

## SECTION 3. WHAT ACTIVITIES SHOULD BE SUBJECT TO SITE PLAN REVIEW?

**Site plan review** typically sets standards for the construction of nonresidential structures and, in some cases, multifamily residential structures. An important step in developing a local **site plan review** process is to define exactly what type and scale of projects will be subject to review. This section discusses the types of activities a community may want to include under **site plan review**.

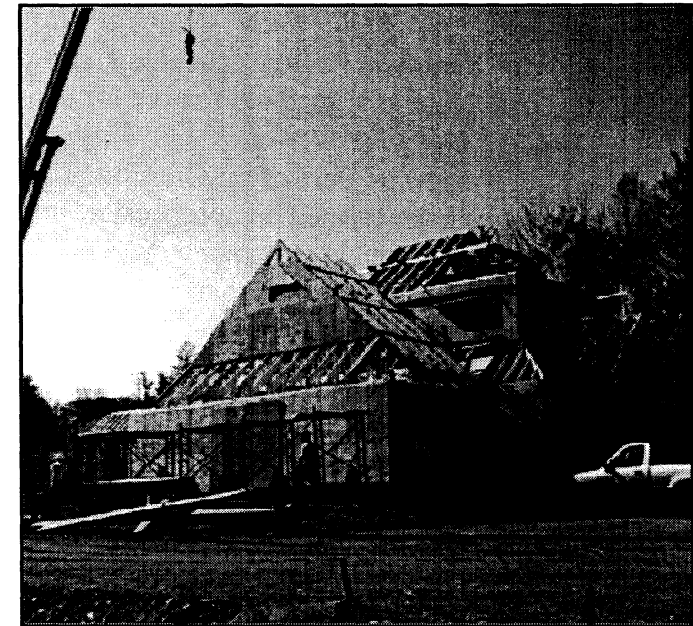
The basic objective of **site plan review** is to assure that new nonresidential development is built responsibly, does not create problems for its neighbors, and makes a positive addition to the community. Therefore, any activity that may have a significant impact on the community should be considered for **site plan review**. This may vary from community to community. At the same time, activities which are unlikely to generate significant impacts should not be included under **site plan review**.

### ■ NEW NONRESIDENTIAL CONSTRUCTION

The construction of new buildings or structures for commercial, office, service, industrial, recreational, or institutional uses should be covered by **site plan review**. These uses influence the character of the community and often impact neighboring properties. Agricultural buildings, however, may or may not have significant impacts. Therefore, some communities choose to exempt agricultural buildings and structures from **site plan review**, while others include them. This decision should be made with consideration of the community's other policies toward agriculture.

- **Minimum Size Threshold** - Many communities require that all new nonresidential buildings go through **site plan review**, while others exempt small buildings with less than a certain number of square feet from review. This decision should be carefully considered. While some communities exempt new buildings with less than 1,000 square feet of floor area or some other threshold, it is important to recognize that some small uses may generate significant impacts. A 200 square

foot clam shack take-out may raise more issues about traffic, noise, and lighting than a 5,000 square foot machine shop. This review requirement needs to be shaped to local needs and the types of development that are likely to occur in the community. Some communities address this issue by exempting small buildings and structures but only if they do not generate much traffic.



Construction of a New Commercial Building

- **Maximum Size** - As noted in Section 1, many large scale nonresidential projects require State review under the Site Location Law. This review covers many of the areas typically included in local **site plan review** regulations. Therefore, a community should consider if a project that requires a site location permit from the DEP should also be required to go through local **site plan review**. Many municipalities include these large scale projects under **site plan review** to assure that issues that are of concern to local residents do get reviewed and addressed. Recent changes in the Site Location Law will raise the threshold for State review in many communities, minimizing the number of projects that will potentially be subject to both local and State review.

**EXPANSIONS OF EXISTING NONRESIDENTIAL BUILDINGS AND STRUCTURES**

A key consideration in developing a local site plan review process is whether the enlargements of existing nonresidential buildings should be subject to site plan review. This is a complex issue. In some cases, a small addition to an existing building may have little or no impact, while in other cases a similarly sized addition may have substantial impacts. Many communities require enlargements or additions to go through site plan review if they increase the floor area by a certain number of square feet or a certain percentage of the existing floor area. For example, the requirements may provide that an expansion which increases the total floor area by 1,000 square feet or more than 20% of the existing floor area must go through the site plan review process.

This approach does have a loop hole. To avoid review, an owner may expand in a series of small steps to stay under the review threshold. If this is a concern, this can be addressed through cumulative requirements over a certain period of time (i.e., no more than 1,000 square feet of floor area in any three year period



