
Implementation

4.1 STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

The first step that the Town must take toward implementing the *Comprehensive Plan* is to comply with the requirements of the New York State Environmental Quality Review Act (SEQR). This State law requires that government agencies identify the environmental effects of their actions, including adoption of community comprehensive plans. This action, which is under the sole jurisdiction of the Town Board, is classified as a Type 1 Action. The SEQR regulations require that the Town Board, as lead agency, identify any potential areas of environmental concern related to the action, thoroughly analyze the identified areas of environmental concern to determine whether an Environmental Impact Statement will be prepared, and then to set forth its determination of significance or non-significance in a written form.

4.2 ADOPTING THE PLAN

The next step in putting the *Comprehensive Plan* to work is for the Town Board to adopt it as its recommendations for the future growth and improvement of the Town. Once adopted, there are many strategies that the Town and citizens can use to implement the *Comprehensive Plan*. Many of these are already in use within the Town and County. These and other techniques are described below.

Prior to adopting the *Plan* and after conducting its SEQR environmental review, the Town Board should follow the requirements of § 272-a of New York State Town Law. This enabling act requires that the *Plan* be referred to the Orange County Planning Department under § 239-m of the General Municipal Law for their comment and that a public hearing be held by the Town Board. Historically, Warwick's Planning Board had been responsible for preparation and review of the previous *Master Plan*. While not required by New York State Town Law or the Town's Code, the proposed 2008 *Comprehensive Plan* will be referred to the Planning Board for their comments prior to adoption.

CITIZEN PARTICIPATION

A community's implementation of its plans for its future rest largely in the hands of the local government. The local government in turn, can enlist the participation of private citizens to supplement the work of elected and appointed town officials. Organized groups of individuals participate in Warwick in the form of several bodies which have invested in them specific powers by State statute. Other bodies are endowed only with the particular mission created for them by the Town Board.

A. STATUTORY BODIES

The Assessment Board of Review, the Planning Board, and the zoning Board of Appeals, have statutory authority. The citizens named to these bodies by the Town Board conduct their business according to prescribed procedures, and must perform as required by State law.

B. ADVISORY GROUPS

The Town Board has from time to time created official bodies which focus on particular areas of concern and perform the duties specified by local governmental resolution. The Town of Warwick currently has constituted: an Agricultural Advisory Board, Architectural Review Board, Conservation Board, Recreation Commission, Recycling Committee, and Shade Tree Commission. All of these bodies have made valuable contributions to the local community.

4.3 MAINTAINING THE PLAN

Frequent review of the *Plan*, to make sure that it meets any new conditions arising subsequent to its adoption, is one of the most important elements of the planning process. The *Plan* must reflect current Town planning goals and policies if it is to be respected and regularly used. A reexamination of the plan should continue to be undertaken at least once every three to five years. Future amendments to the *Plan* can be accomplished by means of meeting minutes, resolutions, studies, reports, and other descriptive materials that may be adopted as part of the *Comprehensive Plan* or through a comprehensive revision process, such as occurred for the preparation of this 1998 *Comprehensive Plan*.

4.4 ZONING/TOWN REGULATIONS

Zoning controls the way in which land is used. While such controls cannot require that land be developed for uses proposed in the *Plan*, they can prevent land from being developed contrary to the *Plan*.

Following adoption of the *Comprehensive Plan*, a revision of the Zoning Regulations should be considered in order to ensure that its provisions remain in accordance with the Town's development policies, as established in the *Plan*. Zoning regulations serve as a major instrument in carrying out the recommendations of the *Plan*, and the *Plan* acts as a firm foundation on which to base specific provisions of the Regulations. New York State Town Law also requires that all land use controls must be adopted in accordance with a comprehensive plan.

Zoning can be expected to change, as it has in the past, to meet changing objectives of the Town and its residents. Such changes should be made in accordance with the Town *Plan*. Special zoning and regulatory controls are often used to accomplish public purposes. They might be formulated to promote design zoning, protection of sensitive environmental areas, preservation of historic structures, appropriate conversion to accessory apartments, etc. These possibilities are discussed in further detail below.

Strict enforcement of zoning regulations is needed to ensure realization of the Town's goals. Efforts should continue to increase the effectiveness of the Building Department's enforcement efforts, such as increasing support enforcement officers and instituting tight follow-up monitoring procedures. Performance bonding is a tool that can be used to ensure that proposed site plan improvements, etc. are indeed carried out.

(A) ZONING AND OTHER LAND USE CONTROLS

ZONING REGULATIONS

This *Comprehensive Plan* has recommended consideration of a number of revisions to the Town of Warwick Zoning Law. To ensure consistency and comprehensiveness, it is recommended that any amendments be devised, considered, studied under SEQR, and enacted into law at the same time.

