

MEMORANDUM

DATE: November 20, 2000

TO: Orangetown Comprehensive Plan Committee

FROM: John Saccardi

RE: Orangetown Zoning: Initial Observations

The Orangetown Zoning Ordinance contains 13 separate zoning districts that specify permitted uses and various lot, bulk and parking controls. The Ordinance also sets forth procedures governing Town Board, Zoning Board of Appeals and Planning Board reviews. The regulations have been amended over time addressing a variety of issues. Although the Zoning Ordinance includes restrictions on cell towers and adult uses, for example, it lacks contemporary regulations that deal with planned unit development, incentive zoning, affordable housing and environmental overlays.

A summary of the zoning provisions and some key issues follow.

A. RESIDENTIAL DISTRICTS

Single Family

There are five zoning districts in the Zoning Ordinance that focus on single family development:

R-80	80,000 s.f. lots
R-40	40,000 s.f. lots
R-22	22,000 s.f. lots
R-15	15,000 s.f. lots
R-G	10,000 s.f. lots

* Based upon Saccardi & Schiff, Inc.'s initial review and input from Town OBZP&E staff and the Chairman of the ZBA.

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Although the R-80, R-40 and R-22 cover the majority of the residentially zoned land in Orangetown, most of the built-up land is zoned R-15, with homes on 15,000 square foot lots being the predominant land use in the community. The R-80 includes environmentally sensitive lands in the Clausland Mountain area in the eastern portion of the Town and the lands in the vicinity of Lake Tappan and the Hackensack River in the central portion of Town. This latter area includes the Rockland Psychiatric Center (RPC) and the Kaufman Campground, two major areas identified as susceptible to change in the future. Lands zoned R-40 are located both on and proximate to Clausland Mountain, including some land along Greenbush Road and Clausland Mountain Road, and most of the Palisades hamlet area in the southeastern portion of Town. Several large areas in the northern portion of Blauvelt are also zoned R-40. In contrast, most of Pearl River, Blauvelt, Orangeburg and Tappan are zoned R-15.

The largest concentrated areas of R-22 and R-G zoning are to the immediate east and southeast of RPC; along the steeply pitched lands adjacent to Tweed Boulevard and Route 9W to the east of Clausland Mountain; and in Pearl River to the east and west of Route 304, just north and south of Central Avenue. The hamlet of Sparkhill and nearby areas are also zoned R-G.

Multifamily

The MFR Multifamily Residence District allows apartment uses at a modest density of four (4) to six (6) dwelling units per acre. MFR zoned lands include two sites to the east of the Tappan hamlet center, two sites along North Middletown Road in Pearl River, and one site along Western Highway in Orangeburg. The other hamlet areas (i.e., Blauvelt, Sparkhill and Palisades) have no multifamily zoning.

Senior citizen housing, group homes of various types, and accessory apartments are permitted in various residential zoning districts. The Town's land use policies toward zoning for senior housing are not clearly defined in the Zoning Ordinance. Adult housing (for 50+ year old residents) is a Planning Board conditional use in the R-15 and R-G Districts, with a maximum density of five (5) dwelling units per acre. In contrast, publicly assisted senior housing is a Town Board special permit use in the R-G and MFR residential zones, and in the CS, CC and CO non-residential zones, at a density of (30) dwelling units per acre. The regulations call for Town ownership of the site at the time of application. Nursing homes, convalescent homes and homes for the aged are ZBA special permit uses in the R-80 and the MFR Districts. Housing for the physically handicapped is listed as a Planning Board conditional use, with a maximum density of the (10) units per acre. Conditions include maximum 1 story buildings and HUD financing.

In addition, the Planning Board is authorized to approve cluster developments with not more than

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four (4) attached residences, provided that the overall density does not exceed 5 units per acre or a floor area ratio (FAR) of 0.20, and further provided that certain R-15 lot and bulk controls apply.

Agency boarding homes and agency group homes are Town Board special permit uses, while agency community residences are ZBA special permit uses. Typically, municipalities have all such uses governed by the same procedure with the same approval body.

Accessory apartments are permitted as an as-of-right use in all of the single family residential districts (not in the RMF district where single family and two family residences are prohibited). This two family zoning requires an owner-occupant and various other conditions. In some other communities, this use is treated with a special permit requirement which can provide additional control, including provisions for a periodic review and renewal of the permit.

