

EASTON PLAN APPROVAL AUTHORITY

Rules and Regulations



EASTON PLANNING AND ZONING BOARD

Approved September 10, 2008

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TOWN OF EASTON

Plan Approval Authority Rules and Regulations

The Easton Plan Approval Authority (hereafter, PAA), in accordance with M.G.L. Chapter 40R and Chapter 40A adopts the following Rules and Regulations, governing the organization and conduct of the Board and governing review and action on applications for Plan Approval within the **Queset Smart Growth Overlay District (QSGOD)**. In addition to complying with the rules set forth in these Rules and Regulations, applicants must also comply with any and all requirements set forth in the Town of Easton Zoning By Law, Section 7-17 (QSGOD), any applicable land use regulations in the Easton Town Code, including the Easton Wetlands Protection By Law, and Massachusetts General Laws. No procedure set forth within these Rules and Regulations should be construed to limit the PAA's powers and rights with respect to those documents. The procedural rules detailed in this document are presented to provide the Board and other interested parties, clarification on how the Board conducts its business.

See Section 7-17 of the Easton Zoning By Law for more information regarding requirements for Plan Approval in the Queset Smart Growth Overlay District.

PLAN APPROVAL AUTHORITY RULES AND REGULATIONS

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SECTION 1 – ORGANIZATION

1.1 MEMBERSHIP AND OFFICERS

Members of the Planning & Zoning Board shall automatically be members of the PAA. If a seat on the Planning & Zoning Board is vacated, that seat shall become vacant on the PAA.

Officers of the Planning & Zoning Board shall hold the same office in the PAA.

1.2 THE CHAIR

The Chair shall be eligible to vote on all matters. The Chair shall issue the call for and preside at all meetings and hearings; decide all points of order unless overruled by a majority of the board in session at the time, establish meeting agendas, represent the board in certain matters, prepare and submit all reports required by law, and exercise general supervisory power.

1.2.1 CHAIR'S REPORT

At the beginning of each meeting, the Chair shall report on all transactions that have not otherwise come to the attention of the board.

1.3 CLERK

The Clerk shall read notices of public hearings and other documents (as applicable) into the record. The Clerk shall also shall act as Chair when the Chair is absent or is unable to perform his duties. He shall have such powers and duties as the Chair shall designate. In the absence of both the Chair and the Clerk, the Chair shall appoint an acting Chair prior to the meeting, or the Board members present shall elect an acting Chair.

1.4 ALTERNATE

In the event that a regular Board member is absent, the Alternate Member may vote on any other matter before the Board, provided he/she is otherwise eligible to vote.

1.5 SUBCOMMITTEES

Subject to these rules, the Chair shall appoint such standing subcommittees as may be found necessary or desirable. A vote of the PAA can establish or dissolve a subcommittee. Meetings of subcommittees must comply with all rules and regulations applicable to the whole PAA, including Open Meeting Law.

1.6 STANDARDS OF CONDUCT FOR PAA MEMBERS

The primary obligations of the PAA members are:

- To serve the public interest;
- To conduct themselves so as to maintain public confidence in the PAA;
- To meet the fundamental responsibility of fairness; and
- To comply with all statutory regulations.

Individual PAA members, including the Chair, shall not meet with an applicant or representative of an applicant regarding a potential or actual application outside of a PAA meeting unless authorized to do so by the PAA. In the event that any such authorized meeting is attended by a quorum of the PAA, Open Meeting Law shall apply.

1.7 CONFLICT OF INTEREST

A PAA member shall not participate in official capacity in matters in which such participation is prohibited by the Conflict of Interest Law. The PAA member shall, at any meeting where the particular matter is discussed, disclose orally the existence of the conflict-of-interest, remove himself from the meeting room at that and all future times that the particular matter is being discussed.

SECTION 2 – PAA ROLES & RESPONSIBILITIES

The powers and duties of the PAA include, but are not limited to the following:

- A. Adopt, administer and amend Plan Approval Authority Rules & Regulations.
- B. Review, request reasonable and relevant revisions of, and approve, approve with conditions, or disapprove applications for Plan Approval within the Queset Smart Growth Overlay District.

