be just one of the sources to which they can turn for information on their duties and responsibilities. Other valuable sources include experienced board members, professional planners and municipal attorneys, as well as the references listed in this primer. Veteran members of boards can use this review to refresh their understanding of the responsibilities, rules and regulations associated with planning boards. Non-board members, in particular other local officials and residents who may have occasion to call upon the board's procedures, should benefit from this explanation of the functions and powers of the planning board.

This is one report in the Westchester Municipal Planning Primer Series. Others reports focus on the role of *The Zoning Board of Appeals*, the responsibilities of *Design Review Boards and Historic Preservation Commissions*, the organization and operation of local *Conservation Advisory Councils and Boards* and the role and responsibilities of *The Planning and Zoning Clerk*. Each primer defines the responsibilities and functions of the particular board or position and describes techniques used in the course of work.

While the various municipal boards are often called upon to work together, the degree of development in a municipality has an effect on the workload of the planning and zoning boards. A developing community will generally have a very active planning board, while the zoning board of appeals is called upon less often. On the other hand, a fully developed community usually has more frequent occasions to call upon its zoning board.

In both instances, the design review or architectural board of review (if one exists in the municipality) may be involved, since such a board deals with the visual relationship of proposed development to its surrounding environment. The historic preservation or landmarks commission may be involved where there may be an impact on significant historic resources. The local conservation or environmental review board may be called upon to evaluate specific environmental concerns and impacts of development on natural features.

All of these boards may need to work very closely together for the coordinated consideration of certain actions pursuant to procedures of the New York State Environmental Quality Review Act (SEQR). Other laws which each of these boards may be required to comply with include:

- New York State General Municipal Law and General City, Town or Village Law
- Westchester County Administrative Code
- Local laws and ordinances
- Open Meetings Law
- Freedom of Information Act

Since colonial days, land use in America has been regulated to some extent in order to control nuisances and protect the public health and safety. Early town plats laid out street patterns and

the locations of certain prominent uses – churches, schools, cemeteries, parks and the like. As settlements developed into cities and land uses impinged more closely upon each other, the need for more specific regulation of land use became more evident. Volunteer citizen groups began to promote the development of community-wide plans in many towns, cities and villages.

The New York State General Municipal Law of 1913 first provided for municipal planning bodies in New York with the enactment of Section 12A, Chapter 699 by the state legislature. This legislation authorized the creation of planning agencies in cities and villages. (It was not until 1927 that enabling legislation for towns was adopted.) Westchester's first municipal planning body was established in the City of Mount Vernon in 1915.

In 1916, the first zoning ordinance in the country was adopted by New York City in response to fears of inner city overcrowding that would result from anticipated improvements to the transportation system. The first zoning ordinance known to have been enacted by a Westchester municipality was adopted in 1920 by the City of White Plains. In 1926, the United States Supreme Court handed down its landmark decision in the case of Village of Euclid v. Ambler Realty Co., 272 US 365, in which the validity of comprehensive zoning was upheld as a proper exercise of the police power of a municipality. A report published by the Regional Plan Association indicated that 38 municipalities had adopted zoning ordinances by 1932.

Planning is a continuing process in which goals and objectives for the future of a city, town or village are developed and evaluated. The American tradition of municipal planning is rooted in the concept of a non-paid, non-political, citizen advisory planning board. The ultimate goal of this planning board is to ensure that the long-range planning and land use objectives of the community can be achieved.

A community's physical and socio-economic characteristics are the foundation for defining these goals and objectives, and they serve as a guide to formulate plans and policies for long-term development. The formal documentation of these plans and policies is called the Comprehensive Plan. Zoning, land subdivision regulations and a capital improvement program, among other planning tools, are used to implement the development policies stated in the Comprehensive Plan. A component fundamental to the planning process is citizen participation.

In New York State, through the state enabling legislation, municipal planning and land use controls are delegated to the local legislative body. The local legislative body creates the planning board and authorizes it to undertake planning activities in accordance with General City, Town or Village Law and other special state planning and zoning enabling legislation. Even with the establishment of a planning board, the local legislative body retains several powers for direct involvement in municipal planning.

II. GOVERNMENT FRAMEWORK FOR PLANNING

Counties, cities, towns and villages comprise local government within New York State. They are corporate entities known as municipal corporations. These units of local government provide most local government services, except for some special-purpose governmental units such as sewer and water districts and single-purpose governmental units such as school and fire districts.

Counties: Counties are creations of the state and have authority as delegated by the state. The organization of legislative and executive authority differs widely across the state. However in New York, counties do not have land use regulatory authority; these functions are specifically reserved to the cities, towns and villages through General Municipal Law. There is a County Planning Board which performs countywide planning functions and plays a significant advisory role in local planning and zoning decision-making.

Cities: Cities are specially incorporated by the state legislature to provide governmental services within their boundaries. All cities have elected legislative bodies, known as councils, but the form of executive administration varies.

Towns: Towns are subdivisions of counties and include villages within their boundaries. They are governed by town boards, each consisting of a town supervisor (the chief elected official) and four other elected members (councilmen/councilwomen). Some towns have professional managers with administrative authority.

Villages: Villages are incorporated by local action taken in accordance with State law. Each village is governed by an elected board of trustees, headed by a mayor. Some villages have professional managers with administrative authority.

Three principal agencies at the municipal level formulate, document and implement planning policies: the local legislative body, the zoning board of appeals and the planning board. Although each body has separate functions, sound planning practice requires interaction among these boards and with local officials including the planning staff or consultant, building inspector, municipal engineer and local advisory boards.

The three local agencies must also coordinate some activities with the County Planning Board in its role as an advisory body to the 43 cities, towns and villages within Westchester County that have land use regulatory authority. (Two towns - Rye and Pelham - do not encompass any land that is not part of an incorporated village and thus they do not exercise land use regulatory authority.)

A. Local Legislative Body

The local legislative body creates the planning board and authorizes it to undertake planning activities in accordance with General City, Town or Village Law, whichever is applicable. The local legislative body has direct authority over specific planning actions, such as:

- Preparation, adoption and revision of a community's comprehensive plan through the passage of a local law

- Adoption or amendment of a zoning ordinance, including the zoning map, and other special ordinances through the passage of a local law
- Adoption of a capital program to fund future improvements to community facilities
- Adoption of legislation creating advisory boards, such as the conservation advisory council and the board of architectural review
- Appointment of residents to serve on the Planning Board and other administrative and advisory boards
- Retention or delegation of authority to grant special use permits, and
- Adoption of subdivision regulations and other types of land use regulations through the passage of a local law.

B. Zoning Board of Appeals

The ZBA is both an administrative and quasi-judicial body that does not have legislative powers. The primary responsibilities of the Zoning Board of Appeals include:

- Consideration appeals from decisions of the enforcement officer in applying the zoning ordinance and granting variances in accordance with General City, Town or Village Laws, whichever is applicable
- Acting as interpreter of the zoning ordinance
- Granting special use permits, when granted such authority by the local legislature, and
- Conducting site plan review, when granted such authority by the local legislature.

For information on the role and powers of the Zoning Board of Appeals, refer to the publication, Municipal Planning Primer: The Zoning Board of Appeals (2008), available through the Westchester County Department of Planning.

C. Local Planning Board

The Planning Board is an administrative body consisting of appointed members. The Board's responsibilities are detailed on the following pages.

D. Westchester County Planning Board

The County Planning Board is assigned specific responsibilities by the Westchester County Charter and the County Administrative Code. These responsibilities are:

- To formulate and recommend major development policies
- To aid in maintaining a high level of municipal action in planning and land use regulation
- To coordinate actions among municipalities by bringing pertinent inter-community and county-wide considerations to the attention of municipal agencies.

The principal means by which the County Planning Board carries out these responsibilities is through the mandatory referral process for certain municipal land use and zoning actions (see Chapter V-F). In conducting these reviews, the Board is guided by the policies and strategies set forth in *Patterns for Westchester: The Land and The People*, the County's long-range land use planning policy document, expected to be updated by *Westchester 2025* in 2008. In addition, the County Planning Board provides planning assistance through planning, zoning and socio-economic studies on intermunicipal and county-wide levels.

III. POWERS OF THE PLANNING BOARD

The planning board is an administrative body of local government. It does not have legislative powers. The primary responsibilities of the planning board are to:

- Review and approve subdivision plats
- Review and approve site plans, when granted such authority by the local legislature
- Review and approve special use permits, when granted such authority by the local legislature
- Prepare land subdivision regulations and recommend their adoption to the local legislature
- Participate in the preparation of a comprehensive plan, when directed by the local legislature
- Report on matters referred to it by the local legislature, including amendments to the zoning ordinance, the adoption of official maps and capital improvements
- Advise the local legislature and other boards on matters affecting a community's development, and
- Prepare other regulations relating to subject matter over which the planning board has jurisdiction and recommend their adoption to the local legislature.

As an administrative board with defined limits of authority, the planning board *may not*:

- Interpret the zoning ordinance
- Consider or grant variances of zoning provisions
- Act on subdivision or site plan applications in an arbitrary or special case manner that is inconsistent with adopted rules and regulations, and
- Adopt, amend or approve activities or actions for which the local legislative body has not delegated authority.

Please note that this primer addresses the planning board as established and defined in New York State General City, Town or Village Law. Article 12-A of NYS General Municipal Law establishes and defines provisions for planning commissions in cities and villages; these provisions differ in several respects from the planning board provisions.

IV. PLANNING BOARD ORGANIZATION

Provisions for a planning board are usually contained within the text of the local law creating the board. These provisions should clearly and concisely spell out the following: the specific powers to be exercised by the board; the exact limits within which those powers are to be exercised; the membership, terms and the process for the selection of the board's officers and the filling of vacancies; and the general rules governing the board's decisions, the conduct of its meetings and its hearing procedures.

The effectiveness of a planning board in conducting its work is dependent on these organizational aspects plus the interest of its members.

A. Membership

The duties of a planning board member require dedication and tenacity as the work frequently involves a substantial time commitment and dealing with controversy. Board members are expected to attend one or two regular meetings per month and several visits over the course of a year to the sites of development applications. Meeting preparation may require hours of reading and reviewing materials submitted to the board.

On occasion, meetings can become difficult, particularly at public hearings on large projects. A board member must remember the limits of his role as an administrator bound to process applications within the framework of adopted laws and regulations. He or she must be able to work with the other board members in reaching fair and rational decisions that may differ from personal desires.

Obviously, to handle this role, a planning board member should have a sincere interest in his or her community's future and be willing to give time to the board's work. A member should be familiar with the community's social structure, economic base, political framework, land use and zoning. It is recommended, but not essential, for some board members to have a working knowledge in planning, law or engineering.

The terms of board members are relatively long compared to the terms of elected officials and the term of only one member expires in any one year. This structure establishes continuity on a board and avoids immediate political influence. The number of members on a board may vary - but not arbitrarily as the rules are set by state law. The length of term in years equals the total membership of the board, with each term ending at the end of a calendar year in towns and at the end of the "official" year in villages and cities. Planning board members are appointed by:

APPOINTMENT TO THE PLANNING BOARD			
	Number of Members	Terms of Office	Appointed By
TOWNS	5 or 7	5 or 7 years	Town Board
VILLAGES	5 or 7	5 or 7 years	Mayor
CITIES	5 or 7	5 or 7 years	Mayor or Appointing Authority

To the greatest extent possible, the board should be kept at full strength to ensure that it has enough members to easily meet its quorum requirements. Courts have ruled that a quorum is determined based on the *full-authorized membership* of the board – not on the number of filled positions. As a consequence, decisions of the board must be based on an absolute majority of the board’s fully authorized membership.

There are limits on eligibility for board membership. Elected trustees and council members are excluded from serving on planning boards under General City, Town or Village Law. General City Law (Section 27-1) states “Not more than a minority of the members...shall hold any other public office or position in the city.” There is no similar provision in Town or Village Law. However, the appointment of a building inspector or zoning officer to a planning board of the same municipality could raise concerns of a conflict of interest. Interestingly, General City, Town or Village Law does not explicitly state that members of planning boards must be residents of the municipality; however, provisions of others laws – including local laws – may set a general requirement that certain board members be residents.

General Municipal Law (Section 12-A-234) allows cities and villages with a planning *commission* to appoint one member who is not a resident of the city or village (but only in counties with a population over 300,000). This same section limits one-third of the members of a planning commission to holding any other public office.

Some communities in Westchester have an individual serve on both its zoning board and its planning board to encourage communication and liaison between the boards. This is possible under state law. However, many municipalities prefer that each board appoint one member to act as liaison to the other board or boards. Further discussion on the relationship with other boards and agencies can be found in another section of this report.

During the year it may also be desirable for the zoning board and planning board to have one or more joint meetings to discuss the status of development of the community in relation to the stated purpose of the zoning ordinance and the comprehensive plan. The legislative body should be included in such a meeting to hear recommendations on the need for updating the comprehensive plan or for amending the zoning ordinance.

B. Compensation

State enabling legislation authorizes local legislative bodies to compensate planning board members for their services. Although not a common practice in Westchester, 20 percent of those communities responding to a survey stated that they do provide compensation for board members. Where compensation is provided, often only the board chair receives a payment.

C. Board Chair

The chair of the planning board is one of its members who has been designated chair by the local legislative body, usually on an annual basis. The board chair is responsible for publicizing each meeting and running it in accordance with the Open Meetings Law. Some boards have a vice-chair either elected by the board or designated by the chair. On other boards, the chair rotates other board members in the position of acting chair in his or her absence.

The board chair may also appoint subcommittees to handle special studies such as comprehensive plan preparation/revision or to conduct field visits to proposed development sites. The chair may also appoint members to serve as liaisons to other municipal agencies.

D. Budgets or Special Appropriations

Some municipalities authorize a specific budget for their planning board to cover the administrative and staff costs associated with planning board business. Communities that do not have a specific budget for their planning board usually authorize special appropriations on occasion to cover specific expenses, such as attendance at conferences, special supplies or equipment.

E. Planning Staff and Consultants

If a planning board has a busy calendar or one consisting of large, complicated applications, paid staff assistance is generally required. At a minimum, a recording secretary is generally needed to keep the legally required minutes. The same secretary may be a full-time municipal employee available during the day to receive applications to the board, to collect fees and to process the often cumbersome paperwork. Such assistance may be unavoidable if a planning board is to meet the legal requirement that each vote to approve or deny an application be set forth in a written resolution that includes the reasoning for the decision and any conditions placed on it.

Professional planning assistance may also be required. These professional planners may be either local government staff or consultants retained on a "per project" or annual basis to review and provide recommendations on subdivision plats, site plans and special use permit applications. Professional planners are often needed to assist in the preparation of resolutions and in the review of environmental impact statements. In addition to assisting in the application process, professional planners can draft land use and development control regulations, prepare planning-related studies and prepare comprehensive plans.

