

Village of Port Henry Zoning Commission
4303 Main Street
Port Henry, NY 12974

Aug. 26, 2013

Mayor Ernest Guerin
Trustee Matt Brassard
Trustee Ruth McDonough
Trustee Staley Rich

The “Final Report” of the Zoning Commission is attached, and includes the following required items:

- Statement of Membership Appointments
- Description of Public Hearings
- Description of Actions Taken by the Commission
- Recommended Zoning Regulations and Explanations
- Copy of the Resolution Adopting this Final Report

With this “Final Report”, the Zoning Commission has completed the first 2 steps of the 7 steps required to establish zoning within the Village. We, the Zoning Commission, will cease to exist; the Village Board must now decide whether to move forward with the implementation of zoning. This “Final Report” provides a guideline and recommendations for the direction of zoning, but the final details and remaining steps are the responsibility of the Village Board, and its attorneys.

As the Village moves forward, the Zoning Commission urges you to keep two thoughts in mind:

We are a small Village: It should be easy for a property owner to obtain a speedy review of any land use that would require a review, whether for a permitted use or for a variance. The current “Review Procedures” (Development Review Law, Article 3) should be rewritten with the intent of reducing the time between a property owner's “asking” and the Village's “answering”.

We are a small Village: We do not need a complex set of zoning regulations. The zoning laws need to be flexible and open to future amendments. When in doubt, keep it simple.

Evelyn Celotti

Jeff Kelly

Kelly Ann King

Sandra Lovell

John Viestenz

MEMBERSHIP APPOINTMENTS:

The Village of Port Henry advertised for volunteers, for the Zoning Commission, between the 4th quarter of 2011 and mid-2012. From the letters-of-interest, the Village Board asked the following individuals, all residents of the Village, to serve:

Evelyn Celotti, resident, property owner, Main Street business owner

Jeff Kelly, resident and property owner

Kelly Ann King, resident

Sandra Lovell, resident and property owner

John Viestenz, resident and property owner.

The Zoning Commission was officially created by Village Board Resolution on March 11, 2013, with each of the above volunteers being appointed to the Commission. The creation of the Zoning Commission and the appointments of the membership is in accordance with the requirements of NY “enabling laws”, including Village Law, Article 7.

The responsibilities of the Zoning Commission are to make recommendations for the first set of zoning regulations. The required steps include:

Recommend the boundaries of the original zoning districts and appropriate regulations to be enforced therein;

Publish a “preliminary report” and hold public hearing(s);

Submit a final report to the Village Board.

ZONING COMMISSION'S MEETINGS and HEARINGS:

Although public testimony was not taken at all meetings, all of the Zoning Commission's meetings were open to the public. All meetings were advertised in advance (published notices in the newspaper, posted on the Village website, and posted on the Notice Board at the Village Office).

“Minutes of the Meeting”, for each meeting, have been separately provided to the Mayor and the Board of Trustees, and copies remain available on the Village website and at the Village Office. Those Minutes are not included in this Final Report.

Summary of the Meetings:

2/27/13: Introduction of the members, review of the “Adopting Zoning For the First Time” booklet, review of the legal requirements regarding meetings. William Bryant spoke in support of the efforts to obtain public input and resolve uncertainties associated with the current “Moratorium”.

3/13/13: Reviewed the communication chain with the Village, distributed copies of the tax map, began the listings of “allowed” and “not allowed” proposals. Discussed the possible boundaries of the “Downtown Commercial District”.

3/27/13: Workshop, to continue discussions defining “Downtown Commercial Zone”.

4/17/13: Continuation of discussions regarding “allowed” and “not allowed” topics for the proposed zones, and planning for a meeting specifically for public input.

5/01/13: Developed hand-outs and proposed advertisements, soliciting public input for the upcoming “Public Comment Meeting”.

5/22/13: Public Comment meeting, with 8 members of the public attending and submitting comments and suggestions.

5/29/13: Workshop to review the public comments received, and to “finalize” the definitions and boundaries to be presented for the required “Public Hearing on the Preliminary Report”.

6/19/13: Workshop, with Bill Ball (Code Enforcement Officer); reviewed existing Development Review Law; reviewed working draft of the “Preliminary Report”.

7/30/13: The “Preliminary Report” was reviewed, and after minor revisions, approved for publication. The timing of the Public Hearing was discussed, and the text for the paid ad in Times of Ti was approved. Set-up for the meeting was discussed, including the possible need for additional chairs. John V. to verify with the Village, and then borrow chairs, if necessary. Jeff K. will bring the maps.

08/20/13: The Public Hearing, to review the “Preliminary Report”, was attended by 7 members of the public, and testimony was received in advance from one other (Paul Salerno). Bud Abbey spoke in general, indicating he was against zoning. Don Pierson and Ed Kudlacik raised specific questions about the property south of McKenzie Brook that was listed as part of the “Undeveloped Zone”, and others asked questions to clarify various parts of the text or maps. Mr. Kudlacik and Pierson submitted written comments, adding to and/or clarifying their testimony on Aug. 22.

