S T A T E O F N E W Y O R K

3607

2009-2010 Regular Sessions

I N S E N A T E

March 25, 2009

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the town law, the general city law and the village law, in relation to the deferral of approval of subdivision plats and site plans in high growth areas

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 285 of the town law, as renumbered by chapter 724 of the laws of 1992, is renumbered section 286 and a new section 285 is added to read as follows:

S 285. DEFERRAL OF PLAT AND SITE PLAN APPROVAL. 1. FOR THE PURPOSES OF THIS SECTION, "HIGH-GROWTH TOWN" SHALL MEAN A TOWN THAT HAS HAD A GROWTH RATE IN POPULATION OR HOUSING UNITS OF SIX PERCENT OR GREATER FOR THE PERIOD FROM NINETEEN HUNDRED NINETY TO TWO THOUSAND AS DETERMINED BY THE DECENNIAL FEDERAL CENSUS.

2. IN ANY HIGH-GROWTH TOWN, THE TOWN BOARD MAY AUTHORIZE THE PLANNING BOARD BY LOCAL LAW TO DEFER THE APPROVAL OF SUBDIVISION PLATS OR SITE PLANS, WHEN THE PLANNING BOARD DETERMINES THAT EXISTING FACILITIES FOR SCHOOLS, ROADS, ENERGY, PUBLIC SAFETY, INCLUDING FIRE AND POLICE PROTECTION, PUBLIC SEWER AND WATER, INCLUDING BOTH COLLECTION AND DISTRIBUTION LINES, TREATMENT CAPACITY, AND AVAILABILITY OF ADEQUATE WATER SUPPLY ARE INADEQUATE TO SUPPORT THE DEVELOPMENT WHEN IT IS BUILT OUT AS PROPOSED IN ANY PLAT OR SITE PLAN. NOTHING IN THIS SECTION SHALL PRECLUDE THE APPLICANT FROM ENTERING INTO AN ENFORCEABLE AGREEMENT WITH THE TOWN TO PAY FOR OR PROVIDE THE REQUIRED INFRASTRUCTURE.

3. PRIOR TO THE ADOPTION OF SUCH LOCAL LAW, THE TOWN BOARD SHALL ADOPT A CAPITAL FACILITIES PLAN THAT PROVIDES THE BASIS FOR AN OBJECTIVE DETERMINATION REGARDING THE INADEQUACY OF SUCH FACILITIES IN THE AREA OF THE PROPOSED DEVELOPMENT. THE TOWN SHALL EXERCISE DUE DILIGENCE TO INSURE THE IMPLEMENTATION OF SUCH CAPITAL FACILITIES PLAN IN A TIMELY MANNER.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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4. IN NO EVENT MAY A DEFERRAL PURSUANT TO THIS SECTION EXTEND BEYOND TWELVE YEARS FROM THE DATE OF FIRST DEFERRAL OF A PLAT OR SITE PLAN.

5. DURING THE DEFERRAL PERIOD, THE APPLICANT FOR A PLAT OR SITE PLAN APPROVAL SHALL BE ENTITLED TO THE APPROVAL OF A PLAT, OTHERWISE IN COMPLIANCE WITH APPLICABLE REGULATIONS, AT THE LOWEST DENSITY PERMITTED IN THE TOWN FOR ANY ZONING DISTRICT.

6. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO AFFECT THE ABILITY OF A TOWN TO APPROVE OR DENY A SITE PLAN OR PLAT FOR ANY OTHER REASONS PERMITTED BY LAW.

7. THE APPRAISAL OF PROPERTY SUBJECT TO A DEFERRAL UNDER THIS SECTION SHALL BE CONDUCTED AS IF THE PROVISIONS OF THIS SECTION WERE NOT IN EFFECT.

S 2. The general city law is amended by adding a new section 27-c to read as follows:

S 27-C. DEFERRAL OF PLAT AND SITE PLAN APPROVAL. 1. FOR THE PURPOSES OF THIS SECTION, "HIGH-GROWTH CITY" SHALL MEAN A CITY THAT HAS HAD A GROWTH RATE IN POPULATION OR HOUSING UNITS OF SIX PERCENT OR GREATER FOR THE PERIOD FROM NINETEEN HUNDRED NINETY TO TWO THOUSAND AS DETERMINED BY THE DECENNIAL FEDERAL CENSUS.

2. IN ANY HIGH-GROWTH CITY, THE CITY COUNCIL MAY AUTHORIZE THE PLANNING BOARD BY LOCAL LAW TO DEFER THE APPROVAL OF SUBDIVISION PLATS OR SITE PLANS, WHEN THE PLANNING BOARD DETERMINES THAT EXISTING FACILITIES FOR SCHOOLS, ROADS, ENERGY, PUBLIC SAFETY, INCLUDING FIRE AND POLICE PROTECTION, PUBLIC SEWER AND WATER, INCLUDING BOTH COLLECTION AND DISTRIBUTION LINES, TREATMENT CAPACITY, AND AVAILABILITY OF ADEQUATE WATER SUPPLY ARE INADEQUATE TO SUPPORT THE DEVELOPMENT WHEN IT IS BUILT OUT AS PROPOSED IN ANY PLAT OR SITE PLAN. NOTHING IN THIS SECTION SHALL PRECLUDE THE APPLICANT FROM ENTERING INTO AN ENFORCEABLE AGREEMENT WITH THE CITY TO PAY FOR OR PROVIDE THE REQUIRED INFRASTRUCTURE.

