

**OFFICE OF THE MAYOR & CITY COUNCIL**

330 Ford Street  
Ogdensburg, New York 13669

July 10, 2015

City Council  
City of Ogdensburg  
Ogdensburg, New York 13669

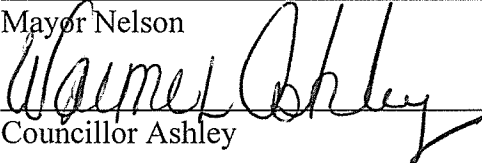
Dear Council Members:

We are calling a special meeting of the City Council on Thursday, July 16, 2015 at 7:00 p.m. in the City Hall Council Chambers on the following topic:

1. An Ordinance adding Article VII entitled "Adaptive Reuse District (ARD)", to the Ogdensburg Municipal Code. (Bill #41)
2. Items for Discussion – Consultant for City Manager replacement.

Sincerely,

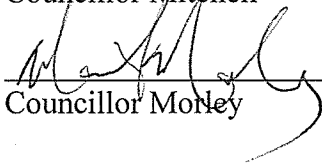
\_\_\_\_\_  
Mayor Nelson

  
\_\_\_\_\_  
Councillor Ashley

\_\_\_\_\_  
Councillor Hosmer

\_\_\_\_\_  
Councillor Skamperle

\_\_\_\_\_  
Councillor Mitchell

  
\_\_\_\_\_  
Councillor Morley

\_\_\_\_\_  
Councillor Stevenson

Cc: City Manager  
Phil Cosmo  
Media

**AGENDA**  
**Special Council Meeting**  
**Thursday, July 16, 2015 at 7:00 p.m.**

I. Call to Order

II. Pledge of Allegiance

III. Items for Council Action

1. An Ordinance adding Article VII entitled “Adaptive Reuse District (ARD)”, to the Ogdensburg Municipal Code. (Bill #41)

IV. Items for Discussion

1. Consultant for City Manager replacement.

V. Adjournment

Business of the City Council  
City of Ogdensburg

SUBJECT:	FOR AGENDA OF:	July 13, 2015
Ordinance adding Article VII Entitled	BILL #:	41
“Adaptive Reuse District (ARD)”	DEPT. OF ORIGIN:	City Clerk
to the Code of the City of Ogdensburg	DATE SUBMITTED:	May 29, 2015
APPROVED AS TO FORM BY CITY	EXHIBITS:	Ordinance
ATTORNEY		

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EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED: -0-	BUDGETED: -0-	REQUIRED: -0-

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APPROVED BY CITY MANAGER FOR SUBMITTAL

SUMMARY STATEMENT

An Ordinance adding Article VII entitled “Adaptive Reuse District (ARD)”, to the Ogdensburg Municipal Code. The purpose of this district is to recognize the public, quasi-public, and institutional nature of particular parcels of land and provide standards and guidelines for their continued use and future adaptive reuse; and to ensure that the public, quasi-public, and institutional structures and developments within the district will be compatible with surrounding zoning districts and uses. (Public hearing held at 6-22-15 meeting.)

RECOMMENDED ACTION

**Approval of ordinance.**

MOVED BY: \_\_\_\_\_ SECONDED BY: \_\_\_\_\_

VOTE ON ROLL CALL:

MAYOR NELSON	_____	COUNCILLOR ASHLEY	_____
COUNCILLOR HOSMER	_____	COUNCILLOR MITCHELL	_____
COUNCILLOR MORLEY	_____	COUNCILLOR SKAMPERLE	_____
COUNCILLOR STEVENSON	_____		

**ORDINANCE # of 2015**  
**ORDINANCE ADDING ARTICLE VII ENTITLED**  
**"ADAPTIVE REUSE DISTRICT (ARD) "**  
**TO THE CODE OF THE CITY OF OGDENSBURG**

BE IT ORDAINED AND ENACTED by the City Council of the City of Ogdensburg, New York, as follows:

ITEM ONE

That Article VII entitled "Adaptive Reuse District (ARD)" is hereby added:

ARTICLE VII  
**Adaptive Reuse District (ARD)**

**§221-22. District and Map.**

Ogdensburg's Adaptive Reuse District (ARD) is specifically mapped to include parcels that exhibit pre-existing nonconforming land use patterns customarily associated with public, quasi-public and institutional development across the City. The parcels that make up this district have property class codes 600's (community service land uses) or 800's (public service land uses) and are less than 2 acres in size. Over time, parcels may be added into or removed from this zoning district as necessary through the standard zoning map amendment process.

