

ZONING

235 Attachment 3

Town of Clayton

EXHIBIT "A"

Pre-application for Heavy Industrial, Large Commercial and Commercial Renewable Energy Projects.

Purpose

In order to fulfill the guidance and directives of the Joint Town/Village of Clayton's Comprehensive Plan/Land use policies, a Pre-application process is required for proposals in this designated category of developments. Through this Pre-application process, both the Town and Developer(s) are protected from undue delays, expectations or issues of community compatibility once the submitted application is deemed complete and the permitting process is engaged. The information, statements or other data gained from the Pre-application process will be informative to, and incorporated into the Permit/SEQRA process.

The pre-application process by necessity, helps fully inform potential developers about the Town of Clayton and the community, as well as all of Clayton's Joint Town/Village Land use Policies, the specific site conditions, potential impacts, as well as providing the ability to address them appropriately during this initial process. The Pre-application allows the Town to assess the merits and viability of the proposed development project(s) successfully complying with the Town's Comprehensive Plan/Land use Policies and Ordinance(s), or permit process, prior to an application being deemed complete. The pre-application process also allows the Town or developer(s) to accept, propose or negotiate any potential proposed mitigation plan(s) determined to be a requirement through the pre-application process, prior to the formal permit process.

Part I Pre-application Requirements

The following are the documentary submissions, statements and or physical requirements to be submitted as part of the pre-application process.

- 1) The Developer(s) are required to establish an escrow account to reimburse the Town for: a) associated legal fees and b) certain independent reviews of the pre-application submissions, inclusive of any statements of non-applicability or waiver request, by Town selected credentialed expert(s) or appropriate consultant(s)¹.
- 2) The Developer(s) shall provide a preliminary Scoping Statement, describing a proposed site-specific scope of work for the project including infrastructure, as well as an initial proposed site plan map.
- 3) The Developer(s) are required to provide a Full Environmental Assessment Statement as outlined below. This statement shall include applicable documentation, surveys and or findings/statements by the Developer(s) where required. These requirements shall be scaled appropriately to the size or scale of the projects projected footprint, Impact Area (IA)² and economic impacts.

¹ Fee structure to be scaled to project size, Town independent reviewer criteria in part II

² IA is defined minimally as the projects boundary, infrastructure, inclusive of setbacks.

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Full Environmental Assessment Statement (FEAS) requirements³

- A) Provide a preliminary industry and project specific, public health and safety statement if applicable. Include initial proposed public access and or access prevention plans, fire/emergency services and utilities access plans, protocols or signage.
- B) Consistency Statement. The Developer shall provide an initial statement of the projects accordance, consistency and compliance with the Town's Land Use Policies or Laws. These include the Joint Town/Village Comprehensive Plan, the Joint Town/Village LWRP, and the Chaumont River Corridor LWRP strategy. Developers should cite specific supportive Town/Village Land Use Policies for their proposals, if applicable include the projects accordance with the SPO (Scenic Protection Overlay district) and WRA (Waterfront Revitalization Area) restrictions or setbacks. These policies and standards will provide the developer clear guidance to appropriate site locations and or the locations the Town has deemed inappropriate for this development category. This also provides a mechanism for the Town to be made initially aware of any potential project-critical variance requests.
- C) A Preliminary Socio-Economic Impact Statement. The socio-economic impacts to the Town of development proposals in this category can be substantial therefore developers shall provide a preliminary statement of the projects potential socio-economic impacts, costs and benefits⁴, include appropriately scaled initial supportive analysis.
- D) The Developer shall provide the documentation for a project's site specific consult requests, replies or correspondences to/from the New York State Historic Preservation Office, and appropriate Historic Officers of the Mohawk, Onondaga, Oneida Nations. Include if applicable, any proposed cultural resource surveys, testing and or mitigation plans.
- E) A statement shall be provided that addresses the individual Environmental Impacts listed. If the project site is determined to be in or near the Towns sensitive areas⁵, or utilizing the DEC Environmental Resource Mapper, initial site surveys, other NYS or Federal data sources; certain preliminary field surveys will be required to complete the Pre-application. The developer will provide individual statements of non-applicability for any items not applicable to the proposed location/project(s), or include appropriately credentialed statements of fact or field reviews for any proposed relief from required surveys. The following itemized list shall be addressed by the Developer:

E).1 Landscape Features. The Town has multiple forms of terrain, watersheds and bedrock geologies, these can be significantly impacted by projects in this category. A major portion of the Township includes karst geology, with accompanying fragile surface and sub-surface hydrology and aquifer storage structures⁶. The Land Use Policy discourages or may deem unacceptable, altering; natural topographic and terrain features, the hydrology, important ecological communities or prime soils.

