Town of Richland Zoning Update Review Report

The Town of Richland Zoning Commission, in conjunction with the Town Attorney, Allison Nelson reviewed and evaluated the proposed conceptual updates to local zoning regulation as indicated in the following report.

Town of Richland Proposed Zoning Updates Evaluation Review

– October 6, 2016

In April of 2016, existing land use regulatory documents for the Town of Richland and Village of Pulaski were reviewed by the CNY Regional Planning and Development Board in collaboration with the joint Town and Village Zoning Update Working Committee. The existing laws pre-date (1989 and 1992) the 2011 joint Town and Village Comprehensive Plan which has also gone under review for recommended updates during 2015 and 2016. In an effort to ensure that the Town and Village land use regulations are in keeping with the goals of the updated Comprehensive Plan, and to update the law to include some of the improved land use tools and techniques that have become advisable in recent years; several areas of the regulatory language were identified for recommended updates. Recommendations for sustainable land use and development from the 2013 Leadership in Energy and Environmental Design (LEED) 'Technical Guidance Manual for Sustainable Neighborhoods' also offered important guidance and have been considered in the recommendations.

The zoning and subdivision laws regulate the location, construction, and use of buildings, structures and land in the Town and are concerned with upholding the minimum requirements for the promotion of public health, safety, convenience, comfort, and general welfare.

(PLEASE REVIEW THE BELOW PROPOSED ZONING UPDATE SUMMARY AND PROVIDE ANY COMMENTS IN THE SPACE PROVIDED)

Important Note: Existing lots of record in the Town and Village that are otherwise in conformance with Town or Village Laws immediately preceding adoption of updated zoning laws continue to be eligible as building lots, so long as any necessary variances are granted.

Some General Recommendations:
Review of the existing Town and Village regulations revealed a need for some regulatory updates to the Town and Village land use laws that are compatible with, and supportive of the joint Town of Richland and Village of Pulaski Comprehensive Plan. The recommended updates include the following:

1. Simplifying and Clarifying Land Use Districts. This is an important aspect of effective zoning and makes it easier to access and understand for local boards and prospective developers alike. The recommended zoning districts in the Town and Village are:

(1) *Agricultural/Residential District (ARD)* this is a medium to low density district (minimum lot size of 30,000 s.f. (with CSD), or 80,000 s.f. or greater) with conservation of open space and farmland resources through Conservation Subdivision Design (CSD) process, appropriate for much of the Town and recommended for all areas not otherwise zoned.

(2) *Hamlet Districts (HD)* allow for a traditional mix of residential, very small commercial, and community uses in the historic settlements of Richland and Fernwood. This encourages preservation of the rural character of the hamlets through adaptive reuse and compatible mixed uses with "good neighbor"

performance standards (i.e. smoke, noise, dust, explosion, radiation, etc.) and site design standards that promote attractive, appropriately-scaled development. A Hamlet district is intended to encourage a walkable, small-scale, locally-oriented mix of uses compatible with residential uses that will help sustain traditional, small scale Hamlet life.

(3) *Waterfront Business District (WBD)* allows for a compatible mix of uses both residential- and waterfront-related while keeping the scale and intensity of the uses compatible and complementary to existing areas.

(4) *Waterfront Residential District (WRD*) applies to residential zones in and around waterfront areas including lake, river and cottage areas. The intent is low-impact residential use compatible with sensitive environmental conditions.

(5) *Village Edge District (VED)* creates a 'transition zone' between the Village and Town, where structures can be built more densely than in the Town, but not as densely as in the Village. This zone establishes growth areas at the edge of the Village, and delineates where the rural edge (character) of the Town should be maintained through conservation subdivision practices. Located adjacent to Village Residential and Commercial areas, the VED protects Village character and visual entry to the Village, while helping preserve rural town character. It may ultimately promote small professional office, neighborhood type commercial/retail and cluster residential uses.

(6) *Village Historic Districts (VHD 1 and VHD 2)* implements design guidelines (need to be developed) for historic compatibility, and establishes an architectural review board and process to encourage and protect investment in these areas of the Village of Pulaski through appropriate design in two different resource level area categories.

(7) *Village Commercial District (VCD)* encourages a centralized mixed commercial area where reuse and more efficient use of already developed lands would be encouraged, helping to preserve open space and revitalize existing developed lands.

(8) *Industrial District (ID)* separates industrial uses from the traffic and activity of commercial and residential uses by designating distinct use areas, making them more suitable, attractive and viable for industrial uses in appropriate locations.

(9) *Village Residential District (VRD)* as defined in current zoning.

