

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

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STATE RECORDS

APR 14 2017

**Town of Colonie**

Local Law No. 3 of the year 2017

DEPARTMENT OF STATE

A local law establishing Chapter 191 of the Code of the Town of Colonie and the zoning map for the creation of the "First Prize Center Redevelopment Overlay Zoning District."

**Be it enacted by the Town Board of the Town of Colonie as follows:**

**SECTION 1. ENACTMENT.**

A. The Town Board of the Town of Colonie in the County of Albany, New York does hereby enact this Local Law under and pursuant to the General Municipal Law, the Town Law and the Municipal Home Rule Law of the State of New York.

B. The Common Council of the City of Albany in the County of Albany, New York does hereby enact this Local Law under and pursuant to the General Municipal Law, the General City Law and the Municipal Home Rule Law of the State of New York.

**SECTION 2. CREATION OF INTERMUNICIPAL OVERLAY DISTRICT.**

Chapter 191 of the Town of Colonie Code and Chapter 375-2 (F)(7) of the City of Albany Code is hereby created as follows:

**Chapter 191 - First Prize Center Redevelopment Overlay Zoning District**

§191-1 - Legislative Purpose and Intent.

The property, as described and/or depicted on Attachment 1, has been a long vacant industrial property bisected by the municipal borders of Town of Colonie and the City of Albany. The property formerly housed Tobin's First Prize meat processing and packaging facility, where meat packing activities were conducted, and has been significantly deteriorating since its closure decades ago. Several redevelopment opportunities have been explored over the years with no tangible results. One of the primary reasons cited for the lack of interest and or ability to redevelop the site is the uncertainty that results from the property being located in two separate municipalities and subject to two separate and complex land use approval processes.

Consistent with their respective Comprehensive Plans, the Town Board of the Town of Colonie and the Common Council of the City of Albany each desire to facilitate redevelopment of this vacant and deteriorating property. Redevelopment, through replanning, and demolition and reconstruction where appropriate will promote and encourage the elimination of blight in this

Consistent with their respective Comprehensive Plans, the Town Board of the Town of Colonie and the Common Council of the City of Albany each desire to facilitate redevelopment of this vacant and deteriorating property. Redevelopment, through replanning, and demolition and reconstruction where appropriate will promote and encourage the elimination of blight in this area and promote economic growth. Maximum flexibility for future redevelopment is to be encouraged.

City of Albany Comprehensive Plan §3.1, which encourages ways to make the City attractive for business development and appealing to regional economic development practitioners, states:

[C]reation of new zoning or overlay districts, density evaluation and adjustment to bring about desired community vision, elimination of existing zoning districts that are obsolete or ineffective, and rezoning of areas of the City to existing or new districts. Form-based codes should be considered... and [p]romote development patterns that include walkable streets, compact, mixed use development, public spaces, and context sensitivity to historic design and development.

Town of Colonie Comprehensive Plan, §3.3, states:

Many opportunities exist within the Town of Colonie to regenerate and revitalize once vital industrial areas. Locations that are underutilized or even unused today, such as the First Prize Center ... could be returned to productive use. Trying to recreate value in these areas is consistent with the notion that the Town of Colonie cannot look at its remaining undeveloped land for all or most of its future development opportunities. The future revitalization of these areas should be viewed as a critical economic development opportunity... Success with this type of initiative will help the Town maintain its fiscal balance, making it possible to fund necessary services and desired quality of life improvements.

It is the purpose of this chapter to promote the health, safety, convenience and general welfare of the residents of the City and the Town by establishing a single intermunicipal zoning district applicable to the covered area which promotes and encourages economic development in both municipalities through an integrated mix of planned commercial and residential uses designed and constructed using smart growth principles. This intermunicipal zoning district encourages a mix of uses within multiple-story buildings and structures, encourages a high density of building structures and uses to create a village-like or urban setting, promotes pedestrian and other non-vehicular access between uses and provides sufficient separation and buffering from properties neighboring the zoning district to protect the existing character of existing land uses surrounding the district.

This chapter is intended to promote intergovernmental cooperation to increase coordination and effectiveness of comprehensive planning and land use regulation, make more efficient use of infrastructure and municipal revenues, as well as the enhanced protection of community resources, especially where such resources span municipal boundaries.

It is the intent of this chapter to create an intermunicipal overlay zoning district, and a set of self-contained regulations to apply to any future redevelopment that occurs within the zoning overlay

district. The City and the Town will accomplish this vision through creation of the First Prize Redevelopment Overlay Zoning District.

