

# **THE GREENE COUNTY PLANNING AND ZONING REFERRAL GUIDE**

For actions referred to the Greene County Planning Board under  
Sections 239-l and 239-m of the New York State General Municipal Law

**GREENE COUNTY PLANNING BOARD**

August 2010

## **PREFACE**

This guide summarizes the procedures for the Greene County Planning Board's review of certain municipal zoning and planning actions as required by Section 239-l and 239-m, Article 12-B, of the General Municipal Law of the State of New York. This legislation requires the County Planning Board to coordinate and examine inter-community and countywide implications of various local planning and zoning decisions.

This guide was written to help planning and zoning agencies understand the requirements of the law as it pertains to their specific jurisdiction.

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# The Greene County Planning and Zoning Referral Guide

## I. GENERAL INFORMATION ON THE REFERRAL PROCESS

### A. INTRODUCTION

Under New York State Law, certain local planning and zoning matters must be referred to the county planning board for review before the local government takes any final action. This referral/review activity (commonly called the "239 Review") is required by Sections 239-l and 239-m of the General Municipal Law and is designed to assure that county concerns are taken into consideration in the local planning process. The county planning board review is advisory in nature and applies equally to towns and villages.

This *Planning and Zoning Referral Guide* (referred to as "the guide" in this document) written to help planning and zoning agencies understand the requirements of the law as it pertains to their specific jurisdiction. It summarizes the procedures for the Greene County Planning Board's review of certain local municipal zoning and planning actions as required by law. It discusses the activities that are eligible for review; outlines the process for review; identifies the materials that are required for submission; discusses the potential recommendations of the county planning board; and outlines policies for review of projects.

### B. PURPOSES AND BENEFITS OF THE REFERRAL PROCESS

The referral process benefits both local and county officials on planning related matters. Among these benefits, the review process is intended to accomplish the following purposes:

1. To provide local planning and zoning agencies with advice and assistance from a professional county staff.
2. To coordinate planning and zoning actions between municipalities and to increase inter-community cooperation.
3. To avoid expensive litigation caused by procedural deficiencies in granting or denying planning and zoning requests.
4. To guide county planners in orienting studies and proposals for solving local as well as county problems.

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5. To provide local officials with continuity for meeting long-term planning goals and objectives as established in county, as well as local plans.
6. To keep higher levels of government, county, state and federal, aware of issues and problems facing local officials.
7. To provide a repository of local planning and zoning documents as well as a central file of local actions under the review jurisdiction.
8. To foster and advocate sound planning practice throughout Greene County.

The referral process has always relied heavily on cooperation between local and county governments and strict application of General Municipal Law requirements. Due to an increasing number of referrals countywide and cases involving litigation, the Greene County Planning Board has developed this Guide to clarify and streamline the referral process.

### **C. ACTIONS SUBJECT TO REVIEW**

Section 239-m of Article 12-B of the New York State General Municipal Law is titled: **NOTICE OF CERTAIN PROPOSED CITY, TOWN AND VILLAGE ZONING ACTIONS TO BE SUBMITTED TO COUNTY, METROPOLITAN OR REGIONAL PLANNING AGENCY; REPORT THERON; FINAL ACTION**. According to this law any town or village in Greene County having jurisdiction to...

- adopt or amend a comprehensive plan
- adopt or amend zoning regulations
- approve site plans
- issue special permits
- grant variances
- other authorizations issued under zoning

shall before taking final action on these matters, refer the matter to the Greene County Planning Board. This referral is required only if the matter involves property located within 500 feet of...

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- the boundary of any village or town
- the boundary of any existing or proposed county or state park or other recreation area
- the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway
- the right-of-way of any existing or proposed stream drainage channel owned by the county
- the boundary of any existing or proposed county or state owned land on which a public building or institution is situated
- the boundary of a farm operation within a agricultural district (except the granting of area variances)

Within 30 days after receiving a properly completed referral form from the municipality, the Greene County Planning Board reports its recommendations and reasons back to the municipality. Until a decision is rendered by the County Planning Board, the municipality cannot act on the matter in question. If the County Planning Board fails to report within the 30 day review period, the municipality may act without the report unless a extension is agreed to by both agencies.

If the Greene County Planning Board disapproves the proposal or recommends modifications, the municipal agency having jurisdiction shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members and after adoption of a resolution fully setting forth the reasons for such contrary action.

The full text of Section 239-m of the General Municipal Law is included in Appendix A.

### **D. GREENE COUNTY MUNICIPALITIES SUBJECT TO REVIEW**

The following municipalities are subject to review under Section 239-m of Article 12-B of the New York State General Municipal Law:

- Town of Athens
- Village of Athens
- Town of Cairo
- Town of Catskill
- Village of Catskill
- Town of Coxsackie

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- Village of Coxsackie
- Town of Durham
- Town of Greenville
- Town of Halcott
- Town of Hunter
- Village of Hunter
- Town of Jewett
- Town of Lexington
- Town of New Baltimore
- Town of Prattsville
- Village of Tannersville
- Town of Windham

Some municipalities have agreements with the Greene County Planning Board to exempt certain minor actions from the referral process. See Appendix F for more information.

### **E. FACTORS TO BE CONSIDERED IN COUNTY PLANNING AND ZONING REFERRALS**

The General Municipal Law notes that the purpose of the review process is to coordinate local planning and zoning actions by bringing inter-community and countywide considerations into the overall planning process. These considerations include the following:

1. Compatibility of various land uses with one another.
2. Traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities.
3. Impact of proposed land uses on existing and proposed county or state institutional or other uses.
4. Protection of community character as regards predominant land uses, population density and relation between residential and non-residential areas.
5. Drainage.
6. Community facilities.
7. Official municipal and county development policies, as may be expressed through comprehensive plans, capital programs or regulatory measures.



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8. Such other matters as may relate to public convenience, to government efficiency and to achieving a satisfactory community environment.

The full text of Selection 239-I of the General Municipal Law is included on Appendix A. In addition, the Greene County Planning Board has established additional policies and guidelines for review. See Chapter III for a summary of the Policies considered by the Greene County Planning Board. Appendix G provides more detail on these policies.

### **F. EFFECT OF FAILURE TO REFER ACTIONS SUBJECT TO 239**

The failure of a local government to follow the procedural requirements of “239” is a jurisdictional defect which may invalidate any final municipal action. Therefore it is very important that everyone involved in local planning and zoning, including the governing body, planning and zoning boards, municipal attorneys and code enforcement officers, be aware of the state law requirements.

A review of Greene County Department of Economic Development, Tourism & Planning files indicates that localities sometimes disregard 239 requirements. This leaves these localities’ planning and zoning decisions open to reversal by the courts, simply because the proper procedure was not followed. The case of Caruso vs. Town of Oyster Bay, 172 Misc.2<sup>nd</sup> 93 provides direction on this issue and is available from the Greene County Department of Economic Development, Tourism & Planning.