Sixteen of Westchester's 43 municipalities with land use authority have professional planners on staff – all six cities, three of 23 villages and seven of 14 towns. Many of the others retain consultants through annual contracts. Municipal officials seeking guidance in the selection of a planning consultant may contact or visit the web site:

American Planning Association (APA) – New York Metro Chapter
11 Park Place, Suite 914
New York, NY 10007
646.278.6757 Fax: 646.278.6758
office@nyplanning.org
www.nyplanning.org

American Institute of Certified Planners (AICP)
1776 Massachusetts Avenue, N.W.
Washington, D.C. 20036
202.872.0611
www.planning.org

F. Record Keeping

Minutes of the all meetings must be maintained in a central location as must the files for all applications before the board. Actions of the board and the facts relied upon to take actions must be documented in the minutes and be available to the public.

G. Conflict of Interest

Appointments to the planning board should avoid situations involving incompatibility of office or conflict of interest. Incompatibility relates to a person holding two or more public offices, which are in conflict with each other. Conflict of interest questions, on the other hand, arise when a person holding public office has certain private interests that are affected by public action.

The basic state statute covering the area of conflict of interest as applied to the operations of local governments is found in General Municipal Law Article 18. This section of state law describes the areas of conflict of interest in municipal transactions and leaves to local governments the prerogative to enact their own conflict of interest restrictions by adopting a local code of ethics.

Section 809 of the General Municipal Law requires every applicant for a land use approval to disclose any interest in the application possessed by any state, county or local official within the jurisdiction. Applications included under Section 809 encompass those for variances, zoning amendments, site plan and subdivision plat approval and requests for exemptions from provisions of zoning and planning regulations. For opinions regarding potential conflict of interest situations, consult your municipal attorney.

H. Training Requirements

On January 1, 2007, new minimum training requirements for municipal planning and zoning officials took effect. The New York State law requires a minimum training standard of four hours each year for all members (including alternates) of county, city, town and village planning and zoning boards. Training credits in excess of four hours obtained in any given year may be carried over to meet the next year's requirement. Board members who fail to receive the required minimum training are ineligible for reappointment to their board, unless exempted by the legislative body.

The local legislative body of each municipality determines what courses, programs or other activities may meet the training requirement. Each municipality should establish a system for keeping track of training received by board members.

There are many different avenues of obtaining training. The programs offered through the Westchester Municipal Planning Federation (WMPF) are a good place to start. Each spring, WMPF offers a Land Use Training Institute that spans three evenings and provides instruction, discussion and education on board practices as well as on current planning and zoning topics. WMPF provides a certificate of attendance to registrants that can be delivered to the record-keeper in their municipality.

V. PLANNING BOARD PROCEDURES

A planning board can head off numerous problems and distractions by having in place a set of procedures that can be easily understood by applicants and the public. The length of the application process may at times be less onerous to an applicant than not knowing when a planning board will act or seeing it act capriciously. Most importantly, a fixed process puts a planning board on firm legal ground. Additional information on procedures is presented in the publication, Municipal Planning Primer: The Planning and Zoning Clerk (2006), available through the Westchester County Department of Planning and at www.westchestergov.com/planning.

A. Meeting Quorums

A quorum is the minimum number of members required to be present for business to be conducted. Under General Municipal Law, a planning board quorum is defined as a majority of the full authorized membership of the board - it is not based on the number of filled positions. As a consequence, decisions of the board must be made by an absolute majority of the board's fully-authorized membership.

B. Rules and Procedures

Procedures for the processing of applications to the board should be set forth in land subdivision or site plan regulations. These procedures should call for applicants to meet with the board's technical staff, if there is one, to review matters of form and procedure prior to making formal submissions. In addition to these regulations, the board has the authority to adopt by-laws governing its own organization and procedures. Such rules should be in written form, revised periodically and made available to new board members. These rules are subject to the approval of the local legislative body.

C. Conduct of Meetings

A planning board should hold regularly scheduled meetings. In most communities, meetings are held at least once each month. Boards with long agenda often hold one or more work sessions between regularly scheduled meetings and conduct site inspections. A recommended practice is for a board to adopt in December of each year a meeting schedule that lists the dates of all regular meetings for the next year. In all situations, compliance with the NYS Open Meetings Law is required.

The agenda for each meeting should be set in advance and be made available to the public and the media. Many municipalities post agendas on the municipal website. As a means to avoid having meetings run on into the late night, several Westchester boards include on their agenda a notice that no matters will be taken up by the board after a specified hour such as 11 p.m., whether or not they are listed on the agenda.

D. Conduct of Public Hearings

It is the responsibility of the planning board chair to conduct public hearings but all board members should be thoroughly acquainted with the subject of the hearing. The key to successful and productive public hearings is to follow a routine procedure that permits public participation.

When conducting public hearings, the board chair has the responsibility to keep the meeting on course, bringing discussion to a conclusion and ensuring that the hearing is conducted in a fair manner and with decorum. To meet these objectives, the following points should be kept in mind.

- The board members should be thoroughly acquainted with the subject of the hearing. If appropriate, a field inspection should have been made to the site.
- The meeting and subject matter should be properly publicized, and given required legal notice, prior to the hearing.
- At the beginning, the board chair should explain the manner in which the hearing will be conducted.
- Depending on the subject matter, the chair may invite the applicant to make a brief presentation for the benefit of the public; but the chair should insure that the presentation does not substitute for or diminish the opportunity for public comment.
- Similarly, the chair may request the board's own consultants to summarize review comments for the benefit of the public.
- If a large number of residents are expected to speak, a sign-up sheet should be established and a time limit placed on each speaker.
- In situations where a larger than expected audience attends, the board can recess the hearing and reconvene to a larger room, or announce additional hearings;
- All questions and comments should be directed to the board chair; cross-examination of the applicant or of board members by the public should not be permitted.
- A record must be kept and maintained of the proceedings.
- At the conclusion of the hearing, the board should reserve its decision on an action until the hearing record and all other materials can be reviewed. While the decision must include consideration of the discussion at the hearing, the hearing will not necessarily determine the board's action. The facts, the analysis completed on the application and compliance with local and state laws may lead to an outcome not endorsed by the speakers at the hearing.
- Town, Village and General City Law require that a public hearing on a subdivision plat be closed within 120 days after it has been opened.

E. Compliance with Open Meetings Law

In 1976, the State Legislature enacted the Open Meetings Law, which is applicable to all public bodies, committees and similar bodies. The law asserts that every meeting of a public body shall be open to the public except when an executive session is called to discuss certain subjects that are listed in the law. A "meeting" is defined as the "formal convening of a public body for the purpose of officially transacting public business" (Public Officers Law, Sec. 92, Subd. 1). A "public body" is "an entity, for which a quorum is required in order to transact business, and which consists of two or more members performing a governmental function..." (Public Officers Law, Sec. 92, Subd. 2).

Any aggrieved person has standing to enforce the provisions of the Open Meetings Law. If a public body has taken action in violation of the law, a court can declare the action null and void.

The Open Meetings Law *does not apply* to judicial or quasi-judicial proceedings, deliberations of political committees, conferences or caucuses or any matters made confidential by federal or state law. To ensure compliance with the Open Meetings Law, consult your municipal attorney when there is a question regarding procedural aspects of meetings or hearings.

The Committee on Open Government is responsible for overseeing the implementation of the Open Meetings Law. When questions arise, the Committee can provide written or oral advice and mediate in controversies in which rights may be unclear. If you need advice or information regarding the Open Meetings Law, you may contact the Committee on Open Government at:

Committee on Open Government
41 State Street
Albany, NY 12231
518.474.2518 Fax: 518.474.1927

The following are some guidelines for local boards to follow, based on provisions of the Open Meetings law:

1. PUBLIC NOTICE: When a meeting is scheduled a week in advance, notice of time and place must be given to the news media and posted in one or more designated public locations at least 72 hours before the meeting. Public notice of the time and place of all other meetings must be given to the public and the news media to the extent practicable.

2. MINUTES: Minutes must be compiled for both open meetings and executive sessions. Those for executive sessions must be made available within one week; those for open meetings must be made available within two weeks. Minutes shall include a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

3. EXECUTIVE SESSIONS: The Open Meetings Law lists eight grounds for calling an executive session that may appropriately exclude the public. The grounds for executive session are largely based on the harmful effects of public airing of particular issues; they are summarized as follows:

- Matters that will imperil the public safety if disclosed.
- Any matter that may disclose the identity of a law enforcement agent or informer.
- Information relating to current or future investigation or prosecution of a criminal offense that would imperil effective law enforcement if disclosed.
- Discussions regarding proposed, pending or current litigation.
- Collective negotiations pursuant to Article 14 of the Civil Service Law.
- The medical, financial, credit or employment history of any person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of any person or corporation.
- The preparation, grading or administration of examinations.
- The proposed acquisition, sale or lease of real property, but only when publicity would substantially affect the value of the property.

F. Referrals to County Planning Board

Specific planning and zoning actions must be referred to the County Planning Board and to abutting municipalities. The requirements that establish which actions at what locations must be referred are set forth in the Westchester County Administrative Code and New York State General Municipal Law. Court decisions have found that the provisions of both laws apply in Westchester and that where there is a conflict, the County Administrative Code takes precedence. If a decision is challenged through legal action, a failure to make the required referral could result in a planning or zoning action being found invalid.

The purpose of the referral requirement is defined by the Westchester County Administrative Code as “to aid in maintaining a high level of effectiveness of municipal action...and in coordinating such action...by means of procedures for bringing pertinent inter-community and county-wide considerations to the attention of such municipal agencies.” NYS General Municipal Law has a similar statement and lists specific topics that should be considered by the County. These include compatibility of land uses, traffic generating characteristics, adequacy of roads, impact on state and county uses, impact on drainage, protection of community character and relation to official municipal and County development policies.

In this context the Westchester County Planning Board considers that its primary responsibilities are to protect the public interest and investment in State and County facilities and to alert decision-making boards to the intermunicipal and areawide impacts that a land use decision may have. The framework for this review is set forth in the County Planning Board’s own land use policy plan, *Patterns for Westchester*, adopted in December 1995. *Patterns* establishes three *elements of review*:

- Density of development
- Relationship to surrounding development, and
- Visual impact.

The County Planning Board encourages the environmental reviews of major development and rezoning proposals to address these elements as well as include an assessment of the broader issues that are a part of *Patterns*.

The County Planning Board anticipates adopting updated policies in 2008 under the *Westchester 2025* planning initiative. To review them and to see the latest information on *Westchester 2025* and new planning tools, go online to www.westchestergov.com/2025.

Not all submissions to the County Planning Board receive the same level of attention. In December 2003, the County Planning Board acted to pre-determine that certain categories of planning and zoning actions do not raise intermunicipal or areawide concerns. Although the law continues to require that referrals of these actions be made, the County Planning Board has simplified the process to permit notification by e-mail without the submission of any supporting materials. Based on recent experience, approximately 45% of all referrals qualify for this abbreviated procedure. Table 1 lists actions that continue to require the referral of complete applications. Table 2 lists actions that qualify for the “notice only” procedure. A standard submission form is available for e-mail use at www.westchestergov.com/planning.

For actions listed on Table 1, materials sent to the County Planning Board should include the complete application package submitted to the local board with an accurate location map; municipal tax map designation; a complete description of the action; a site plan, subdivision plat or sketch plan (as appropriate to the application); and environmental assessment forms.

When a “complete application” referral arrives at the County Planning Department, staff makes an initial classification. On occasion, a municipality will submit an action for which no referral requirement exists; these submissions are set aside and no response is prepared. If the referral qualifies for the “notice only” procedure, the referring board is notified that the referral requirements have been met and that the matter is for local determination only. Some of the complete application referrals, once reviewed, are placed in the category of “actions for local determination.” These submissions are determined not to raise issues of County interest or of intermunicipal concern, based on the thresholds established in *Patterns*. A response letter is sent to the municipal agency stating that the action is a matter for local determination in accordance with the community’s established planning and zoning policies.

The replies to all other referrals, representing about 37% of all actions sent to the County Planning Board, include some level of comment or recommendation by the Board. Those comments may be limited to informational or procedural topic that relate to planning standards or to compliance with the NYS Environmental Quality Review Act.

For more information or assistance on the referral process or to view *Patterns* and *Westchester 2025*, go online to www.westchestergov.com/planning or contact the Planning Department at 914.995.4405.

G. Referrals to Adjacent Municipalities

The Westchester County Administrative Code Section 277.71 and NYS law (as of July 1, 2006) require that a municipal board provide notice to an adjacent municipality when a public hearing will be held on certain planning and zoning actions that affect property within 500 feet of that adjacent municipality. This notice must be given by mail or electronic transmission to the municipal clerk of the abutting municipality at least ten days prior to a public hearing. The chart below identifies the actions subject to this requirement.

Section 277.71 is reprinted in its entirety below:

277.71 Rights and Duties of Neighboring Municipalities in Planning and Zoning Matters
Each city, village or town in the county shall give notice of any hearing scheduled in said municipality in connection with: 1) the proposed adoption or amendment of a zoning ordinance or the issuance of a proposed special permit or use permit changing the use classification of property located within five hundred feet of any abutting municipality in the county; 2) a subdivision plat relating to land within five hundred feet of any abutting municipality in the county; or 3) the proposed adoption or amendment of any official map, relating to any land within five hundred feet of any abutting municipality in the county, to such municipality. Such notice should be given at least ten days prior to any such hearing by mail to the clerk of said abutting municipality affected. Such mailing shall be deemed sufficient service under this or any other law requiring notice of any such hearing.

Such abutting municipality may appeal and be heard at such hearing and may file thereat a memorandum of its position. If such abutting municipality disapproves the proposal on which the hearing is held, or recommends changes or modifications thereof, the municipal agency having jurisdiction shall not act contrary to such disapproval or recommendation except by the adoption of a resolution of the municipal agency, which action shall be subject to judicial review pursuant to the law providing for review of acts of such municipal agencies, commenced within thirty days of its adoption. (Formerly #452, added by Laws of 1961, Ch. 823, Code Recodified in 1979.)