**§221-23. Purpose.**

The purpose of this district is to (i) recognize the public, quasi-public, and institutional nature of particular parcels of land and provide standards and guidelines for their continued use and future adaptive reuse; (ii) to ensure that the developments within the district will be compatible with surrounding zoning districts and uses; and (iii) promote development, community compatibility and economic development by allowing the adaptive reuse of existing buildings and/or land uses, which may have become obsolete, after public review. Adaptive Reuse permits a wider range of land uses to be available to existing buildings and uses for the purpose of extending their useful life.

**§221-24. Submission and Review Procedure.**

The following regulations shall apply to all land within the Adaptive Reuse District

**A. Applicability of regulations for Adaptive Reuse Districts (ARD).**

- 1) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this article and until the proposed Adaptive Reuse Permit has been filed with and approved on behalf of the City Council; and Zoning Board of Appeals ("ZBA") as hereinafter provided.
- 2) Such request shall be in the form of an application for an Adaptive Reuse Permit, following all requirements for plan submission and documentation of **Article XV Site Plan Review** including 239-m review when applicable.

- 3) All land use within the Adaptive Reuse District shall be limited to the use or uses existing on the effective date of this article or approved by the application for an Adaptive Reuse Permit.

**B. Site and development plan consideration.** Upon the application for such permit, the ZBA shall determine, after requesting and receiving within 30 days a report from the Planning Board, whether to approve, disapprove, or approve subject to any conditions, amendments or commitments, the proposed Adaptive Reuse Permit (ARP).

- 1) **Plan documentation and supporting information.** All drawings submitted must be at a scale of not more than 50 feet to the inch. The site and development plan shall include layout and elevation plans for all proposed buildings and structures, and shall indicate:

- i. The names of all owners of record of all adjacent property, and the tax map number of the property, all as shown in the City's official tax records.
- ii. Proposed Adaptive Reuse District uses.
- iii. Any existing uses, buildings, and structures.
- iv. Proposed buildings and structures. Off-street parking layout.
- v. Vehicular entrances and exits and turnoff lanes.
- vi. Setbacks.
- vii. Landscaping, screens, walls, fences.
- viii. Signs, including location, size and design thereof.
- ix. Storm drainage facilities.
- x. Other utilities if aboveground facilities are needed.

- 2) **Site and development requirements.** Parcels in the Adaptive Reuse District are subject to the following site and development requirements. In review of the proposed ARP, the ZBA shall assess whether the site and development plan, proposed uses, buildings and structures shall:

- i. Be so designed as to create improved land use and development over the existing land use and development and in conformity with the Comprehensive Plan (LWRP) of the City of Ogdensburg, New York, including the applicable Brownfield Opportunity Area plan;
- ii. Promote economic development, create and maintain compatible land uses within the Adaptive Reuse District and with the surrounding area, promote land use and development having a functional and aesthetic value which is compatible with neighborhood and/or community character;
- iii. Provide sufficient and adequate access, parking and loading areas as prescribed by Off-street parking, §221-41;
- iv. Provide traffic control and street plan integration with existing and planned public streets and interior access roads;
- v. Provide adequately for drainage and public utilities; and

- vi. Allocate adequate sites for all uses proposed - the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan (LWRP).
- vii. Provide sidewalks along public streets, and other full control of access frontages including, but not limited to, recreational trails as determined by the ZBA. Sidewalks shall consist of the walkway and any curb ramps or blended transitions. If required to be installed, the ZBA shall be guided by the provisions of Chapter 189, Streets and Sidewalks and all relevant ADA accessibility requirements.

**§221-25. Public Hearing.** The ZBA shall schedule and hold both a public hearing on all adaptive reuse applications. The public hearing shall be held within 30 days of the receipt of a complete application submission or completion of the SEQR review and shall be advertised in the City's official newspaper at least ten (10) days before the public hearing. All property owners within a 400' radius of the parcel under review shall receive a direct mailing informing them of the request and meeting dates.