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## II. REVIEW PROCEDURES

### A. THE REFERRAL FORM

The Greene County Planning Board's referral form must be attached to an application, completely filled out and signed to indicate the referral is official and not just normal correspondence. A referral must be received from the municipal agency and not the applicant. A copy of the form is included as Appendix B to this guide; additional forms are always available on request.

### B. TIME OF SUBMITTAL

Since the Greene County Planning Board meeting is held every third Wednesday of the month, the referral must be received 12 days prior to the County Planning Board's meeting to be placed on the monthly agenda and allow adequate time for review. By law, the Greene County Planning Board has 30 days after the receipt of a complete referral to review an application and offer recommendations. This 30 day period begins after staff determines the referral to be complete.

It should be noted that the Greene County Planning Board review period is concurrent with that of the referring agency, thus allowing any county recommendations to become part of the record at any public hearing or local board meeting. It must be remembered that no local decision can be rendered or vote taken until the written County recommendations have been received.

Early consultation is desired for major actions such as the adoption of a comprehensive plan or zoning regulations, or the review of a major subdivision. The purpose of the early consultation is to ensure that the Board has been engaged in the project early enough to resolve any potential intermunicipal or region conflicts or concerns up-front. Early consultation can save time and money for all parties involved.

To improve access conditions, the Greene County Planning Board always recommends individuals applying for site plan approval, special permits or variances along state and county roads have the NYS Department of Transportation or the Greene County Highway Department review the access proposal early in their project planning. Applicants should be made aware of this requirement prior to submission to the Greene County Planning Board. The County Planning Board also recommends that local officials make use of these professional review services when considering new or revised highway access proposals.

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### **C. DETERMINATION OF COMPLETE FILING**

After receiving the referral materials, the Greene County Department of Economic Development, Tourism & Planning will inform the municipality whether the referral is complete or incomplete. If incomplete, the Greene County Department of Economic Development, Tourism & Planning will tell the municipality what items are needed to complete the referral. If complete, the formal 30 day review period begins.

### **D. DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM & PLANNING REVIEW**

The Department of Economic Development, Tourism & Planning will analyze the referral and may contact the municipality, the applicant or interested parties for further information. The Department will present its findings in the form of a Staff Review at the next Greene County Planning Board meeting.

### **E. GREENE COUNTY PLANNING BOARD ACTION**

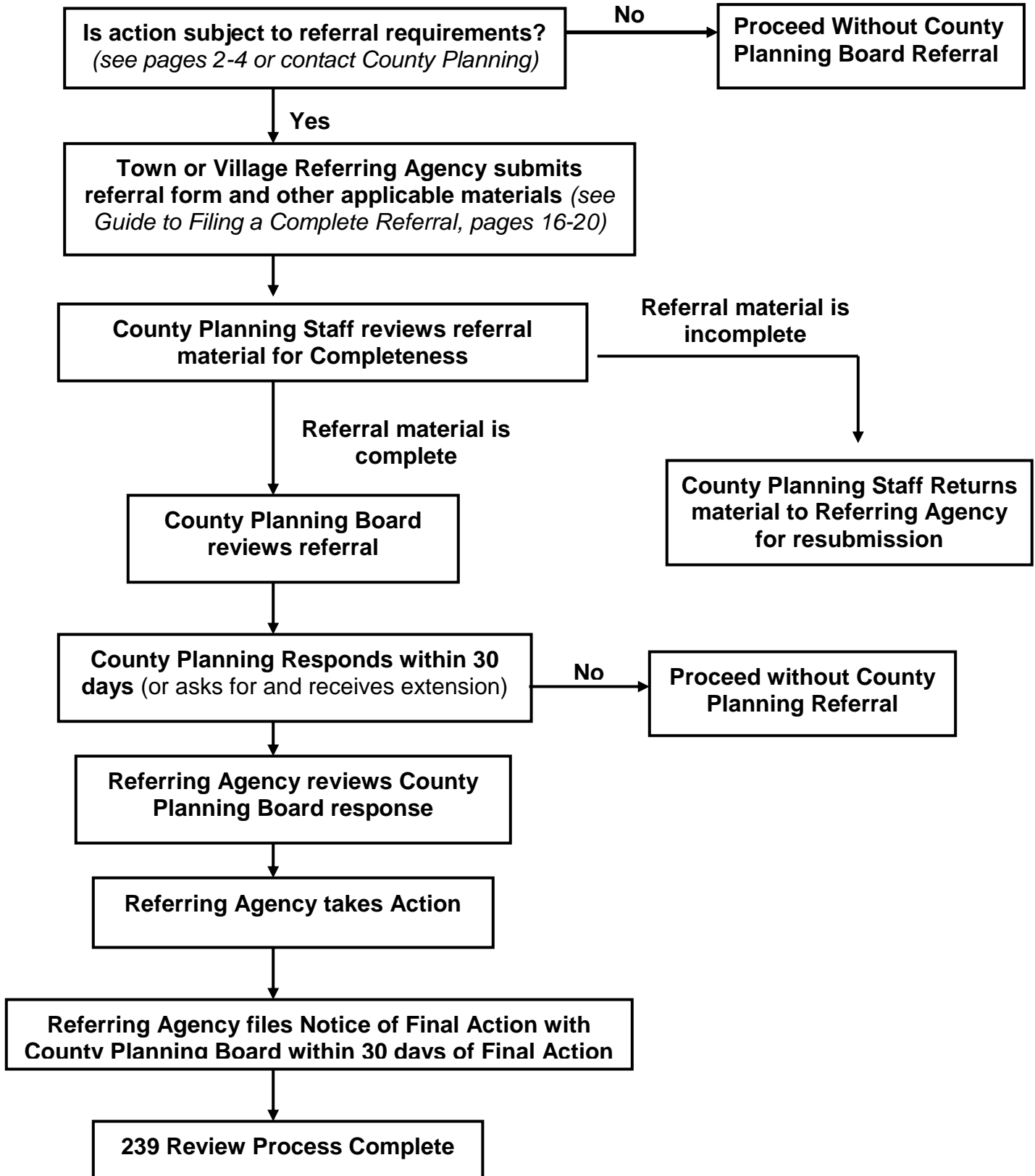
The Greene County Planning Board will take formal action at its meeting and will respond to the referring agency on the following Monday.

### **F. FINAL ACTION REPORT**

The referral process is NOT complete until a Notice of Final Action is filed with the Greene County Planning Board. General Municipal Law requires that, within thirty days after the final action, the referring body file a report of the final action it has taken with the County Planning Board. A referring body that acts contrary to a recommendation of modification or disapproval of a proposed action must set forth the reasons for the contrary actions in the Notice of Final Action. A copy the Notice of Final Action form is included as Appendix D to this Guide.