(Comments on the above sections)

1. It was noted that there is a need to add the Tinker Tavern west parcels to the proposed 'Industrial District' near Rt. I81.
2. It was decided that the existing 'Commercial District' should be kept along a short section of Rt. 3 through Port Ontario where development will likely be needed relative to current and anticipated development at and near Selkirk Point. It was agreed that State lands should be removed from the mapping of this district.

Overlay Districts:
These mapped districts identify lands with special concerns identified in the Town and Village Comprehensive Plan as worthy of protection, and they add some specific rules to those areas. Where zoning districts such as 'Rural Agricultural' or 'Commercial' are in effect, each with their own set

of rules, an “overlay district” applies added rules just to the mapped overlay area while the rules of the underlying district also remain in effect. “overlay” districts can overlap applying specific rules to just those important areas, and more than one overlay can be applicable to a parcel, but each overlay addresses a specific issue of that area with specific rules.

a) *Light Industrial/Commercial Overlay District (LICOD)* a “floating” district (mapped only when Planning Board approved) that allows for Light Industrial and Commercial Uses where they make sense in the ARD, HD, and VED Districts by Special Permit only, under specific circumstances.

- Site Plan review is required and the location of any LICOD overlay must be determined on a case by case basis by the Planning and Town/Village Boards.

b) *Wellhead & Waterfront Conservation Overlay District (WWCOD)* protects critical public drinking water resources and steep and forested slopes (where erosion can cause water quality issues). This helps to conserve the most ecologically important and developmentally restricted lands in their natural state and for land-extensive and water-dependent open space uses.

- The district includes lands with slopes of 15% or more within 1,000 feet of Lake Ontario and within 100 feet of the Salmon River, and tributary streams to the lake and river.
- Single family dwellings and greenway land are permitted ‘by right;’ in the WWCOD.
- Uses allowed by special permit include Lakefront Marina, Recreational facilities, and Community Services.
- Permits (as determined by the Code Enforcement Officer) are required for land disturbance so that runoff is conveyed through filtration or vegetated areas during and after development.
- A lakeshore setback zone of 50’ from the high water mark, along with additional height limitations, erosion and sediment control and open space requirements for new development help to protect these sensitive areas.

(Comments on the above sections)

1. The committee requested to further review more detailed examples of the proposed ‘Light Industrial/Commercial Floating District’ (examples sent 10/7/16). Committee suggested consulting NYS Land Use Law Presenter, Scott Chatfield on the merits of this proposed district. Requested clarification on the difference between a PDD and a Floating District.

2. Proposed ‘Wellhead & Waterfront Conservation Overlay District’ (WWCOD) was supported as a ‘good idea’

3. Keep the "Douglaston District" as it currently is in town law. Don't modify at all.

4. Hamlet of Pine Grove begins just south of Mud Creek, at Rt. 3.and covers everything on south portion of estuary, excluding State lands. Hamlet of Ramona Beach begins at curve on Hagar Drive, covers to lake and along lake north and south.

5. Hamlet of Rainbow Shores is North and south Rainbow Shores Roads, and includes Rainbow Shores Campground that begins 1,000 feet from end of main Rainbow Shores Rds.

6. Hamlet of Port Ontario: South line, Mud Creek crossing Rt., 3 South east line Rt. 13--- Douglaston Manor, northeast line County Rt. 5 includes Brown’s landing cemetery. West line on Rt. 5: Isthmus into estuary....West of this Isthmus is Selkirk Hamlet, that goes to lake, and north along Selkirk Cottage Rd. Port Ontario North line at Rt. 3: includes three properties from the intersection on west side.

7. Brennan's Beach needs to be defined as a special district all its own, like Douglaston.

8. On County Rt. 5 (looking at my map) boundary between Selkirk Hamlet and Port Ontario is Riverview Drive---that wholly in Port Ontario. On North side of 5 line it up with the north end of third property on west side of Rt. 3 going north from 5.

Conservation Subdivision Design (CSD)

This process, used for major subdivisions of land, will help preserve the rural-agrarian character of Richland by encouraging traditional neighborhood development patterns rather than suburban sprawl along the Town's scenic roadways. Goals of the Town of Richland/Village of Pulaski Comprehensive Plan include the conservation of open land, including agricultural soils, woodlands, steep slopes, streams, floodplains, wetlands, scenic views, and potential recreational trails. It is important to provide for a diversity of building lot sizes and housing choices to accommodate a variety of age and income groups and residential preferences. CSD process allows flexibility in site design, increases efficiency for services and infrastructure, and can save both property owner and taxpayer dollars by reducing the length of new roads, utility runs, and the amount of paving required for residential development.

