

Proposed amendments to Wilmington's Zoning Ordinance

1.

- A. An individual retail trade use shall not exceed 8,000 square feet of floor area, whether in one building or more than one building.
- B. A grouped retail business use shall not exceed a total of 40,000 in all buildings that constitute the use.
- C. For the purposes of the size limits set forth herein, floor area shall include floor area or floor space of any sort within the building, as well as exterior space used for the sale or storage of merchandise.

2.

Site plan approvals and special use permits will only be granted if the proposed use will have:

- A) No materially adverse impact upon adjoining and nearby properties, and;
- B) No clearly adverse aesthetic impact upon the Town of Wilmington.

Explanation of proposed amendments

1.

Restrictions such as these are permissible under NY law.

2.

This seems to be the most essential portion of the Supreme Court of Appeals' holding in *Wal-Mart Stores Inc. v. Planning Bd. of Town of North Elba*:

“The proposal ... did not satisfy the relevant criteria set forth in the Town Land Use Code, including two of the three specific conditions for obtaining a conditional use permit (namely, those providing that a permit will only be granted if the proposed use “will not have a materially adverse impact upon adjoining and nearby properties,” and “will not result in a clearly adverse aesthetic impact”).

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We have somewhat similar (albeit weaker) language within our code, but we do not have the exact language that “a special use permit will only be granted if the proposed use will not have a materially adverse impact upon adjoining and nearby properties,”

or

“a special use permit will only be granted if the proposed use will not have a clearly adverse aesthetic impact upon the Town of Wilmington.”

Based on the outcome of *Wal-Mart Stores Inc. v. Planning Bd. of Town of North Elba*, the Town of Wilmington will be well-served by adopting Proposed Amendment 2.

Proposed Amendment 3:

Amend Article VI of Wilmington's Zoning Ordinance to add the following:

Visual impact, screening, and setbacks

OBJECTIVE: Ensure that all approved commercial projects preserve and, where possible, enhance the existing natural and aesthetic qualities of the project site and its environs.

GENERAL GUIDELINES:

1. Utilize existing vegetation and topographical features, preserve existing vegetation where possible, and employ careful siting methods so as to minimize the visual impact of all commercial development activities.
2. At least thirty (30) feet of natural vegetation shall be left in its natural or improved state adjoining any public street or highway or any adjoining property not in the same ownership. The Planning Board and the Zoning Board of Appeals may, in their discretion, require additional measures to provide suitable screening, such as additional setbacks, planting, and fencing.

(Adapted from page B-5 and page 502 of Wilmington's previous land use code.)

Proposed Amendment 4:

Amend article VI of Wilmington's Zoning Ordinance to add the following:

Dumpsters:

All hotels, motels, inns, tourist accommodations, vacations rental homes, campgrounds, and similar accommodations with on-site dumpsters or similar waste receptacles (hereinafter "dumpsters") shall insure that their dumpsters are screened from all roadways and adjoining properties with solid fencing. The use of enclosed structures for trash storage is strongly encouraged. Dumpsters shall not be located within 20 feet of any property lines or public roadways.

Thrift Store Ex. 3,800
Whiteface Methodist Church . . Ex. 2,200
Candyman Ex. 3,000+
A&W including pavilion Ex. 2,800
Hungry Trout excluding decks . Ex. 5,200
McDonald's SL In. 2,000

Right wing Mtn View Motel . . . Ex. 3,400
Pour Man's + wings Ex. 12,000 +
Town Highway Shed Ex. 6,200

Little Supermarket Ex. 4,20 0 In. 2,300
Back Brook Gen'l Store. Ex. 3,400 In. 2,300
Top's AuSable Forks Ex. 8,800 In. 5,700
Grand Union SL In. 7,900
Aldi's SL In. 12,400

Kinney LP Ex. 12,600 . . . In. 8,600 excl. Pharmacy
Kinney SL Ex. 13,100 . . . In. 11,000
Walgreen's LP Ex. 11,700 . . . In. 9,500
Walgreen's SL In. 6,800

Aubuchon LP In. 8,400
Ward Lumber Ex. 9,300+ . . . In. 7,200
ADK Hardware Ksvl In. 8,300
Tractor Supply Ray Brook In. 16,400