SECTION 3 – MEETINGS

3.1 OPEN MEETING.

All meetings of more than one member the PAA shall be held in accordance with the provisions of the Massachusetts Open Meeting Law. The term “meeting” has two statutory exceptions (MGL 39, Sec 23):

- A. On site inspection of a property that is the subject of an application; and
- B. A chance meeting or social meeting at which matters related to official business are discussed, so long as no final agreement is reached.

All hearings shall be open to the public. No person shall be excluded unless he is considered by the Chair to be a “serious hindrance” to the workings of the PAA.

3.2 MEETING SCHEDULE

The PAA shall hold meetings once per month, as required, through the year following the initial public hearing when an application has been submitted for review under the provisions of the Queset Smart Growth Overlay District, except that by majority vote set a different or additional time for a particular meeting. Notice of all meetings must be filed with and posted in the Town Clerk’s office at least 48 hours in advance (including Saturday but not Sunday or legal holidays), including date, place and time of meeting.

3.3 QUORUM AND VOTING

A quorum of three members of the PAA shall be required to conduct business.

PAA members present may be counted to determine whether a quorum is present even if they abstain from voting affirmatively or negatively. *Exception:* If the PAA member is abstaining due to conflict of interest, he or she **cannot** be counted as being present for the quorum for that portion of the meeting for which they are disqualified due to conflict of interest.

All votes must take place at a PAA meeting in person. No phone-in, email, proxy, or faxed votes are acceptable.

3.4 AGENDA ITEMS

The agenda shall be duly posted at least 48 hours prior to the meeting. The PAA may refuse to review an incomplete application, unless it is a Preliminary Review (see Section 4). The first item on the agenda of every PAA meeting will always be the approval of minutes from a previous meeting(s).

SECTION 4 – PRELIMINARY REVIEW & PRE-APPLICATION

4.1 PRE-APPLICATION

Prior to filing an application for a Plan Approval, applicants are encouraged to schedule a meeting with the PAA to discuss projects informally, pursuant to Section 7-17 (L-1) of the Easton Zoning By Law.

Prior to the submittal of a site plan, a “Concept Plan” may be submitted to help guide the development of the definitive site plan for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

- a. Overall building envelope areas;
- b. Areas which shall remain undeveloped;
- c. General site improvements, groupings of buildings and their relationship to surrounding neighborhoods, and proposed land uses.

An applicant wishing to submit a Concept Plan for review should submit no fewer than eight (8) copies of the Concept Plan (up to seven (7) of which may be reduced-size copies at 11"X17") and eight (8) copies of any waivers which are being proposed.

4.2 SCOPE OF PAA REVIEWS

The PAA will review preliminary materials in an attempt to avoid unnecessary deficiencies in the application to be filed and to promote efficiency in the formal review and hearing process. The PAA may request other town boards or departments to comment prior to the date of the meeting or attend the meeting to ensure efficiency of review. The PAA will not be responsible for assuring the accuracy, correctness or thoroughness of any application submitted for review. Informal review shall be concluded twenty-one (21) days following the request for review unless such time is extended by the PAA and the applicant.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and Guidelines and the other requirements of the QSGOD.

4.3 PRELIMINARY REVIEW FEE

The first such informal review by the PAA shall be free of charge. Subsequent preliminary reviews shall require payment of a fee by the applicant of \$300.00 each at the time of submission. The fee shall be submitted in check form to the Department of Planning & Community Development and made payable to the “Town of Easton.”

SECTION 5 – PLAN APPROVAL

5.1 PAA AUTHORITY

The Planning & Zoning Board shall act as the PAA for Plan Approval, as designated in Section 7-17 of the Town of Easton Zoning By Law, pursuant to Chapter 40R of Mass. General Law.

