

STATE OF NEW YORK

8858

IN ASSEMBLY

January 18, 2024

Introduced by M. of A. WILLIAMS -- read once and referred to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to special review procedures for development in marshlands

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The administrative code of the city of New York is amended
2 by adding a new section 25-121 to read as follows:

3 § 25-121 Special review procedure in marshland. a. Definitions. As
4 used in this section the following terms shall have the following mean-
5 ings:

6 1. "Development" means the construction of a new building or other
7 structure, or the alteration of an existing building or other structure,
8 including demolition and replacement, for the purpose of increasing the
9 number of residential dwelling units within such building or structure
10 or that will require a certificate of occupancy to be issued from the
11 city.

12 2. "Enlargement" means an addition to the floor area of an existing
13 building, an increase in the size of any other structure, or an expan-
14 sion of an existing use, including any uses accessory thereto, to an
15 open portion of a zoning lot not previously used for such use.

16 3. "Marsh" means a wet prairie that has waterlogged soil during the
17 growing season (from last spring frost to first fall frost) and is often
18 covered with shallow water.

19 4. "Marshland" means any area containing a marsh or that has within
20 one hundred years prior to the effective date of this section contained
21 a marsh located within a watershed for which a watershed protection plan
22 has been established pursuant to section 24-527 of this code.

23 5. "Project" means any development or enlargement.

24 6. "Residential dwelling unit" means any building or structure or
25 portion thereof which is legally occupied in whole or in part as the
26 home, residence or sleeping place of one or more human beings.

27 b. The city planning commission shall not authorize a project on
28 marshland until the requirements of this section have been completed.

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

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1 c. Except in the case of projects that have been exempted by the city
2 planning commission pursuant to subdivision j of this section from the
3 special review procedure established by this section, no project shall
4 be permitted on a zoning lot in marshland until the owner thereof shall
5 have filed notice of such proposed project with the city planning
6 commission and the community board of the community district in which
7 the project is proposed to be located. Additionally, the owner shall
8 file an application for authorization with the city planning commission
9 that shall include a description of the project, including its location,
10 floor plans, the building footprint on the building parcel and architec-
11 tural renderings, as well as:

12 1. a survey map prepared by a registered surveyor showing topography,
13 the location of existing buildings or other structures, patios, decks,
14 swimming pools, walkways, driveways and private roads, including side-
15 walks and other impervious surfaces; and the location of geologic
16 features, aquatic features and botanic environments;

17 2. photographs showing the location and condition of such geologic
18 features, aquatic features or botanic environments;

19 3. a site plan prepared by a registered architect or professional
20 engineer indicating the location of all existing buildings or other
21 structures; the location of all proposed buildings or other structures;
22 the location of existing and proposed patios, decks, swimming pools,
23 walkways, driveways and private roads, including sidewalks and other
24 impervious surfaces;

25 4. a drainage plan and soil report prepared by a professional engi-
26 neer. The drainage plan shall describe the temporary (during
27 construction) and permanent measures to collect, direct and discharge
28 stormwater drainage from the site, indicating the direction of drainage
29 flow and providing detailed plans and locations of all surface and
30 subsurface drainage devices, walls, dams, sediment basins, stormwater
31 storage (detention and retention) facilities, and other drainage facili-
32 ties and protective devices;

33 5. a landscaping and revegetation plan, prepared by a registered land-
34 scape architect, indicating the extent of vegetation and topsoil removal
35 required for site preparation and development and the location and
36 species of all new plantings; and

37 6. any other information necessary to evaluate the request for author-
38 ization.

39 The commission may only waive or modify any of the requirements set
40 forth in paragraphs one through six of this subdivision, when: (A) such
41 waiver or modification is requested by the applicant in writing and when
42 the commission determines that the requirements are unnecessary for
43 evaluation purposes; (B) the community board of the community district
44 in which the project is proposed to be located has approved the proposed
45 waiver or modification; (C) the borough president who represents the
46 borough or county in which the project is proposed to be located has
47 approved the proposed waiver or modification; (D) the city council
48 member or members in whose district the project is proposed to be
49 located have approved the proposed waiver or modification; and (E) the
50 member or members of assembly and the senator or senators in whose
51 districts the project is proposed to be located shall be notified of
52 such approval in writing and shall have the opportunity to review and
53 make advisory recommendations on the proposed project. The member or
54 members of assembly and the senator or senators in whose district the
55 project is proposed to be located have approved the proposed waiver or
56 modification.

1 d. Upon receipt of a complete application for authorization, the city
2 planning commission shall require a site-specific environmental review
3 of the project.