The requirements of this chapter are intended to be the only land use requirements to apply within the zoning overlay district, except as provided in this chapter, and such requirements shall supersede any zoning requirements and other land use regulations that would otherwise apply in the absence of this chapter. The provisions of this chapter shall be broadly interpreted to promote the Town's and the City's vision and goals as set forth herein, to ensure orderly development and to satisfy the legislative intent of this Local Law.

This chapter is adopted pursuant to, and in furtherance of, an Intermunicipal Agreement between the City of Albany and Town of Colonie, executed on the \_\_\_ day of \_\_\_, 2017 (the "Intermunicipal Agreement").

This chapter may not be changed unilaterally by the Town of Colonie or the City of Albany. Any modification of this chapter shall be subject to Section 13 of the Intermunicipal Agreement.

§191-2 - Establishment of First Prize Center Redevelopment Overlay Zoning District.

A. The Town Board and Common Council hereby create an intermunicipal Zoning District entitled First Prize Center Redevelopment Overlay Zoning District ("Redevelopment Overlay Zone" or "Site").

B. The property depicted on Attachment 1 is hereby designated as the Redevelopment Overlay Zone and the City and Town Zoning Maps are hereby amended accordingly.

C. The Town Board and the City Council hereby adopt a concept redevelopment plan ("Concept Plan") for the Redevelopment Overlay Zone as contained in Attachment 2 hereto. Such Concept Plan may be amended from time to time as provided herein:

1) Subject to the limitations set forth in §191-2(C)(2) below, the actual mix and location of uses and other features of the Concept Plan, including access drives, shall be proposed by the Applicant in connection with each Phase(s), subject to site plan review.

2) Establishment of uses other than those listed in §191-4 or changes to the boundaries of the Development Envelope or the Buffer Area (except access drives approved as part of site plan review) shall not be permitted except by amendment to this chapter duly adopted by the Town and City.

3) Any changes made to the Concept Plan as provided herein, including approved Phase(s), shall become part of this chapter.

§191-3 - Applicability.

A. These regulations shall apply to all or any redevelopment, construction, erection, location or expansion of any use, including any building, structure or appurtenant system, as herein provided for in the First Prize Center Redevelopment Overlay Zone as shown on the Concept Plan (hereinafter, all or any part of same, the "Project").

B. No redevelopment shall be undertaken in the First Prize Center Redevelopment Overlay Zone except in conformity this chapter, including the Concept Plan. The Concept Plan may be constructed or otherwise undertaken in one or more phases (hereinafter, "Phase" or "Phases"). This chapter contains the only zoning or land use requirements applicable in the First Prize Center Redevelopment Overlay Zone. No other zoning or land use requirements or provisions of either the City or Town zoning or land use requirements shall apply, including, but not limited to any such requirements relating to subdivision, demolition and outdoor uses. In the event that the Town or City zoning and land use laws contain a zoning requirement or provision not otherwise contained in, or which is in conflict with, the First Prize Center Redevelopment Overlay Zone, the requirements of this chapter shall govern.

C. Permits and/or approvals required. No use may be established and no development may be commenced without first obtaining site plan approval or other required permits and/or approvals pursuant to the requirements of the First Prize Center Redevelopment Overlay Zone and the Intermunicipal Agreement, including, but not limited to compliance with applicable SEQRA requirements, and grading and clearing permits.

§191-4 - Permitted Uses.

A. The principal uses shown on the Concept Plan, which are the same as the principal uses listed in the Permitted Use Table below, shall be permitted as of right in the First Prize Center Redevelopment Overlay Zone. If a use is not listed in the Permitted Use Table, it shall be prohibited. Multiple principal uses shall be permitted on a single lot, or multiple lots, and may be bisected by the Town/City municipal border.

B. Permitted Use Table - The following uses are permitted:

- 1) Hotels
- 2) Banquet Centers
- 3) Restaurants
- 4) Retail
- 5) Residential
- 6) Theaters
- 7) Health Clubs/ Indoor recreation
- 8) Entertainment
- 9) Grocery stores/Supermarkets
- 10) Amphitheaters and parks/cultural entertainment facilities
- 11) Offices
- 12) Parking and multi-level parking structures
- 13) Any other use proposed which the Consolidated Zoning Board determines is consistent with and furthers the intent of this First Prize Center Redevelopment Overlay Zone

C. Permitted accessory uses shall be as follows:

- 1) All structures or uses which are subordinate to and serve a principal building or principal use shall be permitted.

§191-5 - Area and Bulk Requirements.

A. The Project shall be constructed within the overall development envelope shown on the Concept Plan ("Development Envelope"), and the remainder of the Site (except for access drives through such area to neighboring public streets) shall be utilized as a buffer from surrounding properties and uses ("Buffer Area"). Provided that the Buffer Area is maintained as provided for herein, there shall be no yard setback requirements, or building or structure coverage limitation, provided however, that in all areas of the First Prize Center Redevelopment Overlay Zone where there is an internal roadway, a sidewalk meeting the requirements of the Town must be constructed between such roadway and the ground floor of such adjoining building or structure.