<u>Required Referrals to Abutting Municipalities 10 Days Before Hearing</u>	
<u>TYPE OF PLANNING/ZONING ACTION</u>	<u>LOCATIONAL TRIGGER FOR REFERRAL</u>
SPECIAL USE PERMIT	Affecting land within 500 feet of municipal boundary.
USE VARIANCE	Affecting land within 500 feet of municipal boundary.
SUBDIVISION PLAT	Affecting land within 500 feet of municipal boundary.
SITE PLAN.....	Affecting land within 500 feet of municipal boundary.
ZONING ORDINANCE OR MAP.....	Affecting land within 500 feet of municipal boundary.
Adoption or amendment	(Westchester County municipalities only)
OFFICIAL MAP	Affecting land within 500 feet of municipal boundary.
Adoption or amendment	(Westchester County municipalities only)
ZONING VARIANCE.....	Not required.
COMPREHENSIVE PLAN.....	Not required.
Adoption or amendment	

H. Decisions

The State enabling legislation specifies that, in most circumstances, a decision must be announced by the planning board within 62 days after the close of the hearing. This timeframe may be extended by mutual consent of the applicant and the board. Several points should be considered in the procedure for decision-making:

- All votes may be taken by the board at an open meeting. The vote of each member, or a notation of his or her absence from the decision, must be recorded. A decision of the board is by a concurring vote of the majority of the authorized membership of the board.
- The written decision, typically in the form of a resolution, should include the findings of the board. It should be carefully documented so that the board may avoid the charge of being arbitrary or capricious.
- City, town and village planning boards are required to file their decisions within five days in the municipal clerk’s office. In all cases, a copy of the decision must be provided to the applicant.

**TABLE 1: ACTIONS THAT REQUIRE
REFERRAL OF COMPLETE APPLICATIONS
TO THE WESTCHESTER COUNTY PLANNING BOARD**

Submission should include complete application material as submitted to local board or full text/map of zoning code and comprehensive plan amendments.

TYPE OF PLANNING/ZONING ACTION	LOCATIONAL TRIGGER FOR REFERRAL
COMPREHENSIVE PLAN Adoption or amendment.	Affecting land anywhere in municipality.
ZONING ORDINANCE OR MAP Adoption or amendment.	Affecting land anywhere in municipality.
SUBDIVISION PLAT	Where new street or drainage line will connect directly into state or county road or county drainage channel.
SITE PLAN¹ Proposing 5,000 square feet or more of new or renovated floor area or 10,000 square feet or more of land disturbance.	Affecting property within 500 feet of: <ul style="list-style-type: none"> • The boundary of a city, town or village • The boundary of an existing or proposed state or county park or any other state/county recreation area • The right-of-way of an existing or proposed state or county road • An existing or proposed county drainage channel line • The boundary of state- or county-owned land on which a public building/institution is located or • The boundary of a farm located in an agricultural district.
SPECIAL USE PERMIT/USE VARIANCE Changing use classification of property and proposing 5,000 square feet or more of new or renovated floor area or 10,000 square feet or more of land disturbance.	Affecting land anywhere in municipality.
OFFICIAL MAP Adoption or amendment.	Affecting streets or drainage lines connecting directly into state or county road or county drainage channel.

¹Additional requirement of NYS General Municipal Law; notice to be provided 30 days prior to agency action.

**TABLE 2: ACTIONS THAT REQUIRE
NOTIFICATION ONLY
TO THE WESTCHESTER COUNTY PLANNING BOARD**

Notification should consist of e-mail to muniref@westchestergov.com stating: type of action, title of action, address and statement that action falls within County Planning Board category that requires “Notification Only.” An e-mail acknowledgement will be sent at receipt. (FAX communication may be substituted.) A standard submission form is available at www.westchestergov.com/planning.

TYPE OF PLANNING/ZONING ACTION	LOCATIONAL TRIGGER FOR REFERRAL
<p>SITE PLAN¹ Proposing less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of land disturbance.</p> <p><i>(Exception – actions that have been given a Positive Declaration pursuant to SEQOR must be referred as complete application.)</i></p>	<p>Affecting property within 500 feet of:</p> <ul style="list-style-type: none"> • The boundary of a city, town or village • The boundary of an existing or proposed state or county park or any other state/county recreation area • The right-of-way of an existing or proposed state or county road • An existing or proposed county drainage channel line • The boundary of state- or county-owned land on which a public building/institution is located or • The boundary of a farm located in an agricultural district.
<p>SPECIAL USE PERMIT/USE VARIANCE Changing use classification and proposing less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of land disturbance.</p> <p><i>(Exception – actions that have been given a Positive Declaration pursuant to SEQOR must be referred as complete application.)</i></p>	<p>Affecting land anywhere in municipality.</p>
<p>ZONING VARIANCE Decreasing front yard setback. Decreasing minimum street frontage. Decreasing average width.</p>	<p>Affecting property abutting state or county road or park.</p>

¹ Additional requirement of NYS General Municipal Law; notice to be provided 30 days prior to agency action. These tables are provided for convenience. The actual language of statutes involved must be checked to determine which actions to refer.

VI. RELATIONSHIP WITH OTHER AGENCIES

The planning board is frequently involved with county, state and federal agencies and officials as well as with other agencies and boards in its own municipality. The basis for this involvement varies.

First, subdivision and site plan applications before a planning board generally require approval of certain aspects of the plan from several other agencies before construction can begin. The planning board is often placed in the role of coordinating the review and approval of these other agencies. Approvals may be conditioned on the applicant submitting evidence to the planning board of having obtained all other necessary approvals and permits.

Second, the planning board may be required by local ordinance to refer applications to other local review boards for review and recommendation or possibly approval of certain aspects.

Third, the planning board may be requested to provide advice and assistance to other agencies in comprehensive planning programs and day-to-day activities.

And fourth, the planning board may be requested by the zoning board of appeals to provide comments on variance appeals before that board.

Overall within the municipality, the amount of coordination that occurs between the planning board, the zoning board of appeals and the local legislative body depends on the type of application. Some applications will require decisions from all three local boards. In addition, in some municipalities, special arrangements are made to share applications with locally created advisory boards and councils that have a special focus such as conservation, architecture or historic preservation. While individual board members may not have the opportunity to meet with members of other boards and councils, an application can be referred with a cover memo and then, if any comments are returned, they can be distributed to the board members. The responsibility for this often time-consuming and complicated undertaking and coordination usually falls on the clerk.

Planning boards also communicate at length with the building inspector, the municipal attorney, the municipal planner and the highway or public works superintendent. Memos and reports will usually pass among them and the board. The staff or consulting planner and engineer are usually present at planning board meetings.

Detailed descriptions of the functions of other agencies as they relate to municipal planning matters are presented in Chapter X, "Profiles of County, State, Regional and National Agencies."

On the local level, the planning board can be expected to interact with:

- Local legislative body
- Zoning Board of Appeals
- Building inspector

- Highway superintendent
- Recreation/parks superintendent or board
- Conservation advisory council or board
- Architectural, character or historic review council or board and
- Community development agency

Non-municipal contact is generally with agencies at the county level. These agencies include:

- The Westchester County Planning Board and the County Department of Planning
- The County Department of Public Works
- The County Department of Health
- The County Department of Transportation
- The Westchester County Soil and Water Conservation District
- The Westchester County Environmental Management Council
- The Westchester Municipal Planning Federation.

The state, regional and federal planning agencies that planning boards may need to interact with are:

- The New York State Department of Transportation
- The New York State Department of Environmental Conservation
- The Office for Local Government Services in the New York State Department of State
- The New York Planning Federation
- The New York Metropolitan Transportation Council
- The United States Army Corps of Engineers.
- The United States Department of Housing and Urban Development
- The American Planning Association (APA)

As described under "Referrals to Adjacent Municipalities" in Chapter V, planning boards may also have interaction with agencies from adjacent cities, towns and villages due to the provisions of Section 277.71 of the Westchester County Administrative Code and NYS law. These provisions require a planning board to refer subdivision and special use permit applications to an abutting municipality in certain situations. Likewise, a planning board may be requested to review a project from outside its municipal boundaries under the same provisions.

VII. THE TOOLS OF PLANNING

Planning boards have either direct control or a strong advisory position over the use of several key planning tools. When these tools are properly used, the planning board will be in a position to achieve sound and orderly development within its community.

A. The Comprehensive Plan

The provisions for comprehensive planning by New York State municipalities were extensively revised by the State legislature in 1994 and 1995. Before July 1994, planning boards were authorized to prepare a comprehensive master plan for their city, town or village. Since that date, amendments to Town, Village and General City Law have switched the authority for adoption of a “comprehensive plan” to town boards, village boards of trustees and the legislative bodies of cities. This is a new concept as few municipal comprehensive plans prepared by Westchester municipalities prior to 1994 had been formally adopted by the elected officials serving on the town board, village board of trustees or the legislative body of cities. Typically, adoption was done by the planning board after a public hearing.

Under the new provisions, a town board, village board of trustees and the legislative body of a city may prepare a comprehensive plan itself *or* it may designate by resolution the planning board or a *special board* to prepare the comprehensive plan. If the elected board or a *special board* prepares the plan, Town, Village and General City Law provide that the elected board *may* refer the proposed new plan to the planning board “for review and recommendation before action” by the elected board. It is important to note that involvement of the planning board is not required.

If the elected board decides to use a *special board*, such board is defined as “consisting of one or more members of the planning board and such other members as are appointed by the (town board, village board of trustees or legislative body of a city) to prepare a proposed comprehensive plan and/or amendment thereto.”

Town, Village and General City Law further provide that if a *special board* or the planning board prepares the comprehensive plan or amendment, that it must recommend by resolution such proposed plan or amendment to the town board, village board of trustees or legislative body of a city.

The 1994 amendments also established, for the first time, a concise definition of what is meant by “comprehensive plan” and sets forth a suggested list of contents. The comprehensive plan is now defined as a set of materials (text, graphs, maps, studies, resolutions) that “identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development” of the town village or city.

The potential components of a comprehensive plan that are identified include:

- Statements of goals and objectives
- Consideration of regional needs
- Existing and proposed location and intensity of land uses
- Consideration of historic and cultural resources and sensitive environmental areas
- Consideration of population, demographic and socio-economic trends
- Location and types of transportation facilities
- Location of public and private utilities
- Housing resources and needs including affordable housing
- Policies and strategies for improving the local economy in coordination with other plan topics
- Existing and proposed recreation facilities and parks
- All or part of the plan of another public agency

Town, Village and General City Law also now specify that the elected board “shall provide, as a component of such proposed comprehensive plan, the maximum intervals at which the adopted plan shall be reviewed.” No specific timeframe is suggested. Typically, plans are assumed to be suitable for review – not necessarily replacement – every five to ten years depending upon development or land use activity within each municipality.

The State laws specify that one or more public hearings must be held at each of two stages – during the plan’s preparation and then prior to adoption. At the second stage, the town board, village board of trustees or legislative body of a city is required to hold a public hearing within 90 days of receipt of the planning board’s or of the *special board’s* recommendations, if the plan was prepared by such board.

In addition, Town, Village and General City Law require that the town board, village board of trustees or legislative body of a city refer the plan or amendment to the County Planning Board prior to adoption. If adopted, the municipality must file a copy of the adopted plan with the County Planning Board. These mandatory referrals to the County are new procedures.

The 1994 and 1995 amendments to Town, Village and General City Law explicitly state that it is not the intent of the legislature to require the preparation and adoption of a comprehensive plan pursuant to the new provisions. However, the Laws do state that it is the legislature’s intent to **encourage** comprehensive planning.

It is important to note that if a comprehensive plan is adopted, the Laws state that “all (town, village or city) land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.”

By 1999, every Westchester municipality had prepared a comprehensive plan. Between January 2000 and March 2008, 15 municipalities had completed updates of their comprehensive plans. In early 2008, an update process was underway in eight communities and the County Planning Board had initiated *Westchester 2025*, an update of *Patterns fro Westchester*, adopted in December 1995.

B. The Zoning Ordinance

Zoning encompasses 1) the division of a municipality into districts or zones and 2) the regulation of the use of land and the size of buildings within each of those districts.

The adoption of a zoning ordinance and subsequent amendments and legislative actions are the prerogatives of the local governing body. The governing body can enact and change the municipality's zoning law based on its own initiatives or based on recommendations it receives from a number of sources. These can include the zoning enforcement officer, the planning board, the zoning board of appeals, planning staff, municipal attorney and property owners.

Early in the history of zoning it became apparent that it would be unfair to zone one part of a community while leaving the remaining portion not zoned. Consequently, when the states passed enabling legislation giving zoning powers to municipalities, they stipulated that comprehensive coverage of all land within the municipality must be included. Gradually, the idea of basing the zoning ordinance on a comprehensive plan took root. Today's zoning ordinances are most successful when they reflect the thorough understanding of a community that comes with a carefully prepared comprehensive plan.

The comprehensive plan differs from the municipality's zoning ordinance in that its focus is on long-range goals and development objectives. Zoning, on the other hand, is a legal instrument, which regulates the current use of land. The zoning ordinance reflects present municipal land use policies while the comprehensive plan sets forth the future direction of a municipality's land use policies as they are expected to evolve. A zoning ordinance should be based on the fundamentals put forth in the comprehensive plan, as it regulates the use of specific parcels. Through it a municipality may preserve the desirable features of existing development and set standards for future development. Decisions on amendments to the zoning ordinance by the legislative body, as well as the actions of the zoning board on such things as variances and special permits, should take into account the policies of the comprehensive plan in order to maintain harmony between planning and zoning.

Zoning is primarily prospective rather than retrospective in its effects, and cannot be relied upon as a major device for correcting existing conditions. Zoning allows development to happen, but does not compel it. In some cases, zoning can correct existing flaws created prior to regulation under a zoning ordinance. By adoption of zoning that restricts the type of development permitted, those existing uses not complying with the new zoning restrictions may be required to conform within a given period of time.

The zoning ordinance is generally composed of three elements:

- The text, which describes the intent of the ordinance, defines the various zones and the uses allowed therein, sets forth administrative procedures and establishes definitions.
- The zoning standards, which include building bulk, height and coverage requirements and minimum dimensional requirements for lot areas and yards or setbacks for each zone.
- The zoning map, which shows the boundaries of each of the zones.

The General City, Village and Town Law of New York State give municipalities the right to enact zoning regulations under the police power of government as a measure to protect the health, safety and welfare of the municipality. Adoption is the responsibility of the local legislative body. Every municipality in Westchester has enacted zoning regulations.

Changes ("amendments") to the zoning text, schedule or map may be recommended by the planning board, but all amendments must be approved by the local legislative body and are subject to public hearing requirements.

The zoning ordinance is enforced by the building inspector or other enforcement officer selected by the legislative body. Appeals to the building inspector's interpretation of the zoning ordinance are brought to the zoning board of appeals. The zoning board determines the meaning of the ordinance where the language is unclear and may allow variances in cases of practical difficulty or unnecessary hardship to the property owner.

Planning boards become involved with zoning during the application review and approval process as one review criterion is consistency of proposals with zoning requirements. Planning boards may also review proposed zoning ordinance amendments to ensure consistency with the comprehensive plan. Many municipal zoning ordinances contain provisions requiring this review and comment by the planning board on proposed zoning amendments. The planning board does not have the power either to interpret zoning regulations or to grant variances.

