

PROCEDURE FOR RECEIVING AND CONSIDERING APPLICATIONS FOR RE-ZONING IN CONNECTION WITH COMMERCIAL DEVELOPMENT PROJECTS (AS WELL AS RESIDENTIAL PROJECTS OF FIVE (5) OR MORE UNITS)

WHEREAS, the Garden City Board of Trustees (the “Board”) has the exclusive and non-delegable duty and responsibility to enact zoning legislation for the Village of Garden City; and

WHEREAS, the Board desires to establish policies and procedures designed to promote clarity, transparency, fairness and consistency in the submission and consideration of zoning change proposals made in connection with specific proposed commercial development projects, as well as residential multi-family housing developments of five or more units, which policies and procedures shall be adapted as appropriate for use in connection with zoning change proposals made in connection with other types of projects; now, therefore, it is hereby

RESOLVED, that the Board hereby adopts the following policies and procedures, which procedures may be supplemented from time to time by the promulgation of Building Department rules by the Village Administrator in consultation with Village Counsel, to the extent permitted by law, such policies and procedures (and any supplemental rules) to take effect upon publication of same on the Village website (unless a later date shall be specified in such publication).

ZONING CHANGE PROCEDURES

Zoning. Zoning is a set of legislatively enacted use and design parameters that create minimum standards for a set of zoning districts. The Board of Trustees of the Village of Garden City has enacted more than 20 zoning districts. Information regarding current zoning districts and applicable zoning parameters for properties in the Village is set forth in Chapter 200 and related sections of the Village Code, copies of which are available on the Village website and at Village Hall. Additionally, the Village Fair Housing Resolution of June 5, 2014, the Long Island Workforce Housing Act, as well as the terms of the judgment in MHANY Management, Inc., et al. v. Village of Garden City, et al., 05-CV-2301, E.D.N.Y. (April 22, 2014) may be applicable to zoning applications for certain proposed multi-family residential projects.

Requests for Variance from Zoning Requirements. Variances from applicable zoning requirements may be requested pursuant to the Village Code by application to the Village Zoning Board of Appeals (the “ZBA”). Applications and other information may be obtained from the Building Department and/or the Village website under the Building Department tab.

Proposals for Rezoning. The Village Board of Trustees has created the below Procedures for changes that are proposed (1) by the property owner to be affected by the proposed change and (2) made in connection with a specific development proposal for commercial development projects, as well as residential multi-family housing developments of five or more units. Property owners seeking zoning changes in connection with other types of projects (e.g., single-family residential) or zoning changes not involving a particular development proposal are advised to contact the

Building Department which will adapt these procedures, as appropriate, under the circumstances. Failure to fully comply with these procedures, including among other things the submission of a fully completed application in the form prescribed by the Village together with all supporting documentation in the required quantities, may delay consideration of any zoning change by the Village.

In any review of a duly completed application which the Board of Trustees determines to consider, the Board of Trustees will consider, among other factors, the degree to which the proposed zoning change would materially alter the existing Comprehensive Plan; the compatibility of the suggested zone change with nearby zones, existing structures and uses; the adequacy of the Village infrastructure and services in the area that would be needed to accommodate the uses that would be permitted by the proposed change; the completeness of the information supplied by the Applicant in connection with the proposal; the benefits and/or detriments of the associated project to the Village and the surrounding community; and public input (provided that the Village shall not consider nor shall it be influenced or act upon public input that, if acted upon, would cause the Village to violate any legal obligation to which it is subject).

The Building Department is available to assist property owners in understanding and following the Application process. However, no member of the Building Department or any other member of Village staff is authorized to provide any advice or assurances with regard to the likelihood of approval of any proposal, and any such advice or assurances should not be relied upon.

Rezoning Process. The rezoning process is a three-phase procedure: (1) staff review and comment upon the zoning change proposal made on an application available at the Building Department and on the Village website, together with all related materials described on the application and/or as may have been additionally requested by the Village; (2) review and comment by the Zoning Change Review Committee (comprised of one member of the Planning Commission, one member of the Architectural Design Review Board, one member of the Zoning Board of Appeals and two members of the Board of Trustees as shall be appointed by the Mayor from time-to-time), which review shall include a public work session and (3) upon motion duly made by a Trustee, consideration by the full Village Board of Trustees.

