

## **Town of North East**

### **Audit of Subdivision Law, Chapter 150**

#### **Prepared by Nan Stolzenburg, AICP August 2018**

1. 150-3 purpose statements should be updated to reflect other significant community goals related to land use established in the Comprehensive Plan, especially related to rural character, environmental protection, open space, and agriculture.
2. 150-7 definitions should be reviewed and updated. Add terms such as driveway, agricultural data statement, buffer area, building envelope, complete application, conservation subdivision, open space, character, minor subdivision, major subdivision, sensitive environmental features, SEQR, SPDES, and SWPPP. These are all terms that are either used or recommended to be added to the subdivision law (see recommendations below) and thus should be defined too.
3. Consider adding a lot line (boundary line) adjustment section. Currently there is no set process for when that occurs, and the Town could create a separate process to allow and review lot line changes so they don't have to go through the minor subdivision process.
4. Is three copies of the application materials enough? Does the Planning Board need additional copies so that each member has a set? I suggest you increase the number of copies required.
5. Add in the recommended conservation subdivision process, standards, and design sections and coordinate this with zoning (to establish applicability of use of conservation subdivisions).
6. Sketch plan information should also require listing of the zoning district the proposed subdivision is within, whether it is within a NYS Agricultural District, and whether any escrow for further review will be required. Also, for the sketch phase part of the review, consider adding into the law:
  - a. Authority for the Planning Board to do a site visit;
  - b. Authority for the Planning Board to refer the application to the CAC for their advisory input related to environmental features or issues to be discussed by the Planning Board;
  - c. Additional time for review as the 30-day period means that the sketch plan has to come in, be reviewed, and decisions made on in one meeting. Most communities allow for 60 days to get through the sketch phase.
  - d. Clarifying language so it is clear exactly what the Planning Board reviews and accomplishes during sketch phase – including classification as a minor or major, determination of whether a SEAF or FEAF is required, additional information the Planning Board may require, and identification of issues the Planning Board needs to have addressed in the full application. Further clarify that approval of a sketch plan is not full approval of a subdivision.
7. 150-10 should clarify that the application should conform to the sketch plan agreed to by the Planning Board.
8. The subdivision must address other requirements currently not included in Chapter 150 including use of the Ag Data Statement, County Referral for 239-m, SEQR, and notices to adjacent communities. These required processes are not included for either a minor or a major subdivision. Both SEQR and County Planning Board referral are significant requirements to be met and if missed are fatal flaws to planning decisions. Neither are referred to anywhere in the law.

9. The Town may want to formalize the role of the CAC by including them in the subdivision review process as having a role in advising the Planning Board related to SEQR and environmental issues within the subdivision process.
10. All timeframes must be changed from 45 days to 62 days as per State law.
11. Add in that if a subdivision is subject to an environmental impact statement, the hearing notice is 14 days, not 5 days, as per State law.
12. Clarify when the review time clock starts. This is an important aspect because the time clock for decision making does not start until the Planning Board deems the application complete.
13. Expand how hearing notices are advertised. Notices about hearings are also usually sent to all abutting landowners, and the cost of such notification is borne by the application. This should be added in. When the project is in or within 500' of a NYS Agricultural District, the hearing notice must also be sent to everyone listed on the ag data statement. That is why the ag data statement is important to have as part of the submission for a minor or major subdivision.
14. 150-17 Preservation of Existing Features should be expanded to detail more about specific environmental or landscape features the Town wishes to be preserved. It may be advisable to specifically mention active agricultural operations, open space, scenic views, character of land, and specific environmental features discussed in the Town's Natural Resource Inventory.
15. Emphasize use of Low Impact Development Standards (LID) for stormwater control. LID standards are outlined in NYS DEC manuals and should be the preferred method for stormwater management as they are designed to mimic existing natural systems on site.
16. For required data on plats, existing buildings, features, and environmental resources should be shown on both the parcel and adjacent parcels within 200'. This is important to properly evaluate the consistency with, and impact on adjacent properties and environmental features.
17. Other required plat data should include Identification of any active agricultural operations on or within 500' of the parcel so that use of the ag data statement can be determined as per NYS AML 25-aa, and add that the Part I of the SEAF or FEAF form for SEQR must be submitted. Also, for major subdivisions, the Planning Board should require submission of any homeowner association law, offering plan or prospectus.
18. To meet objectives of the Comprehensive Plan, it is recommended that the subdivision plat also show the proposed location of a building envelope. More emphasis on where things go on a lot instead of just where lot lines are will be important to meet the other goals of the Plan.
19. Consider requiring perc tests for each lot being subdivided, at least for major subdivisions. The goal of subdivision is to ensure that each new lot is a buildable lot, and to do that, appropriate areas for septic systems must be within the lot and accessible.
20. Consider requiring plats to show proposed locations of all driveways. This is both a safety issue (site distances) as well as a rural road character issue to be reviewed by the Planning Board.
21. Consider allowing for some use of shared driveways. For instance, the Town could allow for a driveway to be shared by no more than 3 houses. This would reduce curb cuts onto the road which will maintain character, reduce issues related to right and left turns at multiple locations, and reduce fragmentation of habitats.
22. Consider requiring placement of the NYS Agricultural Disclosure Notice on all plats that are within the New York State Agricultural District. This will notify all future landowners that they are purchasing land that may be in or near a farm operation. Currently, the Ag Disclosure Notice is required to be given by real estate agents to buyers of land when in an ag district, but this