**§221-26. Adaptive Reuse Permit requirements.** No building or structure shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated in Ogdensburg's Adaptive Reuse District, without an Adaptive Reuse Permit, and such permit shall not be issued until the proposed request has been approved in accordance with this section.

**§221-27. Zoning Board of Appeals review.**

A. The ZBA shall render its recommendation to City Council within 7 days prior to the date of the public hearing required by §221-28 A. The ZBA's final action, rendered in writing, shall consist of either:

- 1) Approval of the adaptive reuse permit based upon a determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this section;
- 2) Disapproval of the adaptive reuse permit based upon a determination that the proposed project does not meet the standards for review set forth in this section, and stating such deficiencies; or
- 3) Approval of the adaptive reuse permit subject to any conditions, modifications and restrictions as required by the ZBA which will ensure the project meets the standards for review.

B. Notice of the ZBA's recommendation shall be given in writing to the applicant and City Council.

**§221-28. City Council Action**

A. Prior to authorizing any Adaptive Reuse Permit, the City Council shall hold a public hearing within 62 days of receipt of a completed application in accordance with this chapter (see Article XVII) and consider the report and recommendation of the ZBA and all other relevant comments, reviews and statements.

- B. The City Council shall act to approve, disapprove or approve with modifications, the application for an Adaptive Reuse Permit and preliminary development plan by a majority vote of the full membership, and shall report its decision to the City's ZBA and Planning Board. Should the City Council wish to act contrary to any recommendation for disapproval or approval with modifications made by the City Zoning Board of Appeals or the County Planning Board under authority of § 239-m of the General Municipal Law, it may do so only with a majority plus one vote of its full membership.
- C. The City Council shall render a decision within 62 days following the completion of a public hearing for an adaptive reuse permit.
- 1) Upon approval of the adaptive reuse application and payment by the applicant of any and all fees due to the City, the Director of Planning and Development shall endorse the City Council approval by signing the ARP and forward copies to the applicant and Code Enforcement Officer.
  - 2) Upon disapproval of the adaptive reuse permit application, the Director of Planning and Development shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a building permit to the applicant. The Director shall also notify the applicant in writing of the decision and reasons for disapproval. The Director shall copy all correspondence to the chairperson of both the Zoning Board of Appeals and Planning Board.
- D. The time within which a decision must be rendered may be extended by mutual consent of the City Council and the Applicant.
- E. Upon the approval of an Adaptive Reuse Permit a final development plan, consistent with any required modifications, shall be submitted to the Planning Board for site plan review prior to issuance of a building permit. Procedures under Article XV, Site Plan Review, shall be followed for the review of proposed development within the ARD.
- F. Final as-built site plan. A building permit may be issued by the Code Enforcement Officer only after final as-built site plans have been found complete and approved by the Planning Board.

**§221-29. Severability.** If any provisions or clauses of this article or its application to any person, persons or corporation or circumstances is held to be unconstitutional or otherwise invalid, such decision shall not effect the remaining provisions or clauses of the article or applications thereto which can be implemented without such invalid provision or clause, and, to this end, the provisions and clauses of the article are declared to be severable.

**§221-30. Appeals.** Any person aggrieved by any decision of the City Council may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after filing of a decision in the office of the City Clerk.

## ITEM TWO

That the existing Article VIII – Industrial and Institutional District (I/I) to Article XXI – Adult Entertainment Uses and all existing subsections and references thereto be renumbered as follows:

### **ARTICLE VIII - Industrial and Institutional District (I/I)**

- §221-31. Purpose
- §221-32. Permitted uses
- §221-33. Special Permit Uses
- §221-34. Prohibited uses

### **ARTICLE IX - Mobile Home District (MH)**

- §221-35. Purpose.
- §221-36. Permitted Uses.
- §221-37. Prohibited Uses

### **ARTICLE X - Planned Development District (PDD)**

- §221-38. Purpose.
- §221-39. Minimum standards.
- §221-40. Submission and review procedure.
- §221-41. Expiration of permit.