The process generally can be expected to take a minimum of twelve weeks from the time that a completed application is received, but may take considerably longer based on the nature of the requested change. The zoning change review process is outlined below.

STEP 1: Pre-application Meeting. The Applicant should schedule a meeting with the Village Building Department. This meeting provides an opportunity for the Applicant to generally acquaint Village staff with the zoning change proposal and the project associated with it, and to obtain a level of familiarity with Village requirements and procedures. Regardless of any discussions or meetings with any Village personnel or official(s), no zoning change shall be deemed to have been requested until the Building Department determines that a completed application has been submitted in accordance with these procedures.

STEP 2: Submittal of Application. In order to commence the review process, the Applicant shall submit such number of copies of an initial application and related documents as the Building Department shall determine, including any supplemental materials specified in the application package and/or preliminarily requested by staff. The applicant must also pay a non-refundable application fee of \$2,500, and an initial deposit of \$5,000 to pay costs of third party consultants and advisors that the Village anticipates, in its sole discretion, that it will need to retain to review the application. If the actual or anticipated costs of third parties exceed the amount initially deposited, the Village will notify the applicant of the need to make additional payment(s). If such deposit is not promptly made, the Village may suspend the processing of the application, provided that the applicant will continue to be responsible for all costs incurred to that point. If the total third party costs incurred by the Village are less than amounts collected from the applicant for such purpose, any excess will be refunded when the Village concludes its consideration of the Application. For more detailed information regarding the initial submittal requirements, please refer to the application package.

STEP 3: Staff Review. Upon receipt of an initial application, the proposal will be reviewed by the Building Department, which shall thereafter submit its comments to the Applicant, which may include requests for additional materials to supplement the application. Upon receipt of the staff comments, the Applicant shall make changes or revisions, and/or submit any additional responses/materials requested, or specific declinations to do so (accompanied by explanations for the declinations). When the application is complete, the Building Department will forward it to the Zoning Change Review Committee.

STEP 4: Zoning Change Review Committee Meeting. The ZCRC will review the application and shall consult with the applicant, staff and/or third parties as it deems necessary. As part of its review, the ZCRC shall conduct a public work session (which shall include an opportunity for the public to make comments). Following the conclusion of the Committee's work, the ZCRC will determine whether, in its view, the proposed zoning change merits consideration by the Board of Trustees, and shall submit the application (together with the Committee's comments) to the Board of Trustees for its possible consideration.

STEP 5: Village Board of Trustees Action. Upon receipt of the application and comments from the ZCRC, the Village's Board of Trustees may or may not consider the application (together with the ZCRC comments), and thereafter may modify the zoning laws as and if it deems appropriate, consistent with the Village Code and other laws.

Please Note: The recommendations and technical assistance provided by Village staff, third party consultants and/or ZCRC during the course of the review process are advisory in nature. The authority to change the Village Zoning Code lies solely with the Village's Board of Trustees, and it shall do so in its sole discretion to the maximum extent permitted by law.

Effective: November 17, 2014
Amended: May 7, 2015

INFORMATION REQUIREMENTS IN CONNECTION WITH APPLICATION FOR
CONSIDERATION OF ZONING CHANGE(S) IN CONNECTION WITH COMMERCIAL
DEVELOPMENT PROJECT AND/OR RESIDENTIAL DEVELOPMENT PROJECT OF FIVE
OR MORE UNITS

INCLUDING UNDERTAKING TO PAY VILLAGE COSTS OF APPLICATION REVIEW

Introduction. This document sets forth the basic information requirements of applicants for the consideration of zoning change requests which are accompanied by proposals for certain commercial and/or residential development projects. The Village reserves the right to request additional information which may be deemed necessary in its sole discretion. Applicants are required to provide all information requested below in narrative format to the extent practical, and to supplement such narrative description with additional lists, maps, text, photos, plans, etc., if the applicant believes that it would be helpful to an understanding of the zoning change sought and/or the project associated with the proposed zoning change.

