

MINOR SITE PLAN REVIEW
ORDINANCE

TOWN OF NAPLES

Adopted: June 21, 2006

Attested by Town Clerk

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SECTION 1. FINDINGS AND PURPOSE

The Town of Naples determines that development or land use changes have an effect upon the cost and efficiency of municipal services, upon the environment of the Town of Naples, and upon the general health, safety and welfare of the residents of the Town. Unplanned development may result in increased costs of municipal services. The purpose of this ordinance is to ensure an orderly growth of the Town and to minimize the detrimental effects of that growth which is caused by development, by way of but not limited to: commercial, industrial, retail or institutional buildings, structures and/or uses, campgrounds and mobile home parks.

SECTION 2. AUTHORITY

- A. This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A., Section 3001, et seq.
- B. This Ordinance shall be known as the “Minor Site Plan Review Ordinance” of the Town of Naples, Maine, adopted and effective by vote of the Naples Town Meeting, _____ and thereafter amended.

SECTION 3. APPLICABILITY

- A. This Ordinance shall apply to all development proposals and changes of use defined herein in the Town of Naples. Development means and includes:
 - 1. Proposals for new construction of commercial, retail, industrial, utility, institutional and recreational buildings and structures of 1600 square feet or less of floor space or additions of 800 square feet or less of floor space either be addition of units within an existing structure or by expansion of an existing structure or by construction of additional buildings on the same lot. Such requirements of construction shall be cumulative. Review shall be required if the new construction, alteration or addition results in a building or buildings that is 1600 square feet or less of floor space or a total expansion (whether the addition of units within an existing structure or added floor space or added floor space in additional buildings on the same lot) of 800 square feet after June 28, 1997.

- B. A change in use shall mean a change from one type of use requiring site plan review to another use requiring site plan review, such as a change from an office to a retail store or from a retail store to an industrial use or from a retail store to a restaurant. A proposal to change one retail to a different kind of store, such as a change from a drug store to a candy store or a convenience store would not be considered a change in use.

- C. This ordinance does not apply to:
 - 1. Legally existing buildings, structures and uses as they existed and to the extent they were used at the time of adoption of this Ordinance.
 - 2. Fair, bazaars, sales and festivals, temporary in nature, conducted by non profit organizations.
 - 3. All new and existing municipal facilities of the Town of Naples are exempt from Planning Board review, but must meet all of the conditions as specified in the Ordinance and all other town ordinances.

No building permit shall be issued for any use requiring Minor Site Plan Review until the plans, drawings, sketches and other documents required under this Ordinance have been reviewed and approved by the Planning Board.

Construction, site development and landscaping shall be carried out in accordance with the plans, drawings, sketches and other documents approved by the Planning Board unless altered with Planning Board approval. Nothing in this Section shall be construed to prevent ordinary maintenance and improvement of existing structures and facilities.

SECTION 4. ADMINISTRATION

- A. The following procedures and requirements shall apply to all applications for Minor Site Plan Review:
 - 1. Prior to formal application, the applicant or his authorized agent may request a pre-application conference with the Planning Board or its designated staff to discuss the plan and its compliance with town standards. Comments made at such a meeting shall be advisory in nature. The Planning Board may request that the applicant arrange for a site inspection with the Board or one or more individuals appointed by the Board's Chairperson to act as the Board's representative.

2. All applications for Minor Site Plan Review shall be made in writing to the Planning Board secretary on forms provided for this purpose. The application shall be made by the owner of the property or his agent, as designated in writing by the owner, and shall be accompanied by the payment of an application fee to cover the administrative costs of processing the application.
3. The Planning Board shall be empowered to administer applications fees as set by the Selectmen and listed in the Town of Naples Fee Schedule.
4. The Planning Board may require the applicant or his authorized agent to deposit in escrow funds sufficient to cover the costs for any professional review of the site plan documents which the Planning Board determines is reasonable to protect the Town as authorized by the Town of Naples Land Use Fee Schedule. This escrow payment shall be made before the Planning Board engages any outside party to undertake this review and to make recommendations to the Planning Board. Any part of this escrow payment in excess of the final costs for the review shall be returned to the applicant or his agent.
5. At least fourteen (14) days prior to the Planning Board meeting at which the applicant wishes to be heard, the applicant shall submit a letter of intent to appear before the Planning Board.
6. Eight (8) copies of the completed application for Site Plan Review, together with the documentation required in these regulations shall be submitted at least fourteen (14) days prior to the Planning Board meeting at which the applicant wishes to be heard. However, any application, which does not include the documentation required by these regulations, will not be scheduled for review by the Planning Board and shall be returned to the applicant by the Planning Board secretary with an indication of the additional information required.
7. Preliminary review of the application for completeness shall be done by the Code Enforcement Officer. The Planning Board shall be the ultimate authority on the completeness of an application and shall make a finding of fact during its initial review as to whether the application is complete. If the Board finds the application is incomplete, the Planning Board shall inform the applicant of what information is necessary to complete the application.
8. Prior to taking final action on any Minor Site Plan Review application, the Planning Board may hold a public hearing to afford