4 1. When applying for authorization for a project an applicant shall
5 notify the city planning commission in writing as to whether it will
6 exercise its option to prepare or cause to be prepared a site-specific
7 environmental review, and as to whom it has designated to prepare the
8 site-specific environmental review, provided that no person so desig-
9 nated shall have an investment or employment interest in the ultimate
10 realization of the proposed project.

11 2. If an applicant declines responsibility for a site-specific envi-
12 ronmental review, the city planning commission may prepare or cause to
13 be prepared a site-specific environmental review for the project. In
14 such event, the applicant shall provide, upon request, an environmental
15 report to assist the city planning commission in preparing or causing to
16 be prepared the site-specific environmental review and such other infor-
17 mation as may be necessary. All agencies shall fully cooperate with the
18 city planning commission in all matters relating to the preparation of
19 the site-specific environmental review.

20 3. If the applicant does not exercise its option to prepare or cause
21 to be prepared a site-specific environmental review, and the city plan-
22 ning commission does not prepare or cause to be prepared such review,
23 then the application for authorization of the proposed project shall be
24 denied.

25 e. Once a site-specific environmental review is complete, the city
26 planning commission shall forward a copy of the findings of the review
27 to the community board or boards for the community district or districts
28 in which the proposed project is located along with a copy of the appli-
29 cation for authorization of the project. The city planning commission
30 shall also make a copy of the findings of the site-specific environ-
31 mental review and application for authorization available to the public
32 on the commission's website.

33 f. Not less than forty-five days nor more than ninety days after a
34 site-specific environmental review is completed, the city planning
35 commission shall hold a public community forum for the purpose of
36 obtaining meaningful public and community board input concerning the
37 anticipated impact of the proposed project upon the community. The city
38 planning commission shall afford community members, representatives of
39 the local community board, local businesses and residents a reasonable
40 opportunity to speak about relevant matters at such community forum,
41 including comments on any aspect of the application or site-specific
42 environmental review for the proposed project. Every such forum shall be
43 held upon not less than twenty days notice to the affected community and
44 the local community board.

45 g. The city planning commission shall, prior to establishing the date,
46 time and location of the public community forum, consult with and obtain
47 the advice and consent of the appropriate community board as to estab-
48 lishing a convenient date, time and location to conduct the forum for
49 the locally impacted community. Such forum location shall be within
50 reasonable proximity of the proposed project and in suitable facilities
51 that provide adequate room and access to hear public comments presented.

52 h. Not less than sixty days, nor more than ninety days, after holding
53 a community forum the city planning commission shall, after due consid-
54 eration of the comments at such forum, either approve, approve subject
55 to modifications, or deny the application for authorization of the
56 project. In making its decision, the commission shall, in addition to

1 the site-specific environmental review findings, evaluate the project's
2 potential to cause an adverse environmental impact on the marshland and
3 surrounding community. When determining the potential for an adverse
4 impact the commission shall consider the effect of any project on the
5 total ecological process of the marshland and surrounding natural envi-
6 ronment including the effect of such project on the existing topography,
7 soil conditions, erosion, natural flow of water and drainage, water
8 quality, and animal, plant and marine life. A project found to be defi-
9 cient with respect to any of these considerations may be required to be
10 modified as a condition of final approval. The city planning commission
11 shall deny authorization for any project found to have an adverse impact
12 on the marshland or surrounding community.

13 i. Prior to the issuance by the department of buildings of any permit
14 for any project within a marshland, the city planning commission shall
15 certify to the department of buildings that the project is authorized
16 pursuant to this section. Neither the department of buildings or any
17 other city or state agency shall issue a permit for the development or
18 enlargement until the city planning commission has so certified.

19 j. The city planning commission shall promulgate rules and regulations
20 necessary to implement the provisions of this section including rules
21 delineating the locations of marshland within the city and describing
22 the types of projects therein, if any, which shall be exempt from the
23 provisions of this section. Prior to the promulgation of such rules, the
24 city planning commission shall consult with the community board of any
25 community district containing areas the commission may delineate as
26 marshland regarding the types of projects to be exempt from the
27 provisions of this section and in what areas of the community district.
28 Such consultation shall include a notice and comment period of forty-
29 five days. The city planning commission may exempt types of projects
30 from the provisions of this section upon receipt of a resolution of a
31 community board requesting such types of projects to be exempted.

32 § 2. This act shall take effect on the ninetieth day after it shall
33 have become a law. Effective immediately, the addition, amendment and/or
34 repeal of any rule or regulation necessary for the implementation of
35 this act on its effective date are authorized to be made and completed
36 on or before such effective date.