3. PRIOR TO THE ADOPTION OF SUCH LOCAL LAW, THE CITY COUNCIL SHALL ADOPT A CAPITAL FACILITIES PLAN THAT PROVIDES THE BASIS FOR AN OBJECTIVE DETERMINATION REGARDING THE INADEQUACY OF SUCH FACILITIES IN THE AREA OF THE PROPOSED DEVELOPMENT. THE CITY SHALL EXERCISE DUE DILIGENCE TO INSURE THE IMPLEMENTATION OF SUCH CAPITAL FACILITIES PLAN IN A TIMELY MANNER.

4. IN NO EVENT MAY A DEFERRAL PURSUANT TO THIS SECTION EXTEND BEYOND TWELVE YEARS FROM THE DATE OF FIRST DEFERRAL OF A PLAT OR SITE PLAN.

5. DURING THE DEFERRAL PERIOD, THE APPLICANT FOR A PLAT OR SITE PLAN APPROVAL SHALL BE ENTITLED TO THE APPROVAL OF A PLAT, OTHERWISE IN COMPLIANCE WITH APPLICABLE REGULATIONS, AT THE LOWEST DENSITY PERMITTED IN THE TOWN FOR ANY ZONING DISTRICT.

6. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO AFFECT THE ABILITY OF THE PLANNING BOARD TO APPROVE OR DENY A SITE PLAN OR PLAT FOR ANY OTHER REASONS PERMITTED BY LAW.

7. THE APPRAISAL OF PROPERTY SUBJECT TO A DEFERRAL UNDER THIS SECTION SHALL BE CONDUCTED AS IF THE PROVISIONS OF THIS SECTION WERE NOT IN EFFECT.

S 3. The village law is amended by adding a new section 7-733 to read as follows:

S 7-733 DEFERRAL OF PLAT AND SITE PLAN APPROVAL. 1. FOR THE PURPOSES OF THIS SECTION, "HIGH-GROWTH VILLAGE" SHALL MEAN A VILLAGE THAT HAS HAD A GROWTH RATE IN POPULATION OR HOUSING UNITS OF SIX PERCENT OR GREATER FOR THE PERIOD FROM NINETEEN HUNDRED NINETY TO TWO THOUSAND AS DETERMINED BY THE DECENNIAL FEDERAL CENSUS.

2. IN ANY HIGH-GROWTH VILLAGE, THE VILLAGE BOARD MAY AUTHORIZE THE PLANNING BOARD BY LOCAL LAW TO DEFER THE APPROVAL OF SUBDIVISION PLATS

OR SITE PLANS, WHEN THE PLANNING BOARD DETERMINES THAT EXISTING FACILITIES FOR SCHOOLS, ROADS, ENERGY, PUBLIC SAFETY, INCLUDING FIRE AND POLICE PROTECTION, PUBLIC SEWER AND WATER, INCLUDING BOTH COLLECTION AND DISTRIBUTION LINES, TREATMENT CAPACITY, AND AVAILABILITY OF ADEQUATE WATER SUPPLY ARE INADEQUATE TO SUPPORT THE DEVELOPMENT WHEN IT IS BUILT OUT AS PROPOSED IN ANY PLAT OR SITE PLAN. NOTHING IN THIS SECTION SHALL PRECLUDE THE APPLICANT FROM ENTERING INTO AN ENFORCEABLE AGREEMENT WITH THE VILLAGE TO PAY FOR OR PROVIDE THE REQUIRED INFRASTRUCTURE.

3. PRIOR TO THE ADOPTION OF SUCH LOCAL LAW, THE VILLAGE BOARD SHALL ADOPT A CAPITAL FACILITIES PLAN THAT PROVIDES THE BASIS FOR AN OBJECTIVE DETERMINATION REGARDING THE INADEQUACY OF SUCH FACILITIES IN THE AREA OF THE PROPOSED DEVELOPMENT. THE VILLAGE SHALL EXERCISE DUE DILIGENCE TO INSURE THE IMPLEMENTATION OF SUCH CAPITAL FACILITIES PLAN IN A TIMELY MANNER.

4. IN NO EVENT MAY A DEFERRAL PURSUANT TO THIS SECTION EXTEND BEYOND TWELVE YEARS FROM THE DATE OF FIRST DEFERRAL OF A PLAT OR SITE PLAN.

5. DURING THE DEFERRAL PERIOD, THE APPLICANT FOR A PLAT OR SITE PLAN APPROVAL SHALL BE ENTITLED TO THE APPROVAL OF A PLAT, OTHERWISE IN COMPLIANCE WITH APPLICABLE REGULATIONS, AT THE LOWEST DENSITY PERMITTED IN THE VILLAGE FOR ANY ZONING DISTRICT.

6. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO AFFECT THE ABILITY OF A VILLAGE TO APPROVE OR DENY A SITE PLAN OR PLAT FOR ANY OTHER REASONS PERMITTED BY LAW.

7. THE APPRAISAL OF PROPERTY SUBJECT TO A DEFERRAL UNDER THIS SECTION SHALL BE CONDUCTED AS IF THE PROVISIONS OF THIS SECTION WERE NOT IN EFFECT.

S 4. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 5. This act shall take effect immediately.