

# Planning Board Review of Zoning Modifications Proposed by Claverack Economic Development Committee

The Claverack Planning Board held a workshop meeting Thursday evening, February 19, to review and comment on the proposed changes by the CEDC. The meeting was attended by 6 Planning Board members plus ZBA member Chris Post; Chris was very active in the rezoning done in 2011. Also, approximately 15 other persons were present.

Subsequently, a report was created and then reviewed and approved at the Planning Board meeting on March 2. The following is the approved report.

## I. Introduction

The modifications to the Claverack Zoning code are being requested so as to encourage new business and allow the expansion of existing businesses in the HC Districts.

The current Claverack Zoning code, adopted into law December 13, 2012, included a number of changes to encourage economic growth, including:

- Increased lot coverage
- Increase in number of uses allowed per parcel
- Mixed uses in hamlet
- Increase in maximum height from 30 feet to 35 feet
- New HC and HB-1 zoning districts added
- Claverack school property changed to HB-1 district (2014)

The Planning Board responses to the CEDC are based on the Town of Claverack comprehensive plan, municipal and state law. These were clearly and extensively referenced in the February 17th letter from the Columbia County Planning and Economic Development office, so we will not repeat them here. Suffice it to say, a central concern of our citizens has been the preservation of the rural character and protection of the environmental resources of the Town.

The proposed zoning modifications would affect the Highway Commercial (HC) Districts and the Wellhead Protection Overlay (WP-O) Districts.

The following describes the locations of HC and WP-O Districts in Claverack:

- HCs outside a Wellhead Protection Overlay District:
  - State Route 66: a large area along both sides of 66 south of Ginsberg's Road / Stottville Road
  - State Highway 9H: a long narrow area south of Claverack Hamlet, and a small area further south by Spook Rock Road
  - State Highway 23: 1 small area near Old Barrington Road, 2 small areas near Taconic Parkway and 1 small area near Claverack / Hillsdale town line
- HCs within a Wellhead Protection Overlay (WP-O) District:
  - Parcels within the Mount Ida WP-O District, located south of Routes 66 & 9H intersection
  - Parcels within the Philmont WP-O District, located east and west of Taconic Parkway

The most complex Highway Commercial District area to be affected by this proposed Zoning change is the area within the Mount Ida WP-O District within the 66 / 9H corridor.

## Overview of Mount Ida Well

- Originally the first well serving Greenport; in the past it was used to produce 500,000 gallons per day.
- Currently operated by Columbia County, used only for providing water to Commerce Park and **Whittier** Rehab & Skilled Nursing Center. Water is chlorinated at wellhead.
- Provides water through 18 service connections to a population of approximately 485 people.

- Average daily demand is 21,500 gallons. In 2013 the Mount Ida system pumped 7,850,550 gallons of water.
- A shallow 18 feet deep caisson well, 30 feet in diameter, on a 65 acre parcel owned by Greenport.
- Greenport issues yearly “Annual Drinking Water Quality Report”; it is available on Greenport web site.
- Draws water from an unconfined aquifer with high hydraulic conductivity.
- The Source Water Assessment rates this well as having medium to high susceptibility to microbials, nitrates, industrial solvents, and other industrial contaminants. Tap water meets all NY State drinking water standards.

#### **Overview of Mount Ida WP-O District**

- Overlays land on both sides of State Route 66.
- 283 acres represents that portion of the local sand and gravel aquifer where groundwater likely reaches the well within a two year time-of-travel period.
- Most of this district overlays land zoned Highway Commercial. However, a portion overlays land zoned Rural Agricultural.
- Greenport owns about 23 % of the land in this district.
- WP-O boundary was specified as the outer boundary of parcels that intersect the wellhead protection area.
- The area has two aquifers:
  - a shallow one that is tapped by the Mount Ida Well, and
  - a deeper aquifer, that is confined by fine grain silt and clay, and supports flowing artesian well conditions.
- Surface water runoff in Mount Ida WP-O flows towards the well.
- There are numerous abandoned wells in this WP-O district, including flowing artesian wells.
- Clearly, this wellhead protection area represents a substantial water supply source.
- Note (per Register Star, 02/12/2015):
  - Columbia Economic Development Corporation (CEDC) received bids for engineering work for expansion of water and sewer district in Ghent & Claverack.
  - LaBerge Group of Albany created a strategy to consolidate water services in Greenport and Claverack. Per Greenport Supervisor John Porreca, “Consolidation would give us more ability to open up the [66 / 9H] corridor”