In addition to the minimum lot size and density requirements summarized above, the residential zoning districts contain other lot and bulk controls relating to required yards and frontage requirements. Although there are no maximum coverage requirements (building or impervious), there are maximum floor area ratio (FAR) requirements governing the total amount of square footage (calculated as the total floor area within the structure divided by the total lot area). (FAR has been utilized recently in a number of communities to limit large bulky homes that tend to overwhelm small to medium size residential lots. Apparently this has not been a major issue in Orangetown.) The maximum building height in these districts is set forth in an unusual manner, using a formula based on inches from the building setback, as opposed to more typical maximum height in feet and/or stories (e.g., 2½ stories or 35 feet).

The single family and multiple family districts also permit a wide variety of additional uses by right, as Town Board or ZBA special permit uses, and as Planning Board conditional uses. These include public facilities, religious uses, utilities, hospitals, schools, day care centers, etc. Many of the uses permitted in the R-80, like nurseries, keeping of animals, camps, etc., are not permitted in the higher density, more suburban zoning districts.

B. NON-RESIDENTIAL DISTRICTS

The seven non-residential zoning districts are:

- LO Laboratory Office District
- LIO Laboratory Industrial Office District
- OP Office Park District
- CS Community Shopping District

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CC Retail Commercial District
CO Commercial-Office District
LI Light Industrial District

Of these seven districts, the LI, LIO, LO and OP occupy large segments of land area in Orangetown, while the CS, CC and CO are confined to more distinct areas in and around hamlet centers, including the area along the East Central Avenue and the North Middletown Road corridor in Pearl River, and along Route 303.

The LI - Light Industrial District encompasses most of the Wyeth-Ayerst (former Lederle) site to the north of Pearl River. It is also present along Route 303 in two major locations: (1) just south of the Clarkstown border, and (2) north and south of Orangeburg Road, extending beyond the Palisades Interstate Parkway interchanges. Both of these latter areas follow the West Shore railroad line, which provides freight services to the LI zoned lands in the Route 303 corridor.

The LI District permits manufacturing, wholesale, warehouse and storage uses, offices, commercial recreation and theatres by right. Town Board special permit uses include railroad and various utility uses. Conditional uses subject to Planning Board approval include skating rinks, parking garages, car wash establishments, gas stations, dry cleaners, night clubs, auctions and child care centers. Mixed use office, industrial and warehouse buildings, including retail outlets (i.e., flex buildings) are not clearly permitted. Adult uses are allowed with a ZBA special permit provided a number of conditions are met. Although this is consistent with recent litigation, it is noted that large areas of the Town are zoned LI.

The maximum FAR for most LI uses is 0.5 and the minimum lot area is 2 acres. Height is controlled in terms of inches rather than stories and feet. Performance standards, regulated by the ZBA, are provided to further control proposed uses.

The LO and LIO Districts are less intense than the LI in terms of FAR and uses permitted. The FAR is 0.4. The LO permits offices, laboratories and schools by right; child care facilities are Planning Board conditional uses; and airports are Town Board special permit uses. The LIO permits the same uses as the LO, but adds undertakers and sand and gravel operations as ZBA special permit uses. Commercial forestry, light manufacturing and auto sales and service are Planning Board conditional uses.

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In terms of location, some LIO and LO Districts exist at the edges of certain LI Districts, presumably as a transitional zone. Additional LO and LIO districts exist along the Route 303 corridor and in the large industrial park area generally to the south of Veterans Memorial Park.

In contrast, the OP - Office Park District exists in one location to the west of Veterans Park, focusing on the Blue Hill Plaza area. Similar to the LI and LIO, the OP has a maximum FAR of 0.4. Additional permitted uses in this zone include hotels and conference centers.

As previously noted, the CS, CC and CO Commercial Districts cover lesser areas than the other non-residential zoning districts in Orangetown. The CS, a downtown zoning district with a FAR of 1.0, exists in downtown Pearl River and in various hamlet centers including Blauvelt, Orangeburg, Sparkill. There is also some CS zoning on Route 303 just north of the New Jersey border.

