

**TOWN OF POMFRET, NEW YORK  
ZONING BOARD OF APPEALS APPLICATION**

**USE VARIANCE**

*It is the responsibility of the applicant to complete this form in its entirety, including all required attachments, and as precisely as possible. Failure to submit a complete application may result in a delay in being placed on a Zoning Board of Appeals agenda or a delayed decision from the Zoning Board.*

**PROPERTY ADDRESS:** \_\_\_\_\_

**COUNTY TAX MAP IDENTIFICATION NUMBER:** \_\_\_\_\_

**APPLICANT INFORMATION**

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_  
City State ZIP

FAX \_\_\_\_\_ E-MAIL \_\_\_\_\_

**OWNER INFORMATION** *(complete only if applicant is not the owner of the property)*

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_  
City State ZIP

FAX \_\_\_\_\_ E-MAIL \_\_\_\_\_

**RELATIONSHIP OF APPLICANT TO PROPERTY:**

\_\_\_ CONTRACT PURCHASER  
\_\_\_ ARCHITECT/ENGINEER

\_\_\_ CONTRACTOR  
\_\_\_ LESSEE

XX

**OFFICE USE ONLY**

RECEIVED BY: \_\_\_\_\_ DATE/TIME RECEIVED: \_\_\_\_\_

FEE AMOUNT: \_\_\_\_\_ CHECK/MONEY ORDER #: \_\_\_\_\_

ZONING: \_\_\_\_\_ FEE TRANSMITTAL DATE: \_\_\_\_\_

HEARING DATE: \_\_\_\_\_ DEADLINE DATE: \_\_\_\_\_

**BRIEF DESCRIPTION OF PROPERTY** (historic use of property, property ownership, current use)

---

---

---

---

---

**DESCRIPTION OF PROPOSED ACTION** (include specific use proposed, # of employees, hrs, etc)

---

---

---

---

---

---

---

**USE VARIANCE STANDARDS:**

*Application for use variances must be based on alleviating a clearly demonstrated hardship, as opposed to a special privilege of convenience sought by the owner (hardship can not be self-created).*

*Furthermore, the hardship must be unique to the land or building in question and must not generally apply to a substantial portion of the land throughout the district or neighborhood or alter the essential character of the neighborhood.*

**DESCRIPTION OF HARDSHIP** (describe the features or conditions of the property that restrict reasonable use of the property under current zoning regulations. Please demonstrate that there is a lack of substantial reasonable return i.e.; competent financial evidence)

---

---

---

---

---

---

---

**COMPATIBILITY WITH NEIGHBORHOOD** (describe the manner in which the proposed use is unique to the property, will be consistent with adjoining development, will not cause substantial injury to neighboring properties or alter the essential character of the neighborhood in any way)

---

---

---

---

---

---

---

**APPLICATION ATTACHMENTS:**

*To insure appropriate and timely review of the application, please provide the following additional documentation in support of the application. Failure to provide all of the applicable materials listed below may result in a delay in scheduling the application for review or Hearing by the Zoning Board of Appeals.*

- \_\_\_ \$100.00 application fee (check or money order only payable to Town of Pomfret)
- \_\_\_ Detailed site plan (see sample on following page)
- \_\_\_ Detailed drawings for parking layout, landscaping and signage
- \_\_\_ Photographs of existing conditions

**APPLICANT /OWNER AFFIRMATION:**

I, THE UNDERSIGNED, DO HEREBY AFFIRM THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND I FURTHER UNDERSTAND THAT INTENTIONALLY PROVIDING FALSE OR MISLEADING INFORMATION IS GROUNDS FOR IMMEDIATE DENIAL OF MY APPLICATION.

FURTHERMORE, I UNDERSTAND THAT I (OR A DESIGNATED REPRESENTATIVE) MUST BE PRESENT AT THE HEARING TO REPRESENT THE APPLICATION AND RESPOND TO ANY QUESTIONS FROM THE ZONING BOARD OF APPEALS MEMBERS.

|                       |       |
|-----------------------|-------|
| _____                 | _____ |
| Signature (Applicant) | Date  |