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## THE PLANNING AND ZONING REFERRAL PROCESS



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### III. PLANNING BOARD POLICIES FOR REVIEWING PLANNING AND ZONING REFERRALS

The following policies have been established by the Greene County Planning Board to guide both the Board and the staff in reviewing referrals, they are the basis for all recommendations:

**Policy 1:** Channel development whenever possible to centers where infrastructure can support growth, where public transportation can be provided efficiently and where redevelopment can enhance economic vitality.

**Policy 2:** Preserve and protect the county's natural resources and environment, including its ground water resources, water bodies, wetlands, coastal zones and significant land resources which include unique natural areas, steep slopes and ridgelines and prime agricultural land.

**Policy 3:** Preserve and protect open space, trail and park systems. That protection shall include minimizing the impact of signs and other structures, such as transmission towers that impact scenic vistas. Ensure that development adjacent to open space and park systems does not impact the user experience of such facilities.

**Policy 4:** Preserve and protect the county's cultural and historical resources by considering these resources when making land use decisions.

**Policy 5:** Preserve and protect the county's existing highway system by encouraging well-sited commercial development, controlling the number of driveways along these highways and insuring that proper design techniques are used for safe access.

**Policy 6:** Maintain a multi-modal transportation system in the County that provides diverse transportation options including pedestrian facilities, bicycle facilities, highways and roads, and public transportation.

**Policy 7:** Preserve the unique, historic character of the county's villages and hamlets. Ensure that land use and development activities leverage their assets to the highest capacity feasible.

**Policy 8:** Encourage well-sited and well-designed development that harmonizes with the natural topography, vegetation, drainage systems, and unique features of the landscape.

**Policy 9:** Encourage well-designed, distinctive neighborhoods and communities with a strong sense of place that respects the natural, cultural, historical context of its surroundings.

**Policy 10:** Create attractive and functional commercial development that serves as an asset the community.

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**Policy 11:** Foster a pattern of development along the County's major waterfronts that makes the best use of waterfront resources and enhances the unique patterns of the waterfront, including historic villages and hamlets. Encourage continuous public access to major waterfronts where feasible.

**Policy 12:** Encourage a range of housing types that are affordable to renters and homebuyers, with each municipality addressing its needs for affordable housing as well as a share of the regional need.

**Policy 13:** Variances and special use permits are to be granted in accordance with criteria established through enabling legislation and judicial decisions as well as the local zoning law involved.

Additional guidance on the policies in this chapter is provided in Appendix G: Illustrated Policies and Guidelines for Review.

**IV. TYPICAL GREENE COUNTY PLANNING BOARD RECOMMENDATIONS**

The following is an explanation and definition of the types of decisions that can be expected from the Greene County Planning Board. These decisions will be noted on the County Planning Board's report back to the referring agency. The decisions are summarized in the text box below and more information on each decision is provided in this section.

**A Summary of the Typical Greene County Planning Board Recommendations**

**Local Decision – No County Impact**

The Board determines that the action is of local concern and that there are no significant regional or intermunicipal concerns.

**Local Decision with Comment**

The Board determines that the action is of local concern. However, in reviewing the project, the Board may provide non-binding comments that are technical in nature on relevant planning and zoning issues.

**Approval**

The Board approves the action because it meets all of the goals, policies and procedures of the review process.

**Approval with Modifications**

The Board determines that the action is of intermunicipal or county concern and requires that certain conditions or modifications be met before the project can be approved.

**Disapproval**

The Board finds that the action is in direct conflict with existing county or local policies; comprehensive plans; other plans; and/or sound planning principles and recommends that the project is not approved.

*If the Board issues an approval with modifications or disapproval, the municipality must abide by the recommendation unless the referring agency overrides the modifications or disapproval with a majority plus one vote of the full board. The referring agency must state in its report of final action the reasons for overriding the Board's decision.*

*All other responses require only a majority vote for the referring agency to take action.*

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### **A. LOCAL DECISION - NO COUNTY IMPACT. RETURNED FOR REFERRING AGENCY'S DETERMINATION.**

The General Municipal Law does not differentiate as to what must be referred to the Greene County Planning Board. All planning and zoning actions within the jurisdiction of Article 12B of General Municipal Law must be referred and processed. Many referrals, such as area variances, site plans or special use permit applications not fronting on county or state roads, or zoning amendments that are administrative in nature do not have a direct county impact. Examples would be:

- a. Minor dimensional area variances such as side and rear yard setbacks, lot size, floor area and height restrictions.
- b. Minor accessory uses and structures such as swimming pools, storage sheds, fences, porches or additions.
- c. Conversion of single-family homes to two-family dwellings.
- d. Home occupations.
- e. Minor sign variances.
- f. Site plan changes on a developed site.
- g. Slight density increases.

In such cases, the County Planning Board does not formally approve or disapprove the referral and will return it to the referring agency. This recommendation requires only a majority vote for the referring agency to take action.

General Municipal Law, Section 239m provides that the County Planning Board may enter into agreements with municipal referring agencies to exempt certain matters of local concern (such as those listed above) from review by the County Planning Board. Communities with existing exemption agreements are listed in Appendix F.

### **B. LOCAL DECISION - WITH COMMENT**

As noted above, several referrals will have no county impact. However, in reviewing these actions, the Department of Economic Development, Tourism & Planning staff may have comments that are primarily technical in nature. These reviews may result in a staff recommendation that the referring agency take further steps to complete its review of the proposal according to good planning practices.

The County Planning Board will review the staff recommendations and may request that non-binding advisory comments on relevant planning and zoning issues be



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included with the response to the referring agency. In this case, the referring agency needs only a majority vote to take action.

### **C. APPROVAL**

Referrals that meet all the goals, objectives and requirements of the Greene County Planning Board will be approved. Referrals that have prior consultation and review by staff at the inception of the proposal or project have the best prospects for approval.

Approval by the Greene County Planning Board requires only a majority vote for the referring agency to take action.

### **D. APPROVAL WITH MODIFICATIONS**

This action includes mainly special use permits and site plan reviews. These referrals are usually permitted uses that need certain conditions imposed in order to mitigate or minimize the impacts of the proposal. The conditions required may be, but are not limited to:

- a. Obtaining a curb-cut permit from the county or state.
- b. Channelization of driveways to improve access conditions.
- c. Drainage work to provide for on-site stormwater retention.
- d. Buffer areas and screening.
- e. Additional parking.
- f. Improvement of sight distance.

If the referring agency agrees with the County Planning Board and requires that the proposal be modified in accord with the County Planning Board recommendation, approval can be granted by the referring agency with the normal majority vote. If not, the referring agency can approve only with a majority plus one vote and the referring agency must set forth in its report of final action the reasons it has acted contrary to the County Planning Board's recommendations.