the public the opportunity to comment on the application. Notice of the date, time and place of such hearing shall be published in a newspaper of local circulation at least ten (10) calendar days prior to the public hearing meeting the requirements of 1 M.R.S.A., Section 60.

9. Within forty-five (45) days after the public hearing or sixty (60) days after receiving a complete application, the Planning Board shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
10. When a development is subject both to Minor Site Plan Review and to Subdivision Review, the Planning Board shall conduct a concurrent review. Procedures of the Subdivision Ordinance shall be used. Criteria and standards of the Site Plan Review Ordinance shall be employed in addition to the requirements improvements and standards of the Subdivision Ordinance.

SECTION 5. SUBMISSION REQUIREMENTS

A formal application for Minor Site Plan Review shall contain at least the following exhibits and information:

- A. A fully executed and signed copy of the application for Site Plan Review; and, eight (8) copies of a site plan drawn at a scale sufficient to allow review of the items listed under Criteria and Standards:
 1. Owner's name, address and signature.
 2. Name and addresses of all abutting property owners plus a description of the project, to be used by the Planning Board to notify the abutters by certified mail of the proposed project, proof of mailing receipts to be kept on file at the Town Office. Owners of abutting properties shall be those listed in the most recent tax records of the Town of Naples.
 3. Zoning classifications(s) of the property and the location of zoning district boundaries if the property is located in two or more zoning districts.
 4. The location of all building setbacks as required by the Town Ordinances.

5. The location, size and character of all signs and exterior lighting.
 6. The lot area of the parcel, street frontage and the Town Ordinances requirements for minimum lot size and frontage.
 7. The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping.
 8. The location of all buildings within fifty (50) feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel.
 9. All surface water features within 500 feet of the project boundaries, including perennial streams and wetlands.
 10. A list of waivers of any town requirements or ordinance provisions requested.
 11. A statement from the Fire Chief that the property is accessible by present fire apparatus and detailing any additional on-site fire protection facilities required.
 12. Drainage plan to describe the location and size of road culverts, road and other similar features.
- B. Copies of any proposed or existing easements, covenants and deed restrictions.
- C. Copies of all required state approvals and permits, provided however, that the Planning Board may approve site plans subject to the influence of specific state licenses and permits in cases where it is not feasible for the applicant to obtain at the time of Site Plan Review.

The Planning Board may waive any of these requirements when the Board determines that the scale or nature of the project is of a size that makes the information unnecessary.

SECTION 6. CRITERIA AND STANDARDS

The following criteria and standards are to be used by the Planning Board in judging applications for Minor Site Plan Review and shall serve as minimum requirements for approval of a site plan. In all instances, the burden of proof shall be on the applicant to demonstrate compliance with each standard.

A. Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation when and where desirable, and keep any grade changes in character with the general appearance of neighboring areas. Existing vegetation, buffering, landscaping and building siting are potential methods of preserving in a natural state.

B. Relation of Proposed Building to the Environment: proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity, which have a visual relationship to the proposed building. Special attention shall be paid to the scale of the proposed building(s), massing of the structure(s), and such natural features as slope, orientation, soil type and drainage courses.

Architectural features of the proposed structures shall be considered for all developments fronting on Route 302 from the fire station to the Crooked River Bridge to conform as close as practical to existing structures in the surrounding area.

C. Vehicular Access: The proposed layout of access points shall be designed so as to avoid adverse impact on existing vehicular and pedestrian traffic patterns.

D. Parking and Circulation: The facilities shall be safe and convenient and, insofar as practicable, shall not detract from the proposed buildings and neighboring properties.

E. Advertising Features: The size, location, design, color, texture, lighting and material of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties.

F. Special features: The Planning Board may require buffer zones between commercial properties where differences in the use of the properties or the natural features of the properties make buffers appropriate. All buffers and screening must be maintained indefinitely by the property owner.