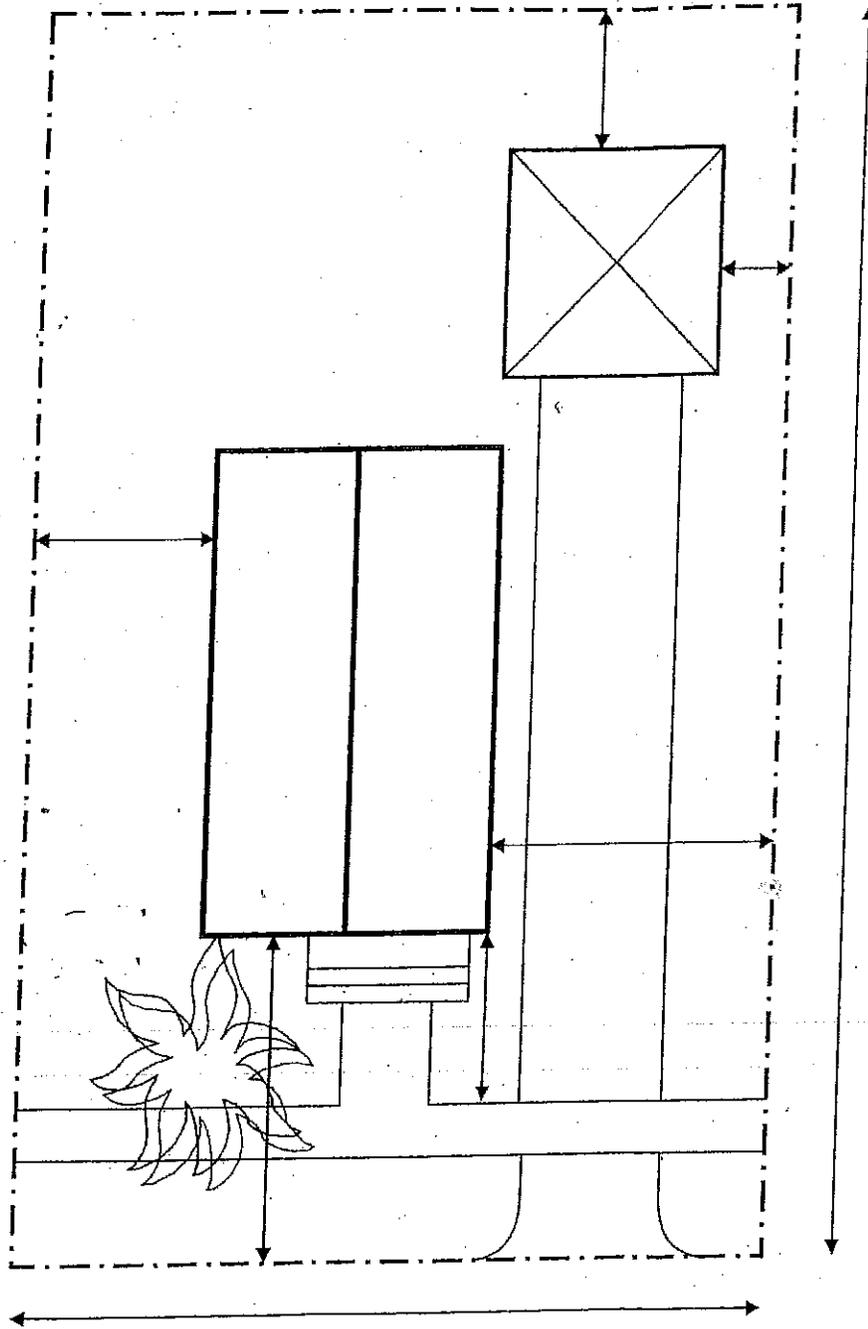
**IF APPLICANT IS NOT THE OWNER OF RECORD FOR THE SUBJECT PARCEL:**

I, THE UNDERSIGNED, HEREBY AFFIRM THAT I AM THE OWNER OF RECORD FOR THE SUBJECT PARCEL AT THE TIME OF APPLICATION. FURTHERMORE, I AM FAMILIAR WITH THE REQUEST BY THE APPLICANT AND AUTHORIZE SAID APPLICANT TO REPRESENT THE INTEREST OF THE OWNDER(S) IN FURTHERANCE OF THE REQUEST.

|                   |       |
|-------------------|-------|
| _____             | _____ |
| Signature (Owner) | Date  |

|                   |       |
|-------------------|-------|
| _____             | _____ |
| Signature (Owner) | Date  |

**DETAILED SITE PLAN (SAMPLE)**



**MANDATORY REFERRAL  
TO  
CHAUTAUQUA COUNTY  
PLANNING BOARD**

In accordance with General Municipal Law 239-1 and 239-m, before issuing a special use permit or granting a variance affecting any real property lying within a distance of 500 feet of the boundary of this municipality or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, the matter shall be referred to the Chautauqua County Planning Board.

