

NJORD Estonia: Assessing the need to prepare a detailed spatial plan

Once you have found the perfect location for your dream home or the best immovable to invest in, you should consider whether you can apply for a building permit based on the building design documentation immediately or if it is necessary to initiate the preparation of a detailed spatial plan.

The obligation to prepare a detailed spatial plan is set in the Planning Act or the comprehensive plan of the area. To sum it up very generally, according to the law, the preparation of detailed spatial plans is mandatory for areas located in cities, towns and small towns and in the public water bodies in order to erect a building subject to the building permit requirements. Generally, there is no need to apply for a building permit for ground projection areas of up to 60 m² and for buildings up to 5 m in height.

Additionally, the local government may expand the obligation to prepare a detailed spatial plan by determining the areas and cases in the comprehensive plan. For example, local governments have determined substantial low density coastal areas with obligations to prepare detailed spatial plans; industrial sites must also often first prepare a detailed spatial plan.

The Planning Act that entered into force on 1 July 2015 enables the local government to forego the obligation for a mandatory detailed spatial plan by issuing design specifications. Applying for an exception does not ensure that it will be implemented, since it must first meet certain requirements. The exception can be implemented when erecting or expanding on a registered immovable in a built-up area. For that, the volume and purpose of the building must match the environment that has become established in the area, taking into account the type of other buildings in the area. It is important to be able to determine the general use and building conditions of the planning area, that are the basis for issuing design specifications, in the comprehensive plan. Also, erecting the building cannot contradict other conditions set in the comprehensive plan.

In practice this exception has been used in cases where the intended purpose, as registered in the land register, doesn't match the purpose for which a person would like to use the land. I.e. industrial land that is no longer in use and is located between residential properties, would be perfect for residential housing. Changing the intended purpose might be necessary when applying for a bank loan or selling the property, so that both parties feel more secure. Changing the intended purpose of a cadastral unit is a land management process, where the local authority determines the intended purpose of the cadastral unit based on the plot's intended purpose of use, as set in the building permit.

It is reasonable to apply for the foregoing of the obligation to prepare the detailed plan and the issuing of the design specifications, as well as changing the unsuitable intended purpose in one go. It is easier for the administrative body to make a decision when they understand what the land owner wants the end result to be. A thorough analysis of why the exception should be implemented will also help the administrative body to reach a decision. It is much easier for the already overworked local government worker to reject a laconic application.

Local authority must make several procedural decisions, that are location based and depend on several circumstances. Although it is the local authority's discretion whether to forego the obligation to prepare a detailed spatial plan, we at NJORD find that in certain cases it is reasonable to apply for an exception and it is possible to secure the land owner's rights from the beginning of the process.



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