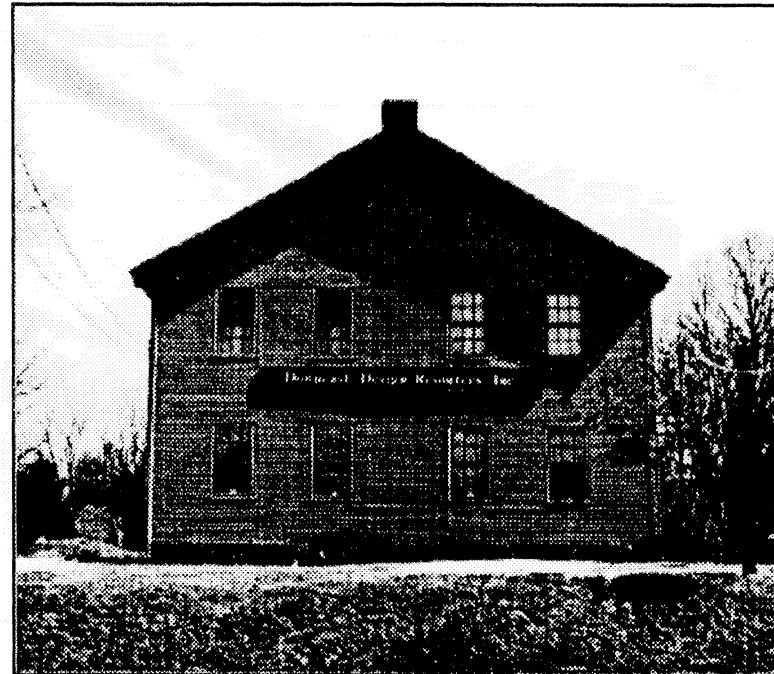
Enlargement of a Nonresidential Building

without review).

In crafting these provisions, remember the basic objective: **require activities that may have a significant impact on the community or neighboring properties to be subject to site plan review.** At the same time, it is important to avoid requiring insignificant activities to go through review.

**CHANGES IN THE USE OF EXISTING BUILDINGS OR STRUCTURES**

Changing the use of an existing building from a residential to a commercial or other nonresidential use may have a significant impact on the community. For example, converting an existing single family home into a gift shop or convenience store will increase traffic, increase stormwater runoff if a parking lot is installed, and impact neighboring properties. Many communities therefore require that the conversion of a residential building to nonresidential use be subject to site plan review.



Home Converted to Office Use

Should changing the use of an existing nonresidential building from one type of business use to another be covered by **site plan review**? The test should be the likelihood that the change in use will cause significant impacts on the community or the neighborhood. Thus a change of occupancy of one store within a shopping center or the change in use of a building from a book store to record/tape shop probably should not be subject to **site plan review**. However, a change from an insurance office into a drive-through takeout restaurant may have serious impacts and therefore should come under review. One way to address this in your **site plan review** provisions is to require a change from one category of use to another category of use (i.e., retail to industrial) go through review but to exempt changes within a category of use (i.e., one type of retail to another retail use).

■ **CONSTRUCTION OF NEW MULTIFAMILY HOUSING OR THE ENLARGEMENT OF EXISTING MULTIFAMILY HOUSING**

Under the State Subdivision Law, the construction or alteration of a building that creates three or more dwelling units within a five-year period is defined as a “subdivision” and must be reviewed by the local planning board under the municipality’s subdivision regulations. Recognizing that the typical subdivision regulations found in most Maine communities do not do a good job of addressing the issues raised by multifamily housing development, the State Subdivision Law exempts multifamily rental housing from



subdivision review if the units are “subject to municipal review at least as stringent as that required...” under the Subdivision Law. This allows municipalities to choose to include multifamily development in their **site plan review** process. Since the potential impacts of this type of use are often similar to those experienced with nonresidential uses, the construction or enlargement of multifamily housing is best included under **site plan review**, but the review process must assure that the review is at least as stringent as it would receive under subdivision review.

■ **EXPANSION OF THE AMOUNT OF IMPERVIOUS OR PAVED SURFACES**

While the construction of buildings or structures is the focus of most **site plan review** regulations, communities should also be mindful of the impacts resulting from the construction of parking lots and other paved or impervious surface areas. Parking lots can significantly increase both the rate and volume of surface runoff, cause contamination of ground and surface waters, and give rise to noise and traffic safety concerns. For these reasons, some communities require that the construction or expansion of parking lots or other impervious surfaces in conjunction with a nonresidential use go through **site plan review**. As with other uses, communities often establish threshold size requirements for these uses.

■ **COMMERCIAL USES OF LAND THAT DO NOT INVOLVE BUILDINGS OR STRUCTURES**

There are some uses of land such as gravel pits or lay down areas that may be important to the community and have potential impacts on neighboring properties. While these types of uses are often best addressed through provisions in a townwide zoning ordinance or a separate ordinance, they can also be included under **site plan review**.

■ **BILEVEL REVIEW PROCEDURES**

While many communities see the desirability of **site plan review** for larger projects or projects which generate significant impacts, communities often are concerned about imposing the burdens of **site plan review** on small scale or low impacts projects. This is a very important concern and the benefits of **site plan review** must be weighed against the costs and processing time imposed on developers and landowners.

One way some communities deal with this concern is to create a two level review process. Small projects with limited impacts are processed through a simplified procedure, while larger projects that may raise significant issues are handled through a more detailed review process. In some ways this is analogous to the distinction between minor and major subdivisions that many communities use in their subdivision review process.

Communities can use bilevel review processes for different types of projects to assure that legitimate issues are addressed. Section 4 looks at various ways differential levels of review can be established.

- SECTION 3. ISSUES**
- Should all new nonresidential buildings go through **site plan review**?
  - Should agricultural buildings be exempted from review?
  - Should provisions be included to exempt some small buildings from review?
  - Should projects that require DEP site location approval be exempted from local review?
  - Should enlargements of nonresidential buildings be reviewed?
  - Should changes of use of an existing building from residential to nonresidential use be reviewed?
  - Should changes of use of an existing building from one category of nonresidential use to another nonresidential use be reviewed?
  - Should increases in paving or impervious surface area be reviewed?
  - Should multifamily housing developments be reviewed as subdivisions or under **site plan review**?
  - Would a bilevel review process change the type of projects included under **site plan review**?