- Parcels of ten acres or less, and parcels being subdivided into three lots or less (Minor Subdivisions), can be subdivided at a minimum lot size of 1 acre without a conservation subdivision design process.
- The conserved land can be farmed, leased, remain in individual private ownership, or be deeded to a homeowners association, land trust or to the Town if the Town agrees. The choice is up to the owner.

Three development 'options' should be used to allow for subdivision of land in a variety of lot sizes and arrangements:

Basic Conservation is for subdivision of parcels larger than 10 acres, or where more than three lots are being created (Major Subdivisions). This option allows a full range of lot sizes from a minimum of 30,000 s.f. by placing a conservation easement on the most important natural and cultural resources (50% of the buildable acreage). *(A simple development location process first identifies the most important natural and cultural resources on a "sketch plan" and the subdivision of the parcel is then designed around the most important resources so they are protected from future development.)*

Low Density Subdivision is another option for parcels of any size from 1 acre up, without any requirement for conservation land. The total number of lots allowed in this development option is derived by dividing the total square footage of the parcel (including unbuildable land) by 10 acres.

Hamlet Conservation allows for lots as small as 28,000 s.f. as long as 25% of the buildable land is conserved through a conservation easement. An example would be a 6 acre parcel in the Hamlet that conserves 25% (1.5 acres) through an easement, can still achieve 7 lots, as long as septic permitting and other standards are met.

Additional Regulations:

Certain specified uses are more likely to have impacts to surrounding properties including noise, parking, traffic, unsightliness, odors, dust, vibrations, light, and fumes. To help to promote the public health, safety, and compatibility with the immediate neighborhood and the larger community, many types of uses would require a Special Use Permit. Some of these include gas stations, auto repair facilities,

accessory dwelling units, home occupations that exceed certain 'by right' home occupation criteria, and storage or disposal of fertilizers, pesticides/herbicides of 500 pounds or more, or where not in connection with farm operation exemptions. There should also be additional or different criteria for camps, mobile homes, and construction trailers.

Prohibited Uses: These should include municipal, private, and construction and demolition landfills; land application of septage, sludge, or human excreta; disposal, by burial, of any hazardous waste; large quantity generators of hazardous waste; major oil storage facilities; on-site dry cleaning; junkyards and junked car lots.

(Comments on the above sections)

9. Committee members suggested that more detailed language and examples of CSD development be shared with committee members who were not as familiar with the tool, or had not attended the 2013 Randall Arendt Presentation. Committee members who had attended this were very supportive of the subdivision tool for the Town. (requested information sent to committee 10/7/16)

10. What would keep a developer from doing a series of minor subdivision?

11. How is the land assessed, taxed, maintained when it is a conservation subdivision?

Environmental Performance or 'Good Neighbor' Standards:
A set of standards and requirements that applies to all districts, and all uses, can set specific limits on physically hazardous or potentially objectionable conditions that may occur externally to the site of the use. Standards are intended to reduce impacts to neighbors of smoke, gas, dust, odor, noise, light, treated or untreated wastes, vibration, heat or electromagnetic interference, to a reasonable minimum. They would also limit physical hazard by reason of fire, explosion, radiation or any similar cause and regulate traffic in order to prevent hazardous conditions.

Solar Ordinance:
A Solar Energy System Fast Track Permit process (with no fee) should allow expedited, review by the Code Enforcement Officer prior to the installation of solar panels on residential and non-residential buildings, and legal accessory structures on residentially utilized property. This will support the local Climate Action Plan recently adopted, limiting local dependence on imported sources of fossil energy; reducing greenhouse gas emissions and the cost of energy for residents.

Steep Slopes:
Alteration of areas with slopes exceeding 15% can cause erosion, sedimentation, landslides, and the degradation of water quality. Disturbance of slopes greater than 15% should require permitting with protective measures and best practices for erosion and sediment control and engineering review. Where slopes exceed 25% and are contiguous containing at least 3,000 sq. ft., no disturbance should be permitted, including cutting of vegetation or construction of driveways, except in certain circumstances such as stream bank stabilization, foot trails, utility lines, or in conjunction with timber harvesting pursuant to applicable NYS DEC guidelines, or exempted farm operations.

Protection of Agriculture:
Where agricultural uses and other uses unrelated to the agricultural operations abut, applicants for the nonagricultural use should be required to provide buffers (appropriate vegetative screen or berms,

woodlands, fences, or natural topographic features) to reduce exposure to odors, noise, and other potential nuisances associated with the agricultural operation.