B. Maximum building height: 185 feet

C. Parking.

1) Parking shall be provided in accordance with the applicable industry standards and practices for mixed-use projects, taking into account the use or uses proposed in connection with each Phase. Such standards shall include shared parking facilities.

- 2) The applicant shall demonstrate the fact that adequate and convenient parking is being provided and accessible to the proposed uses in connection with each Phase.
- 3) The Consolidated Planning Board may waive the requirements and allow the number of spaces deemed necessary, and their location relative to the use in connection with each Phase.
- 4) Parking may be provided for any use or uses on one or more lots within the First Prize Center Redevelopment Overlay Zone.

D. Landscaping

Landscaping for the particular Phase under review shall be subject to the standards and criteria set forth in §191-7(B)(5).

§191-6 - Powers of Consolidated Planning Board.

A. The Consolidated Planning Board shall have the powers set forth in the Intermunicipal Agreement.

B. Each Phase of the Project, including the location and mix of uses, shall be subject to site plan review by the Consolidated Planning Board.

§191-7 - Site Plan Review Standards and Procedure.

A. Application for site plan review. An application for site plan review must be made to the Consolidated Planning Board on a prescribed Consolidated Planning Board application form. Attached as Attachment 3 is the application form to be utilized. The application form shall be presumed the minimum required information and documentation, however, the Consolidated Planning Board may, at its discretion, require the submission of such additional information as it deems necessary to conduct its review, or waive information it determines is not needed. The Consolidated Planning Board shall have the authority to modify the application form in its discretion to further the purposes and intent of this Local Law.

B. Site Plan Review Standards and General Criteria. The Consolidated Planning Board shall review a site plan application in accordance with the requirements below:

1) Conformance with the Concept Plan. The Phase must substantially conform with the Concept Plan.

2) Traffic access and roads. All proposed intersections with public roads shall be adequate but not excessive in number; adequate in width, paving, grade, alignment and visibility. Necessary traffic signalization, signs, dividers and other safety controls, devices and facilities shall be given proper consideration and duly provided wherever appropriate or warranted.

3) Pedestrian safety and access. Safe, adequate and convenient pedestrian access and circulation shall be provided both within the Site and to adjacent public roads.

4) Circulation and parking. Off-street parking shall be provided as set forth in §191-5(C). The interior circulation system shall be adequate to provide safe accessibility to, from and within all required parking areas. Parking on streets internal to the Site shall be permitted, subject to Consolidated Planning Board approval. The location and design of loading spaces shall not unreasonably interfere with neighboring off-site uses.

5) Screening and landscaping. All structures and recreational, parking, loading, public and other service areas shall be reasonably landscaped and/or screened so as to provide adequate visual and noise buffers from neighboring off-Site uses. The scale and quality of the landscaping and screening on Site shall be harmonious with the character of the neighborhood abutting the landscaped and/or screened area.

6) Drainage. A storm drainage system which demonstrates affirmative compliance with the form, scope and substance of all applicable design criteria shall be provided to accommodate expected loads from the tributary watershed. Drainage shall be conducted to a point of adequate and suitable disposal. Where appropriate, stormwater control shall be provided so as to retain the same rate of off-Site runoff as the existing condition.

7) Water/Sewer. Each Phase shall be connected to the existing municipal water and sewer systems currently serving the Site. The applicant shall be required to construct

the on-Site improvements necessary to assure that such systems are able to satisfactorily accommodate the use.

- 8) Lighting. All site lighting shall be designed and installed so as not to unreasonably interfere with neighboring off-Site uses properties.
- 9) Fire protection. All proposed structures, service areas, fire lanes, water distribution lines, hydrants, equipment and material shall be adequate and readily accessible for the protection of the proposed uses from fire. Sufficient water supply for fire-fighting purposes shall be provided.
- 10) Impact of the Project on adjacent land uses. Adjacent and neighboring off-Site properties shall be protected against noise, glare, unsightliness or other objectionable features. Where a proposed use is nonresidential which would adjoin a residential area, the Planning Board shall minimize the impact of the proposed use on such off-Site residential properties.
- 11) Signage. Signage for the particular Phase under review shall be as provided herein.
  - a. Signage located on the south side of the Redevelopment Overlay Zone and facing the highway (I-90) and/or Everett Road will be consistent with existing other signage along I-90.
  - b. Signage that faces internally within the Redevelopment Overlay Zone may differ from other areas of the Site, as long as not visible from properties to the north of the Redevelopment Overlay Zone.
  - c. Signage located on the north side of the Redevelopment Overlay Zone and facing outward to Exchange Street will comply with the Town of Colonie regulations pertaining to signage.