5.2 APPLICATION FORM

Applications to the PAA shall be made on the official application form. Application forms are available during regular business hours in the Easton Department of Planning & Community Development Office. The application shall also include any additional materials as required in the Section 7-17 (L-3) of the Zoning By Law.

In the case where the Applicant is a person other than the recorded owner of the property, the Applicant shall be required to submit notarized certification executed by the recorded owner of the property that the Application is submitted with the knowledge and consent of the recorded owner.

An application is considered complete when the Department of Planning and Community Development has received the correct number and form of all required application materials, including those listed on the application form itself.

5.3 DATE OF SUBMISSION

The application shall be submitted, and a copy filed with the Easton Town Clerk during regular business hours. The date of filing shall be considered the date upon which the complete application has been delivered to or received by the Town Clerk.

The applicant is responsible for providing all information in the application as described in these Rules and Regulations, and the Easton By Law unless a waiver is requested by the applicant and granted by the PAA.
Incomplete applications risk denial by the PAA.

5.4 STORMWATER MANAGEMENT REPORT FORMAT

The required stormwater management hydrogeological study shall be submitted in the format suggested by the most recent edition promulgated by MassDEP of the *Massachusetts Stormwater Management Handbook*, and shall be accompanied by the *Stormwater Report Checklist*.

5.5 FILING FEE

Any application for a Plan Approval or modification of a Plan Approval shall include a fee in the amount of \$1500. This fee does not cover advertising or legal expenses incurred to the Town during the review process.

The applicant will be additionally billed \$350 for advertising each advertised public hearing.

The fee shall be submitted in check form to the Department of Planning & Community Development and made payable to the “Town of Easton.”

5.6 ADDITIONAL REVIEW FEE

The PAA may engage, at the applicant’s expense, engineers, planners, lawyers (including Town Counsel), urban designers, or other appropriate professionals who can assist the PAA in analyzing a project application to ensure compliance with all state laws and Town Regulations. If the PAA elects to engage a consultant to assist with plan reviews, the PAA shall notify the applicant, within 30 days of the filing of the application, of its designation of an outside consultant.

Funds received by the PAA pursuant to this section shall be deposited with the Treasurer who shall establish a special account for this purpose. Expenditures from this account shall be made at the direction of the PAA without further appropriation and shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the Permit. When the review fee account is depleted, an additional deposit shall be made by the applicant.

The applicant may appeal the selection of the outside consultant to the Board of Selectman within 14 days of notification of consultant designation from the PAA. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications, as specified in MGL c. 44, s. 53G.

Review fees may only be spent on services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the PAA's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be refunded to the applicant, or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest.

In addition to the application fee, the applicant shall be required to pay reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. c. 40R, s. 11. This technical review fee shall be

paid at the time of the application. The initial deposit shall be \$15,000 and shall be subject to replenishment as needed. Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant.

The fee shall be submitted in check form to the Department of Planning & Community Development and made payable to the “Town of Easton.”

5.7 OTHER PERMITS AND VARIANCES

The applicant shall list on the application and provide copies of all variances, permits and other approvals previously issued by town boards or State and Federal Agencies, and a list of any variances, permits or approvals required to complete the proposed work. This list should include but not be limited to any permits from the Board of Health, the Conservation Commission, the Zoning Board of Appeals, the PAA, the Board of Selectmen, the State Department of Public Works, the Army Corps of Engineers, and the Massachusetts Department of Environmental Protection; and certificates issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Policy Act.

Note: If any other permits are required, the Applicant is hereby strongly advised to make the applications for such additional permits concurrently with this Application.

5.8 REVIEW CRITERIA

The PAA shall use the review criteria found in Section 7-17 of the Easton Zoning By Law, including the Design Standards, and applicable criteria found in these Rules and Regulations to make a decision on applications before it.

5.9 – CIRCULATION TO OTHER BOARDS & COMMITTEES

5.9.1 PAA AUTHORITY

Under authority granted in Section 7-17 (M) 2, upon receipt of the Application the PAA shall immediately provide a copy of the application materials to and seek comment from the Board of Selectmen, Zoning Board of Appeals, Board of Health, Fair & Affordable Housing Partnership, Conservation Commission, Fire Department, Police Department, Building Inspector, and the Department of Public Works.