Family Dollar AuSable Ex. 9,200 . . . In. 7,100
Family Dollar L P Ex. 9,500 . . . In. 6,900
Family Dollar/ \$ Tree Ksvl Ex. 8,800 . . . In. 7,100
Dollar Tree SL In. 7,000
Dollar General SL In. 7,300
Dollar General Ksvl Ex. 9,400 . . . In. 7,600



April 1, 2025

Favor J. Smith, Town Supervisor
Town of Wilmington
7 Community Circle
Wilmington, New York 12997

RE: Town of Wilmington, NY Comprehensive Plan

Dear Mr. Smith:

We understand the Town of Wilmington is seeking to develop a Comprehensive Plan and will seek funding from NYSDOS through the NYS Consolidated Funding Application process. Based on our current understanding, we have prepared the following scope of services and cost estimate. This scope reflects a typical comprehensive planning process consistent with the NYSDOS Smart Growth program, though we recognize each community has unique needs. Should Wilmington proceed with plan development, we would welcome the opportunity to meet with Town officials to create a tailored approach that addresses specific local concerns while aligning with state funding program requirements.

SCOPE OF SERVICES

Task 01 – Comprehensive Planning Committee Meetings

The planning process starts with an initial meeting with an advisory committee appointed by the Town. The Comprehensive Planning Committee (“Committee”) will meet on a regular basis during the planning process to advance the preparation, review, and approval of the Comprehensive Plan, and to organize and conduct community participation events.

LaBella will hold an initial meeting with the Committee at which we will review the project scope and schedule and begin to identify the focus of the Comprehensive Plan, critical issues that need to be addressed, key study elements, and refinement of the public participation strategy. All subsequent meetings will advance the preparation of the Comprehensive Plan and assess the evolution of the project, any new information needed, changes in roles and responsibilities, and next steps.

Deliverables: Meetings held with appropriate parties. Written meeting summaries outlining what has been discussed and understandings reached.

Task 02– Community Participation Plan

We believe the key to a successful planning process is consensus building. It is not necessary that every resident agree with the conclusions of a plan. However, if residents believe that the process was fair and truly inclusive, they will generally support the plan, even if they do not agree with all the recommendations. Our process, therefore, places great emphasis on consensus building and participation techniques to develop support for the plan. It is a planning axiom that “people support the plans they help prepare.”



LaBella will prepare a Community Participation Plan that describes the public outreach and participation efforts that will be conducted during the development of the Comprehensive Plan. We envision the Community Participation Plan at a minimum will include the use of:

- Committee Meetings (6-8 targeted)
- One (1) Community Survey
- Two (2) Community Workshops
 - Visioning Workshop
 - Draft Recommendations Review Session
- A Walking Tour
- A combination of engagement exercises to include stakeholder interviews, focus group meetings, and Saturday Open House/Attendance at a Community Event
- Social media and project website
- An informational brochure/newsletter

All public outreach and participation efforts will be publicized in the community through press releases, announcements, and social media. A summary of each public outreach and participation effort will be made available to the public in written form and through other appropriate means, such as websites.

Deliverables: Draft and final Community Participation Plan.

Task 03 – Community Survey and Stakeholder Interviews

LaBella will develop a relevant and realistic community survey about current local conditions and issues. A digital survey will be made available online and hard copies will be available at community locations such as the public library. In addition, LaBella and the Committee will identify a set of topics that shall be discussed with stakeholders to obtain additional relevant information and elicit stakeholder reactions and suggestions. The input from the survey and interviews will be summarized and analyzed.

Deliverables: Draft and final Community Survey. Draft and final list of topics to be discussed during the stakeholder interviews. Summary and analysis of survey and interview responses.

Task 04 - Review Local and Regional Planning Efforts and Ongoing Initiatives

LaBella will review existing local and regional planning documents and ongoing initiatives. This review process will also include consultation with community leaders to identify common issues and assess if Smart Growth principals are the basis for addressing those issues.

The following plans and laws will be reviewed:

- Town Zoning Ordinance (2013)
- Short-Term Rental Law (2021)
- Local Waterfront Revitalization Plan (LWRP) (2008)
- Wilmington Master Plan (1975)



LaBella will develop a report describing and assessing existing planning documents and the issues and opportunities identified by community leaders.

Deliverables: Written findings report.