#### **Overview of Philmont Village Wells (from Annual Drinking Water Quality Report for 2013, Village of Philmont)**

- Three drilled wells located on Preusser Road in northwest portion of Philmont WP-O District. They draw from an unconfined aquifer with unknown hydraulic conductivity. Water system serves a population of 1750 through 545 service connections. In 2013 the wells produced 60,346,000 gallons, averaging 165,000 gallons per day. Tap water meets all NY State drinking water standards.

#### **Overview of Philmont WP-O District**

- Overlays land on both sides of Taconic Parkway, County Route 11 and Preusser Road.
- Most of the district overlays land zoned Rural Conservation, but a portion overlays land zoned Highway Commercial.
- WP-O boundary was specified as the outer boundary of parcels that intersect the wellhead protection area.

## II. Planning Board Review of Proposed Modifications

### CEDC Zoning Proposal *[The proposed modifications are shown in red and italics.]*

The proposal recommends the following sections of the Claverack Zoning code be modified to encourage new business and allow the expansion of existing businesses in the HC zone.

Table 1 – Schedule of Use Regulations

1. Change Truck Terminal / Transfer Station from Prohibited to ***Permitted Use Requiring Site Plan Review.*** (page 176)

#### Planning Board recommendation:

Leave unchanged. This activity is incompatible with, and must remain Prohibited in, the WP-O District due to potential for storage of hazardous waste products from servicing of tractor or trailer units and the potential for runoff from numerous vehicles stored on site. For HC Districts not in WP-O, this activity needs at least the same level of scrutiny as CIP District, which is Special Exception Use permit required. See Section 15.3.28 “Truck Terminal / Truck Transfer Station” (page 112). Note that the Claverack Comprehensive Plan specifies restricting “Truck Depots” and implies that they be allowed only in CIP District.

Definition: 2.2.218 (page 27) TRUCK TERMINAL/TRUCK TRANSFER STATION: A dock at which freight is sorted. Typically includes an office for managing freight orders, dock workers and drivers. May also refer to the headquarters of a trucking company or satellite offices where a driver may drop trailers for other drivers to pick up. It may include a building or area in which trucks, including tractor or trailer units are parked, stored, or serviced, including the transfer loading or unloading of goods. A terminal may include facilities for the temporary storage of loads prior to transshipment. ***Fuel pumps shall be 50 feet from buildings. Fuel storage (above or below ground) shall be 200 feet from any lot line and shall be consistent with NYSDEC regulations.***

#### Planning Board recommendation:

Leave unchanged. These additional conditions are already specified in “Individual Standards for Special Exception Uses”, Section 15.3.28 Truck Terminal, Truck Transfer Station which are enforced for CIP district because a Special Exception Use permit is required. (This change would be needed only if Truck Terminal / Transfer Station required just a Site Plan Review).

2. Change Storage of fuels or other liquids in tanks from Special Exception to ***Permitted with Site Plan review.*** (page 176)

#### Planning Board recommendation:

Leave unchanged, Special Exception Use permit required for HC (and CIP). This requested change would remove Section 15.3.23 “Storage of Fuels or Other Liquids in Tanks” (which describes the special conditions) and thus weaken the Zoning law and the capability of Planning Board to state conditions. Also, this change would probably result in the same request for CIP District.

Also, note that fuel storage for off-site consumption is not allowed in Wellhead Protection Overlay District. 11.3.1 Item 2 (page 57) states as a Prohibited Use: “Any use or activity that involves the storage of petroleum except for on-site consumption using a NYS DEC approved container.” This prohibited use,

per the definition of on-site consumption (see 2.2.140, page 21) means that petroleum stored on site cannot be used to fuel trucks or vehicles that would consume the fuel off-site.