SUBDIVISION REGULATIONS

While zoning regulates the use of land, subdivision regulations guide the layout and design of new roads and help to ensure that all improvements required within subdivisions are properly accomplished. Each subdivision, whether residential or commercial, should be designed so that it will fit into the planned overall pattern of roads, pedestrian, bicycle and other related facilities. The Town Subdivision Regulations have not been updated in 20 years. During that time, there have been a number of amendments to New York State Town Law affecting subdivision review procedures and substantive matters. To ensure that the subdivision

regulations are compatible with the goals and objectives of this *Plan*, the 2002 Zoning Law as well as New York State enabling laws, it is recommended that the Planning Board and Town Board consider amendments to the Subdivision Regulations as soon as possible.

CLUSTER SUBDIVISION

Cluster subdivision has been successful in the Town with about 1,500 acres of land permanently preserved between 2002 and 2008. In cluster subdivisions, the number of building lots permitted cannot exceed the number that would have occurred in a conventional subdivision yield plan under current zoning on the site. Those areas which are of greatest environmental, scenic or recreational value are identified along with suitable development areas and then the conservation areas are permanently preserved. Reserved land is sometimes used to form an open space buffer around the subdivision if visual impacts are a concern or if the subdivision is sited on a scenic road. The potential exists, through the use of cluster subdivisions, to preserve significant amounts of open space proportionate to how tightly the dwellings are clustered. This *Plan* recommends changes to the Town's cluster subdivision regulations, including expanding the justification for a density bonus to be granted. Such changes can help ensure that Warwick's scenic and open space lands are conserved even more effectively for future generations.

(B) AFFORDABLE HOUSING

This *Plan* discusses the use of accessory apartments, mixed uses, incentive zoning, floating zones, and SEQR as potentially appropriate to gain an increase in affordable housing in the Town. Density incentives can be used as a tool to encourage affordable housing. Prices or rental agreements should be controlled based on national criteria or standards for lower to middle income families. Developers are required to provide proof to the satisfaction of the Planning Board attorney that the sale of the affordable housing is in conformance with Town requirements.

The *Plan* recommends a number of modifications to the Town's affordable housing program such as granting additional bonus density for setting aside additional affordable units than are currently required. Most of these can be achieved through amendments to the Town Zoning Law.

(C) NATURAL RESOURCE PROTECTION REGULATIONS

Land use controls, dealing with natural resource protection, are now firmly established in the State enabling acts and use of such measures by local government have been increasingly upheld by the courts. These controls include:

WETLANDS, LAKES, AND STREAM BUFFER AREA PROTECTION:

Special application procedures can be required whenever a development proposal involves construction adjacent to a water body. Buffer areas can be utilized as a means of keeping development away from areas such as a wetland, lake, pond, or stream and out of flood prone areas and as a means of protecting water quality, recreational access, and scenic beauty.

AQUIFER PROTECTION:

Densities and land uses in aquifer recharge areas should continue to be regulated to permit maximum recharge and also to protect water quality. The Aquifer Protection Overlay District was adopted in 2002 and this has resulted in increasing recognition of the importance of groundwater. The Planning Board has implemented the restriction imposed in these areas and required Aquifer Impact Assessments on development projects and the placements of aquifer protection notes on all subdivision and site plans

DRAINAGE CONTROLS:

"Zero Runoff" is a relatively recent concept in drainage control which requires that the rate of water runoff from any land tract should be the same or less after the completion of development as it was before construction began. New York State stormwater management controls now provide greater attention to stormwater management in the Town. The State encourages municipalities to implement the State requirements, and in some cases requires, local implementation. The *Plan* recommendations with regard to stormwater can be addressed through amendments to the Zoning Law.

STEEP SLOPE PROTECTION:

Means for controlling development in steep slope areas could involve complete prohibition or, alternatively, a program of regulation wherein the degree of development permitted is related to the amount of slope involved, construction techniques, soils data and vegetation cover and runoff.

EROSION AND SEDIMENTATION CONTROLS:

Approval of erosion control plans by the Town Planning Board or Building Inspector should continue before building permits are issued. Erosion control plans are currently submitted by potential developers along with their applications for subdivision or site plan approval. Ideally, the Town should encourage designs which will avoid potential difficulties and preserve natural drainage to the greatest extent possible rather than devising expensive engineering solutions. These controls are particularly important in areas like Greenwood Lake and Wickham Lake where eutrophication is threatening the water quality.

(D) EXISTING NON-CONFORMING USES

As the zoning revision process moves forward, some existing uses may become non-conforming. Special studies should be made of these uses and areas with the intent of preserving such uses, and where desirable and with appropriate protection to surrounding areas, allowing such uses to expand. The reasonable use and reuse of these facilities should be the prime consideration for any rezoning.