Task 05 – Community Profile

This task involves the gathering of key data and development of a foundation of understanding of the Town. This includes the mapping and gathering of the following information:

- Town and APA Zoning
- Orthographic imagery (aerial imagery)
- Topography and Steep Slopes
- Transportation & Infrastructure
- Housing
- Water and Wetland Resources
- Natural & Recreation resources
- Land use and Development Patterns

This task involves the collection and summary of existing conditions information. In some cases, this information will relate directly to the maps prepared above. This task overlaps with stakeholder outreach (as identified by the Committee), which may include local and regional business owners, leaders, agencies, town staff, nonprofits, and/or other community representatives (see Stakeholder Interviews, above).

A Community Profile will be prepared and key information with respect to the issues of interest will be summarized which may include:

- Demographic characteristics (population change, age distribution, household income, etc.)
- Local and regional economic characteristics (unemployment rates and trends, work force characterization, dominant business sector type, major employers, etc.)
- Housing characteristics
- Community services and facilities
- Historic and cultural resources
- Infrastructure (water, sewer, etc.)
- Transportation and Complete Streets
- Recreation and natural resources
- Tourism and the local economy
- Waterfront Revitalization
- Land use and development
- Zoning and other relevant local development controls
- Fiscal resources

Other elements as agreed upon by the Committee.

Deliverables: Community Profile report, including a comprehensive inventory and analysis in the form of relevant data, narrative, maps, and graphics.



Task 06– Community Visioning Workshops

LaBella will conduct two (2) public workshops that will inform the public about the findings of the planning process, present a clear assessment of how Smart Growth policies are integrated in the municipality's planning efforts, governmental decisions, and ongoing initiatives, and will solicit public input on existing resources, community character, and future land use and growth. The first workshop will be an informational Visioning Session to be conducted early in the planning process. This workshop will provide opportunities for the public to learn about the overall comprehensive planning process, review Draft Community Profile results, and help the Town identify key stakeholders for the Committee and LaBella Team to meet. In addition, the meeting will provide opportunities for the public to discuss their overall ideas, issues, concerns, and recommendations with the Committee and LaBella Team and help begin building a possible Vision for the Town. This may include breakout groups where participants address community:

- Strengths, Attributes, and Advantages
- Issues, Challenges, and Conflicts
- Opportunities, Solutions, and Projects

The second workshop will focus on goals and recommendations to be included in the final plan. LaBella will graphically present the results of the survey, stakeholder meetings, and the final Community Profile. Attendees will provide feedback on key issues with the goal of providing direction and feedback on goals and recommendations/projects.

Each workshop shall be advertised with generous advance notice to garner maximum publicity, awareness, and participation.

Deliverables: Published workshops announcements and flyers. Materials prepared for each public workshop. Workshop summaries.

Task 07– Draft Comprehensive Plan

LaBella will prepare a Draft Comprehensive Plan that synthesizes the planning process and initiatives outlined in the previous tasks. Specifically, it will include a summary of the planning and public participation process, an inventory of existing conditions, and a series of study area goals and recommendations. The draft will also include a detailed strategy for implementing the community's Smart Growth policies, concepts, projects, and programs. This includes a phased implementation approach as well as anticipated costs and priorities. The document will be distributed to the Committee for review and comment. Based on comments received, we will revise the draft accordingly.

Deliverables: Draft Comprehensive Plan, including relevant data, narrative, maps, and graphics.

Task 08– Review by the Town Board

LaBella will present the draft Comprehensive Plan to the Town Board for review, comments, and recommendations. The comments received from the local municipal board shall be addressed before the initiation of the SEQRA compliance process. The comments and



recommendations prepared by the local governing board shall be addressed and incorporated into the final plan and prior to making the draft available for public review.

Deliverables: Comments and recommendations received from the local municipal board incorporated into the Final Comprehensive Plan.

Task 09– Environmental Quality Review

LaBella will assist in the preparation of materials necessary for compliance with the State Environmental Quality Review Act (SEQRA). The adoption of a new or amended Comprehensive Plan is classified as a Type I action, pursuant to the State Environmental Quality Review Act (SEQRA) and 6 NYCRR Part 617. The LaBella Team will assist the Town Board with full SEQRA compliance, including designation of Lead Agency, necessary resolutions, determination of significance, and referrals.

A Generic Environmental Impact Statement (GEIS) is not included as part of this scope of work. It is the professional opinion of the LaBella Team that a Full Environmental Assessment Form (EAF) will be more than adequate to review all proposed land use actions in the Plan. A GEIS is a much more significant undertaking and is not feasible within the allocated budget, nor do we believe it to be necessary to adequately comply with SEQRA and evaluate Plan recommendations. If a GEIS is to be required by the Town, a revised Scope of Work and Budget will be necessary.