## Table 2 – Dimension and Density Table

Item 3, Change Height – Maximum – Feet: For Highway Commercial, maximum height allowed should be **50 feet** (currently 35 feet). (Page 178)

### Planning Board recommendation:

Maximum height must remain at 35 feet for HC (and CIP) so as to follow the intent of the Comprehensive Plan. Also, this change is not needed, since the ZBA “rule of thumb” when granting a variance is to allow up to 50 % more; therefore the ZBA could allow building height of up to 52.5 feet. If the Zoning is changed to maximum height of 50 feet, then ZBA could possibly approve a variance to allow buildings with height up to 75 feet, which are clearly not desirable for Claverack. Also, this change would probably result in the same request for CIP.

Item 11, Change Footprint Limitation: **Remove numeric limit and change to “Commercial and Manufacturing Building Footprint shall not exceed the lot coverage limit of 50 % for lots with central services, 30 % for lots with central water OR central sewer, and 25% for no central services.”** (page 179)

### Planning Board recommendation:

Leave as is with the numeric limits. Some existing businesses are in compliance with the existing numeric limits but would be out of compliance with 25% limit, thereby impairing their future worth.

For WP-O District, the maximum lot coverage should be significantly less than 50%.

## Section 11 - WELLHEAD PROTECTION OVERLAY DISTRICT REGULATIONS (pages 56 – 60)

### 11.3 Prohibited Uses and Activities in Wellhead Protection Overlay (WP-O) District (page 57)

11.3.1 The following are specifically prohibited in the Wellhead Protection Overlay District in order to safeguard groundwater resources that serve as public drinking water supplies:

Item 5: Storage for other than residential uses, **or where packaged for individual use and resale**, of coal, bulk chemicals, deicing compounds, hazardous substances, hazardous waste.

### Planning Board recommendation:

Leave as is. The proposed addition would allow storing a large number of individual containers, of hazardous substances intended for resale, which in total would present a pollution hazard to a WP-O District.

Note that, even with the proposed addition, any bulk storage of liquids needed for servicing of tractors or trailers would still be prohibited.

Item 10: Excavation of overburden and/or minerals from the earth for sale or exchange, or for commercial, industrial, or municipal use, except for the sale of incidental overburden and/or minerals from excavation related to construction **as part of an agricultural or residential use.**

**Planning Board recommendation:**

This change is acceptable provided that additional conditions are specified, such as: delineating the amount of excavation allowed, not causing runoff problems for adjacent properties, etc.

Note that even with the current limitations, there remain several uses allowed in the HC districts that could be developed in the WP-O district.

**SECTION 14 - DEVELOPMENT and DESIGN STANDARDS**

**14.5 Building Design Standards and Guidelines**

**14.5.2 Applicability.**

**Item 3, Building Scale. (page 72)**

Part a. The scale and mass of buildings shall be reviewed by the Planning Board during Site Plan Review and determined to be ~~compatible with that of adjacent and nearby buildings as viewed from the all-exposed (public) vantage points~~ **appropriate for use.**

**Planning Board recommendation:**

**Do not adopt the suggested phrase “appropriate for use”, and do not eliminate the compatibility clause. However, the word “nearby” is very subjective. Therefore, change “adjacent and nearby buildings” to “surrounding neighborhood”. The Planning Board must continue to address the impact on the surrounding neighborhood during a site plan review.**

**SECTION 15 - SPECIAL EXCEPTION USE REGULATIONS**

**15.3.23 Storage of Fuel or Other Liquids in Tanks, Commercial (pages 99 – 100)**

Changing from Special Exception to Permitted will eliminate the Special Exception requirement.

**Planning Board recommendation:**

**Leave unchanged. “Special Exception Use” allows the Planning Board to specify conditions on the storage of fuel. Changing to “Permitted” would delete the four conditions specified in Section 15.3.23 and removes this activity entirely from Planning Board review and approval.**

### III. Additional Suggestions for the Town Board to Consider

#### Mount Ida WP-O District

##### Responsibility

The responsibility for the Mount Ida Well and the protection of the overlay area is mixed; there are a number of municipal agencies involved.