C. Land Subdivision Regulations

Subdivision regulations control the process by which land is divided into lots. The regulations also set requirements and standards for infrastructure that may be required as part of the development of a subdivision, such as roads and drainage systems. The power and authority to control the subdivision process has been delegated to municipal governments as a police power through General City, Town and Village Law.

Each municipality can define what action constitutes a subdivision. In general, subdivisions include:

- The division of a tract of land into smaller tracts of land and
- The redivision of existing lots or the realignment of lot lines (often termed "resubdivision").

In some municipalities, the number of lots contained in the subdivision will determine what type of requirements apply. Sometimes, subdivisions creating only one new lot may be exempt from the local review process. Another standard that may determine what rules apply is whether or not a new road will be created as part of the subdivision.

The procedure and standards for processing, reviewing and taking action on subdivision applications should be clearly set forth in a municipality's "land subdivision regulations." The planning board, if granted the authority by the local legislative body to approve subdivision plats, has the responsibility to draft, enact and amend such regulations - after a public hearing and with the approval of the local legislative body.

Once subdivision approval authority is in place, no property can be divided and sold within the municipality without compliance with the subdivision procedures and the approval of the local planning board. The applicant is responsible for the instigation and follow-through of this process.

There are generally two stages to the subdivision process:

- The preliminary plat showing the layout and dimensions of lots, roads, open space and public facilities and
- The final plat presenting the subdivision layout in greater detail and the modifications required by the planning board as part of preliminary plat approval.

The level of detail required at each stage varies by municipality. In addition, some planning boards provide for a sketch plan review stage prior to submission of an application for preliminary plat approval. Public hearings are required for preliminary plats and may be waived for final plat application if the final plan is consistent with preliminary approval.

Factors that are considered by the planning board in the subdivision review process include:

- Conformity to the zoning ordinance, comprehensive plan recommendations and the official map
- Relationship of development to environmental conditions
- Street construction standards and impacts including width, grades, sight distances and cul-de-sac characteristics
- Road length
- Installation of drainage and other public facilities
- Provision of recreation and open space.

D. Cluster Subdivisions

Subdivision regulations or zoning ordinances often contain provisions that enable a developer to modify minimum lot size and other dimensional requirements as part of the subdivision approval process. This technique, known as "clustering" or open space or conservation development, allows for a grouping of dwelling units on one or more portions of the site with the remainder set aside as common open space. This process encourages diversity in housing design, preserves open space and allows development to account for variations in the natural environment. Clustering is also a way for developers to minimize expenses for development, with shorter sewer and utility lines and a smaller road system.

The current cluster provisions found in Section 278 of Town Law, Section 7-738 of Village Law and Section 37 of General City Law are similar in nature in that they empower the local legislative body to authorize the planning board to modify the provisions of the municipal zoning ordinance simultaneously with its approval of a subdivision plat. In 1981, 27 of Westchester's municipalities had some type of cluster provisions. By 1988, the number of communities with cluster provisions had risen to 35.

Although clustering is associated with the subdivision approval process, there are instances where it is implemented through a special zoning district. For example, both the City of White Plains and the Town of Harrison handle clustering through specific conservation zoning provisions in their zoning ordinances.

The Town Law does not limit application of the authority to cluster to residential development; rather, it may be used for clustering any type of development permitted by the zoning ordinance. The Village Law differs from the Town Law in that it is specifically limited to residential developments. The General City Law provisions appear to contain limited authority for mixing uses (i.e., residences, stores and offices) in a clustered development.

The key to clustering is that a cluster subdivision plan may not result in a number of lots or dwelling units greater than that which could be permitted, in the planning board's judgment, if the land were subdivided into lots conforming to all standard dimensional rules. To meet this test, and to provide an alternative plan for review purposes, developers should be required to submit a conventional subdivision plan in addition to the cluster plan. The planning board then reviews the conventional plan and determines the maximum number of lots or dwelling units to be permitted in the cluster plan.

As noted above, a planning board may use the clustering provisions of General City, Town and Village Law only when specifically authorized by the local legislative body. In many municipalities, this authorization is made on a case by case basis. The local legislative body may also authorize its planning board *to require the submission* of a cluster plan. However, in such case, the legislative body must require the planning board to adopt rules and regulations setting forth the criteria pursuant to which such an application may be required.

For more information on clustering, refer to the Westchester County Planning Department report, Cluster Subdivision Regulations: Economy, Flexibility and Open Space (January 1987).

E. Site Plan Approval

Site plan review is the assessment of the arrangement, layout and design of a proposed use of a single parcel of land. Generally, site plan review and approval is required for office, retail, multi-family, institutional, industrial and commercial uses. Typically, the zoning ordinance or another local law specifies the type of uses subject to site plan review and details the application procedure and submission requirements. In some municipalities, provisions of the land subdivision regulations also apply to site plan applications.

Prior to 1976, the authority of planning boards was limited to reviewing and making recommendations on site plans. Since then, when authorized by the local legislative body, planning boards may approve, approve with conditions or disapprove site plans. When required, site plan approval must be obtained before a land owner can receive a building permit from the local building inspector. (It must be noted that the state law permits the legislative body to authorize an administrative body other than the planning board to process site plan applications.)

A site plan may detail the location of principal and accessory structures, parking areas, access, drainage, utilities, landscaping, signage and other design features.

Site plan review is often based on a checklist. Features that are considered include:

- Conformity to the zoning ordinance, comprehensive plan recommendations and the official map
- Relationship of development to environmental conditions
- Impact on adjacent properties
- Traffic generation
- Parking layout and access provisions
- Landscaping.

The site plan review and approval process must be coordinated with the provisions for SEQR.

F. Special Use Permits

Special use permits authorize a particular land use that is permitted as a matter of right by the zoning ordinance but only if certain pre-established requirements are met. The purpose of the requirements is to assure that the proposed use is in harmony with the zoning ordinance and will not adversely affect the neighborhood.

A special use differs from a variance in that a variance is relief from zoning provisions.

The local legislative body is free to designate any administrative board to grant special use permits, including itself. Usually, the planning board or the zoning board of appeals is delegated this authority. In some municipalities, the board with the authority varies with the specific special use. This may be the most efficient approach as uses that involve site planning concerns can be assigned to the planning board while those that focus on neighborhood compatibility with little new construction can be handled by the zoning board. The issuance of a special use permit must be coordinated with the provisions for SEQR.

G. The Official Map

The official map of a municipality, as authorized by State enabling legislation, illustrates the location and width of existing and proposed roadways, drainage systems and parks. The local legislative body has the responsibility to adopt and amend the map but is required to refer the map or amendment to the planning board for a report before taking such action.

The primary functions of the official map are:

- To implement highway planning by showing existing and proposed thoroughfares,
- To protect against construction in the right-of-way of proposed streets,
- To guide the planning board in approving subdivision plats and
- To relate the existing street pattern to the future long-range roadway network as identified in the comprehensive plan.

Facilities shown on the comprehensive plan may indicate projected needs for the future rather than existing facilities. The official map provides the tool needed to reserve sites for these future public improvements such as streets and drainage systems. The planning for future facilities should be coordinated with the community's capital improvement program, as well as the highway plan or official maps of county and state agencies.

H. Capital Improvements Program (CIP)

General Municipal Law (Section 99-g) grants authority to any municipality to prepare a capital improvements program (CIP). The CIP is a summary of the community's public improvement needs, usually projected over a five-year period, along with the estimated costs of the improvements and an order of priority for implementation. General Municipal Law defines a capital project as:

- Any physical betterment or improvement, including furnishings, machinery, apparatus or equipment for such physical betterment or improvement when first constructed or acquired
- Any preliminary studies and surveys relating to any physical betterment or improvement, or land or rights in land or
- Any combination of the above.

The provision for CIP preparation is permissive in that a municipality *may* undertake a CIP - the program is not mandated. The specific role of the planning board in CIP preparation is not identified. Many of Westchester's cities, towns and villages involve their planning board in evaluating proposed improvements to public facilities, such as sewers, water systems, parks and fire and police installations. This is reasonable as the CIP should be based upon policies contained in the comprehensive plan, anticipated land use and population trends.

I. Hudson River Valley Greenway and the Compact Plan

The mission of the Hudson River Greenway Council, created by New York State, is to strengthen the ability of communities in the Hudson Valley to shape their future by supporting the development of effective long term planning. With technical assistance and funding opportunities, the Council supports local and regional planning efforts that embrace a future of sustainable economic development, environmental protection and social well-being for Hudson River Valley residents.

The Greenway Compact program was developed by the Hudson River Valley Greenway to take community planning one step further by providing a process for voluntary regional cooperation to further the Greenway criteria of natural and cultural resource protection, regional planning, economic development, public access, and heritage and environmental education. For communities that choose to participate, a variety of financial and procedural benefits are available.

The *Greenprint for a Sustainable Future*, the Westchester County Greenway Compact Plan, was adopted by the Hudson River Valley Greenway on June 9, 2004, making Westchester County one of only two counties in the 13-county Hudson River Valley Greenway to have an adopted Compact Plan. As of January 2008, 25 Westchester municipalities have adopted the plan by local law, elevating their Greenway status from "Greenway Community" to "Greenway Compact Community." Compact Communities qualify for many important benefits not available to Greenway Communities. To view the plan, go to www.westchestergov/planning.

VIII. STATE ENVIRONMENTAL QUALITY REVIEW ACT COMPLIANCE (SEQR)

The New York State Environmental Quality Review Act (SEQR), Article 8 of the Environmental Conservation Law, is both a law and process that requires the consideration of environmental factors early in the planning stages of actions that are directly undertaken, funded or approved by local and state agencies of government. This legislation is intended to ensure that environmental factors will be given the same consideration as social and economic factors in the decision-making process and provides a means of formal coordination among governmental agencies, as well as with the private sector.

SEQR, enacted in 1975, implemented in 1978, amended in 1987, and again in 1995, sets up a very systematic approach for this “consideration” that is geared toward identifying means to modify proposed actions so as to avoid or mitigate adverse impacts on the environment. The rules and regulations that implement SEQR are known as Part 617 of 6NYCRR. Some municipalities have adopted their own local version of SEQR. The NYS Department of Environmental Conservation, Division of Regulatory Affairs monitors the implementation of the State law.

What does SEQR mean to a planning board? It means that the board must make a determination under SEQR before taking action on each application that comes before the board. Therefore, every planning board member should have an understanding of SEQR procedures and objectives.

The SEQR process involves a number of steps, timelines and actions that must be followed in order to ensure full compliance with the law. For complete information on SEQR, go online to <http://www.dec.ny.gov/public/357.html>. The full process is fully described in *The SEQR Handbook*, published by the State Department of Environmental Conservation and distributed to all local governments. This document should be consulted for specific procedures and timelines. It is available online at the above website or call 518.402.9167. Assistance in understanding SEQR can also be obtained from the County Department of Planning 914.995.4400.

A brief outline of key points of SEQR follows.

A. Actions

Few actions taken by a planning board are not subject to the SEQR process. However, being subject to the process does not mean that all actions are treated the same. What a planning board must do is consider each action under SEQR and determine what processing steps are required.

For example, SEQR pre-defines some actions or classes of actions as not having a significant impact on the environment. These actions, known as **TYPE II**, require no special paperwork or action by the Planning Board once they are identified as falling under a Type II umbrella. Type II actions include setback variances, construction of most accessory structures, and as defined by some local governments, lot line changes and two-lot subdivisions.

Still other actions are classified as **EXEMPT** and require no review; these include maintenance and repair projects, emergency actions and actions of the state legislature.

Actions that require special processing pursuant to SEQR are either **TYPE I** or **UNLISTED** actions. Type I actions are presumed likely to have a significant adverse effect on the environment. They include disturbance of 10 or more acres of land, construction of 100,000 square feet of commercial space and establishment of 50 lots on individual septic systems. (The thresholds are lower if a site is substantially contiguous to parkland or if a local government has acted by local law to lower them.)

Unlisted actions fall in the wide, middle range, typical of applications before a planning board – they do not meet the thresholds of Type I yet are clearly not Type II or Exempt.

B. Agency

SEQR classifies agencies into two categories:

- An “Involved Agency” has jurisdiction by law to fund, approve or directly undertake a given action. One action, such as a subdivision, may require the approval of several involved agencies (i.e., planning board, County Health Department, NYS Department of Transportation).
- A "Lead Agency" is one of the involved agencies for a proposed action that has been designated to coordinate the environmental review of the action. Planning boards are often placed in the role of Lead Agency and become responsible for ensuring SEQR procedures are followed.

Designation of a lead agency is only necessary when a “coordinated” review is to be conducted. Coordinated reviews are mandatory for Type I actions and optional for Unlisted actions. The noble purpose of a coordinated review is to permit all involved agencies to participate in a single environmental review so as to promote cooperation and lessen the bureaucratic burden on an applicant.

C. Determination of Significance

After the receipt of a complete application and the designation of Lead Agency, the Lead Agency must make a “determination of significance.” An Environmental Assessment Form (EAF) is designed to assist the Lead Agency in making this determination which can be one of two alternatives:

- A “negative declaration” which means it can be determined that approval or implementation of an action will not have a significant adverse impact on the environment.
- A “positive declaration” which means that the proposed action has potential for significant adverse impact on the environment. Once a positive declaration is made, an application cannot be further processed until an Environmental Impact Statement is prepared.

SEQR provides for a third outcome – a conditioned negative declaration. The SEQR Handbook should be referenced for an understanding of this alternative.

D. Environmental Impact Statement

An environmental impact statement (EIS) is a document that impartially analyzes the significant environmental effects of a proposed action and identifies how those effects can be avoided or minimized. The EIS is intended to be integrated into an agency's normal review process. The draft EIS is typically prepared by the applicant proposing or seeking approval of the action.

Before an EIS is prepared, "scoping" is encouraged by SEQR. Scoping is a process to identify the important environmental issues, alternatives and mitigating measures that should be addressed in the EIS. It is intended to narrow the subject matter of the EIS to those topics that are important to the decision-making process. The draft EIS is prepared as guided by the scope. It should describe:

- The proposed action
- The existing setting of the action
- The probable environmental impacts and the manner by which they may be minimized, and
- The reasonable alternatives to the action proposed.

E. Notice of Completion, Public Comment and Hearing Procedures

After the Lead Agency has accepted the draft EIS as complete, it must file a **notice of completion** and circulate the draft EIS for review to all other involved agencies. The draft EIS must also be made available for public review and be posted on a web site. The review period must not be less than 30 calendar days from the filing and circulation of the notice of completion. At this time, the Lead Agency must decide if a public hearing is to be held on the draft EIS. If a hearing is held, the Lead Agency must prepare and file notice of the hearing. The notice can be contained in the notice of completion of the draft EIS. The notice must be published in a newspaper of general circulation in the area of the action at least 14 calendar days before the hearing. The public hearing can take place between 15 and 60 calendar days after the filing of the notice of completion. When a public hearing is held, the public comment period must remain open at least 10 days after the close of the public hearing.