Within 30 days after receipt of the full statement of such referred matter, the Chautauqua County Planning Board to which the referral is made, or an authorized agent of said agency, shall report its recommendations thereon to the Board of Appeals, accompanied by a full statement of the reasons for such recommendations. If the Chautauqua County Planning Board fails to report within such period of 30 days, the Board of Appeals may act without such report. If the Chautauqua County Planning Board disapproved the proposal, or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendations except by a vote of a majority plus one of all members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.

Within seven (7) days after final action by the Board of Appeals, modifications or disapproval of a referred matter, the Board of Appeals shall file a report of the final action it has taken with the Chautauqua County Planning Board which had made the recommendations, modifications or disapproval.

Matters to be referred to Chautauqua County Planning Board:

- adoption or amendment of a zoning map or regulations
- adoption or amendment of a comprehensive plan
- issuance of special use permits
- approval of site plans
- granting or use of area variances
- other authorization which a referring body may issue under the provisions of any zoning or local law

Through a legal agreement with Chautauqua County Planning Board the Town of Pomfret Zoning Board of Appeals have had the following actions exempt from referral for County review:

**Residential Area Variances:**

- Rear & Side Building Setbacks
- Fences
- Decks
- Minimum Building Size
- Minimum Building Lot Size
- Size & Height of Garages
- Number of Storage Sheds
- Subdivision of Lots

**Special Use Permits:**

\*Renewals (only)

# CHAUTAUQUA COUNTY MUNICIPAL ZONING REFERRAL FORM

July 2009

SEND TO:  
CHAUTAUQUA COUNTY PLANNING BOARD  
c/o COUNTY PLANNING DIVISION  
200 HARRISON ST.  
JAMESTOWN, NY 14701

|                           |       |
|---------------------------|-------|
| FOR COUNTY USE ONLY:      |       |
| MUNICIPALITY:             | _____ |
| DATE RECEIVED:            | _____ |
| POSTMARK DATE:            | _____ |
| HEARING DATE:             | _____ |
| DECISION DATE:            | _____ |
| DATE COUNTY RESPONSE SENT | _____ |

**1. TYPE OF ACTION:**

- |  |   |
|--|---|
| <input type="checkbox"/> Zoning Ordinance or Local Law (Adopt / Amend) | <input type="checkbox"/> Site Plan Approval |
| <input type="checkbox"/> Comprehensive Plan (Adopt / Amend)            | <input type="checkbox"/> Special Use Permit |
| <input type="checkbox"/> Use Variance                                  | <input type="checkbox"/> Area Variance      |

**2. REASON FOR REFERRAL:** affects property lying within 500 feet of: (Please check all that apply.)

- |   |  |
|---|--|
| <input type="checkbox"/> Municipal Boundary * (name) _____                      | <input type="checkbox"/> County or State Road Route # _____  |
| <input type="checkbox"/> County-Owned Drainage Channel                          | <input type="checkbox"/> Operating Farm Located in a State Certified Ag District (except area variances) |
| <input type="checkbox"/> Existing/Proposed County/State Park or Recreation Area | <input type="checkbox"/> County or State owned land with Public Bldg.                                    |

\* Has neighboring municipality been notified 10 days prior of hearing date for special use permit, use variance, or site plan approval per NYS Gen. Municipal Law 239-nn?  Yes  No  Not Applicable

**3. NAME OF APPLICANT:** \_\_\_\_\_

**TAX PARCEL #:** Sect \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_ ; Sect \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_ ; Sect \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

**STREET ADDRESS:** \_\_\_\_\_ **ZONING DISTRICT:** \_\_\_\_\_

**4. GENERAL DESCRIPTION OF PROPOSED PROJECT** IN ENOUGH DETAIL TO ALLOW THE COUNTY PLANNING BOARD TO EVALUATE ITS POTENTIAL IMPACTS -- INCLUDE CONCERNS IDENTIFIED BY REFERRING MUNICIPALITY (attach additional page if needed).