### **E. DISAPPROVAL**

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Some proposals or projects may be submitted that are contrary to the policies established by the Greene County Planning Board. These would include, among others:

- a. Development in environmentally sensitive areas, e.g.: flood plains, steep slopes, prime agricultural land, and in rural areas without the supporting infrastructure.
- b. Establishment of an industrial or commercial zoning district adjacent to another community's residential district.
- c. Ignoring housing needs and demands, either by design or oversight.
- d. Allowing unreasonable and overly ambitious amount of land to be made available for intensive development, especially without provisions for providing central public water and sewer or good highway access.
- e. Failing to meet certain legal requirements such as spot zoning or not meeting the variance criteria.
- f. Incompatible with policies, plans, strategies as adopted by the County.

If the referring agency decides to approve the proposal despite disapproval by the Greene County Planning Board, the referring agency can act only if it has a majority plus one vote and the referring body must set forth in its report of final action the reasons it has acted contrary to the County Planning Board's recommendations.

### **F. INCOMPLETE - RETURNED**

Inadequate information has been submitted for a complete review. An incomplete application will be returned. Reasons for a return may include:

- a. No site map (unclear location)
- b. No supporting materials documenting the request.
- c. No local planning board, zoning board of appeals or zoning commission report (reports may be minutes from the respective board).
- d. No determination made under the State Environmental Quality Review Act.
- e. Not following local submission criteria as required through locally adopted codes, rules and regulations. (If local board waives submission requirements, as evidences in local codes, rules and regulations, then copy of letter from

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local administrator or minutes from respective board shall accompany referral.)

### **G. NO JURISDICTION**

Actions which do not specifically fall under Section 239-l and 239-m cannot be officially reviewed. A "No Jurisdiction" is issued when an action is not subject to 239 review.

## IV. A GUIDE TO FILING A COMPLETE REFERRAL

The Greene County Planning Board cannot do its job unless complete information is provided along with the Planning and Zoning Referral Form. This section identifies the specific requirements for a complete referral.

### A. GENERAL GUIDANCE FOR SUBMITTALS

#### 1. Locating the Project

It is difficult to find site locations by road names, box numbers or written descriptions. To precisely locate and provide for countywide consistency, a photocopy of the appropriate section of either a USGS or NYS Department of Transportation topographic or planimetric map; a photocopy of the municipal zoning map which applies to the area in question; and/or a photocopy of the applicable section of the local tax map is required. These maps are readily available and should be furnished by the applicant.

#### 2. Site Plan Map

Where site plans, special permits or variances are being reviewed, the applicant should be required to submit a suitable site plan drawn to an appropriate scale showing physical features, existing buildings or structures, parking, proposed construction or additions, utilities, drainage and driveways in relation to the total site. A copy of this site plan is to be included in the referral. This requirement is no more than what should be expected for review at the local level.

#### 3. Highway Access

Highway access review is an important part of the County referral process and requires cooperation between state, county and local officials. Safety along the state and county highway system is one of the Greene County Planning Board's major concerns.

At present, much commercial property is wide open, lacking a defined driveway access. Vehicles can enter or exit at random at any point along the highway. This is poor planning practice that leads to unsafe traffic movements. Existing open-access conditions should be corrected whenever the opportunity presents itself, such as when an owner seeks permission to upgrade a building or make site improvements that require local government review and approval. Professionally engineered driveways and site drainage work can remedy poor access situations and will result in reduced costs to the public and increased property values.

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### 4. SEQR Data

Through the referral process the Greene County Planning Board does not become an involved agency under the State Environmental Quality Review Act (SEQR). However, in all applications requiring a determination under SEQR, the Greene County Planning Board should be considered an interested party. If an action is being reviewed by a municipality under SEQR and a finding of significance has been determined which would require the preparation of an Environmental Impact Statement, the County referral process may be delayed until that document is received.

### 5. Additional Information

Any local reports containing facts about the referral should be included to provide the County with the rationale behind the application and a local perspective in reviewing the action. These may include number of employees, traffic studies, parking, availability of public water and sewer, relationship to flood plains or agricultural districts, character of the area, applicable land use regulations, minutes of meetings, etc.

## **B. REFERRAL SUBMISSION REQUIREMENTS**

For compliance with the full statement requirements of 239-l and 239-m of Article 12B of the General Municipal law of New York State, the following lists the types of information required for review by the Greene County Planning Board depending on the planning or zoning action involved. This should be viewed as a technical checklist for materials to be submitted by the referring agency for all planning and zoning referrals. Outside of the Greene County Planning Board Referral Form, the information submitted should be no more than that required for review at the local level.

Within 30 days after final action by the municipality, that agency having jurisdiction must file a notice of the final action taken. Upon receipt of this notice, the General Municipal Law referral process has been completed.

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## 1. NEW ZONING LAW AND MAP

- a. Copy of proposed law and map.
- b. Supporting material used in preparation of the law:
  - i. Comprehensive plan
  - ii. Policy guidelines
  - iii. Special reports or studies
  - iv. Local planning board or zoning commission reports
  - v. Copy of environmental assessment or impact statement as required under the State Environmental Quality Review Act.
- c. After Greene County Planning Board review, submission of adopted amendments in final form.

## 2. AMENDMENT OF ZONING LAW

- a. Copy of proposed amendments with reference to changes or additions to the existing law.
- b. Supporting material used in preparation of amendments:
  - i. Revised comprehensive plan.
  - ii. Changes in policy since original law.
  - iii. Additional studies since original law.
  - iv. Local planning board, zoning commission or zoning board of appeals reports.
  - v. Copy of environmental assessment or impact statement as required under the State Environmental Quality Review Act.
- c. After Greene County Planning Board review, submission of adopted amendments in final form.

## 3. AMENDMENT OF ZONING MAP

- a. A map showing both existing and proposed changes.
- b. Supporting material used in preparation of changes to the map:
  - i. Supporting material used in preparation of changes to the map.

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- ii. Changes in policy since original law.
  - iii. Additional studies since original law.
  - iv. Local planning board, zoning commission or zoning board of appeals reports.
  - v. Copy of environmental assessment or impact statement as required under the State Environmental Quality Review Act.
- c. After Greene County Planning Board review, submission of adopted amendments in final form.

### 4. ZONING VARIANCE

- a. Area maps showing the location of the proposal:
- i. Submit an 8 ½ " x 11" photocopy of the appropriate section of either a USGS or NYS Department of Transportation Map - 1:2400 scale.
  - ii. Submit a 8 ½" x 11" photocopy of the appropriate section of the municipal zoning map.
  - iii. Submit an 8 ½ " x 11" photocopy of the appropriate section of the local tax map of the applicant's property.
- b. Complete written description of the proposal.
- c. Site plan showing physical characteristics of property; existing and proposed layout of buildings, structures, additions, parking, road or highway access, drainage and availability of utilities (appropriate scale).
- d. Supporting material used in request, such as traffic generation, additional services, etc.
- e. Zoning district in which property is located.
- f. Zoning provision from which a variance is requested.
- g. Copy of environmental assessment or impact statement as required under the State Environmental Quality Review Act.
- h. After Greene County Planning Board review, submission of final action report.