### **ARTICLE XI - Waterfront Overlay District (W)**

- §221-42. Purpose.
- §221-43. Permitted uses.
- §221-44. Prohibited uses.

### **ARTICLE XII - Determination of Use**

- §221-45. Determination of use.

### **ARTICLE XIII - Dimensional Regulations**

- §221-46. Dimensional regulations.

### **ARTICLE XIV - Regulations Applicable to All Districts**

- §221-47. Accessory uses and structures.
- §221-48. Open storage of inoperative or unregistered motor vehicles.
- §221-49. Public garages and gasoline filling stations.
- §221-50. Outdoor vending machines; outdoor Sales.
- §221-51. Off-street parking and loading.
- §221-52. Signs.
- §221-53. Usable open space.
- §221-54. Temporary uses and structures.
- §221-55. Nonconforming lots, uses and structures.

### **ARTICLE XV - Environmental Quality Review**

- §221-56. Purpose.
- §221-57. Process completion required.
- §221-58. Applicability.
- §221-59. Classification of action.
- §221-60. Environmental assessment forms.
- §221-61. Lead agency.
- §221-62. Determinations of significance.
- §221-63. Acceptance of draft environmental impact statement.
- §221-64. Public comment period.
- §221-65. Public hearing.
- §221-66. Preparation of final environmental impact statement.
- §221-67. Notice of completion of final environmental impact statement.
- §221-68. Findings statement.

### **ARTICLE XVI - Site Plan Review**

- §221-69. Legislative Authority.
- §221-70. Purpose.
- §221-71. Sketch plan conference.
- §221-72. Applications for site plan approval.
- §221-73. Application acceptance; referral to Planning Board.
- §221-74. Public Hearing
- §221-75. Referral to County Planning Board.
- §221-76. Planning Board decisions.
- §221-77. Standards for review.
- §221-78. Enforcement; inspections.
- §221-79. Amendment to approved plans.
- §221-80. Appeals.



**ARTICLE XVII - Administration and Enforcement**

- §221-81. Code Enforcement Officer and Zoning Administration Officer.
- §221-82. Planning Board.
- §221-83. Zoning Board of Appeals; appeals procedure.
- §221-84. Standards for granting variances.
- §221-85. (Reserved)
- §221-86. Building permit required.
- §221-87. Applications.
- §221-88. Issuance or denial of building permit.
- §221-89. (Reserved)
- §221-90. Certificates of occupancy and certificates of compliance.
- §221-91. Appeals.
- §221-92. Complaints; investigation.
- §221-93. Stop-work orders.
- §221-94. Revocation of permits.
- §221-95. Judicial review.

**ARTICLE XVIII - Amendments**

- §221-96. Legislative Authority.
- §221-97. Referral to Planning Board.
- §221-98. Referral to County Planning Board.
- §221-99. Public notice and hearing.
- §221-100. City Council vote; protests.

**ARTICLE XIX - Application Fees**

- §221-101. Application fees.

**ARTICLE XX - Penalties for Offenses**

- §221-102. Penalties for Offenses.
- §221-103. (Reserved)

**ARTICLE XXI - Adult Entertainment Uses**

- §221-104. Purpose.
- §221-105. Definitions.
- §221-106. Location; signs; blockage of view from public places; establishment of business.
- §221-107. Measurement of distances.
- §221-108. Penalties for offenses.
- §221-109. Severability.
- §221-110. When effective.

ITEM THREE

This ordinance shall take effect ten (10) days after publication of a notice which shall give the title and describe same in summary form.

# THE ST. LAWRENCE COUNTY PLANNING BOARD

Courthouse Room 255, 48 Court Street  
Canton, New York 13617-1169

VOICE (315) 379-2292 and 379-2281  
FAX (315) 379-2252

E-MAIL [Planning@co.st-lawrence.ny.us](mailto:Planning@co.st-lawrence.ny.us)  
WEB SITE <http://www.co.st-lawrence.ny.us/Planning/>

## NOTICE OF ACTION ON PROJECT REFERRAL

To: William D. Nelson, Mayor  
From: St. Lawrence County Planning Board  
Date: July 10, 2015  
Re: County Planning Board 239-m Decision