\_\_\_\_\_  
\_\_\_\_\_

**5. SUPPORTING DOCUMENTS:** Please check all information requested below, unless not required by your board to make its decision, and **attach**:

- |  |   |
|--|---|
| <input type="checkbox"/> Completed Environmental Assessment Form   | <input type="checkbox"/> Basic sketch of the proposal                       |
| <input type="checkbox"/> Location map with scale   | <input type="checkbox"/> Copy of applicable zoning ordinance or law section |
| <input type="checkbox"/> In the case of the adoption or amendment of a zoning ordinance or local law, the complete text of the proposed ordinance or local law as well as all existing provisions. |   |
| <input type="checkbox"/> Other(s) _____  |   |

**6. WHY ACTION IS NEEDED** (e.g. 5 foot side yard request while law requires 10 feet; required parking not provided; not use by right; use not allowed in district, etc. -- attach page if additional space needed):

\_\_\_\_\_  
\_\_\_\_\_

**7. PREVIOUS REQUEST:** Has this request been made in the past?  Yes  No If yes, why was it denied/withdrawn?

\_\_\_\_\_  
\_\_\_\_\_

( over )

**8. WETLANDS/PROTECTED WATER BODIES/FLOOD ZONE//DRAINAGE:**

Is land in question in a designated state\* or federal wetland?  Yes  No  Unknown

\* ( If unknown, this information can be obtained from the NYS DEC at (716) 372 - 0645 )

Will the project result in disturbance of land within 50 feet of the bed or banks of a protected water body?

Yes  No  Unknown

Is land in question within a flood zone as shown on National Flood Insurance rate maps?

Yes  No  Unknown

Will project result in short or long-term drainage problems?

Yes  No  Unknown

**9. STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR) : (Please check all that apply.)**

Type I action (Requires long Environmental Assessment Form [EAF], requires designation of Lead Agency) –  
Lead Agency for this action \_\_\_\_\_

Unlisted action (Requires short EAF, long EAF optional, coordination for Lead Agency optional)

Type II action (Not subject to SEQR review according to Part 617.5)

**10. WATER & SEWAGE:**

Is municipal water available for this project?

Yes  No  Not Applicable

If no, will sufficient well water be available?

Yes  No  Unknown

Are municipal sewers available for this project?

Yes  No  Not Applicable

If no, has on-site treatment system been approved?

Yes  No  Unknown

**11. TRAFFIC SAFETY:**

Will this project have an impact on traffic safety and/or congestion?  Yes  No  Unknown

Describe impact and mitigation measures to relieve negative impacts:

\_\_\_\_\_

\_\_\_\_\_

**12. PRESENT CHARACTER OR USE OF PROPERTY IN QUESTION (e.g. - single-family house, commercial use, farm / agriculture, woods, etc.):**

\_\_\_\_\_

**CHARACTER OF NEIGHBORING PROPERTY: (e.g. - uses or structures, and zoning district):**

|        | CHARACTER | ZONE |        | CHARACTER | ZONE |
|--------|-----------|------|--------|-----------|------|
| NORTH: |           |      | SOUTH: |           |      |
| EAST:  |           |      | WEST:  |           |      |

13. **PUBLIC HEARING:** Date \_\_\_\_\_ Time : \_\_\_\_\_ **FINAL DECISION:** Date \_\_\_\_\_ Time : \_\_\_\_\_

14. **FROM:** Town / Village / City of \_\_\_\_\_ Date \_\_\_\_\_

**REFERRING OFFICIAL (Must be the chair of the board that will make a decision regarding this zoning referral)**

Chair, ZBA  Chair, Planning Board  Mayor  Supervisor  Council Chair

Name & Mailing address of above Referring Official: \_\_\_\_\_

\_\_\_\_\_ Phone \_\_\_\_\_

Signature of Referring Official as listed above: \_\_\_\_\_

Building Inspector/Zoning Officer or other person who can provide additional information:

\_\_\_\_\_ Phone \_\_\_\_\_

## SEQR REQUIREMENTS

New York's State Environmental Quality Review Act (SEQR) requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. This means these agencies must assess the environmental significance of all actions they have discretion to approve, fund or directly undertake. SEQR requires the agencies to balance the environmental impacts with social and economic factors when deciding to approve or undertake an "Action"

If an action is determined not to have significant adverse environmental impacts, a determination of no significance or Negative Declaration is prepared. If an action is determined to have potential significant adverse environmental impacts, an Environmental Impact Statement (EIS) is required.

The SEQR process uses the EIS to examine ways to avoid or reduce adverse environmental impacts related to a proposed action. This includes an analysis of all reasonable alternatives to the action. The SEQR "decision making process" encourages communication among government agencies, project sponsors and the general public.

**Actions are classified into 3 different categories.** The classification of the action will determine the level of initial environmental review that the project will receive, which could consist of: No further review; Full (Long form) EAF or Short Form and To Coordinate or not to coordinate with other agencies.