- While the town of Greenport owns the wellhead and 65 surrounding acres, Greenport does not utilize any of the water.
- Columbia County operates the well to supply water to the CIP District and Whittier Rehab & Skilled Nursing Center.
- Columbia County Economic Development Corporation is responsible for the water district in Ghent and Claverack. The well is underutilized and appears to have a large capacity to provide water for future growth in the Routes 66 / 9H corridor in the towns of Claverack and Ghent.
- The town of Claverack is responsible for enforcing zoning laws.

Therefore, Columbia County should consider establishing a municipal authority to have overall responsibility for this well.

##### Delineation

The boundary of this district should be re-evaluated. The services of a licensed hydrologist should be secured to explore the ground water hydrology. This study could build upon past studies already done by Columbia County. The boundary lines of this WP-O could possibly be redrawn based on the results of that study.

##### Wellhead Plan

Consideration should be given to creation of a new wellhead protection plan with input from all affected parties.

##### Easements

Consider purchasing Conservation Easements of property within the resulting Mount Ida WP-O District so as to provide adequate wellhead protection.

**Concerns with the Current Claverack Zoning Law for Wellhead Protection Overlay District:** from discussions with Steven Winkley, New York Rural Water Association Water Resources Specialist.

- Zoning Law lacks specification for Maximum lot coverage (surface area of buildings and accessory structures):
  - Zoning specifies maximum 50% building footprint for Highway Commercial, but no maximum is specified for WP-O (except 30% is specified in 7.2.4 Conservation Subdivision Design, Dimensional Standards Item 4.
  - Recommendation is 15% in WP-O for buildings plus impervious surfaces (e.g., parking).
  - However, allow impervious coverage to exceed 15 percent of a single parent parcel or building site if a satisfactory system of storm water management and treatment is proposed and developed. Such a system would have to recharge to groundwater an amount of storm water at least equal to the site's pre-development annual recharge volume. The storm water system would also have to be designed and maintained to reduce suspended solids and other pollutants that are eventually recharged.
  - Current impervious coverage in Mount Ida WP-O is 5.9%.

- Lacks specifications for storm water runoff from hotspots (examples: vehicle fueling stations, vehicle service and maintenance facilities, vehicle and equipment cleaning facilities, fleet storage areas)
  - Storm water from hotspots is typically pretreated *before* infiltration.
- Consider the following additions to explicitly prohibit these uses within WP-O District (these were proposed during last re-zoning):
  - Bottled water or bulk water facility, including supply source(s), pumping stations(s), etc.
  - Car or vehicle washing establishment.
  - Cemetery or crematory.
  - Commercial garage or motor vehicle service.
  - Motor freight transportation (e.g. trucking).
  - Commercial nursery or garden center.
  - Establishments for the cleaning and servicing of catch basins, cesspools, septic tanks, sewers, tanks and boilers, or tank trucks.
  - Facility with exterior storage or loading/unloading of hazardous substances.
  - Fleet storage area (car, bus, truck, etc.), including a motor freight transportation or motor vehicle passenger terminal.
  - Golf course.
  - High intensity use parking lot(s) defined as having average vehicle trip generation rates of 1,000 or greater per day. Typical use examples generating such rates include but are not limited to: fast-food restaurants, convenience stores, discount stores, discount clubs, lumber/home improvement stores, shopping centers, supermarkets, etc.
  - Industrial or manufacturing facility subject to the NYSDEC State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges or the USEPA National Pollution Discharge Elimination System (NPDES) stormwater permit program.
  - Junkyard or vehicle salvage/recycling facility.
  - Laundry, cleaning, or garment services, including drycleaners, coin-operated laundries, commercial or industrial laundries, carpet and upholstery cleaners, and linen supply services.
  - Maintenance and repair shops for major or small household appliances and electrical entertainment devices (stoves, washers, televisions, DVD players, etc.) or low-power internal combustion engines or electric motors (chain saws, lawn mowers, snowmobiles, etc.). Marina or boat service/maintenance facility.
  - Motor freight transportation (e.g. trucking) or motor vehicle passenger (e.g. bus) terminals.
  - Municipal facility involving public works storage except for the storage of equipment and supplies necessary for the safe provision of public drinking water.
  - Pest control services or establishments engaged in the wholesale distribution of pesticides or herbicides.