(E) ENVIRONMENTAL IMPACT STATEMENTS

The State Environmental Quality Review (SEQR) process requires the preparation of Environmental Assessment Forms (EAF) at a minimum before approving any land use development project. The Town may require a full Environmental Impact Statement (EIS) to be completed where a development has the potential to cause one or more environmental impacts. The SEQR review process can be exceedingly helpful in identifying and resolving the environmental and planning issues which affect the proper development of a major or environmentally sensitive site.

4.5 OFFICIAL TOWN MAP

The Official Town Map is a foundation for the Town to base decisions and policies upon; such as reserving rights-of-way in subdivisions, providing appropriate locations for parks, drainage facilities, or providing new roads. Once adopted by the Town Board, an applicant for a subdivision or other development cannot develop within such proposed areas without giving the Town the opportunity to develop the land as indicated on the Official Map. The Town Board may also require developers to locate roads or provide rights-of-way for future roads that connect to adjacent parcels. The *Plan* recommends that this recommendation be considered by the Town Board.

4.6 CAPITAL IMPROVEMENTS PROGRAM/LAND TRANSACTIONS

The ways and the places in which Warwick spends money for public improvements – parks, recreational facilities, open space, schools, roads, municipal buildings, etc. – and the standards to which they are built have a major effect upon the development of the Town. The Town may undertake what is known as a public or capital improvement program. This is a systematic scheduling and projecting of various public works and land acquisitions that will be needed over a period of years as the Town grows and develops. Six years is a common projection period in use by many municipalities. Projects scheduled for the first year should be

incorporated into the Town's proposed budget for the next fiscal year. Each year the program would be restudied and revised in light of the changes in priorities, which may be needed due to changing conditions, and extended another year into the future.

Such a program would provide a continuously updated picture of estimated future improvement needs and costs facing the Town. It could also help to give greater stability to the tax rate by spreading improvement costs systematically over a period of years.

Although the Town has no direct control over the various school districts, the County, or the State, cooperation by these units of government should be requested and encouraged. This will benefit these agencies, as well as the Town. It is also now required that such units of government consider the policies and recommendations made in this *Comprehensive Plan* in all their capital projects.

Acquisition is one category of a Capital Improvements Program. The following delineates ways that this might occur.

(A) DIRECT ACQUISITION

Direct acquisition is the simplest and most effective method of obtaining open space. It is also the most expensive but is the only alternative sometimes available.

(B) FIRST REFUSAL OPTIONS

A first refusal option is the right to purchase a property before it is released for public sale, in the event that a decision is made to sell it. An approach such as this would be of great value in gaining some control over the disposition of lake front lands and other properties now held for private recreational purposes. If the Town were ultimately to benefit from this approach, it would need to begin securing such options now, either as gifts or as purchases. The Town has created in the Zoning Law, an Agricultural Advancement District in an effort to encourage farmers to talk with the Town prior to selling their land for development.

(C) EASEMENTS

An easement is a right in property that is less than full ownership. In conveying a conservation easement to the Town, the owner of property gives up the right to use and enjoy the property in any way that is not consistent with its natural or historic character in perpetuity. The owner continues to pay taxes on the land but the real estate taxes could be adjusted downward to reflect any reduction in the development value of property. Easements are particularly appropriate for preserving open space, agricultural lands, historic buildings, stream corridors, wetlands, steep slopes, and other sensitive environmental features while permitting them to remain in private ownership.

If property owners establish easements and covenants on their property, as described above, assessors can take such agreements into account when establishing the tax rate on this property. Fair market value is the basis of property assessment and easements or covenants on a parcel of land or building usually reduce market value and, thereby, total assessment. For historic structures, reducing assessed valuation can be made conditional on undertaking restoration or other improvements.

4.7 RECREATION/OPEN SPACE FEES

Residential developments are required to provide recreation areas (10% of the land cover) or fees contributed to a general park fund. The fees currently charged by the Town of Warwick are low. These should be adjusted upward to reflect the actual costs of providing recreational land and services to new development in the Town. A fee of \$5,000 per unit has been upheld by the courts elsewhere in the Hudson Valley. Before the Town can adjust its recreational fees, however, it must first evaluate present and anticipated future needs for park and recreational facilities in the Town, based on projected population growth.

The Planning Board has suggested that the fee might be linked to the land value, i.e. 10% of the value of the portion of the land to be developed or an equivalent acreage equal to 10% of the equivalent value of the developed land in the subdivision. This value would be determined by the tax assessor. This procedure could presumably result in two acres of developable land being equaled to ten acres or more of wet land or mountain terrain of equal value. This technique has been utilized successfully in other communities and may be appropriate for Warwick.