Sign Ordinance:
Because signs can create dangerous conditions obstructing vision necessary for traffic safety; confuse or distract drivers; and impact the visual environment, adjoining property values, and economic growth; the location, size, quantity, character, and lighting of signs is important to control. However; certain signs, such as signs those not exceeding 1 sq. ft. in area and bearing only property numbers, postal route box numbers, or names of occupants of premises; one sign, not exceeding 32 sq. ft. in area designating a farm; noncommercial information signs that inform the public; home occupation signs not illuminated or exceeding 3 sq. ft. with appropriate setbacks should be possible to erect and be maintained without zoning permits, board review, or fees, provided that they comply with all general regulations.

(Comments on the above sections)

12. Committee suggested further review of specific solar ordinance language and asked how this would work where large commercial arrays are proposed. Legal Counsel explained there would need to be a more intense review required based on scale. Decommissioning regulations were noted as needed.

13. We need to include some language about manure lagoons.

Wind Energy Facilities:
The wind resource in Richland is extremely valuable to the community. To provide for the safe construction and operation of Residential and Community Wind Energy Facilities in the Town, regulations that apply to distributed wind energy facilities should be established with reasonable conditions to protect the environment and public health. Small wind energy facilities with a total rated capacity of up to 20 kW can be permitted by right in all districts. Community Wind Energy Facilities (up to 20 MW) that benefit the Richland/Pulaski community, can be allowable by special permit in all districts, subject to site plan review. Siting setbacks of 2 to 3 times the Wind Turbine Height should be required measured from the property line, public road, or nearest point on the foundation of a non-participating landowner property or occupied building. Design and decommissioning standards should apply.

Site Plan Review:
Site plan approval is not necessary for agriculture, single-family dwellings, two-family dwellings in Hamlet Districts, accessory apartments in the HD, ARD and VED, and home occupations with no more than 2 nonresident employees and less than 30% of dwelling unit floor space. For most other uses, Site Plan approval should be required by the Town or Village Board upon recommendation from the Planning Board, but can be included as an integral part of the special permit approval process.

Procedures for minor site plans should be simpler than those for major site plans which should require preparation by a licensed professional engineer, architect, or landscape architect. Major subdivisions can be defined as those that create more than 3 lots; or where a public or private street is constructed or required to be widened; or where public improvement is required; or where there will be earthmoving activities beyond what is needed in the construction of a single family dwelling on each lot. Agricultural structures with a footprint of over 10,000 sq. ft. can require minor site plan approval, and those with a footprint of 10,000 sq. ft. or less can be exempt from site plan approval requirements.

Road Access:

In order to prevent an accumulation of roadside parcels through repeated Minor Subdivision of land over time, road access control should limit the proliferation of driveways along roads and associated safety issues. New curb cuts on any tract should be limited to one for minor subdivisions, and two for major subdivisions in any ten-year period, with two frontage lots can allowed as long as they are at least 50 feet apart and served by a common driveway between them accessing 2-4 homes.

(Comments on the above sections)

14. Committee stated they would like to keep their site plan review process which works well with SEQRA in the Town; however, when CSD process is used, there are specific site plan review requirements that accompany the subdivision design procedure (example site plan review language sent to the committee for review 10/7/16)

15. Would using a request for a variance, instead of special permit be more advantageous for long range planning for the Town and Village?

Nonconforming Lots and Uses:
A nonconforming lot or use is one that existed, otherwise in conformance with the Town or Village Zoning Law immediately preceding the adoption of the new Law. Such uses and lots of record continue to be eligible (as building lots for purposes of lot area) so long as they otherwise conform to the current law and/or any necessary variances are granted.

Nonconforming structures or buildings may continue to exist and be maintained and repaired with some conditions and exceptions. Structural alterations or renovations should not be detrimental to the neighborhood and should first be approved by the Zoning Board of Appeals. The Code Enforcement Officer may permit the work if the projected construction cost of alteration or renovation of a single- or two-family residential nonconforming structure does not exceed 25% of Town/Village assessed value and it does not encroach closer to any property line that triggered the nonconformity than the existing, if all other Code requirements are met.

Minor lot alterations should be approved through application process to the planning board within 62 Days (such as a lot line adjustment where lots are consolidated into fewer lots; where they don't increase non-conforming use or new roads or other infrastructure; and where a transfer of land is made from one property owner to another along adjacent lots with the simple adjustment of existing property lines).
The subdivision of land is not considered a minor alteration and should require four steps:
1. Sketch Plan Review
2. Preliminary Plan Application, Review and Planning Board Approval
3. Final Plat Application and Planning Board Review
4. Final Plat Town Board Review, Approval and Filing

(Comments on the above sections)

None.