

THE



PLANNING **DESK**



POLICY IN TRANSITION

What does this mean for planning & zoning?



New York State Policy Changes, Local Authority & Emerging Land Use Challenges

CDRPC Planning & Zoning Workshop

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Four policies reshaped the local planning landscape

CLIMATE, INFRASTRUCTURE AND HOUSING NOW CONVERGE IN LOCAL DECISIONS

CLIMATE + ENVIRONMENTAL POLICY

- Climate Leadership & Community Protection Act (CLCPA)
- Green Amendment
- Disadvantaged Communities

ENERGY & INFRASTRUCTURE CHALLENGES

- New land uses
- State energy goals
- Community concerns
- Electrification

WETLANDS

- 2022 Wetlands legislation
- 2025 Wetlands regulations (6 NYCRR Part 664) adopted
- 2026 (April 8) Ruling of Supreme Court Judge Platkin annulling wetlands regulations
- Post annulment guidance from NYSDEC

Four policies reshaped the local planning landscape

CLIMATE, INFRASTRUCTURE AND HOUSING NOW CONVERGE IN LOCAL DECISIONS

HOUSING PRIORITY

- Executive Order No. 30
- 800,000 new homes
- 1000,000 affordable homes

MAJOR SEQR REFORM

- Disadvantaged Communities
- Type II actions
- Revised EAFs
- Streamlined EIS
- Legislative SEQR exemptions

CDRPC PLANNING & ZONING CONFERENCE · HVCC

The "Previously Disturbed Site" Dilemma

Navigating New SEQR Type II Housing Exemptions

CASE STUDY: GUILDERLAND RESIDENCES PUD

ENVIRONMENTAL CONSERVATION LAW § 8-0105(11) · 2026 REFORMS

**CASE
STUDY**

**SEQRA
TYPE II**

2026 REFORMS

Type II "Qualified Actions" Outside NYC

SEQRA AMENDMENTS · MAY 26, 2026

- 1 Utility Connections:** Connected to existing public water and sewer at habitation.
- 2 Site Condition:** Must be proposed on a “previously disturbed site.”
- 3 Housing Types & Non-Res Cap:** Multifamily target; maximum 20% commercial/non-residential GFA.
- 4 Unit Thresholds:** Up to 300 units in urbanized areas, or 100 units outside.
- 5 Flood Zone:** Outside FEMA designated 100-year floodplains or Special Hazard Areas.

120 DAYS

Mandatory Determination Window

The Lead Agency must determine whether the project qualifies as Type II within 120 days of receiving the application.

Defining a “Previously Disturbed Site”

STATUTORY THRESHOLD · ECL § 8-0105(11)

“The parcel must be a tract of land that was substantially altered at least two years prior to the project application by a building, improvement, or prior use. The land must be substantially altered by an occupied, formerly occupied, or demolished building, or by other structural improvements and impervious surfaces (such as parking lots or maintained lawns).”

THE OPEN QUESTION “Substantially altered” is not defined in Environmental Conservation Law, leaving Planners and Lead Agencies with a fair amount of subjectivity in how this phrase can be interpreted and applied to projects under review.

Guilderland Residences PUD

PROJECT PROFILE

72-UNIT AFFORDABLE & WORKFORCE HOUSING DEVELOPMENT

- 180% of units target households earning 30%–60% AMI.
- 220% of units target households making 80% AMI.
- 322 units set aside for survivors of domestic violence.



Guilderland Residences PUD Site Plan



TOWNHOME ELEVATION



MULTI-FAMILY BUILDING ELEVATION

Total vs. Buildable Acreage

SPATIAL ANALYSIS

10.68

Total Parcel Acres

6.173

Buildable Acres
(unconstrained)

Environmental constraints consisting of steep slopes / angle of repose and federal wetlands are highlighted in red.



SITE PLAN WITH ENVIRONMENTAL CONSTRAINTS (FEDERAL WETLANDS & STEEP SLOPES HIGHLIGHTED IN RED)

Aerial Evidence: Prior Disturbance Area

SITE DISTURBANCE TIMELINE



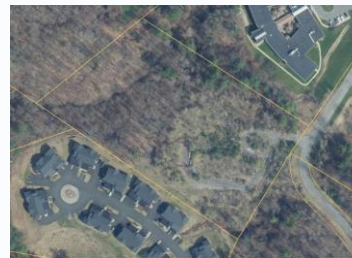
2001

Clearing & foundation grading begun.



2004

Foundation & road loop visible.



2024

Regrowth over prior building footprint.



3.78 AC

Measured disturbed footprint.

3.78 Acres

Disturbed land from partially built 60-unit assisted living facility.

61.2%

Previously disturbed share of buildable acreage (3.78 / 6.173 acres).

35.3%

Previously disturbed share of total parcel acreage (3.78 / 10.68 acres).

Resident Pushback on the Type II Classification

LEGAL CONTROVERSY

01 Gross vs. Net Acreage

Residents argued the the total acreage of the parcel (10.68 acres) was not substantially altered. At 35.3% disturbance, the site was not "substantially altered".

02 Occupancy Requirement

Unfinished & Never Occupied

The 60-unit assisted living facility was never completed and never occupied. Opponents asserted that an abandoned foundation fails the statutory definition for an occupied, formerly occupied or demolished building.

STATUTORY TEXT • Land must be substantially altered by an “occupied, formerly occupied, or demolished building, or by other structural improvements and impervious surfaces (such as parking lots or maintained lawns).”

Does This Site Qualify as Type II?

AUDIENCE POLL & DISCUSSION

- | | |
|---|--|
| 1 Baseline Metric: Which acreage metric (Total vs. Buildable) provides the most legally defensible baseline for "substantial alteration"? | 2 Threshold Criteria: Without a statutory percentage in the ECL, what standard should Lead Agencies use to evaluate "substantially altered"? |
| 3 Incomplete Improvements: Does an uncompleted, never-occupied building qualify as a structural improvement, or does it violate statutory intent? | 4 Litigation Defense: How can municipal boards establish consistent, defensible findings to withstand Article 78 challenges? |

AUDIENCE VOTE: BY A SHOW OF HANDS, WOULD YOU VOTE THAT THIS SITE QUALIFIES AS TYPE II?

A moratorium is a planning tool—not a permanent answer

PAUSE

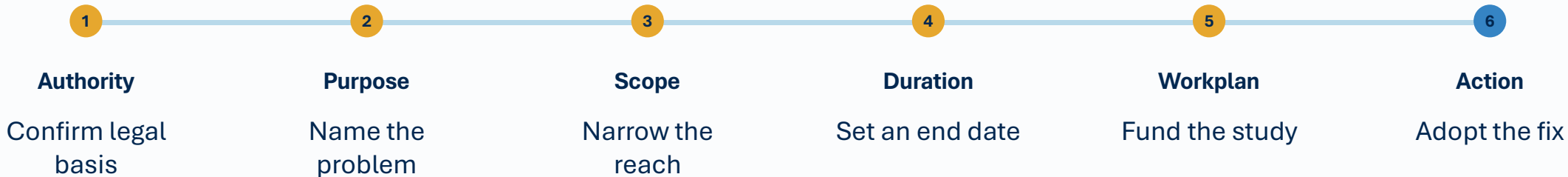
STUDY

ACT

A defensible moratorium buys a defined period to do defined work.

It should not function as an open-ended ban, a substitute for analysis, or a way to target a single unpopular proposal.

Six guardrails



SEQR: How fast can this thing go?



When the future shows up at your Planning Board



Lightning Round