### 5. SPECIAL USE PERMIT

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- a. Area maps showing the location of the proposal:
  - i. Submit an 8 ½" x 11" photocopy of the appropriate section of either a USGS or NYS Department of Transportation Map - 1:2400 scale.
  - ii. Submit an 8 ½" x 11" photocopy of the appropriate section of the municipal zoning map.
  - iii. Submit an 8 ½" x 11" photocopy of the appropriate section of the local tax map of the applicant's property.
- b. Complete written description of the proposal.
- c. Site Plan showing physical characteristics of property; existing and proposed layout of buildings, structures, additions, parking, road or highways access, drainage and availability of utilities (appropriate scale).
- d. Supporting material used in request, such as traffic generation, additional services, etc., soil information etc.
- e. Zoning district in which property is located.
- f. Zoning provision permitting such use with required standards and conditions imposed by the zoning law.
- g. Copy of environmental assessment or impact statement as required under the State Environmental Quality Review Act.
- h. After Greene County Planning Board review, submission of final action report.

### 6. SITE PLAN REVIEW

- a. Area maps showing the location of the proposal:
  - i. Submit an 8 ½ " x 11" photocopy of the appropriate section of either USGS or NYS Department of Transportation Map 1:2400 scale.
  - ii. Submit an 8 ½" 11" photocopy of the applicant's property.
  - iii. Submit an 8 ½"x 11" photocopy of the appropriate section of the local tax map of the applicant's property.
- b. Complete written description of the proposal.



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- c. Site plan showing physical characteristics of property; existing and proposed layout of buildings, structures, additions, parking, road or highways access, drainage and availability of utilities (appropriate scale).
- d. Supporting material used in request, such as traffic generation, additional services, soil information etc.
- e. Zoning district in which property is located.
- f. Zoning provision permitting such use with required standards and conditions imposed by the zoning law.
- g. Copy of environmental assessment or impact statement as required under the State Environmental Quality Review Act.
- h. After Greene County Planning Board review, submission of final action report.

## **APPENDICES**

# APPENDIX A

## GENERAL MUNICIPAL LAW- ARTICLE 12-A

Art. 12-B      PLANNING BOARDS                      239-I

239.I Coordination of certain municipal zoning and planning actions; legislative policy and intent

1. Definitions. For the purposes of this section and sections 239-m and 239-n Of this article, the following terms shall apply:
  - (a) "County planning agency" means a county planning board, commission or other agency authorized by the county legislative body to review proposed actions referenced for inter-community or county-wide considerations subject to the provisions of this section, and sections 239-m and 239-n of this article.
  - (b) "Regional planning council" means a regional planning board or agency established pursuant to the provisions of this chapter.
  
2. Intent. The purposes of this section, sections 239-m and 239-n of this article shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the following:
  - (a) compatibility of various land uses with one another;
  - (b) traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities;
  - (c) impact of proposed land uses on existing and proposed county or state institutional or other uses;
  - (d) protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas;
  - (e) drainage;
  - (f) community facilities;
  - (g) official municipal and county development policies as may be expressed through comprehensive plans, capital programs or regulatory measures; and

(h) such other matters as may relate to the public convenience, to governmental efficiency, and to the achieving and maintaining of a satisfactory community environment.

3. Review considerations. In no way shall the review of inter-community and county-wide considerations pursuant to the provisions of this section, or pursuant to sections 239-m and 239-n of this article, preclude a county planning agency or a regional planning council from making informal comments, or supplying such technical assistance as may be requested by a municipality.

**239-m** Notice of certain proposed municipal zoning actions to be submitted to county, metropolitan or regional planning agency; report thereon; final action

1. Definitions. As used herein:

(a) The term "proposed" as used in subparagraphs (ii) and (iii) of paragraph (b) of subdivision three of this section shall be deemed to include only those recreation areas, parkways, thruways, expressways, roads or highways which are shown on a county comprehensive plan adopted pursuant to section two hundred thirty-nine-d of this article or adopted on an official map pursuant to section two hundred thirty-nine-e of this article.

(b) The term "referring body" shall mean the city, town or village body responsible for final action on proposed actions to this section.

(c) The term "full statement of such proposed action" shall mean all materials required by and submitted to the referring body as an application on a proposed action, including a completed environmental assessment form and all other materials required by such referring body in order to make its determination of significance pursuant to the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations. When the proposed action referred is the adoption or amendment of a zoning ordinance or local law, "full statement of such proposed action" shall also include the complete text of the proposed ordinance or local law as well as all existing provisions to be affected thereby, if any, if not already in the possession of the county planning agency or regional planning council. Notwithstanding the foregoing provisions of this paragraph, any referring body may agree with the county planning agency or regional planning council as to what shall constitute a "full statement" for any or all of those proposed actions which said referring body is authorized to act upon.

(d) The term "receipt" shall mean delivery of a full statement of such proposed action, as defined in this section, in accordance with the rules and regulations of the county planning agency or regional planning council with respect to person, place and period of time for submission. In no event shall such rule or regulation define delivery so as to require in hand delivery or delivery more than twelve calendar days prior to the

board or county planning agency's or regional planning council's meeting date. In the absence of any such rules or regulations, "receipt" shall mean delivery in hand or by mail to the clerk of the county planning agency or regional planning council. Where delivery is made in hand, the date of receipt shall be the date of delivery. Where delivery is made by mail, the date as postmarked shall be the date of delivery. The provisions of this section shall not preclude the rules and regulations of the county planning agency or regional planning council from providing that the delivery may be a period greater than twelve days provided the referring body and the county planning agency or regional planning council agree in writing to such longer period.

2. Referral of proposed planning and zoning actions. In any city, town or village which is located in a county which has a county planning agency, or, in the absence of a county planning agency, which is located within the jurisdiction of a planning agency or regional planning council duly created pursuant to the provisions of law, each referring body shall, before taking final action on proposed actions included in subdivision three of this section, refer the same to such county planning agency or regional planning council.
3. Proposed actions subject to referral.
  - (a) The following proposed actions shall be subject to the referral requirements of this section, if they apply to real property set forth in paragraph (b) of this subdivision:
    - (i) Adoption or amendment of a comprehensive plan pursuant to section two hundred seventy-two-a of the town law, section 7-722 of the village law or section twenty-eight-a of the general city law;
    - (ii) adoption or amendment of a zoning ordinance or local law;
    - (iii) issuance of special use permits;
    - (iv) approval of site plans;
    - (v) granting of use or area variances;
    - (vi) other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law.
  - (b) The proposed actions set forth in paragraph (a) of this subdivision shall be subject to the referral requirements of this section if they apply to real property within five hundred feet of the following:
    - (i) the boundary of any city, village or town; or
    - (ii) the boundary of any existing or proposed county or state park or any other recreation area; or
    - (iii) the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
    - (iv) the 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; or
    - (v) the existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or

(vi) the boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

(c) The county planning agency or regional planning council may enter into an agreement with the referring body or other duly authorized body of a city, town or village to provide that certain proposed actions set forth in this subdivision are of local, rather than inter-community or county-wide concern, and are not subject to referral under this section.