Typically, involved agencies and members of the public will review the draft EIS and submit written comments to the Lead Agency on the adequacy of the review of the potential impacts. If substantive questions are raised during this review, the Lead Agency must prepare or cause to be prepared a final Environmental Impact Statement within 45 calendar days of the close of any hearing or within 60 calendar days after the filing of the draft EIS, whichever occurs later. The final EIS contains the Lead Agency's responses to the questions raised by the draft EIS. (These timeframes are frequently extended with mutual consent of the Lead Agency and the applicant.) As with the draft EIS, when the final EIS is completed, a notice of completion must be prepared, filed and published.

A final EIS need not be prepared if the proposed action has been withdrawn or, on the basis of the draft EIS and comments made thereon, the Lead Agency can determine that the action will not have an adverse impact on environment. A negative declaration must then be prepared, filed and published.

F. Findings Statement

Before the Lead Agency can complete the SEQR process and make a decision concerning the proposed project, it must give the public and other agencies a reasonable time period in which to consider the final EIS. The SEQR regulations provide that a reasonable time period is no fewer than 10 days. After that period, and within 30 calendar days after the filing of the final EIS, the Lead Agency must prepare and adopt a written findings statement. The findings statement certifies that the action, as may be modified in the findings statement, avoids or minimizes adverse environmental impacts to the maximum extent practicable.

No agency can make a final decision on whether to undertake, fund or approve the proposed action until 10 days have passed from circulation of the final EIS. Each involved agency must prepare and adopt its own findings statement. The decision on the application and the adoption of a findings statement can be made together.

The purpose of the “Findings Statement” is to make public that the lead agency considered all available information and public comments and tried to reach a reasonable solution that balances social, economic and environmental factors. The findings are kept on file as part of the record of the SEQR process. This is the final step in the SEQR process.

G. EIS Posting on Internet Website

A state law effective February 26, 2006 requires municipalities to post on an Internet website all draft and final environmental impact statements (EIS). The posting of the final EIS must include all public comments made on the draft EIS. Further, notices of filings and of the availability of an EIS must include the website address where the EIS can be accessed. The law provides that the Internet provisions may be waived where impracticable.

The new law will undoubtedly serve to increase public access to public documents. However, to avoid more cumbersome work at the local level, municipalities may want to consider amending local subdivision regulations and site plan regulations to accommodate this new requirement by requiring that applicants submit documents digitally in a form ready to be posted on a website, in addition to the routine hard copy versions.

IX. RELEVANT PLANNING TOPICS

Certain activities impacting land use or the general health, safety and welfare of a community are regulated through controls or licensing provisions other than the municipal zoning ordinance. Still other subjects may not be regulated through local law but may come before the planning board.

For much more information on specific special zoning regulations, visit the "Local Planning Law Resource Guide" on the "Tools" page at www.westchestergov.com/2025. The guide provides the text of 349 adopted regulations in Westchester County on more than 40 subjects.

A. Special Ordinances

Accessory Apartments: These are characterized as a second, smaller dwelling unit either within the walls of the primary residence or located within an accessory structure on the property of a single-family residence. When permitted and regulated under a zoning ordinance, the apartment may be as-of-right, through a special use or by licensing.

Energy Efficiency: Energy legislation and controls can be very effective planning board tools. These include establishing solar access ordinances, encouraging rehabilitation or older buildings, developing energy efficient criteria in either comprehensive plans or building codes, and structuring zoning incentives as tradeoffs for energy efficient development.

Excavation: Controls on excavation is generally designed to protect land and the natural environment, reduce hazards to people and property, and to allow uses that are in accordance with the comprehensive plan and development policies of a municipality.

Signs: Signs are generally regarded as accessory uses to a principal use of land as permitted under the zoning ordinance. The style, placement, and size of a sign vary with the use and location. Regulations controlling signs can often be elaborate and complicated.

Solar Access: On January 1, 1981, General City, Village, and Town Law were amended to make the protection of solar access a valid purpose of zoning regulations. Under this law, solar easements are recognized and made subject to the same conveyance and recording requirements as other easements.

Stormwater, Flood, Erosion and Sediment Controls: Regulations on stormwater management, flood control and erosion and sedimentation control usually play a significant role in planning board reviews and approvals of new developments. Added to the list of concerns in recent years has been control of non-point source pollution and treatment of surface runoff.

Tree Preservation: Trees provide aesthetic value and have positive environmental effects. Many communities, therefore, have adopted ordinances that prevent the indiscriminate destruction of trees. The General Municipal Law (Section 96-b) empowers the local legislative bodies to protect and conserve trees and related vegetation, monitor grade levels around trees, and

possibly replace a damaged tree with like or alternate species. Municipalities may require the posting of a performance bond to assure compliance.

Wetlands and Stream Protection: Wetlands and stream protection ordinances have gained increasing importance in the last decade. The regulations attempt to protect, preserve and enhance the natural environment. These ordinances also serve aesthetic purposes. Administration of wetland protection ordinances is often assigned to planning boards. A model wetlands protection ordinance is available from the Westchester County Department of Planning.

B. Community Development Block Grant Funding

Many of Westchester's cities, towns and villages receive funds under the Housing and Community Development Act of 1979. Four Westchester cities receive funds directly from the federal Department of Housing and Urban Development (Mount Vernon, New Rochelle, White Plains and Yonkers). Forty other municipalities have joined with the County of Westchester to seek funding under the "Urban County" provisions of the Act.

The Act's primary objective is development of viable urban communities through the provision of decent housing, suitable living environments, and expansion of economic activities. Planning boards can play an important role in identifying areas to which community development funds should be directed, as well as in preparing housing and community development plans that are required as part of the community development application process.

C. Selected Publications

The Westchester County Department of Planning produces numerous technical, research and informational reports on topics that should be of interest to planning board members. To obtain a list of available reports, call the Planning Department at (914) 995-4418 or go online to www.westchestergov.com/planning.

D. Places to Go for Information

- General Code
www.generalcode.com
- The NYS Department of State Division of Local Government website-
<http://www.dos.state.ny.us/lgss/index.htm>
 - A comprehensive resource for information and at the website is The James A. Coon Land Use Technical Series.
- Local Government Handbook published by the Department of State
Download free of charge at www.dos.state.ny.us/lgss/publist.htm
- Westchester County Municipal Planning Primer series available at
<http://www.westchestergov.com/planning/regionalplan/WMPF/Primers>:

Pace Land Use Law Center Publications

- Zoning School- <http://www.nymir.org/zoning/>
- Starting Ground Series, Environmental Review of Land Use Projects
- Starting Ground Series, Basics of Land Use Practice
- Well Grounded, by John R. Nolon
- Other publications available at www.law.pace.edu/landuse

X. PROFILES OF COUNTY, STATE, REGIONAL AND NATIONAL AGENCIES

A. Westchester County

WESTCHESTER COUNTY DEPARTMENT OF PLANNING

www.westchestergov.com/planning

The mission of the Department of Planning is to develop and implement policies, programs and projects that protect and improve the quality of life in Westchester County and result in more livable and sustainable communities. This mission is carried out in three main areas – Land Use and Development, Environment and Housing. Activities within each of these areas focus on the existing pattern of development and the natural environment and ways in which buildings, transportation and open space can be shaped to achieve a physical environment that fosters smart growth for all county residents. The policies and programs in each of the three areas utilize the expertise of the Design and Administration sections. Achievement of the Department’s mission requires working closely with other county departments, the 45 municipalities and the private and non-profit sectors. The Department supports the efforts of a wide array of citizen boards including the County Planning Board.

The Planning Department processes municipal referrals of land use and zoning matters to the Planning Board as mandated by law. In addition, the Department provides:

- Advice and technical assistance on land use and development matters
- Environmental reviews and assistance on wetland and stormwater management issues
- Watershed planning coordination
- Water quality education
- Maps and aerial photographs
- Farmland protection assistance
- Urban and landscape design assistance
- Information on the County’s capital funding program
- Data on demographic, economic and social characteristics and trends
- Oversight of the Community Development Block Grant Program for 40 municipalities
- Section 8 rental assistance
- Numerous housing programs to promote and establish affordable, safe and sanitary housing.

Westchester County Department of Planning
432 Michaelian Office Building
148 Martine Avenue
White Plains, NY 10601
(914) 995-4400

WESTCHESTER MUNICIPAL PLANNING FEDERATION

www.westchestergov.com/planning/regionalplan

The Westchester Municipal Planning Federation, established in 1962, is a voluntary association of local governments, local officials and private planners. The fundamental purpose of the Federation is “to create an effective and permanent County-wide organization for the exchange of information on matters of planning interest.” The Federation:

- Sponsors training on planning and zoning
- Sponsors meetings to discuss planning and zoning matters of interest to municipal officials
- Sponsors mailings on legislative matters, court decisions and State and Federal funding programs related to planning

- Administers a planning achievement awards program that recognizes and brings to countywide attention municipal planning functions
- Sponsors a Planner’s Luncheon Series to promote planning and zoning issues that are of interest to planning professionals.

Executive Director
 Westchester Municipal Planning Federation
 c/o Westchester County Department of Planning
 432 Michaelian Office Building
 148 Martine Avenue
 White Plains, NY 10601
 (914) 995-4424

WESTCHESTER COUNTY SOIL AND WATER CONSERVATION DISTRICT

www.westchestergov.com/planning/environmental

- Addresses concerns related to surface water/stormwater management, wetlands protection, soils capability, and stream protection
- Prepares comprehensive (intermunicipal) watershed models and plans for surface water management
- Advises local governments regarding resource protection
- Prepares technical manuals relating to management practices, environmental protection, soil erosion and sediment control, and resource materials
- Conducts technical training and seminars

District Manager
 Westchester Soil and Water Conservation District
 432 Michaelian Office Building
 148 Martine Avenue
 White Plains, NY 10601
 (914) 995-4423

WESTCHESTER COUNTY ENVIRONMENTAL MANAGEMENT COUNCIL

www.westchestergov.com/planning/environmental

The Environmental Management Council (EMC) acts as focal point for citizen concerns regarding protection and improvement of the natural and man-made environment. Members of the Council are appointed for two years by the County Executive upon the nomination of the chief elected municipal official. Appointees are members of local conservation advisory councils or boards. The Council:

- Works with local conservation advisory councils
- Conducts studies and investigates environmental factors and natural resources
- Prepares maps and reports
- Reviews pending actions within the County that may affect the environment
- Advises County government on environmental protection policies and sound use of natural resources
- Provides environmental information, assistance, and training on SEQR, groundwater, wetlands, coastal management and planning, aerial photography and bedrock geology

Chair, EMC c/o Westchester County Department of Planning
 432 Michaelian Office Building
 148 Martine Avenue
 White Plains, NY 10601
 (914) 995-4424

HISTORIC RIVER TOWNS OF WESTCHESTER

www.hudsonriver.com/rivertowns/welcome.html

The HRTW is a non-profit organization, formed in 1994, comprised of representatives of 13 municipalities along the east bank of the Hudson River including the non-profit organization Historic Hudson Valley. The unique combination of riverine environment and cultural wealth has been attracting visitors to the HRTW region for years. HRTW provides area-wide comprehensive and coordinated tourism marketing efforts.

NORTHERN WESTCHESTER WATERSHED COMMITTEE

www.westchestergov.com/planning/watershed

The Northern Westchester Watershed Committee (NWWC) is Westchester's forum to oversee implementation of the historic New York City Watershed Memorandum of Agreement (MOA). The chief elected official (or an appointed designee) of the 12 Westchester County municipalities that have land area within the Croton and Kensico watersheds meet to discuss issues related to watershed protection and local involvement, including the Croton Plan for watershed protection. The County Department of Planning serves as facilitator and staff for this forum. Meetings are typically held on the second Tuesday of each month.

Chair c/o Westchester County Department of Planning
432 Michaelian Office Building
148 Martine Avenue
White Plains, NY 10601
(914) 995-4425

WESTCHESTER COUNTY DEPARTMENT OF PUBLIC WORKS (DPW)

www.westchestergov.com/dpw

The DPW has jurisdiction over approximately 160 miles of County roadway. Rules and regulations to control development affecting County roads are contained in Section 239-K of the General Municipal Law. Work related to County roads or drainage channels must be approved by the DPW before the local municipality administers a building permit. The Traffic Engineering and Highway Safety Division of the Public Works Department supervises signs, signals and safety improvements, collects safety data and conducts traffic studies.

Westchester County Department of Public Works
500 Michaelian Office Building
148 Martine Avenue
White Plains, NY 10601
(914) 995-2545

WESTCHESTER COUNTY DEPARTMENT OF HEALTH

www.westchestergov.com/health/

The Department of Health administers and enforces Chapter 873, Article X of the laws of Westchester County, Sanitary Code, concerning Realty Subdivision provisions. Under these provisions, the Department's Bureau of Environmental Quality reviews and approves subdivision plans before they may be filed with the County Clerk.

Health Department Central Office
8th Floor
145 Huguenot Street
New Rochelle, NY 10801
(914) 813-5000

WESTCHESTER COUNTY OFFICE OF ECONOMIC DEVELOPMENT

economic.westchestergov.com/home

The Office of Economic Development provides direct business assistance and provides contacts to other local, state and federal agencies.

Salvatore J. Carrera, Director
Office of Economic Development
900 Michaelian Office Building
148 Martine Avenue
White Plains, NY 10601
(914) 995-2963

WESTCHESTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

IDAs are public benefit corporations that can issue Industrial Revenue Bonds to finance the purchase of land, new construction, acquisition and renovations of existing structures and purchase of machinery and equipment. Bond financing for qualified manufacturing projects can be exempt from federal, state and local taxes. The IDA can assist not-for-profit organizations.

Theresa Waivada, Executive Director
900 Michaelian Office Building
148 Martine Avenue
White Plains, NY 10601
(914) 995-2936

B. New York State

NEW YORK STATE DEPARTMENT OF STATE

www.dos.state.ny.us

Divisions of Local Government Services

www.dos.state.ny.us/lgss/index.htm

- Provides land use government management and general information services to municipalities, state-wide organizations and non-profit entities
- Provides technical assistance, information and training in planning and land use powers of local government through zoning, subdivision and other land use regulations
- Operates a self-help support system to help small communities alleviate water supply and waste water problems
- Administers the Quality Communities Initiative.