Applicants are encouraged to consult with the Village Building Department in the preparation of an application. The application shall not be deemed final until the Building Department determines that a completed application and all attachments and exhibits, together with a payment of the non refundable filing fee in the amount of \$2,500, and an initial deposit of \$5,000 toward the costs of reviewing the application, have been received by the Building Department.

1. Property Owner
Provide information on all legal and/or, beneficial owners, and (if the property in under contract for sale) any contract vendee(s).
2. Property Owner's Representative, if any, authorized to act on behalf of the owner in connection with this application and related matters.
3. Identify the Developer(s); provide name and contact Information.
4. Location of Property for which zoning change is sought by address and Village tax map description.
If multiple locations, attach list and/or map(s). Provide a legal description and current survey.
5. Proposed Zoning Change(s). Describe the current zoning and proposed new zone that would accommodate the project.
6. Identify any related variances and/or subdivisions and/or special use permits for any adjoining properties that are anticipated as being required in addition to the proposed zoning change.
7. Describe the proposed project, including any major planning assumptions and objectives, schedule and project phases.

8. Describe the rationale for the zoning change request. Among other things, describe how the proposed Zoning compares with the Village Comprehensive Plan and how it compares with existing uses of surrounding properties. Discuss whether the zoning as proposed comports with the criteria in Village Code Section 200-72.
9. A brief description of the impact the zoning change would have. Note specifically, in responding:
 - a. The adequacy of the Village infrastructure, resources and services in the area that would be needed or enhanced to accommodate the project.
 - b. Direct and indirect costs that would be borne by the Village or entities other than the owner as a result of the construction and/or operation of any project that may result.
 - c. The preliminarily anticipated classification of the zoning change pursuant to SEQRA, and any preliminarily anticipated environmental issues related to the proposed rezoning and/or projects that may result.
10. Describe any public amenities or other benefits (on or off-site) included in the associated development proposal.

Undertaking to Pay Costs. The Village generally requires applicants to fund the costs of examining and assessing applications on a non-refundable basis. To accomplish this, applicants must provide funding to reimburse the Village for its costs on a monthly basis. An initial non refundable application fee must accompany this application in the amount of \$2,500, together with an initial deposit of \$5,000. This deposit will also constitute a minimum balance. As the Village's examination/assessment of the application progresses, the Village will reimburse itself on a monthly basis from the deposit/minimum balance. The applicant will be advised by the Building Department as to the amount the applicant needs to further deposit to maintain its minimum balance from which the Village will continue to reimburse itself for Village costs. The Village will provide reasonable documentation, upon request, to demonstrate its costs associated with this application (which reimbursable costs shall include, but not be limited to third-party consultants such as architects, attorneys, real estate professionals, engineers, planners, etc.). Applicants are cautioned that the Village's choice NOT to proceed further at any point in the application process, or NOT to adopt the zoning sought by the applicant or NOT to make any change to zoning in response to the application does not affect the applicant's responsibility to pay the application fee, make the initial deposit, maintain the minimum balance, or to otherwise be liable for the non-refundable costs described herein. Applicant's signature on this application, together with tender of the initial deposit, shall constitute agreement to the foregoing.

Applicants whose proposed zoning change would involve residential housing of five or more units are encouraged to familiarize themselves with the provisions of the Village Board of Trustees Resolution establishing the Village's Fair Housing Policy (June 5, 2014), the Long Island Workforce Housing Act, and the judgment in MHANY Management, Inc., et al. v. Village of Garden City, et al., 05-CV-2301, E.D.N.Y. (April 22, 2014).

The undersigned hereby affirms, under penalty of perjury, that the representations made in this application are, to the undersigned's belief, are true and correct, and understands that any material misstatement subjects the undersigned to the penalties of perjury.

Signature of Owner

Sworn to before me this ____ day of _____, 201_

Notary Public