4. County planning agency or regional planning council review of proposed actions; recommendation, report.

(a) The county planning agency or regional planning council shall review any proposed action referred for inter-community or countywide considerations, including but not limited to those considerations identified in section two hundred thirty-nine-l of this article. Such county planning agency or regional planning council shall recommend approval, modification, or disapproval, of the proposed action, or report that the proposed action has no significant countywide or inter-community impact.

(b) Such county planning agency or regional planning council, or an authorized agent of said agency or council, shall have thirty days after receipt of a full statement of such proposed action, or such longer period as may have been agreed upon by the county planning agency or regional planning council and the referring body, to report its recommendations to the referring body, accompanied by a statement of the reasons for such recommendations. If such county planning agency or regional planning council fails to report within such period, the referring body may take final action of the proposed action without such report. However, any county planning agency or regional planning council report received after thirty days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subjected to the provisions of subdivision five of this section.

5. Extraordinary vote upon recommendation of modification or disapproval. If such county planning agency or regional planning council recommends modification or disapproval of a proposed action, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

6. Report of final action. Within thirty days after final action, the referring body shall file a report of the final action it has taken with the county planning agency or regional planning council. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

# APPENDIX B

Date: \_\_\_\_\_

## PLANNING AND ZONING REFERRAL (239 REVIEW) FORM

**SEND TO: Greene County Planning Board, 411 Main Street, Catskill, NY, 12414**

**FROM:**  Village/Town Board  Zoning Board of Appeals  Planning Board; Village/Town of \_\_\_\_\_

1. Name of Case (landowner/purchaser etc.) \_\_\_\_\_ Tax Map #: \_\_\_\_\_

2. Location of affected property (accurately describe) \_\_\_\_\_  
\_\_\_\_\_

3. Type of Referral:

New Zoning Law and Map  Site Plan Review  Area Variance  New or Amended  
 Amended Zoning Law/Map  Special Use Permit  Use Variance  Comprehensive Plan

4. General Description of Proposed Project: \_\_\_\_\_  
\_\_\_\_\_

5. This referral is required because the property is located within 500 feet of a:

Boundary of the Village/Town of \_\_\_\_\_  
 Boundary of a County or State Park or recreation area defined as: \_\_\_\_\_  
 County or State building or institution defined as: \_\_\_\_\_  
 Right-of-way of the following County or State highway: \_\_\_\_\_

6. Anticipated Public Hearing Date: \_\_\_\_\_ Time: \_\_\_\_\_ Location: \_\_\_\_\_

7. This referral is supplemented by the following, (check all that apply):

Application  Applicable Zoning Map  Location Map  
 Applicable Zoning Law  Site Map or Plan  Supporting Report  
 Environmental Assessment or Statement  Other-Specify \_\_\_\_\_

8. If referral involves a variance, give reason why variance is needed (e.g., 5 foot side yard request while law requires 10 feet, required parking not provided, etc.) \_\_\_\_\_  
\_\_\_\_\_

9. Official completing this form: Name & Title: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

**NOTE: A USE VARIANCE** should be based on "unnecessary hardship", defined as property that cannot yield a reasonable return if used for the purposes allowed in the zone, where the requested use would not alter the essential character of the locality, where the plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood, and where the alleged hardship has not been self-created. **An AREA VARIANCE** requires balancing the benefits of the variance to the applicant against the detriments to the health, safety and welfare of the neighborhood or community. It is judged by how substantial the variance is, the effect on the neighborhood and nearby properties, the other alternatives available, effects on physical or environmental conditions and whether the alleged difficulty was self-created.





# APPENDIX C

## COUNTY PLANNING BOARD REPORT ON PLANNING AND ZONING REFERRAL

Municipality \_\_\_\_\_  
Referral ID \_\_\_\_\_  
Date Received \_\_\_\_\_

Response to Town  Village of  of \_\_\_\_\_ Referring Agency \_\_\_\_\_

Date: \_\_\_\_\_

In accordance with Section 239 of the NYS General Municipal Law, the Greene County Planning Board reviewed the following referral at its meeting of \_\_\_\_\_.

Name of Case: \_\_\_\_\_

### COUNTY PLANNING BOARD ACTION

- NO JURISDICTION
- 30-DAY EXTENSION REQUESTED (see comments)
- LOCAL DECISION - NO COUNTY IMPACT
- LOCAL DECISION WITH COMMENT (see comments)
- APPROVAL
- APPROVAL WITH MODIFICATIONS (see comments)
- DISAPPROVAL
- INCOMPLETE - ADDITIONAL INFORMATION NEEDED FOR REVIEW
- OTHER

Planning Board Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Authorized Review Agent

If the County Planning Board disapproved the proposal, or approved with modifications, the referring agency shall not act contrary to the recommendation except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within seven days after taking final action, the referring agency shall file a notice of the final action with the County Planning board. The Greene County Planning Board's Notice of Final Action Form is provided for this purpose. A copy is attached.

- Att: (1) Copy of original Planning and Zoning Referral Form  
(2) Staff Review (if any)  
(3) Notice of Final Action Form

# APPENDIX C

## COUNTY PLANNING BOARD REPORT ON PLANNING AND ZONING REFERRAL

Municipality \_\_\_\_\_  
Referral ID# \_\_\_\_\_  
Date Received \_\_\_\_\_

Response to Town [ ] Village [ ] of \_\_\_\_\_. Referring Agency \_\_\_\_\_

Date: \_\_\_\_\_

Please be advised that the Greene County Planning Board did not review the above-captioned referral at its monthly meeting. According to Section 239-m (4)(b) of the General Municipal Law, if the Greene County Planning Board fails to report its recommendations to you within thirty (30) days, you may proceed with your action without the Planning Board's recommendation. Since the Greene County Planning Board is not able to meet this 30-day requirement, you are hereby free to take final action.

Please note, however, that if you wish the County Planning Board to review the action regardless of this 30-day time period, please let me know as soon as possible and I will have the referral reviewed at the next monthly meeting of the Greene County Planning Board.

\_\_\_\_\_  
Authorized Review Agent

# APPENDIX D

\*\*\*\*\*  
**THIS NOTICE MUST BE COMPLETED AND FILED WITHIN 30 DAYS AFTER FINAL ACTION  
HAS BEEN TAKEN BY THE REFERRING AGENCY**  
\*\*\*\*\*

## NOTICE OF FINAL ACTION BY REFERRING AGENCY

Municipality \_\_\_\_\_  
Referral ID \_\_\_\_\_  
Response Date \_\_\_\_\_

Send to:

Greene County Planning Board  
909 Greene County Office Building  
Cairo, NY, 12413-9509

The \_\_\_\_\_ of the above-captioned municipality met on  
\_\_\_\_\_ and acted on the case noted as follows:  
(Date)

Name of Case: \_\_\_\_\_

- Agreed with County Planning Board recommendations.
- Overruled County Planning Board recommendations.