Division of Local Government Services

41 State Street
Albany, NY 12231-0001
(518) 473-3355

Division of Coastal Resources

nyswaterfronts.com/index.asp

- Administers the Coastal Management Program that serves to encourage the protection of valuable resources and promote the formation and expansion of capital investment in waterfront areas for appropriate development. The program enables New York and its communities to use new and effective approaches for increasing cooperation to solve complex waterfront issues
- Administers the Local Waterfront Revitalization Program (LWRP). Waterfront communities are encouraged to prepare a local program with federal funding provided through the Department of

State on a 50-50 matching basis. A community with an LWRP approved by the Secretary of State is eligible to receive grants for program implementation.

Division of Coastal Resources
162 Washington Avenue
Albany, NY 12231
(518) 474-3643

Committee on Open Government

www.dos.state.ny.us/coog/coogwww.html

- The Committee on Open Government is responsible for overseeing and advising with regard to the Freedom of Information, Open Meetings and Personal Privacy Protection Laws (Public Officers Law, Articles 6, 7 and 6-A respectively).
- The [Freedom of Information Law](#) pertains to the public's right to government records; the [Open Meetings Law](#) concerns the public's right to attend meetings of public bodies. Both of these statutes are based upon a presumption of access and, since their initial enactment, have undergone significant changes based largely upon recommendations made by the Committee

Committee on Open Government

41 State Street
Albany, NY 12231
(518) 474-2518

NEW YORK STATE DEPARTMENT OF TRANSPORTATION (DOT)

www.dot.state.ny.us

The Department of Transportation, under Section 452 of the Highway Law of New York State, sets forth policies and standards for the issuance of required permits for entrances and exits on State highways and parkways. (The Bronx River Parkway is under Westchester County jurisdiction.) Westchester County is in Region 8 of the DOT. Two sub-region offices have resident engineers who review permits for work that affects State highways. The objectives of the State DOT are to:

- Provide maximum protection of the public through the orderly control of traffic movements on, to, and from State highways
- Provide a uniform practice throughout the State for design and construction of entrances and exits on State highways
- Ensure that the necessary drainage on these roads is provided

Region 8 Office

New York State Department of Transportation
4 Burnett Boulevard
Poughkeepsie, NY 12603
(914) 421-5750

Northern Westchester Resident Engineer
New York State DOT
NYS Route 100
Katonah, NY 10536
(914) 232-3060

Southern Westchester Resident Engineer
New York State DOT
Saw Mill River Road
Valhalla, NY 10595
(914) 592-6557

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC)

www.dec.state.ny.us

DEC is one of New York State's major regulatory agencies. The Department has permit-granting authority over a wide range of activities that relate to the use of air, land and water. The primary objective in reviewing projects is to ensure that development takes place in an environmentally sound manner in accordance with provisions of the State Environmental Conservation Law. This agency also oversees the New York State Environmental Quality Review Act (SEQR) procedures and promulgates the rules and regulations for SEQR compliance. The DEC Division of Regulatory Affairs handles most permits associated with development through nine regional offices. Westchester County is in DEC Region 3. DEC publishes a variety of pamphlets on its permit authority and other activities. These can be obtained from the regional office.

Important permits that are under DEC control are:

- Activities involving tidal or freshwater wetlands. A permit is required for any action in or adjacent to all tidal wetlands and freshwater wetlands of 12.4 acres or greater
- State Pollution Discharge Elimination System (SPDES) permit. Required for discharge of treated wastewater or sewage effluent from an industry and subsurface discharge of 1,000 or more gallons per day of wastewater or sewage from non-residential development. Individual subsurface disposal systems (septic systems) for residential lots do not need DEC approval, but do require County Health Department approval.

NYS DEC, Region 3
21 South Putt Corners Road
New Paltz, NY 12561
(914) 255-5453

NYS DEC, Region 3 Sub-Office
200 White Plains Road
Tarrytown, NY 10591
(914) 332-1835

NEW YORK PLANNING FEDERATION

www.nypf.org

The New York Planning Federation is a unique educational association formed in 1936. Its membership is open to municipalities having planning or zoning boards, county and regional planning commissions and individuals (currently 9,600 members representing over 550 municipalities throughout the State). The Federation's objectives are to:

- Provide education and information in regional, urban, rural and local planning so that sound practices and effective administration of planning and zoning will lead to orderly growth and development of communities
- Serve as a resource for information on the purposes and techniques of planning, zoning and land use control
- Provide a forum for the exchange of experiences in the handling of the common problems of communities
- Serve as a statewide voice for the planning and zoning boards of New York State
- Conducts an Annual Planning and Zoning Institute.
- Publishes PLANNING NEWS, a bi-monthly newsletter.

Executive Director
New York Planning Federation
279 River Street, Suite 302
Troy, NY 12180
(518) 270-9855

C. Regional

NEW YORK METROPOLITAN TRANSPORTATION COUNCIL (NYMTC)

www.nymtc.org

NYMTC is an organization of elected officials and transportation agencies that guide the federally supported transportation planning process in New York City, Nassau, Putnam, Suffolk, Rockland and Westchester counties. It is the responsibility of NYMTC to maintain the eligibility of its member agencies and operators to receive federal transportation funds for planning, capital improvements and operations. The Council provides member services through:

- Three Transportation Coordinating Committees (TCCs), one each for Mid-Hudson South (Westchester, Rockland and Putnam), New York City and Nassau-Suffolk. The members are the principal elected officials and transportation agencies. Members of the TCCs join together to make up the Council.
- A Program, Finance and Administration Committee (PFAC) composed of representatives from the NYS DOT, Metropolitan Transportation Authority (MTA) and a member from each of the three TCCs. The PFAC meets bi-monthly to provide policy guidance to the central staff of the MPO, and enables members to interact with the central staff to ensure the services provided are in the best interest of the transportation agencies and operators.
- A Central Staff of engineering, planning, accounting and administrative professionals who are responsible for conducting the daily business of the Council.
- Transportation-related services, such as the monitoring and reporting of regional population and economic trends are also provided to Council members, and to non-members on a fee basis.

Director

New York Metropolitan Transportation Council
199 Water Street, 22nd Floor
New York, NY 10038
(212) 383-7200

REGIONAL PLAN ASSOCIATION

www.rpa.org

Regional Plan Association (RPA) is an independent, not-for-profit regional planning organization that promotes the quality of life and the economic competitiveness of the 31-county New York-New Jersey-Connecticut region through research, planning and advocacy. The RPA advocates planning solutions the region will need in the years to come by mobilizing the region's civic, business and government sectors to take action. RPA's current work is aimed largely at implementing the ideas put forth in the Third Regional Plan with efforts focused in design, open space, transportation, workforce and housing.

Regional Plan Association

4 Irving Place, 4th Floor
New York, NY 10003
(212) 253-2727

HUDSON RIVER VALLEY GREENWAY COUNCIL

www.hudsongreenway.state.ny.us

The mission of the Hudson River Greenway Council, created by New York State, is to strengthen the ability of communities in the Hudson Valley to shape their future by supporting the development of effective long term planning. With technical assistance and funding opportunities, the Council supports local and regional planning efforts that embrace a future of sustainable economic development, environmental protection and social well-being for Hudson River Valley residents.

The Greenway Compact program was developed by the Hudson River Valley Greenway to take community planning one step further by providing a process for voluntary regional cooperation to further

the Greenway criteria of natural and cultural resource protection, regional planning, economic development, public access, and heritage and environmental education. For communities that choose to participate, a variety of financial and procedural benefits are available. The *Greenprint for a Sustainable Future*, the Westchester County Greenway Compact Plan, was adopted by the Hudson River Valley Greenway on June 9, 2004, making Westchester County one of only two counties in the 13-county Hudson River Valley Greenway to have an adopted Compact Plan. As of January 2008, 25 Westchester municipalities have adopted the plan by local law, elevating their Greenway status from "Greenway Community" to "Greenway Compact Community." Compact Communities qualify for many important benefits not available to Greenway Communities.

NYS Hudson River Valley Greenway Council
Capitol Building, Capitol Station, Room 254
Albany, NY 12224
(518) 473-3835

MTA METRO-NORTH RAILROAD

www.mta.nyc.ny.us/mnr

MTA Metro-North Railroad, the second largest commuter railroad in the United States, provides 250,000 customer trips each weekday and 73,000,000 trips per year. A subsidiary of New York State's Metropolitan Transportation Authority, Metro-North was founded in 1983 when the MTA assumed control of Conrail commuter operations in the states of New York and Connecticut. With 384 route miles, Metro-North serves 120 stations in seven counties in New York and two counties in Connecticut with three lines east of the Hudson River (Hudson, Harlem and New Haven) terminating at Grand Central Terminal and two lines west of the Hudson (Port Jervis and Pascack Valley) terminating at New Jersey Transit's terminal in Hoboken.

(800) METRO-INFO

D. National

AMERICAN PLANNING ASSOCIATION

www.planning.org and www.nyplanning.org

The APA is a nationwide professional organization available to individuals and organizations with an interest in the field of planning. It is organized to advance the art and science of planning at the local, regional, state and national levels. Services provided by the APA include PAS, the Planning Advisory Service which produces reports on current subjects related to planning. The Westchester County Department of Planning subscribes to this service and reports are kept on file in the Department's library which is open to the public. Other publications and services of the APA are

- Planning Magazine
- Zoning News
- Land-Use Law and Zoning Digest
- Planner Training Sessions
- Educational Programs and public information
- Regional and national conferences

The American Institute of Certified Planners (AICP) is a unit of APA for members who have met the required qualifications of education, experience and examination in the field of planning. A test is required for membership. The goal of the AICP is the continued evolution of the profession in the techniques, responsibilities and content of planning work in order to keep ahead of the rapidly evolving demands of community life.

American Planning Association
122 S. Michigan Ave., Suite 1600
Chicago, IL 60603
(312) 431-9100
www.planning.org

APA New York Metro Chapter
11 Park Place, Suite 914
New York, NY 10007
646.278.6757 Fax: 646.278.6758
office@nyplanning.org
www.nyplanning.org

URBAN LAND INSTITUTE
www.uli.org

The Urban Land Institute is a non-profit research and education organization supported by its members. Founded in 1936, the institute has more than 28,000 members worldwide representing the entire spectrum of land use and real estate development disciplines, working in private enterprise and public service. ULI is a multidisciplinary real estate forum which facilitates the open exchange of ideas, information and experience among local, national and international industry leaders and policy makers dedicated to creating better places. The mission of the Urban Land Institute is to provide responsible leadership in the use of land to enhance the total environment.

Urban Land Institute
1025 Thomas Jefferson Street, NW
Suite 500 West
Washington, DC 20007
(202) 624-7000

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
www.hud.gov

Federal grants for planning and community development are administered by the Department of Housing and Urban Development (HUD). HUD administers a wide-range of federal aid programs covering:

- Community development and facilities
- Public and publicly assisted housing
- Economic development
- Federal flood insurance programs.

HUD New York City Regional Office
26 Federal Plaza, Room 3541
New York, NY 10278
(212) 264-8000

UNITED STATES ARMY CORPS OF ENGINEERS

www.usace.army.mil

The Army Corps of Engineers oversees a wide range of military construction and civil works activities. Its New York District provides military design and construction support for the Army and Air Force in New York, New Jersey and New England, and supports water resource development and conservation programs in eastern New York, northern New Jersey and western Vermont. The Corps:

- Issues permits for construction of water-related structures
- Prevents and controls flood damage
- Provides information regarding flood plain management
- Restores and preserves coastlines

US Army Corps of Engineers New York District

26 Federal Plaza, Room 2109

New York, NY 10278

(917) 790-8799

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

www.epa.gov/epahome

The mission of the Environmental Protection Agency is to protect human health and the environment. Since 1970, EPA has been working for a cleaner, healthier environment for the American people. EPA employs 18,000 people across the country.

Environmental Protection Agency

Ariel Rios Building

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 272-0167

EPA Region 2 Office

290 Broadway

New York, NY 10007-1866

(212) 637-3000

XI. GLOSSARY

ACCESS: The place of entry to an established public road from a lot.

ACCESSORY APARTMENT: A dwelling unit that is subordinate to a permitted principal one-family residence use in terms of size, location and appearance, and located on the same lot therewith.

ACCESSORY USE: A use that is customarily incidental and subordinate to the principal use on the same lot. Examples include off-street parking, signs, tennis courts and accessory apartments.

AERIAL PHOTOGRAPH: Photographs taken from an airplane or satellite that may be used or interpreted for the purpose of map making, land classification, analysis, etc.

AMORTIZATION OF NON-CONFORMING USES: A zoning requirement that a non-conforming use either be discontinued or be made to adhere to ordinance provisions after a specified length of time.

AREA VARIANCE: A authorization by the zoning board of appeals for the use of land in a manner that is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

ARTERIAL: A road classification group carrying primarily through traffic. Two arterial subgroups are limited access highways (interstates) and major through streets (thoroughfares).

ARTICLE 78 PROCEEDING: The principal method of securing judicial review of administrative actions relating to zoning and planning matters in New York State, governed by Article 78 of the New York Civil Practice Law and Rules. The proceeding may take the form of a certiorari or mandamus action against a public officer of body.

ASSESSMENT: An estimated value set on property for purposes of taxation.

BOARD OF APPEALS (OR ADJUSTMENT): An appointed board composed of three to seven members empowered to interpret the zoning ordinance, grant variances from the literal interpretation of the ordinance in cases of demonstrated unnecessary hardship or practical difficulty in carrying out the strict application of the ordinance, and, in some instances, to issue special use permits.

BOARDING HOUSE: A house or building in which paying guests are given board which may or may not include meals.

BUFFER AREA/STRIP/ZONE: An area established to protect, separate or screen one type of land use from another or from a public road which may also minimize negative influences and improve the attractiveness of a community. The area usually contains landscaping, fencing or berms.

BUILDING CODE: A legal document that sets forth requirements to protect public health, safety and welfare as they relate to the construction of buildings and structures.

BUILDING LINE: A line, usually fixed parallel to the lot line, beyond which a building cannot extend under the provisions of the zoning ordinance. It is equivalent to the setback or yard line.

BUILDING PERMIT: A permit that a municipal agency or officer, most often the building inspector, must issue before such activities as construction, alterations or expansion of buildings or structures can legally take place. Building permits are also issued for demolition of buildings, although some communities issue separate demolition permits.

BULK REGULATIONS: The combination of controls in a zoning district that govern the size and location of a building on a lot or parcel of land. Minimum lot coverage, maximum height, maximum floor area ratio and minimum yard requirements are common bulk regulations.

CENSUS: An enumeration of a population; generally covers socio-economic data including income, occupation, housing, characteristics, etc. Usually refers to the United States National Decennial Census.

CENSUS BLOCK: The lowest geographic level for which selected census information is available. Usually a well-defined rectangular piece of land bounded by streets, comparable to a city block in more urbanized locations.

CENSUS TRACT: An area used in census enumeration consisting of many census blocks containing between 2,500 and 8,000 inhabitants, with an average population of 4,000.¹ Census tracts do not cross municipal boundaries; they are useful in defining neighborhood areas.