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Applicant: **City of Ogdensburg**

Project: **Adaptive Reuse District**

Project Location: **City Wide**

Referral Type:  Area Variance  Site Plan  
 Use Variance  Subdivision  
 Special Use Permit  Map/Text Amendment  
 Sign Permit

Decision:  Approved  Disapproved  Returned for Local Action  
 Approved with Conditions  Other (See below):

Explanation of the decision and its impact on your final action:

At its July 9<sup>th</sup> meeting, the County Planning Board discussed the City's acreage modification to the ARD Article. While the County had no concern with acreage limitation it is still concerned about the length of time that the review process can take through the ARD process. The Board voted to **conditionally approve** the Adaptive Reuse District language proposed for the City of Ogdensburg. The approval is conditions on the following:

- The City remove the second site plan review requirement for the Planning Board, as the Planning Board has the opportunity to carry out its site plan review role prior to, or concurrent with, the Zoning Board of Appeals review.
- The City combine the public hearings held by the ZBA and the City Council to reduce the number of hearings required; this will shorten the timeframe in which decisions are rendered and allow for a more efficient review process.

The Board also suggested that the City consider changing the reference to a final as-built plan that is to be reviewed and approved before a building permit can be issued. The Board pointed out that as-built plans refer to post construction plans. This language also appears in Section 221-31 J. of the PDD Article.

The County Planning Board review of the referral is now complete, and City Council's action may now be taken. Based upon the Board's decision any motion to approve the new zoning district language without the above referenced conditions must be taken with a majority plus one of the full membership of City Council. Please notify the County Planning Board of the decision.

The County Planning Board Staff Review Report is attached for your reference. If you have any questions about this referral or about the review process, please contact the Planning Office.

cc: Andrea Smith, Director of Planning and Development, City of Ogdensburg  
Tim Redmond, City Planning Board Chair

Attach: Staff report

Rezoning

The New York State enabling acts provide for changing or amending zoning regulations. It is important to realize that a change in the district boundaries is a legislative function. No administrative official or board can make such changes. The test of legitimacy for a map amendment to a zoning ordinance is that the change be consistent with a comprehensive plan for the community.

- 1. **Project**                    Creation of Adaptive Reuse District                    **Referral Sent**                    **June 15, 2015**
- 2. **Sponsor**                    City of Ogdensburg                    **Full Statement Received**                    **June 15, 2015**
- 3. **Location**                    **Citywide**                    **30-day Action Due**                    **July 15, 2015**

Site Plan Attached     YES     NO

4. Location within 500 feet of:
- a. city, village or town boundary
  - b. existing or proposed county or state park or recreation area
  - c. right-of-way of existing or proposed county or state road highway
  - d. existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines
  - e. existing or proposed boundary of county or state land on which a public building or institution is situated

OR

f. As required by GML § 239-m (ii) for the adoption or amendment of a zoning ordinance or local law.

5. Background:

The County Planning Board reviewed the City’s proposal for an Adaptive Reuse District (ARD) at its May meeting. The City is resubmitting the language because it made an adjustment to the parcels that will be considered for district designation. The City added the following language to the Adaptive Reuse Article “...parcels that make up the district...are less than 2 acres in size.” This modification would affect four parcels that were originally slated for ARD designation but were over 2 acres in size. The rationale for the acreage limitation is that the City’s current Planned Development District (PDD) has a minimum standard of 2 acres for undeveloped land. The minimum standard for redeveloped land is 40,000 square feet. Parcels under 2 acres in size could be addressed by the ARD and undeveloped parcels 2 acres or larger by the PDD. Staff has no concern with this acreage limitation.

In the City’s resubmission of the ARD Article, Staff did not observe any other changes from the original text reviewed in May. Staff recommends that the original comments be resubmitted with this review as those comments remain relevant. The following language is the same as what was presented to the County Planning Board in May.

General Municipal Law 239-l cites several considerations that should be taken into account when reviewing municipal zoning amendments. Three items from that list, noted below, are germane to the proposed revision in the City of Ogdensburg.