Copy of resolution attached Yes \_\_\_\_ No \_\_\_\_

If no, substance of resolution listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Referring Officer      Date

Section 239 l and m of the NYS General Municipal Law requires the County Planning Board to review all specified zoning matters. It also provides that a disapproval or an approval with modifications by the County Planning Board may be overruled by the local referring agency. To do so, the referring agency must pass a resolution expressing the reason for such action and pass the resolution with a majority plus one vote of its membership.

The General Municipal Law requires that the referring agency file a report of its action informing the County Planning Board of any action the referring agency took.

# Appendix E

## INFORMATION SHEET

General Municipal Law Section 239 (l) and (m): Votes needed to act contrary to a County Planning Board Recommendation

If a local board wishes to act contrary to or add modifications to a County recommendation of APPROVAL, they can do so with a simple majority vote of the board's membership.

If a local board wishes to act contrary to a recommendation of APPROVAL WITH MODIFICATIONS, they can do so in either of two ways. In the event that the local board wishes to disapprove an application, or to place additional modifications on an application when the County has taken the position of APPROVAL WITH MODIFICATIONS, the local board may do so with a simple majority vote. On the other hand, in the event that a local board wishes to grant approval without modifications or to remove any modifications from a request when the County Board has recommended APPROVAL WITH MODIFICATIONS, they can do so only with a majority plus one vote of the board's membership. In addition, the referring agency must set forth in its report of final action the reasons it has acted contrary to the County Planning Board's recommendations.

If the local board wishes to act contrary to a County recommendation of DISAPPROVAL, they can do so only by a majority plus one vote of the local board's membership. In addition, the referring agency must set forth in its report of final report of final action the reasons it has acted contrary to the County Planning Board's recommendations.

The key to the type of vote required of a local board to act contrary to County Board recommendation is whether or not the proposed position of the local board is more or less stringent than the position of the County Board. If the proposed position of the local board is more stringent than the position adopted by the County Board, then only a simple majority vote is needed by the local board. If the proposed position of the local board is less stringent than the position adopted by the County Board, then a majority plus one vote of the local board's membership is needed.

## **Appendix F**

The following communities have agreements with the County Planning Board exempting residential area variances relating to side and rear yard dimensions from review by the County Planning Board

Town of Coxsackie  
Village of Coxsackie  
Town of Greenville  
Town of Jewett  
Town of Lexington  
Town of New Baltimore

The following communities have agreements with County Planning Board exempting residential site plans relating to one and two family dwellings from review by the County Planning Board

Town of Halcott  
Town of Windham

# APPENDIX G

## PLANNING BOARD POLICIES FOR REVIEWING PLANNING AND ZONING REFERRALS

### ILLUSTRATED POLICIES AND GUIDELINES FOR REVIEW

The following document provides additional detail on the policies that have been established by the Greene County Planning Board. This document provides guidance to the County Planning Board and staff in reviewing referrals.

**Policy 1:** Channel development whenever possible to centers where infrastructure can support growth, where public transportation can be provided efficiently and where redevelopment can enhance economic vitality.

**1.1:** Options for accommodating residential growth should be diversified. In addition to adding new homes, communities might consider ensuring that the following alternatives are encouraged by local land use regulations and incentive programs:

- Adaptive reuse of existing buildings
- Reuse of vacant upper stories
- New infill development in existing villages, hamlets and other centers
- In-law apartments or detached accessory dwelling units

**1.2:** New growth should be focused in (or near) areas with existing infrastructure such as water and sewer lines and road networks.



*Examples of adaptive reuse of warehouse buildings in Burlington, NY (top) and Troy, NY (bottom)*

**Policy 2:** Preserve and protect the county's natural resources and environment, including its ground water resources, water bodies, wetlands, coastal zones and significant land resources which include unique natural areas and communities, steep slopes and ridgelines and prime agricultural land.

**2.2:** Maintain interconnections between resource systems. For example, a wetland on a site may be part of a larger wetland system, or may play a role in filtering pollutants that enter an aquifer system. Likewise, a stream is part of a larger watershed.

**2.3:** Avoid or minimize the impacts of development on public drinking water supplies, including ground waters (aquifers) and surface waters.

**2.4:** Avoid or minimize the impacts of development on the county's drainage systems, both natural and constructed.

**2.5:** Protect resource-based land uses such as agriculture and forestry.

**Policy 3:** Preserve and protect the county's open space, trail and park systems.

**3.1:** Minimize the impact of signs and other structures, such as transmission towers, that impact scenic vistas.

**3.2:** Maintain regional open space, park, and trail connections.



*A commercial development opens itself up to a regional trail with welcoming landscape features (top) and incorporates bicycle parking facilities for patrons (bottom).*

**3.3:** Ensure that development adjacent to open space and park systems does not impact the user experience of such facilities.

**3.4:** Ensure that suitable management entities and plans are in place for existing and proposed parks and open spaces.

**Policy 4:** Preserve and protect the county’s cultural and historical resources by considering these resources when making land use decisions.

**Policy 5:** Preserve and protect the county’s existing highway system by encouraging well-sited commercial development, controlling the number of driveways along these highways and insuring that proper design techniques are used for safe access.

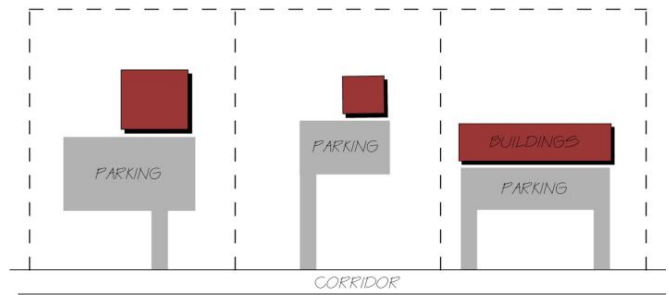
**5.1:** Limit access points (driveways) and curb cuts from a site to a roadway on high-volume roadways. Shared driveways and access roads can be used to limit access points.

**5.2:** Design driveways to protect highway function. Driveway width, location, and spacing between driveways should be considered in design.

**5.3:** Do not locate curb cuts near intersections.

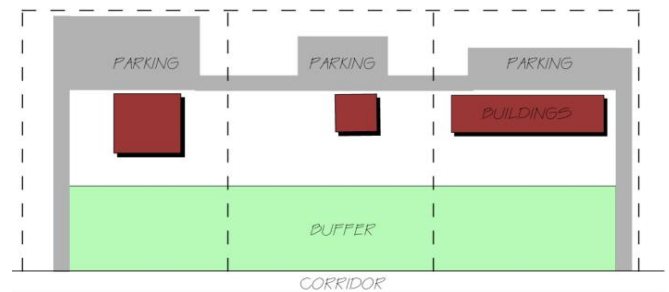
**5.4:** Use interconnected street networks, frontage, or backage roads to reduce the amount of traffic on the main highway and facilitate local interconnectivity.