**Type I Classification Actions** - are most likely to have significant adverse impact or environment, so are more likely to require EIS. (Not all Type I Actions are an automatic EIS requirement.)

**Some Examples:**

- Large Residential facilities (in context of existing community size)
- In or "substantially contiguous to" Historical Register listed or eligible sites or parks
- Affecting agricultural districts
- Purchase, sale or other transfer of more than 100 acres

**\*Type I classifications require that the SEQR process continue**

**Type II Classification Actions** - have been determined not to have a significant adverse impact on the environment and therefore do not require an EIS

**Some Examples:**

- Most Maintenance or repairs - including upgrading building to meet building and fire codes
- 1, 2 or 3 family homes on approved lots
- New non-residential uses under 4,000 square feet (requiring no zoning change or use variance)
- Purchase or sale of supplies or equipment - land transactions not covered
- Minor structures, such as garages, barns, or home swimming pools, routine permit and license renewal with no substantial change in permitted activities
- Rebuilding or replacement of facilities, in kind, on the same site

**\*Type II classifications conclude at SEQR**

**Unlisted Classification Actions** - are any proposals or actions not specifically included on either the statewide Type I or Type II lists. This is the largest category of actions subject to SEQR review. Specific items are not listed since it is impossible to identify in advance every potential project or decision which an agency may need to consider.

**Some Examples:**

- New 20 unit apartment building
- New non-residential use of 10 acres or less
- Parking for less than 1,000 cars
- Sale, purchase, lease or other transfer of fewer than 100 acres of land by government entity

**NOTE:** The SEQR regulations allow an agency to choose to apply the Type I initial review process to any unlisted action. Therefore it is reasonable to treat any large or complex project that has been classified as Unlisted, as a Type I action.

**\*Required that SEQR continue**

**Please complete Part I of the attached *Short Environmental Assessment Form* as a required part of the Zoning Board of Appeals Application process. Thank you.**

617.20  
**Appendix B**  
*Short Environmental Assessment Form*

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| <b>Part 1 - Project and Sponsor Information</b>  |  |            |           |
|--|--|------------|-----------|
| Name of Action or Project:   |  |            |           |
| Project Location (describe, and attach a location map):  |  |            |           |
| Brief Description of Proposed Action:  |  |            |           |
| Name of Applicant or Sponsor:  |  | Telephone: |           |
|  |  | E-Mail:    |           |
| Address:   |  |            |           |
| City/PO:   |  | State:     | Zip Code: |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?<br>If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2. |  |            | NO        |
|  |  |            | YES       |
| 2. Does the proposed action require a permit, approval or funding from any other governmental Agency?<br>If Yes, list agency(s) name and permit or approval:   |  |            | NO        |
|  |  |            | YES       |
| 3 a. Total acreage of the site of the proposed action? _____ acres   |  |            |           |
| b. Total acreage to be physically disturbed? _____ acres   |  |            |           |
| c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres   |  |            |           |
| 4. Check all land uses that occur on, adjoining and near the proposed action.  |  |            |           |
| <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)  |  |            |           |
| <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____  |  |            |           |
| <input type="checkbox"/> Parkland  |  |            |           |



|  |    |             |
|--|----|-------------|
| 18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?<br>If Yes, explain purpose and size: _____<br>_____ | NO | YES         |
| 19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?<br>If Yes, describe: _____<br>_____   | NO | YES         |
| 20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?<br>If Yes, describe: _____<br>_____   | NO | YES         |
| <b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>   |    |             |
| Applicant/sponsor name: _____  |    | Date: _____ |
| Signature: _____   |    |             |

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

|  | No, or small impact may occur | Moderate to large impact may occur |
|--|-------------------------------|------------------------------------|
| 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?  |                               |                                    |
| 2. Will the proposed action result in a change in the use or intensity of use of land?   |                               |                                    |
| 3. Will the proposed action impair the character or quality of the existing community?   |                               |                                    |
| 4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?                      |                               |                                    |
| 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?            |                               |                                    |
| 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? |                               |                                    |
| 7. Will the proposed action impact existing:<br>a. public / private water supplies?<br>b. public / private wastewater treatment utilities?                                 |                               |                                    |
| 8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?                                   |                               |                                    |
| 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?                     |                               |                                    |

|   | No, or small impact may occur | Moderate to large impact may occur |
|---|-------------------------------|------------------------------------|
| 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? |                               |                                    |
| 11. Will the proposed action create a hazard to environmental resources or human health?                        |                               |                                    |

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from Responsible Officer)