5.9.2 TIME OF REVIEW

Any such board or agency to which petitions are referred from the PAA for review shall make such recommendations as they deem appropriate and shall send copies thereof to the permit granting authority and to the applicant; provided, however, that failure of any such board or agency to make recommendations within twenty-eight (28) days of receipt by such board or agency of the application shall be deemed lack of opposition thereto unless such board or agency makes a written request for more time for review. All reviews must be complete within sixty (60) days of receipt of plans and application material.

5.9.3 JOINT REVIEW

At the discretion of the Chair, the PAA may request an All-Boards meeting or a joint review of the project with another board or committee.

5.10 DECISIONS

5.10.1 DEADLINE & FILING WITH TOWN CLERK

The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed an approval of the application and site plan.

The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the city or town clerk and that all plans referred to in the decision are on file with the approving authority.

If 20 days have elapsed after the decision has been filed in the office of the city or town clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the city or town clerk shall so certify on a copy of the decision. If the plan is approved due to the failure of the approving authority to timely act, the clerk shall make such certification on a copy of the application at the request of the applicant.

5.10.2 GROUNDS FOR DENIAL

As per §7-17 O.4 in the Zoning By Law, an application may be denied only because:

- (i) The project does not meet the conditions and requirements set forth in the Section 7-17 of the Zoning By Law;
- (ii) The applicant failed to submit information and/or fees required by the Section 7-17 of the Zoning By Law necessary for an adequate and timely review of the design of the project or potential project impacts; or
- (iii) It is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

5.10.3. RECORDING OF DECISION

A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

5.11 APPEALS

Any person aggrieved by a decision of the PAA, whether or not previously a party to the proceeding, may appeal such decision in accordance with C, 40R, M.G.L. §11, f-k, as amended.

SECTION 6 – PAA HEARINGS

6.1 ADVERTISEMENT

In accordance with MGL C. 40A §11, notice of public hearing shall be published in a newspaper of general circulation in the Town once a week, for two consecutive weeks. The first publication shall not be less than fourteen days before the day of the hearing. In addition, a copy of the notice shall be posted in a conspicuous place in the Easton Town Hall at least fourteen days before the hearing. A copy of the advertised notice shall also be sent to all “parties of interest.” Parties of interest shall include the applicant or petitioner, abutters, owners of land directly opposite on any public or private street or way, the owners of land within three hundred feet of the property line.

6.2 CONTENTS OF NOTICE

The public hearing notice shall contain the name of the petitioner or applicant, a description of the area or premises, street address if any, or other adequate identification of the location of the area that is the subject of the application, the date, time and place of the hearing, the subject matter of the hearing, and the nature of action or relief requested, if any.

6.3 HEARING PROCEDURE

The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed an approval of the application and site plan.

An applicant may appear in his own behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an applicant, the PAA may decide on the matter using the information it has otherwise received, or continue the hearing.

The Chair shall open the hearing at the advertised time in the specified meeting place, and proceed in the following order:

1. The Chair will read the notice of hearing as published
2. The applicant or his representative shall present his case to the PAA
3. Questions and comments from the PAA
4. Questions and comments from representatives of other Town boards and officials
5. Questions and comments from abutters to the property
6. Questions and comments from other interested parties
7. Responses from the applicant
8. The Chair shall close the public hearing
9. The PAA shall deliberate

The PAA shall not consider any additional materials once the public hearing has been closed, as this material would not be subject to public review and comment.