Permitted uses in the CS include retail, restaurants and offices among others. Town Board special permit uses include senior housing. (Encouraging housing in local business districts is a good concept; however, the limitations on senior housing may negate the value of this provision.) ZBA special permit uses include some other typical downtown uses, such as theatres, undertakers, pet shops, upholsters, commercial print shops, vending machines and other retail uses not permitted by right. Conditional uses subject to Planning Board approval include hotels and motels, schools for special instruction, and bars. In contrast, the CC, a highway commercial zone, allows a few of the CS special permit uses, but by right (e.g., theaters, pet shops, undertakers, printing). Auditoriums and drive-in movie theaters are added as Town Board special permit uses, and gas stations, fast food establishments and night clubs, among others, are included as Planning Board conditional uses. Conversions of gas stations to convenience stores or other uses should probably be added as a new conditional use. With a rather high FAR of 0.3, this district is mapped primarily along North Middletown Road and along Route 303, in both cases with some mixed results.

The CO Zone is mapped in a few areas such as Pearl River, Orangeburg and Tappan. This office zone is more restrictive than the CC in terms of permitted uses and has a lower FAR (0.2).

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C. ZONING ISSUES

The following are some initial items for discussion.

- There are too many similar non-residential districts (e.g., LO, LIO, OP) where permitted uses and FAR requirements are almost the same.
- The maximum FAR requirements throughout the Ordinance are high. The lot and bulk controls should be expanded to cover building and possibly impervious surface coverage in residential and non-residential zones where they currently do not exist, supplementing the FAR requirements.
- In general, the parking standards are too high. They should be tied into current, more use-specific demand factors, including provisions for shared parking. The parking requirements should require additional landscaping and green separator strips from roadways for many uses. A waiver of pavement provision should be considered as a site plan approval tool. The ratios that relate to employees rather than square footage should be eliminated. Parking of unlicensed vehicles is an enforcement issue.
- Standards and conditions for special permit and conditional uses should be reviewed and updated; some uses have no specific standards, leaving the approval agency without benchmarks in its review, relying only on the general conditions and criteria set forth in the ordinance.
- The performance standards should be updated, and shifted from Zoning Board of Appeals review to Planning Board review, where there is additional documentation typically submitted under SEQRA.
- The respective role and procedures for the Zoning Board and Planning Board should be reviewed, not only with regard to special permits and performance standards, as previously noted, but also with regard to subdivisions and site plans where the applicant requests variances as part of the initial submission.
- Zoning for various types of senior housing (independent living, assisted living, skilled nursing and life care) needs to be clearly defined.
- Height should be expressed in stories and feet rather than inches.

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- The listings of special permit uses (Town Board and ZBA) and conditional use (Planning Board) show inconsistencies in jurisdictional assignments. In general, the Town Board should focus on special permits with policy issues, and the Planning Board should be involved with uses that have site planning issues. In our view, the ZBA's role, as a quasi-judicial board, should focus on a limited number of special permit cases, where decisions need to be based on detailed documentation submitted by the applicant.
- The ZBA's approval of use variances should be limited and not used by applicants who should be seeking zone changes from the Town Board. The regulations governing non-conforming uses should be reviewed.
- Some additional guidelines in the CS district could help to differentiate it from the CC district and provide opportunities to strengthen hamlet centers. For example, sidewalk cafes should be permitted. In addition, the CS district at the New Jersey border is essentially series of small strip centers rather than a cohesive downtown or hamlet center.
- Contemporary zoning techniques should be considered to foster mixed use development, affordable housing, cluster development, and environmental preservation. This could include overlay zones for steep slope areas, ridgelines, waterbodies and wetlands, and techniques like incentive zoning, floating zones, and planned unit development, which would be designed to encourage innovative or imaginative plans that meet specific Town objectives that evolve in the comprehensive planning process. An example might be a housing development with a mixture of owner and renter units and certain amenities that would be available for project residents and the community at large.

In addition to these zoning techniques, a property maintenance law should be considered. Sign regulations should be updated.

- Existing zoning of the RPC site (R-80), of the Clausland Mountain area (R-40, R-22) and along Route 303 (various non-residential districts) clearly needs to be examined as part of Comprehensive Plan. Zoning for areas susceptible to change will be a major focus of our work with the Town Board and the Comprehensive Plan committees.

The Ordinance, as a whole, contains some excellent provisions that guide land development in Orangetown. Its structure, with extensive use of tables and notes, is particularly confusing and somewhat contradictory. It will probably need a comprehensive update, not just a series of amendments upon completion of the Comprehensive Plan.