often doesn't happen. Adding the disclosure notice to the Plat is a way that could help inform and educate new landowners about agricultural operations and the Ag District.

23. Currently neither zoning nor subdivision requires any kind of buffer between active ag lands and new non-farm uses. Buffers have been shown to be very effective in minimizing nuisance complaints. Consider adding a requirement that buffers are needed when a non-farm development is proposed adjacent to an active farm. It would be the responsibility of the non-farm parcel to accommodate the buffer which could be an additional setback, vegetated strip, maintenance of hedgerow or forest land, or other mechanisms.
24. Add the separability clause to the subdivision law. This basically states that if one part of the law is found to be unlawful, it doesn't negate other parts of the law.
25. Add court review section so that it is clear what the process is if someone is aggrieved by a decision of the Planning Board related to subdivision.
26. Consider adding in a section that authorizes an escrow account to be set up to aid in covering costs of review of a subdivision. It should be the policy of the town to ensure that all costs related to review of a subdivision should be fully borne by the applicant. Some projects need engineering, legal, planning or other professional input and their fees would be paid for through funds in an escrow account.
27. The street and road standards should be reviewed and updated to ensure that new roads are consistent with the rural character of the Town. Roads can play a huge role in and affects community character, traffic flow, environmental features, and traffic speed. For example, currently the subdivision law requires paving widths of new streets to be 28', which would be considered excessive for low volume rural residential roads. The pavement width should be 18' to 20'. Further, the Town should have standards related to use of private gravel roads, standards for road/stream crossings, and maintenance of vegetation along streets. The Town should have a set of rural road design standards for new development.
28. The Town may also want to consider adding in an option for new major subdivisions to be built in a traditional neighborhood style. To address community character issues, Usually applied only to large developments, this would result in more hamlet-like development on smaller lots, with narrower streets, sidewalks, greens and parks and other hamlet-amenities. This style of development would be more in keeping than a conventional subdivision which tends to sprawl structures across the landscape. Conservation subdivision design could also result in a clustered and hamlet-like development.
29. There is no reference to the Greenway Connections policy of the Town. This should be added in.
30. There should be adequate references to NYS DEC Stormwater Pollution Prevention Plan (SWPPP) requirements that may have to be met, depending on the acreage to be disturbed.
31. There should be a section added in to define what a complete application is, when it is deemed complete by the Planning Board, and that time frames for decision making don't start until the application is deemed complete.
32. A section should be added in related to the state Town Law requirement for a default approval for the subdivision if the Planning Board does not meet the required timeframes. Time frames can only be extended by mutual consent of the Planning Board and applicant.
33. A section, mirroring NYS Town Law, should be added indicating that in a subdivision, an application that creates lots that do not meet the zoning dimension requirements may go

directly to the ZBA for an area variance without having to be disapproved by the enforcement officer. This section should be added.

34. There should be a new section added to discuss the subdivision process when the Town is not the lead agency for SEQR for a subdivision. As per NYS Town Law, there is a separate process when the Town is not lead agency.