SECTION 7 – RULES FOR THE SUBMISSION OF DOCUMENTS & PLANS

7.1 NUMBER OF COPIES

In addition to the copies of the Site Plan required by Section 7-17 (L) 3.d, the applicant shall submit:

- Ten (10) copies of the application form
- Ten (10) copies of requests for waivers
- Ten (10) copies of the traffic study, a narrative explaining proposed mitigation measures, and Transportation Demand Management (TDM) plan (§7-17(H)3 of the Zoning By Law)
- Three (3) copies of the stormwater drainage report
- Three (3) copies of the earth removal report (as applicable—see §7-17(L)3.f of the Zoning By Law)
- Five (5) full-sized copies of the architectural drawings, transportation plan, and site plans (see Zoning By Law §7-17(L)3.g & §7-17(H)3) sized 24” X 36”
- Twenty (20) reduced-sized copies of the architectural drawings, transportation plan, and site plans (see Zoning By Law §7-17(L)3.g & §7-17(H)3) sized 11” X 17”

Each copy of the application and all plans shall be folded so that it will fit neatly into a letter-sized file folder.

The applicant should submit no fewer than eight (8) copies of any documents or plans submitted in addition to those listed above.

7.2 PLANS MUST BE FOLDED

All plans submitted on sheets of paper larger than 8.5” X 11” must be folded to fit in an envelope sized no larger than 9” X 14.”

All plans must be folded. Please do not submit rolled plans.

7.3 FOURTEEN DAY DEADLINE

All documents, plans, and requests must be submitted at least fourteen (14) days prior to any meeting of the PAA where such a document, plan, or request will be considered.

The applicant may request a continuance to review any documents submitted after this deadline.

No documents will be reviewed during or prior to a meeting if they have not been submitted 14 days before the meeting.

7.4 MULTI-PAGE DOCUMENTS

- All multi-paged documents, except site and architectural plans or other large-format documents, shall be printed on both sides of the paper.
- Documents shall have a page number on each page of the document. Applicants should use the format “Page 1 of X,” where “X” is the total number of pages in the document.

7.5 ELECTRONIC SUBMISSION

- All documents, including any reports, plans, drawings, briefs, memos, or other information submitted as part of any application, should be submitted both in print and electronically. Applicants may submit documents in the following formats:
 - Portable Document Format (.pdf)
 - Microsoft Word 97-2003 (.doc)
 - Microsoft Word 2008 (.docx)
- Documents created using Computer Aided Design and Drafting (CAD) software shall comply with the Mass GIS “Standard for Digital Plan Submittal to Municipalities,” or successor standard.
- Electronic submission must be made at the same time as submission by any other means.
- Electronic copies may be submitted on a CD or by email to the Staff Planner.
- Any evidence that cannot be submitted in print, such as video, will not be accepted.

SECTION 8 – WAIVER OF RULES

8.1 WAIVER OF COMPLIANCE

As per §7-17 O.4 in the Zoning By Law and except where expressly prohibited in section 7-17 of the Zoning By Law, the PAA may waive dimensional and other requirements of Section 7-17 of the Zoning By Law, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the QSGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under that Section.

8.2 REQUEST FOR WAIVER OF RULES

A written request for a waiver from these Rules shall be made at the time of filing. If an oral request is made at a hearing or meeting, it shall be reduced to and submitted as a written request prior to the close of the public hearing. Any request must clearly identify the provision or provisions of these Rules from which relief is sought and such request must be accompanied by a statement setting forth the reason or reasons why, in the Petitioner's opinion, the granting of the waiver would be in the public interest and consistent with the intent and purpose of the By Law and these Rules.

SECTION 9 – ADMINISTRATION

9.1 ADOPTION

These Rules and Regulations are hereby adopted on September 10, 2008 by the Easton PAA.

9.2 VALIDITY

In the event of a conflict between the provisions of these Rules and Regulations and the provisions of the Massachusetts Zoning Act and the Easton Zoning By Law, the provisions of the Massachusetts Zoning Act and the Easton Zoning By Law shall apply.

9.3 AMENDMENT

From time to time, the PAA may amend these Rules and Regulations. Such Rules and Regulations shall be adopted following a majority vote of the PAA at a public meeting. The PAA will consider revisions of these rules and regulations on the first meeting in July of every year, unless some other date is voted upon by the PAA.