*Below: a sequence of images shows alternative layouts of buildings, parking lots and green space.*



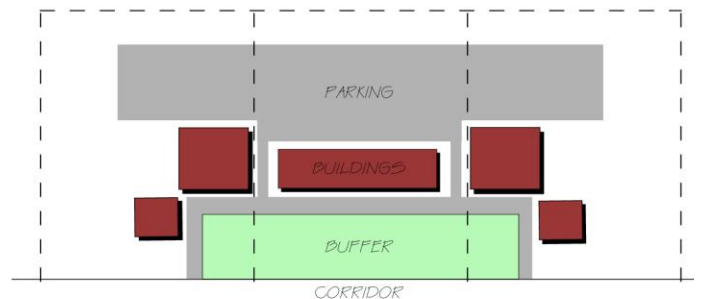
Conventional Development Pattern

*A conventional arrangement fragments buildings and places several driveways on the main road (top). It also provides no green space and places parking in the front of the buildings.*



Better Development Pattern

*A better development pattern locates parking in the rear of buildings and provides shared drives, reducing the number of access points on to the main road. A landscaped buffer provides visual appeal.*



Recommended Development Pattern

*The recommended development pattern locates a shared parking lot behind the buildings; clusters buildings in a symmetrical pattern; and provides for circulation. Smaller buildings closer to the road enhance the setting. As a whole, this development has a smaller footprint than the other alternatives.*



**5.5:** Use appropriate roadway design and traffic control devices (signs, pavement markings, traffic signals) to maintain or improve traffic flow and safety

**Policy 6:** Maintain a multi-modal transportation system in the County that provides diverse transportation options including pedestrian facilities, bicycle facilities, highways and roads, and public transportation.

**Policy 7:** Preserve the unique, historic character of the county's villages and hamlets. Ensure that land use and development activities leverage their assets to the highest capacity feasible.

**Policy 8:** Encourage well-sited and well-designed development that harmonizes with the natural topography, vegetation, drainage systems, and unique features of the landscape.

**8.1:** Design with the natural topography and vegetation of the landscape. Minimize clearing and grading of the site.

**8.3:** Maintain scenic vistas and public viewing points along highways.

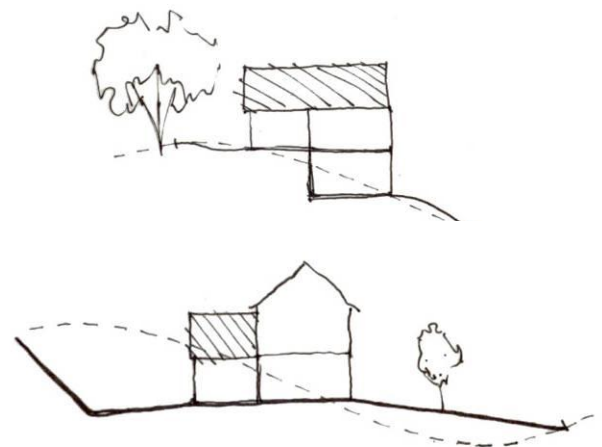
**8.4:** Integrate unique features of the natural and cultural environment into new development.



*A gas station appropriate for the edge of a village.*



*New residential development appropriate for a village or hamlet setting.*



*Using natural contours of a site (top) reduces the need for clearing and grading (bottom).*

**Policy 9:** Encourage well-designed, distinctive neighborhoods and communities with a strong sense of place that respects the natural, cultural, historical context of its surroundings.

**9.1:** Create neighborhoods rather than isolated subdivisions.

**9.2:** Where allowed and appropriate, cluster design should be utilized.

**9.3:** Roads, sidewalks and trails should be connected throughout a development, as well as to existing and planned roads, sidewalks and trails where feasible.

**9.4:** Amenities (such as sidewalks, street trees, trails, and open space or parklands) should be integrated into new development as appropriate to the setting and needs of the community.

**9.5:** Public open spaces and parklands should be clearly defined and accessible.

**9.6:** Provide appropriate transition or buffer areas between high-intensity uses (such as commercial and industrial areas) and residential and agricultural areas.

**9.7:** Preserve mature vegetation where feasible to enhance livability of neighborhoods and developments.



*Cluster design allows for a more efficient use of space and resources and allows larger areas of open space to be preserved.*



*A new development incorporates sidewalks and street trees while using a more traditional "village-style" design with porches and small front yard setbacks.*



*Mature trees make a neighborhood more attractive and livable for its residents.*

**Policy 10:** Create attractive and functional commercial development that serves as an asset the community.

**10.1:** Use lighting, signage and landscaping to enhance commercial activity but not detract from the character of the surroundings.

**10.2:** Locate accessory uses such as parking lots, parking structures and drive through areas to the rear of primary building.

**10.3:** Screen outdoor storage and service areas from view.

**10.4:** Use building materials, landscape materials and architectural styles that are contextually appropriate.

**10.5:** Provide safe and appealing pedestrian facilities within and between developments to promote pedestrian activities.

**Policy 11:** Foster a pattern of development along the County's major waterfronts that makes the best use of waterfront resources and enhances the unique patterns of the waterfront, including historic villages and hamlets. Encourage continuous public access to major waterfronts where feasible.

**Policy 12:** Encourage a range of housing types that are affordable to renters and homebuyers, with each municipality addressing its needs for affordable housing as well as a share of the regional need.

**Policy 13:** Variances and special use permits are to be granted in accordance with criteria established through enabling legislation and judicial decisions as well as the local zoning law involved.



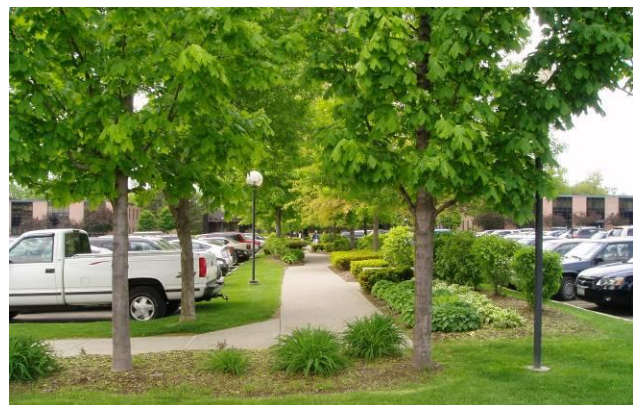
*Outdoor storage is screened from view by decorative brick fencing.*



*Instead of several free-standing signs, one cohesive sign with landscaping at the base is provided.*



*Traditional rural materials and styles were utilized in the design of this new commercial building.*



*A shaded walkway provides access between a parking lot and commercial buildings.*