4.8 REAL ESTATE TAX INDUCEMENTS

In communities such as Warwick, the pressures of rapid growth and the steady demand for more and improved services have combined with inflation to keep the level of property taxes continually rising. Owners of large land holdings frequently find that these increasing costs become prohibitive, and are forced to sell their land for development purposes sooner than they might otherwise have. Farms, with their large expanse of land are usually ideal for development, are particularly susceptible to these pressures, as are large, historic buildings. Means of reducing burdensome real estate taxes are described below;

(A) AGRICULTURAL DISTRICTS

Under the New York State enabling legislation, Orange County farmers can, as a group, petition the County legislature to form an Agricultural District. Over 30,000 acres in Warwick are currently part of Agricultural Districts. The primary benefits of an Agricultural District designation include an agricultural value assessment for a net real estate tax break, stipulations that agricultural uses cannot be restricted, and an agreement that agricultural uses cannot be required to pay for development of utility services. Minimum requirements must be met to qualify. In addition, if the land is sold for another use, the owner must pay a rollback tax.

(B) HISTORIC DISTRICTS OR PROPERTIES

The Tax Act of 1986 provides incentives for the rehabilitation and restoration of old or historic buildings. These include a 20 percent investment tax credit for the rehabilitation of historic commercial, industrial or income producing residential buildings and a 10% allowance for nonresidential buildings in service before 1936. These credits are not available to the normal homeowner who may rehabilitate his own home.

To qualify for the historic tax credit, properties must be listed on the National Register for Historic Places or be a contributing element in a Historic District. There are currently no properties on the Register in the unincorporated Town of Warwick. However, several are considered to be eligible. It is recommended that a survey of historic structures be undertaken as a follow-up to the *Comprehensive Plan*.

The Town also has the right to create local historic districts or recognize historic properties. Local incentives, land use allowances, etc. may be implemented to help preserve these unique features.

4.9 PRIVATE DEVELOPMENT AND PHILANTHROPY

The great bulk of development in Warwick has been and will continue to be carried out by private individuals and organizations. Therefore, it is private action that is the most important element in developing the community, guided and regulated by the Town as described above.

Neither the *Comprehensive Plan*, zoning or subdivision regulations, nor the Town agencies which administer these regulations, can force any private individual or agency to develop a particular piece of land for a particular use. But where there is a good *Comprehensive Plan*, and it is followed on a continuing basis, private enterprises have a more reliable foundation upon which to plan and build. This encourages good development, as well as helps to accomplish some of the specific recommendations of the *Comprehensive Plan*.

The active solicitation of donations of conservation easements to a municipality's private trust is an increasingly successful open space and landmark preservation implementation device. For many landowners, such donations can be the source of a significant tax benefit. Current federal income tax regulations permit the write-off of up to the full market value of the donation or easement. However, any such regulations devised will have to be reviewed in terms of the changing tax laws. Also, many property owners have come to love and appreciate the open space or historic quality of their property. Donation can guarantee that their property will be preserved as they desire.

Private organizations such as the Orange County Land Trust, Trust for Public Land, Open Space Institute, The Nature Conservancy, Warwick Conservancy, and the Audubon Society have played an active role in open space and landmark preservation by seeking land or easement donations or, alternatively, by purchasing properties. Several local examples include the Open Space Institute, Trust for Public Land, and The Nature Conservancy working together to preserve Sterling Forest, the Audubon Society working with the developer of the Stony Creek Subdivision, the Trust for Public Land's involvement in the Cascade Lake property acquisition and Scenic Hudson's partnering with the Town on the PDR program.

4.10 TOWN-VILLAGE COOPERATION

The Town Board was prudent when it requested a representative from each of Warwick's three Villages to sit on the Town's Comprehensive Plan Board. That recognition of the close interrelationship between the life of the Town and the life of its incorporated localities, must continue during the implementation of this *Comprehensive Plan*. Every available mechanism should be used to maximize the coordination among local governments with regard to land use planning, transportation infrastructure, economic development, provision of recreational facilities, expansion of water and sewer systems, purchase of goods and services, sharing of governmental equipment and facilities, regulation of utility, communication and power franchises, solid waste disposal, and all other aspects of community life with which local governments participate materially. Historic agreements such as the Intermunicipal Agreement on annexation with the villages of Florida and Warwick, as well as the recent Village of Greenwood Lake and Town of Warwick DPW consolidation, should serve as models for continued cooperation between the Town and villages.

4.11 SUMMARY

The *Comprehensive Plan* in itself does not change the zoning or other land use control regulations of the Town nor assure implementation of the proposals which it recommends. A community is developed over the years by hundreds of individual and group decisions — decisions by private citizens to build houses, by corporations to locate in the Town, by Town officials to create new public facilities and so on. The ultimate accomplishment of the *Comprehensive Plan*, as modified from time to time, requires the cooperative action of many people and agencies. All interests, whether public or private, have a stake in an attractive, orderly, and environmentally sound community. The *Comprehensive Plan* is designed to be a guide for achieving this shared goal.