³ Developed from CP, chapter 12 Land Use Development Considerations, 'Impacts and considerations' list pg. 169-172, also "...Summary" pg. 172-177

⁴ Reference; CP, Executive Summary pg. ix, and Chapter 12; Impacts and Considerations... pg 169 paragraph 3)

⁵ CP, Chapter 12, pg 173 paragraph 8-13 of "...Summary"

⁶ CP, Chapter 5, provides base line description of Clayton's landscape features including geologic and hydrology data. CP, Chapter 12, pg. 175, bottom left paragraph

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- Provide a preliminary description and assessment of the geologic conditions and typical soil types and depths at the site.
- Provide a preliminary topographic description of the site.
- Prepare a preliminary map and description of the current surface hydrology, include: watersheds, wetlands, and current surface water drainage conditions, include all Federal and State designations.
- Provide a description of the site(s) or the surrounding areas typical sub-surface local aquifer and recharge systems. Address avoidance of potential impacts to surface or sub-surface hydrology the project may have or any proposed mitigation plans.

E).2 Ecological Features

- Provide a statement identifying on-site or adjacent DEC, Federally listed, or as described in the Joint Town/Village Comprehensive Plan's Natural Resource section⁷: 1) Wildlife Species and Plants at Risk; 2) any Significant Natural Communities; 3) Rare Plants or Animals.
- Identify any on-site or adjacent areas of potential alvar⁸ or other rare landscape/ecological communities, if present propose avoidance plans.
- Provide a preliminary survey/assessment of on-site or adjacent avian as well as bat; presence and habitats inclusive of migratory data. Include (if appropriate) any mitigations or avoidance measures.
- Provide a preliminary survey/assessment of on-site or adjacent amphibians and reptiles presence and habitats. Include (if appropriate) any mitigations or avoidance measures.

F) Light and Noise statement. Provide statement and adequate documentation demonstrating compliance with the Towns Land use Policies for Light and noise, these policies are found in the Comprehensive Plan⁹.

G) Open Space and Scenic impact statement. Outside of the Towns SPO and the WRA the Town Policies place high value on the scenic and open spaces of the rural countryside and the NYS Route 12 gateway¹⁰. If the project is outside the SPO and WRA, provide a statement addressing the impact and mitigations to the scenic and open spaces for the projects view-shed. Include impacts to adjoining properties.

H) Land Use-Character statement. The Joint Town/Village Comprehensive Plan, chapter 11 is titled "Land Use/Character" illustrating the Townships high value placed on the character of the Town, reinforced throughout the policies within the Comprehensive Plan. Within that document the Town recognizes and defines the character of the Town at

⁷ Cp, Chapter 5, pg. 51-63

⁸ As described/defined in CP., Chapter 5, Natural Resources pg. 58

⁹ CP., Chapter 12, pg. 170-71, Impacts and Considerations..., 4.6, 4.7. Also "clear skies" policy, Chapter 9, pg. 115, bottom left paragraph.

¹⁰ CP, Chapter 12, pg. 170, Impacts and Considerations..., 4.2. CP, Chapter 12, bottom right paragraph.

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the Township level and Character area¹¹, as well as the District level, and neighborhood levels. Provide a basic statement addressing impacts to the Towns character, inclusive of Character Area, zoning district and neighborhood. The statement should include addressing the Towns guiding principle for development¹², "Protecting, Preserving and Enhancing the Character of the Town/Village/Hamlet"¹³

Part II

Upon receiving the pre-application statements/documentation, the Town Planning Board will post them, distribute them to the various Town/Village Boards or other stakeholders, and set a time of 14 days for the Planning Board to assess the pre-application in regards to the Town Land Use Policies. The Planning Board will also direct certain portions of the Pre-application for independent reviews, to include at a minimum; any Legal work, all the statements, surveys and data related to the Geological/hydrological and Ecological¹⁴ portions of the pre-application. If Cultural Resource surveys have been requested, these shall be independently reviewed as well. The independent reviewers shall provide the Planning Board their findings and recommendations, if additional data, surveys, mitigations or other measures are recommended, the Planning Board will inform the developer and request the additional measures. The Town may also authorize the independent reviewer to work directly with the developer to facilitate completion of those specific recommendations and the requirements of the Pre-application. The Planning Board may also direct at their discretion, additional selected portions of the Pre-application for independent reviews, excluding those exclusively integral to the Planning Board's primary role of reviewing the Pre-application Land use Policies compliance statements/submissions .

The Planning Board will review and assess the Developers submissions/statements for Land-use Policies compliance, consistency, and the projects general merits, and make a determination to accept or request further clarification during the review period. The Planning Board is empowered to ensure the independent reviewers recommendations are also satisfied. Once the Planning Board is determined that all the independent reviewers recommendations are satisfied, as well as the Planning Board determining the project will be fully in compliance with all other requirements of the Pre-application, the Pre-application can be declared complete.

¹¹ CP, Chapter 11, pg. 131, ...Character areas.

¹² CP, Chapter 12, pg. 146, Large Development Proposals..., "Guiding Principle".

¹³ CP, Chapter 12, pg. 147, first full paragraph, 2nd sentence.

¹⁴ Typically a consultant/reviewer would have expertise in the geologic and hydrologic sciences, and ecologically, a competent vertebrate zoologist and community ecologist can review the data and render recommendations.