Proposed changes would affect:

- 1. Land use compatibility
- 2. Traffic generation and adequacy of highways
- 3. Government institutional uses
- 4. Community character and appearance
- 5. Population density
- 6. Drainage
- 7. Community facilities
- 8. Long-range development policies
- 9. Governmental efficiency

An analysis for each consideration is below the list.

**Land Use Compatibility:** The intent of the review procedure included in the Adaptive Reuse District section of the zoning code is to ensure that an existing structure and its proposed reuse can be compatible with the surrounding community. The City states that the purpose of this permitting process is to "...provide standards and guidelines for their continued use and future adaptive reuse; and to ensure that the developments within the district will be compatible with surrounding zoning districts and uses."

**Long Range Development Policies:** Addressing these existing nonconforming uses will help to plan for future development citywide and is critical to advancing long range development policies for the city as a whole.

**Governmental Efficiency:** The review process for uses in the Adaptive Reuse District is thorough; the draft code section requires input from the Planning Board, and review and approval from the Zoning Board of Appeals and City Council. While Staff questions whether all three entities should have input, Staff will defer to the City's judgement. However, greater efficiency could be achieved by reducing the number of times the Planning Board has input and shortening the review time lines. Staff will describe the review process and then offer an alternative in the Staff Comment Section below.

6. Planning Office Staff Comment:

Staff believe there can be a role for the Planning Board, Zoning Board of Appeals and City Council to play, for they all have a different perspective and area of expertise; however, the Adaptive Reuse Permit process is cumbersome. Staff do have a concern with the process and what appears to be the involvement of the Planning Board at two separate stages. As well, the length of time that an approval could take seems excessive.

***The Review Process:***

- The first step, specified in Section 221-24 B., states that the ZBA shall receive a site and development plan report from the Planning Board within 30 days of application.
- The ZBA must hold a public hearing within 30 days of receiving the application.
- The ZBA must then render a recommendation to approve, approve with conditions or disapprove the permit request and submit it to City Council 7 days prior to a public hearing that must be held by City Council.
- City Council must hold its public hearing within 62 days of the completed application being considered (Section 221-28).
- County Planning Board referral would then be conducted after referral to City Council.
- City Council is then required to act within 62 days following completion of its public hearing.
- Upon approval of the Adaptive Reuse Permit, the final development plan must then be submitted to the Planning Board for Site Plan review. This could take another 45 days as per Article XV, Site Plan Review, Section 221-66.
- Lastly the Planning Board must review a final as-built plan and only after these plans are found to be complete and approved by the Planning Board will a building permit be issued (Section 221-28 E).

Staff's main concern with the review process is with the length of time that the whole review could take. Adding the 62 days prior to the hearing by City Council and the decision being made up to 62 days after the hearing, and then referral to the Planning Board for site plan review (another possible 45 days) the time to render a decision could take up to 169 days, or almost 6 months.

Staff feel that the Planning Board certainly needs an opportunity to carry out a site plan review before a permit is granted. The Planning Board has an opportunity to do this early in the review process and then provide their report to the ZBA in the first 30 days of the review process. This should be the end of the input from the Planning Board. Eliminating Planning Board involvement later on will reduce the total time line and prevent the Planning Board from having to modify a permit that is already approved by the City Council.

There appear to be two hearings in the process; one held by the ZBA 30 days after submission of the application and one held by City Council 62 days after submission. Staff suggest that these two hearing be held jointly, and no later than 30 to 45 days after submission. The ZBA should then issue its report to Council no later than 62 days after submission. Staff suggest that Council then must make a decision 62 days after the hearing. That would shorten the timeline to a maximum of 107 days.

This is a bold initiative and offers a comprehensive review process to ensure that all proposed uses for the Adaptive Reuse District are compatible with surround land uses. Streamlining the process and reducing the timeframes for review while still allowing for a thorough review will strengthen this Section of the zoning code.

7. Staff Recommendation:

Staff recommend that this Adaptive Reuse District be **approved with the following conditions:**

- The City remove the second site plan review requirement for the Planning Board, as the Planning Board has the opportunity to carry its site plan review role prior to, or concurrent with, the Zoning Board of Appeals review.
- The City combine the public hearings held by the ZBA and the City Council to reduce the number of hearings required; this will shorten the timeframe in which decisions are rendered.

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