C. Waivers. An applicant may request, in writing, a waiver or modification of any of the site plan review standards herein. The Consolidated Planning Board may waive or otherwise modify such standards, or requirements, as the case may be, upon a finding that such action is appropriate to further the spirit and intent of this Local Law.

#### §191-8 - Powers of Consolidated Zoning Board of Appeals.

- A. The Consolidated ZBA shall have the powers set forth in the Intermunicipal Agreement.
- B. To the extent that the powers set forth in such laws are capable of differing interpretations, the Consolidated ZBA shall adopt and follow the interpretation that most furthers the purposes and goals of redeveloping the Site into the Project.

§191-9 - Administration and Enforcement.

The provisions of this Local Law shall be administered and enforced as provided herein.

§191-10 - Definitions.

**RESIDENTIAL USE** - The use of all or a portion of a building or structure arranged, intended or designed to be occupied by three or more resident households living independently of each other. An apartment building and multiple or multifamily dwellings are the same type of structure. Residential use shall include owner-occupancy or for rent.

**HEALTH CLUBS/INDOOR RECREATION** - An establishment that offers facilities, equipment and programs for exercise, weight loss and/or body development provided that, in order to be within the scope of this definition, any such use that requires a license to operate must demonstrate that it has or is qualified to obtain such a license. Food items may be offered. Outdoor athletic courts and facilities are permitted and may be included with a health club and/or indoor recreation use.

**HEIGHT** - The vertical distance from the average ground level of the foundation of the building or structure to the highest point of the roof, unless otherwise specified herein, provided that chimneys, spires, towers, elevators, penthouses, tanks, HVAC, and similar projections shall be excluded from such calculation.

**HOTEL** - A building in which lodging is provided and offered to the public, which is customarily open to transient guests, and which may include ancillary facilities and services such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities. A hotel unit may contain a kitchen for extended stay lodgings. Outdoor athletic courts and other outdoor facilities are permitted and may be included with a hotel use.

**RESTAURANT** - A building or structure or portion thereof, arranged, intended or designed for the preparation and service of meals at tables or counters. A restaurant shall include banquet halls.

**RETAIL** - Establishments engaged in the sale of goods, merchandise and services to the public and rendering services incidental to the sale of such goods.

**THEATER** - A building or space, or portion thereof, used for cultural education and experiences, motion pictures, live productions, or other entertainment, including, but not limited to; museums, art galleries, aquariums, amphitheaters, theaters, cultural entertainment facilities and performance halls.

**OFFICES** - Any building or part of a building where the principal use is the operation of a business, administrative, governmental, public utility, sales, professional, or other business or services.

**MULTI-LEVEL PARKING STRUCTURES** - A structure used for parking or temporary storage of motor vehicles on more than one floor.

**SECTION 3. SUPERSESSION.**

This Local Law shall supersede all other local laws and ordinances of the Town of Colonie and the City of Albany applicable to the Site that are inconsistent with the provisions of this Local Law.

**SECTION 4. SAVINGS CLAUSE.**

If any clause, sentence, paragraph, word, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder, thereof, but shall be confined in its operation of the clause, sentence, paragraph, or section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**SECTION 5. SEQR DETERMINATION.**

The Town hereby determines that this amendment is a Type 1 action that will not have a significant effect on the environment and, therefore, no other determination or procedure under the State Environmental Quality Review Act ("SEQR") is required.

**SECTION 6. EFFECTIVE DATE.**

This Local Law shall take effect immediately upon filing with the Secretary of State's Office.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2017 of the **Town of Colonie** was duly passed by the Town Board on March 23, 2017 in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer'.)**

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (Town) of was duly passed by the on 20\_, and was (approved)(not disapproved)(repassed (Name of Legislative Body) after disapproval) by the and was deemed duly adopted on 20 in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (Town) of was duly passed by the on 20\_, and was (approved)(not disapproved)(repassed after (Name of Legislative Body) disapproval) by on 20 Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on I 9 in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (Town) of was duly passed by the (Name of Legislative Body) on 20 and was (approved)(not disapproved)(repassed after (disapproval) by the on 20 Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20 in accordance with the applicable provisions of law.

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**\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2017 of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 2017, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2017 of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 2017, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.



Clerk of the Town or officer designated by local legislative body

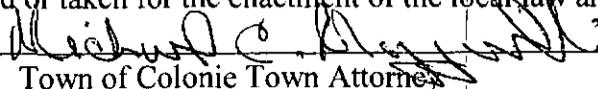
(Seal)

Date: 03-28-17

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF ALBANY

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Town of Colonie Town Attorney

Date: 3/30/17