Deliverables: SEQRA documents.

Task 10– County Planning Board Referral

Upon referral of the Comprehensive Plan to the Town Board from the Committee, the Town Board will refer the Comprehensive Plan to the Essex County Planning Board for review and recommendations pursuant to Section 239-m of the New York State General Municipal Law. Comments received from the Essex County Planning Board shall be addressed in the final version of the Comprehensive Plan.

Deliverables: Referral of the Comprehensive Plan to the County Planning Board; Review of all Planning Board comments and identification of necessary Plan Revisions.

Task 11 –Adirondack Park Agency Referral

Upon referral of the Comprehensive Plan to the Town Board from the Committee, the Town Board will refer the Comprehensive Plan to the Adirondack Park Agency (APA) for review, comments, and Agency guidance and assistance to ensure regulatory alignment. Any comments and recommendations from the APA will be addressed and incorporated into the final plan and prior to making the draft available to the public.

Deliverables: Referral of the Comprehensive Plan to the APA; Review of all APA comments and identification of necessary Plan Revisions.

Task 12 - Final Comprehensive Plan

Based on the comments received at the public hearing and the Committee's comments, LaBella will finalize the Comprehensive Plan. The Plan will be presented to the Town Board



for adoption. LaBella will attend a Town Board meeting and a hearing and will respond to comments. LaBella will produce an electronic copy and five (5) printed copies of the final Comprehensive Plan.

Deliverables: Final Comprehensive Plan ready for local adoption.

Task 13 - Public Hearing and Local Adoption

LaBella will coordinate with the Committee and Town to conduct a public hearing to present the Draft Comprehensive Plan and solicit comments on its content. LaBella will prepare the meeting materials that illustrate the Plan recommendations.

Notice of the public hearing will be published in a newspaper of general circulation in the community at least ten calendar days in advance of the hearing. The proposed Comprehensive Plan will be made available for public review during said period on the municipal website. The public hearings will also be publicized in the community through press releases, announcements, and other appropriate means.

Upon completion of the Town Board public hearing, LaBella and the Town Board will review any comments received and determine if further revisions to the Plan are necessary. One (1) additional Final Draft Plan will be prepared for adoption. We will also assist with preparing the adoption resolution.

Deliverables: Draft and revised draft summary of comments received; One (1) revised Final Draft Plan for adoption; Draft and revised draft adoption resolution.

Task 14 - MWBE Reporting

LaBella will assist the Town with required MWBE reporting as follows:

- Submit Form C - Workforce Employment Utilization to report the actual work force utilized for this contract broken down by specified categories (every March 31, June 30, September 30 and December 31).
- Submit Form D - MWBE Utilization Plan to indicate any state-certified MWBE firms selected to work on this contract. Form D must be updated and submitted to the Department whenever changes to the selected MWBE firms occur (addition or removal).
- Record payments to MWBE subcontractors using DOS funds through the New York State Contract System (NYSCS).

Deliverables: Ongoing reporting through NYSCS during the life of the contract; Form C submitted on a quarterly basis and Form D submitted as necessary.



BUDGET

We recommend that the Town budget \$90,000 for professional service for this effort.

TASKS		FEE
1	Comprehensive Planning Committee Meetings	\$ 10,000.00
2	Community Participation Plan	\$ 1,500.00
3	Community Survey & Stakeholder Interviews	\$ 12,000.00
4	Review of Local/Regional Planning Efforts & Ongoing Initiatives	\$ 1,500.00
5	Community Profile	\$ 10,000.00
6	Community Visioning Workshops	\$ 15,000.00
7	Draft Comprehensive Plan	\$ 20,000.00
8	Review by Town Board	\$ 1,500.00
9	Environmental Quality Review	\$ 1,500.00
10	County Planning Board Referral	\$ 500.00
11	Adirondack Park Agency Referral	\$ 500.00
12	Final Comprehensive Plan	\$ 9,300.00
13	Public Hearing & Local Adoption	\$ 3,000.00
14	MWBE Reporting	<i>No Charge</i>
	Expenses	\$ 3,700.00
	Total	\$ 90,000.00

Respectfully submitted,

LaBella Associates

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