CERTIFICATE OF OCCUPANCY: A document that is issued by a municipal government upon completion of a building or structure to indicate that it is ready for occupancy and in compliance with municipal building and zoning codes and approved site plans.

CENTRAL BUSINESS DISTRICT (CBD): The traditional business core of a community, characterized by a high concentration of activity within a relatively small area. The CBD is usually the retail and service center of a community. Because of its compactness, there is usually an emphasis on pedestrian traffic in the CBD.

CLUSTER SUBDIVISION: An arrangement of buildings or lots on the land in which lot size or setback regulations are reduced so as to establish a permanent open space without an increase in the number of lots that would be permitted in a subdivision designed to meet the required standards. Also known as open space or conservation subdivision.

CODE ENFORCEMENT: Enforcement of the locally adopted zoning, building or other codes through the municipal enforcement officer, usually the building inspector.

¹Based on criteria promulgated by the U.S. Department of Commerce, Bureau of the Census: [Guidelines for Delineating Census Tracts and Block Groups](#) (June 1985).

COLLECTOR: A road classification that defines streets carrying about an equal combination of through and local traffic.

CONDEMNATION: Exercise of the public right under eminent domain to acquire private property for a public purpose; also, a declaration that a structure is unsafe for use and must be demolished.

CONDITIONAL USE PERMIT: See SPECIAL USE PERMIT

CONDOMINIUM: An ownership arrangement in which the interior of a housing unit is individually owned (fee simple), while the exterior, including land and common elements, is owned by all homeowners in the development. The owner has title to the individual dwelling and a shared interest in the common elements. Condominiums may take the form of side-by-side duplex units, town houses, garden apartments and high-rise apartments. While originally applied almost entirely to residential units, this form of ownership is now used for office and other types of commercial development.

CONSERVATION SUBDIVISION: See CLUSTER SUBDIVISION

COOPERATIVE: An ownership arrangement under which a person has a shared interest in a residential building complex. Under this type of ownership both the individual unit and common elements are owned by the cooperative and are covered by one mortgage. As with condominiums, cooperative ownership can take a variety of building forms.

COVERAGE: The percentage of plot or lot area covered by the combined area of all buildings on the lot (**BUILDING COVERAGE**) or the percentage of the lot area covered by the combined area of all buildings on the lot plus parking and other impervious facilities (**LOT COVERAGE**).

CUL-DE-SAC: A street closed at one end and having a curved configuration that permits traffic to turn around without backing up. Also called a "close" or "dead end."

CURB CUT: A privilege granted by the owner of a street to an adjacent property owner permitting a driveway or road connection to the street.

DEDICATION: Under subdivision regulation, the transfer of property from private to public ownership. Most often this relates to roads, common open space or recreation areas and utility right-of-ways. Municipalities may not require developers to dedicate new roads but may set standards for their construction. New York courts have ruled that municipalities cannot require a developer to dedicate land for park purposes (Kamhi v. Planning Board of Yorktown, 1982). The requirement that may be imposed is that the plat show a "park or parks suitably located for a playground or other recreational purposed." See **FEE-IN-LIEU OF RESERVATION**

DEMOGRAPHY: The collection of economic and social statistics including age, racial makeup, growth density and distribution of a given population; an essential base for planning studies and policy formulation.

DENSITY: The ratio of persons, households or volume of building or development to an area of land.

DENSITY BONUS: Allowance for an applicant to increase the floor area ratio or number of dwelling units in a proposal in exchange for providing plazas, arcades, affordable housing or other specified amenities. Also referred to as incentive zoning.

DESIRE LINES: In transportation planning, a series of lines on a map connecting the origin and destination of a trip; the most direct route between two points. A tool used to suggest where transportation service should be provided.

DEVELOPMENT RIGHTS: A property owner's right to develop his land as permitted by the zoning ordinance or other land use regulations. See **TRANSFER OF DEVELOPMENT RIGHTS**

DWELLING UNIT: A unit of housing that includes kitchen facilities and has direct access from the outside or through a common hall; also call a housing unit.

EASEMENT: An authorization from a property owner for the use of his property by another for a specific purpose. Vehicular access to a land-locked parcel, for example, is often obtained through an easement.

EMINENT DOMAIN: The right of a government to take, or to authorize the taking of, private property for public use or purposes, with just compensation being given to the landowner.

ENVIRONMENTAL ASSESSMENT FORM (EAF): The SEQR form used by government agencies to assist them in determining the environmental significance of a proposed action. The EAF (Short or Full) is the principal tool used to assess the potential impacts of proposed actions.

ENVIRONMENTAL IMPACT STATEMENT (EIS): A written document prepared in accordance with the NYS Environmental Quality Review Act (SEQR) analyzing the specific potential effects of a proposed development, project or action on the environment and identifying alternative methods of eliminating, lessening and mitigating potential impacts.

EUCLIDEAN ZONING: The division of land within a municipality into districts with each district limited to specific uses including the distinct separation of residential and non-residential uses. The term takes its name from the 1926 U.S. Supreme Court zoning case, Euclid v. Ambler Realty Co., which held that communities have the right to regulate the private use of land through zoning.

FAMILY: A definition included in the zoning ordinance usually for the purpose of establishing maximum population density per dwelling unit.

FEE-IN-LIEU OF RESERVATION: Payments that are authorized in subdivision regulations when requirements for reservation of park recreation land cannot be met because of physical conditions of the site or other reasons.

FLOATING ZONE: A zoning district established in the text of a zoning ordinance that may be applied, upon application by a property owner and the approval of the legislative body, to a specific tract of land that is determined by the legislative body to meet pre-established criteria. Development of land so designated is usually subject to site plan approval by the planning board.

FLOOD PLAIN: An area on the sides of a stream that is subject to flooding. The extent of the flood plain is dependent on soil type, topography and stream flow characteristics.

FLOOR AREA RATIO (FAR): The gross floor area in square feet of all buildings on a lot (and of all usable floors) divided by the area of such lot in square feet. Maximum permitted floor area is calculated by multiplying the maximum FAR specified for the zoning district by the total area of the lot. Floor area ratio regulates the overall bulk of buildings, beyond the traditional height and setback zoning requirements.

FRONTAGE: The extent of a lot along a street.

GRADE: The degree or percentage of slope, as of a road. Or, to make level or evenly sloping, as a lawn or highway. Or, the officially established elevation of a street center line.

GRID: A checkerboard network on intersecting streets and avenues forming the basic layout of a city or town.

GROUP HOME: Sometimes used instead of the more generic term "community residence" or "residential care facility," for any group living arrangement for a special population, such as the disabled, handicapped or elderly. Strictly defined, group home refers to a residence operated by public or private non-profit child-caring agency that is licensed by the New York State Board of Social Welfare with an occupancy limited to not more than 12, nor less than 7, children between 5 and 21 years of age.

HOME OCCUPATION: An occupation carried out on a residentially zoned and developed lot that has a character strictly accessory to or incidental to the use of the "dwelling unit" by a resident. A home occupation should not change the character of the structure as a residence nor have any exterior evidence of such secondary "use".

HOUSEHOLD: A domestically autonomous person or group of persons, often defined as a group who both eat at the same table and sleep under the same roof.

INFRASTRUCTURE: Facilities that are necessary to support development within a community, including water and sewer, transportation, communications and power facilities.

INTERIM ZONING (STOP GAP ZONING): A device to freeze or severely restrict development for a short period, during which a comprehensive plan for an area or a new set of zoning regulations is prepared. See **MORATORIUM**

LAND USE: The utilization of any piece of land. Generally used categories of land use include vacant, agricultural, residential, commercial, industrial, open space and institutional.

LEAD AGENCY: Under the provisions of the State Environmental Quality Review Act (SEQR), the agency principally responsible for implementing, funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP): Under New York State's Coastal Management Program, communities have the opportunity to develop local coastal management programs, known as LWRPs. Specific land and water use and regulatory mechanisms are identified as essential to implementation of key coastal management policies. Local governments that elect to prepare a coastal management program must address each of 44 State coastal management policies, determine how they apply on a local level, give them appropriate local specificity, and implement them through appropriate local actions. Upon approval of the LWRP by the Secretary of State and the US Department of Commerce, all state and federal actions in that community's coastal zone (i.e., direct action, funding of a project and granting of a permit) must be consistent with the local program.

LOT: A tract, plot or portion of a subdivision or other parcel of land considered as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

MANDAMUS: Where administrative action is withheld unlawfully by either a person, officer or board, judicial relief may be sought through an Article 78 proceeding in the nature of mandamus requiring an action to be taken. See **ARTICLE 78 PROCEEDING**

MORATORIUM: A temporary ban on an activity, such as new construction or establishment of a specific use, enacted in response to rapid growth that exceeds the capacity of water or sewer services or existing roads, to unanticipated potentially adverse impacts of current regulations or to the updating of the municipality's zoning ordinance or subdivision regulations. In many instances, a moratorium is only partial and thus provides for interim development controls that permit limited development, particularly in hardship cases. Courts in New York State have generally upheld moratoriums if they serve a reasonable purpose, are set for a reasonable time period and are enacted under the proper procedural requirements for such ordinances.

MULTI-FAMILY HOUSING: Structures that provide dwelling units for multiple households, usually distinct from two-or three-family houses.

NON-CONFORMING STRUCTURE: A structure that does not meet the building specifications of the zoning ordinance or standards of the building code. These structures generally predate the zoning ordinance or building code and are thus allowed to stand. Once demolished however, a new structure usually must meet current specifications.

NON-CONFORMING USE: A use of a building or of land that does not conform to the use regulations for the district in which it is located. Such uses usually predate the zoning ordinance and are permitted to continue without change or expansion.

OPEN SPACE: Land that is either undeveloped or free of buildings and structures, regardless of ownership or recreational value.

OVERLAY ZONE: An overlay zone is a mapped zone that imposes a set of requirements in addition to those of the underlying zoning district. In an area where an overlay zone is established, property is in two zones and the land may be developed only under the conditions and requirements of both zones.

PERFORMANCE STANDARDS: Standards in the zoning ordinance typically governing industrial uses which establish performance measurements to control permitted uses. These standards may include smoke, noise, glare and odor emission.

PLANNED UNIT DEVELOPMENT (PUD): A special provision or zoning district that regulates development of large tracts of land, usually permitting a combination of residential and non-residential land uses developed as a "unit." Differs from clustering since it can involve mixed land uses and an increase in density.

PLAT: A drawing or drawings indicating the proposed manner or layout of a subdivision plan submitted to the planning board for consideration.

PUBLIC HOUSING: Housing owned by a public agency.

PUBLICLY ASSISTED HOUSING: Housing with some form of government subsidy, either to the developer of the tenant.

RESIDENTIAL CARE FACILITY: A community-based resident under public, voluntary non-profit, or proprietary sponsorship and regulated by an agency of the state or federal government. It provides care and support services, other than 24 hour nursing care, for approximately five to 25 persons with disabilities that may be developmental, emotional, physical or social in origin. RCFs are known by a number of names, including agency-operated boarding home, group home, group residence, family care home, hostel and halfway house.

RIGHT-OF-WAY: A strip of land over which roads, railroads, utility lines, etc. pass.

SCALE: Unit of measure on a map, plat or plan, showing the ratio or measured distance on the document to the actual dimension of the subject.

SETBACK: The required minimum distance from a property line to any structure built upon a lot.

SIGHT DISTANCE: The measurement of a straight line with an unobstructed view of a required distance; used in relation to design standards for roads and intersections.

SITE PLAN: A detailed plan showing the location of structures, parking areas, lighting, landscaping, drainage and other development features for the development of a parcel of land; distinct from a plat in its greater degree of detail and limitation to one lot.

SPECIAL USE PERMIT: An authorization for a particular land use which is permitted in a zoning ordinance or local law subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use in harmony with such ordinance or law and will not adversely affect the neighborhood if such requirements are met.

SPOT ZONING: The process of rezoning a parcel of land for a use classification totally different from that of the surrounding area in a manner which is not consistent with community planning principles. The effect of this action is to provide special benefit to the owner of such property and to permit a use that will have an adverse impact on surrounding properties. If the zoning

action is in accordance with the comprehensive plan, it may not be considered "spot zoning" even if a single parcel is involved. Variances, non-conforming uses and special use permit uses are not considered "spot zoning" since a formal amendment to the ordinance is not involved in these actions.

STREET: A public or private right-of-way that provides the principal means of access to abutting properties.

SUBDIVISION REGULATIONS: Local laws governing the division of land into smaller lots and the provision of necessary improvements such as roads, storm drainage and utilities. Subdivision regulations are intended to ensure the orderly conversion of vacant land to developed land and the compatibility of new development with surrounding areas. Subdivision regulations also govern lot and street layout, provision of utilities and establishment of recreation areas.

SUBSTANDARD LOT: A parcel of land, the area, frontage or depth of which does not meet the minimum zoning dimensional requirements of the district in which the parcel is located.

TAX INCREMENT FINANCING: A means of financing redevelopment projects in which a blighted area is improved with the proceeds of a bond issue stated to be repaid by the additional taxes the new development is expected to generate. The cost of public improvements, such as streets, water and sewer facilities, needed to support the development in the designated area is financed by the tax revenues received from the development projects within the tax increment financing district. Revenues are earmarked to retire the bonds rather than going into the community's general revenue fund. Upon retirement of the bonds, all taxes from the district become part of the community's normal tax base.

TOPOGRAPHY: Land features including elevations, slopes and drainage patterns. When illustrated in map form provides a graphic representation of a property's physical characteristics as they presently exist or are proposed to be changed.

TRANSITIONAL USE ZONE: An zoning technique intended to soften the harsh interface between markedly different land use types or zoning districts. A transitional area or site is one that is located between two or more land use areas or zoning districts of different character, such as between commercial and residential, between institutional and industrial, between new development and property for restoration, or combinations of such.

TRANSFER OF DEVELOPMENT RIGHTS (TDR): A technique in which the development rights of a parcel of land are transferred to another property in order that the first parcel may not be further developed, while increased development is permitted on the second parcel.

TRIP: A single or one-direction vehicle movement with either origin or destination inside the study area.

UNNECESSARY HARDSHIP: The circumstances under which General City, Town and Village Law define a zoning board of appeals may grant a use variance.

USE VARIANCE: The authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VARIANCE: Administrative relief from the literal and strict application of zoning provisions. Granted in cases of demonstrated practical difficulty or unnecessary hardship by the zoning board of appeals after public hearing. See AREA VARIANCE, USE VARIANCE and UN-NECESSARY HARDSHIP.

WATERSHED: The area of land drained by a river or river system, synonymous with term "drainage basin."