G. Exterior Lighting: All exterior lighting shall be designed to minimize adverse impact on neighboring properties and public ways.

H. Emergency Access: Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

I. Environmental Considerations: Adequate provision shall be made to control noise, vibrations, smoke, heat, glare, fumes, dust, toxic matter, odors and electromagnetic interference generated by proposed uses or activities on the site such that these impact shall not be readily detectable at any point along lot lines so as to produce a public nuisance or hazard.

SECTION 7. GENERAL PROVISIONS AND REGULATIONS

- A. The Planning Board may modify or waive any of the application requirements or performance standards when the Planning Board determines that because of the special circumstances of the site such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not adversely affect the abutting landowners and the general health, safety and welfare of the Town. If any waivers or exceptions are granted they must be listed on the final plan.
- B. Any proposed development shall be in conformity with the provisions of all local codes or regulations or any State Law which the municipality is responsible for enforcing.

SECTION 8. ENFORCEMENT

- A. Nuisances. Any violation of this Ordinance or any condition placed on a site plan approval shall be deemed to be a nuisance.
- B. Permit Required. No person shall engage in any use of land requiring a permit under the provisions of this Ordinance after the effective date of this Ordinance without first obtaining the required permit.
- C. Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement officer shall find that any provision of this Ordinance or any condition of site plan approval is being violated, he or she shall notify by registered mail the person or persons responsible for such violation, indicating the nature of the violation and order the action necessary to correct it, including discontinuance or illegal use of land, buildings, or structures, and abatement of nuisance conditions and establishing a date by which the action shall be taken, provided that if reasonable progress is being made to comply, the Code Enforcement Officer may extend the deadline for compliance. A copy of such notices shall be maintained as a permanent record.

- D. Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Code Enforcement Officer, are hereby required to institute any and all actions for injunction of violations and the imposition of fines, that may be necessary to enforce the provisions of this Ordinance in the name of the Town.

- E. This Ordinance is a land use ordinance and shall be enforced in the manner specified in 30-M.R.S.A., Subsection 4452. Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply with any of the requirements thereof, shall upon conviction be punished by a fine of not less than \$100 nor more than \$2,500, and each day on which such violation(s) continue shall constitute a separate offense. The failure to comply with any condition imposed on a Site Plan Approval by the Planning Board shall be deemed a violation of this Ordinance.

SECTION 9. EXPIRATION OF NOTICE OF DECISION

- A. Following the issuance of a Notice of Decision, if no substantial start is made in construction or in the use of the property within one year of the date of the Notice, the Authority granted in the Notice of Decision shall lapse and become void. One-year extensions may be granted by the Planning Board, in its sole discretion, only upon written application by the owner of the property.

SECTION 10. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

- A. Validity and Separability. Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

- B. Conflict with Other Ordinances. Whenever the requirements of this Ordinance are inconsistent with the requirement of any other ordinance, code or statute, the more restrictive requirement shall apply.

SECTION 11. APPEALS

If the Planning Board disapproves an application or grants approval with conditions that are objectionable to the applicant or to any abutting landowner or other aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, any abutting landowner, or

other aggrieved party may appeal the decision of the Planning Board in writing to the Board of Appeals within 30 days after the Planning Board's decision is rendered. The Board of Appeals may reverse the Planning Board's decision after holding a public hearing, and upon application therefore, may grant a variance upon making a finding of undue hardship as defined in 30-A M.R.S.A. §4353(4). Public hearings shall be held according to Title 30-A, M.S.R.A., Section 2691.

SECTION 12. AMENDMENTS

This ordinance may be amended by a majority vote at any town meeting.

NAPLES PLANNING BOARD

**1992 PHOSPHORUS REVIEW
amended 11/06/01**

LAKE LEVEL AREA	PROTECTION LEVEL LBS / ACRE / YR	FAD % DEV
SEBAGO	.50	35%
PEABODY	1.0	35%
BRANDY	.75	35%
HOLT	1.25	35%
LONG	.75	35%
TRICKEY	.50	35%
COLD RAIN	1.0	35%

THE ABOVE NUMBERS REPRESENT THE COMBINATION OF THE DISCUSSIONS BETWEEN THE PLANNING BOARD AND THE DEP, LEA, PWD AND GEORGE SAWYER.

As adopted by the Naples Planning Board
on January 5, 1993

Current phosphorus control standards are on file with the Code Enforcement Officer.