WETLAND: Freshwater wetlands, commonly recognized as marshes, swamps, and bogs that support aquatic plant life, have a permanent or periodic high water table. Tidal wetlands are similar, but are inundated by tides, instead of being associated with high water tables and flooding from rivers and streams.

WETLAND REGULATIONS: At the State level, a document that sets forth requirements necessary to implement the new York State Wetlands Act. At the local level, an ordinance or law providing regulations for the protection, proper maintenance, and control within the municipality of wetlands, water bodies, water courses and flood areas.

ZERO LOT LINE: Zero lot line provisions permit houses to be sited on one side lot line or on the rear or front lot line. Some communities allow zero lot line housing to be sited on common side lot lines, as with duplexes. When common lot line siting is not permitted, and zero lot line units must be sited on alternate lot lines, the zero lot line development can look very much like conventional, detached housing. In either case, siting units on their lot lines allows larger side yards that are easier to maintain than the narrow side yards that are often the case in conventional small lot developments.

ZONING DISTRICT: A division of land within a community into zones or district that have specific land-use restrictions and controls regulating the existing and future development within those areas.

XII. MAPS, PLANS AND GRAPHIC RESOURCES



Planning board members are presented with a wide array of maps, plans and graphic materials that accompany subdivision and site plan proposals and other planning activities. These materials include planimetric and topographic maps; aerial photographs; community base maps; comprehensive plan maps; subdivision and site plan maps; architectural plans; and visual analysis drawings. This section discusses what these materials are and how they are used to better understand a project and its impacts.

Maps are necessary planning tools that communicate a wide range of spatial information regarding natural and man-made features. They afford the user a comprehensive view of a piece of property or larger area that cannot be conveyed by words alone. A map is a generalized representation of an area in which selected features, such as roads, boundaries, rivers and waterbodies, are symbolized in a graphic format. Map elements (*see page 61*), essential to a map's legibility, include its scale, legend, orientation, source and title.

Planimetric and Topographic Maps

Planimetric maps indicate the location of common man-made and natural features in a flat (plane), two-dimensional format without regard to topography or ground elevation. Topographic maps incorporate the elements of a planimetric base and show contour lines which connect points of equal ground elevation above or below mean sea level, representing the terrain of an area. Topographic maps present an approximation of a property or an area in its three dimensions, and are used in evaluating drainage patterns, slope steepness, and general suitability of land for development.

The United States Geographical Survey (USGS) 1:24,000 quad map, pictured at right, have long been the standard topographic map of choice but are too small-scale for site specific analysis. Large-scale topographic maps of development sites are readily produced with Geographic Information Systems (GIS).



Geographic Information Systems

Geographic Information System (GIS) is a powerful tool for visualizing and analyzing geographic information and has greatly enhanced the way planners see, map, and interpret our surrounding environs. GIS allows users to map and display every conceivable geographic feature from man-made items such as roads, bridges, buildings, parcel and municipal boundaries, to natural features such as wetlands, streams, lakes, steep slopes and forested areas. Planners use GIS for a wide variety of applications ranging from very specific site analysis to regional analyses of land use patterns for environmental, transportation and related initiatives. Most local governments in Westchester utilize or are developing GIS capabilities

Aerial Photography

Aerial photographs are indispensable planning resources with a wide range of uses. With GIS and color digital photographs, aerial photography is more accessible and useful than ever before. Aerial photos are used to analyze land use patterns and track changes over time, conduct natural resource inventories, and to plan the locations of new roads, trails and facilities. Westchester County maintains historical air photo prints in 5-10 year intervals dating back to 1925. Private firms that specialize in aerial photography can be contracted to provide updated coverage of specific areas for special projects.



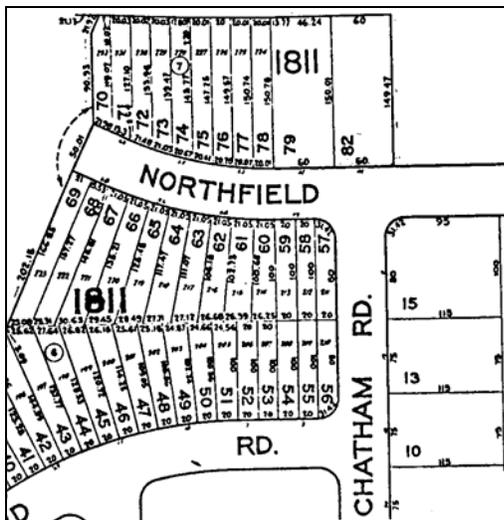
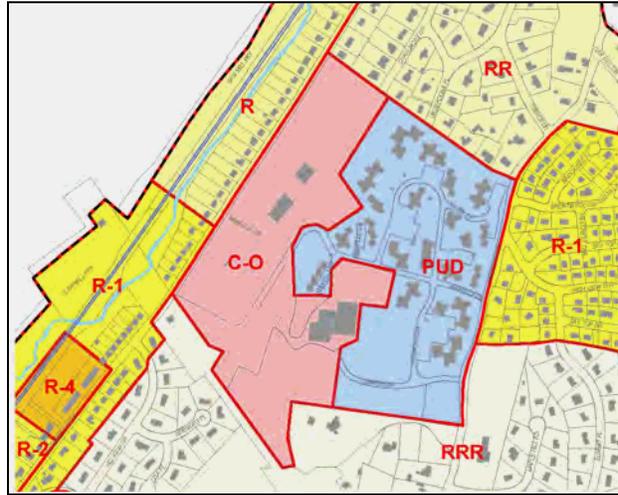
This color aerial view was produced from the County's 2004 digital orthophoto base which covers the entire county and provides a high level of detail of ground features. In the example at left, text labels and a red dashed line representing a trail were added to the photo using GIS.

Community Base Maps

Community base maps include a community's official map, zoning, and tax maps.

An **Official Map** is a formal document, adopted by a municipal legislature that indicates the location and width of both existing and proposed streets, highways, drainage systems, and parks.

The **Zoning Map** shows the boundaries of residential and non-residential zoning districts within a community, and is usually incorporated with an existing base map of a community. Zoning maps usually include parcel lines as shown in the example at right.



Tax Maps show the location, boundaries and dimensions of individual land parcels. Each parcel is assigned a number, usually related to a section, block and lot designation, which links its information to the municipal tax rolls regarding ownership, assessed value, and land use. Most Westchester municipalities have digital parcel boundaries as the basis of their GIS systems. All Hard-copy tax maps are generally large in scale requiring many sheets to cover a community, and are usually maintained in atlas format. They are kept in a locality's tax assessment office as well as in the County Clerk's Division of Land Records.

Land Use maps show how land is being used in a community and is often depicted at the parcel level. In the example at right, parcels are color coded to represent varying levels of residential development (e.g. from single family to multi-family densities) as well as different types of commercial and open space uses, including vacant undeveloped lands. Land use maps usually form the basis for creating a comprehensive plan map representing desired land use.



Comprehensive Plan Maps

Comprehensive plan maps are those maps contained in a community's comprehensive plan. These include specialized maps that illustrate a community's land use plan, transportation/circulation plan, and a community facilities plan. This thematic information is usually presented with color patterns and/or symbols that are overlaid on a base map of a community. Comprehensive plans usually present an assortment of other useful maps, depending on the planning issues particular to a community. These include historic preservation districts, central business districts, and environmentally sensitive areas. A comprehensive plan mirrors the developmental policies and objectives of a community, the maps featured in them can serve as a useful source for comparing projects with the community's comprehensive planning objectives.

Subdivision and Site Plan Maps

Planning board members review subdivision and site plan proposals to ensure consistency with subdivision regulations, zoning provisions, and comprehensive plan objectives.

Subdivision review: This process usually involves two stages, the preliminary and final stages, in which maps or "plats" are submitted. The preliminary plat shows existing site conditions, layout of the lots, approximate dimensions, topography, roads, drainage details, open space areas, and structures proposed for the subdivision. The final plat is a revised version of the preliminary plat that incorporates any changes required by the planning board, and includes more engineering details on drainage, utilities, and grading.



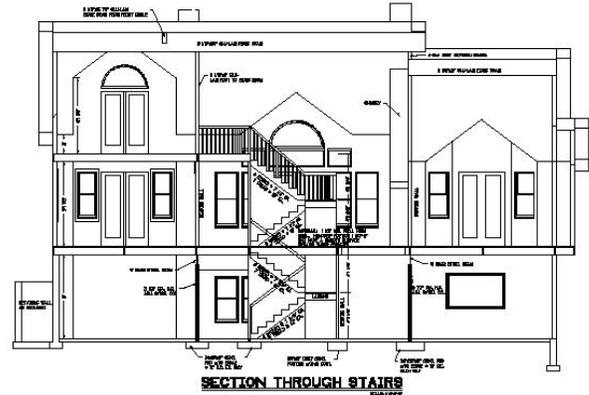
Site plan review: The site plan is a detailed development plan that illustrates both the existing conditions of a site and the details of a proposed development. A site plan incorporates many of the same elements of a subdivision plat, but also provides greater detail on the location of principal and accessory structures, parking areas, access points, and other design features. Often included with site plans, especially for large projects, are individual maps depicting the grading, landscaping/tree preservation, drainage, and utility aspects of a construction project.

Architectural Plans

Architectural plans often accompany site plans and provide information on a construction project's architectural details. These are useful tools in understanding a project's physical features and its relationship to surrounding properties. Architectural plans include **elevations**, **cross-sections**, **floor plans**, **perspective drawings**, and **architectural models**.



Elevations are scaled drawings of the view of one side of a structure that indicates the location and details of doors, windows, materials, and other exterior features.



Cross-sections are a representative “slice” through a structure taken at a point that illustrates many elements of interior construction and architectural treatment, such as walls, floors, and structural components.

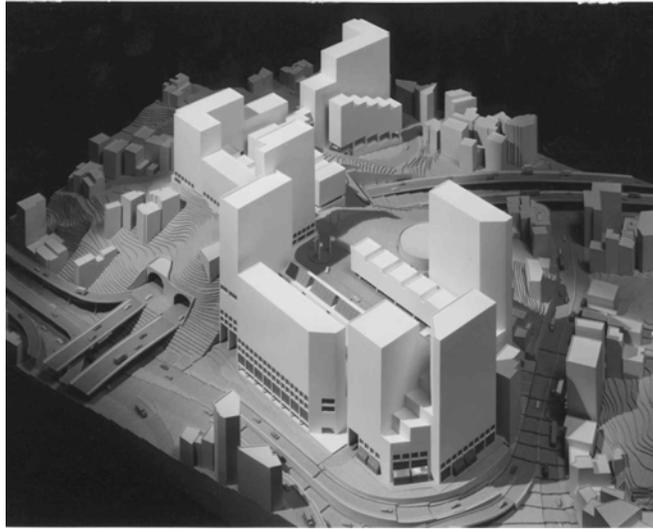


Perspective drawing or rendering is a three-dimensional view of the structures and landscape of a proposed development. They are often colored for presentation purposes, and include drawings of people to illustrate the project's scale.



Floor plans are scaled diagrams of a floor area of a building as seen from above. Floor plans illustrate the layout of rooms, and indicate door and window openings, and the location of stairs, closets and other interior features.

Architectural models are scaled-down, three-dimensional representations of a development. Models are generally limited to large developments or building complexes, and are used to provide easily understood visual presentations.

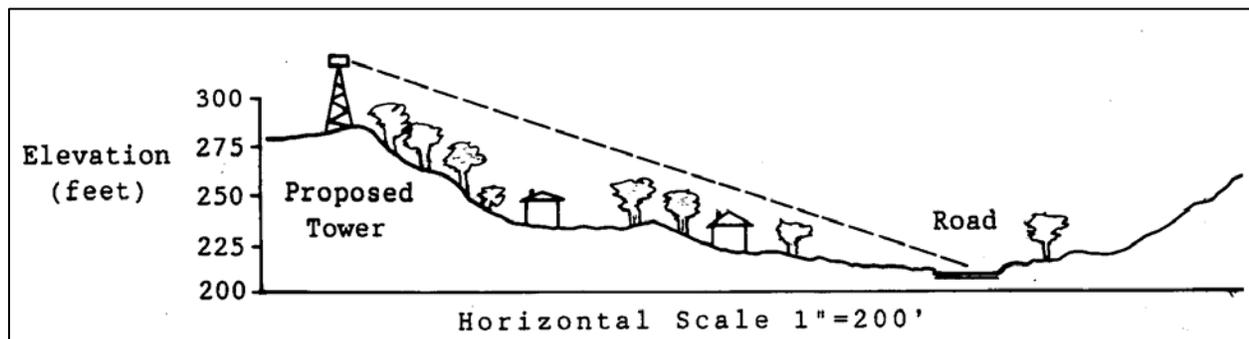


Visual Analysis Drawings

All projects have some degree of visual impact on a surrounding area. When a proposal is deemed to have a significant visual impact, a visual analysis that includes a **view-shed map** and **line of sight diagrams** could provide a valuable tool for assessing its actual impact.

View-shed maps center on a project's site and indicate potential viewpoints or locations that are likely to be within view of the project, taking into account the intervening topography, buildings, and vegetation.

Line of sight diagrams (below) are cross-section drawings that demonstrate whether a visual line exists between a potential viewpoint and the project.



Map Terms

Scale indicates the relationship of a measured distance on a map to the actual ground distance represented by the map. **Scale** determines how large an area a map can cover, and the level of detail that can be shown. In relative terms, a large scale covers a smaller area, but shows a higher level of detail than a small scale map. **Scale** can be expressed as a ratio, e.g., 1:24,000, in which one inch on the map equals 24,000 inches on the ground, or it can be presented in verbal or written form, e.g., “one inch equals two thousand feet,” Scale can also be shown graphically so that distance calculations may be made by directly measuring the distance on a bar scale. One advantage of the bar scale is that it remains consistent with a map when reduced or enlarged.

Legend or Map Keys contain descriptions of the various symbols, patterns, or lines used to represent features on a map.

Orientation or compass direction is expressed by a **North Arrow**. By convention, the north arrow usually points to the top of the sheet on which a map is shown.

A map’s **Source Note** provides useful information regarding the materials, date and methods used in the map’s compilation.

Governmental Sources for Maps and GIS Data

Community based maps can be obtained through municipal clerks, assessors, and engineers (DPW) offices. Local planning departments or consultants are good sources for obtaining a wide variety of planning-related maps, comprehensive plans, environmental impact statements, and site plans. Maps and planning related documents are often available at municipal websites, which sometimes include GIS mapping interfaces.

The Westchester County Department of Planning is a source for hard-copy aerial photographs and maps covering a wide range of themes including environmental, transportation, land use and zoning, and census maps. To see a list of these materials go to www.westchestergov.com/planning and click on the maps & publications link.

Westchester County’s GIS program provides an online mapping interface at their website <http://giswww.westchestergov.com> and also provides full range of digital mapping data free for download.

For more information:

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