Two specific changes were made to the text and maps during the meeting:

The “Waterfront and Public Recreation” page was changed to state that “... these zoning recommendations include no new restrictions on the use of privately owned land for either residential or commercial purposes”. (underlined text was inserted). And a paragraph was added to specifically include property owned by Paul Salerno that overlooks the lake (but has no lake access) and abuts property in the Transition Zone on south main Street (but does not have its own Main Street access). This property would have fallen into “Residential”; classifying it as either “Waterfront” or as “Transition Zone” would provide a wider range of development opportunities, and fit the nature of adjoining properties.

The other change was the deletion of lot 107.23-1-1.000, owned by Edward Kudlacik, from the “Undeveloped Zone”. This property's current physical characterization is old orchard, old farmland, gently sloping open ground, and does have access not only from two points on Main Street, but also (not previously recognized by the Zoning Commission) from Whitney Street. Note that only portions of the property were classified as Undeveloped; After discussion between the Zoning Commission and the property owners, it was agreed that the entire lot would be classified as “Transition Zone”, which it qualifies for due to the highway access.

Maps and text have been revised to reflect the above requests and testimony.

Additional testimony from Ed Kudlacik and Don Pierson (confirmed in writing on 8/22/13) expressed their concern for the ambiguity in our statement “No existing lot may be further subdivided without Zoning Board approval, even if the planned use for the sub-divided lot complies with the existing zone.” They strongly recommenced that the final zoning rules have unambiguous and documented criteria on how the Zoning Board reaches a decision on approval. Additionally, there needs to be clear definitions of the appeal process, procedures, roles, responsibilities, and timeline of the appeals process.

Further discussion among the Zoning Board included comments from Kelly Ann King, stating that she will not vote for the Final Report, as she feels that we still have not heard from a sufficient number of Village residents, and that the comments in support of zoning are from a minority of the residents. Additionally, she questions the need for any zoning at all, due to the small size of the Village, and the fact that there is no zoning elsewhere in the Town.

08/26/13: Special Meeting to approve the “Final Report”.

08/26/13: “Final Report” presented to the Village Board.

Throughout this sequence of meetings, the Zoning Commission refined the definitions and boundaries. Topics(*) that had at one meeting or another been suggested for inclusion in the zoning regulations were dropped, based on both public and Zoning Commission members' input, in order to simplify the final proposal. It was agreed that the existing Development Review Law covered many of those suggested topics, and that a simple set of Zoning Regulations, with a minimum number of additional restrictions as practical, would be more acceptable to the citizens of Port Henry and more likely to be passed by the Village Board.

(*) Fencing, lighting, lot size, number of buildings on a specific lot size, types of construction, and “pockets” of property, such as the old school lot or the old “K of C / Witherbee Mansion”, which may need special zoning.

INSERT “OVERVIEW” MAP HERE

Overview map

RECOMMENDED ZONING REGULATIONS

The Village of Port Henry will be divided into five formal zones, plus recommendations for the later creation of an “Industrial Zone”.

Each zone will allow all of the land uses permitted by the Development Review Law (Local Law No. 1 of 2007), except as noted in these Zoning Regulations.

Boundaries, definitions, and explanations for each zone:

Downtown Commercial District (the Village's center);

Residential Zone (the majority of the Village);

Transition Zone (Main St. north and south of the Commercial District);

Undeveloped Zone (portions not currently served by utilities or fully accessible by roads);

Waterfront and Public Recreation (marinas, beaches, campgrounds, parks);

Recommendations and comments:

Industrial (pockets on the north and south edges of the Village);

In addition to the specifics covered by the above zones, the Zoning Commission recommends that the following restriction be included Village-wide, regardless of zone:

“No existing lot may be further subdivided without Zoning Board approval, even if the planned use for the sub-divided lot complies with the existing zone.”

It is the Commission's feeling that regulations are appropriate to protect the nature of larger lots. While it may be appropriate to have a specific building or use on a lot, having multiple instances of the same building or use on smaller lots would not be appropriate. This simple restriction is suggested instead of more complex regulations regarding minimum lot size for various purposes, which may need to be different in different neighborhoods, based on existing typical lot sizes.

Note: Testimony received at the Public Hearing indicated a strong concern that the above restriction was too ambiguous. The final zoning law needs to include unambiguous and documented criteria on how the Zoning Board will reach a decision, and include clear definitions of the appeal procedure, roles, responsibilities, and timeline of the appeal process.

Additional notes:

The following applies to all zones:

Existing uses, in place prior to the enactment of zoning, are exempt (or “Grandfathered”). There is no intention to apply zoning restrictions retroactively.

Zoning boundaries were generally determined from tax maps, not from a physical inspection of the properties. Topography was not a consideration (at this time). Hills, slopes, streams and wetlands will need to be considered during any final zoning considerations.

Before reviewing the details, some “advice” from the Zoning Commission to the Village Board, to keep in mind as the Village moves forward with the process:

We are a small Village: It should be easy for a property owner to obtain a speedy review of any land use that would require a review, whether for a permitted use or for a variance. The current “Review Procedures” (Development Review Law, Article 3) should be rewritten with the intent of reducing the time between a property owner's “asking” and the Village's “answering”.

We are a small Village: We do not need a complex set of zoning regulations. The zoning laws need to be flexible and open to future amendments. When in doubt, keep it simple.

While the intent is to keep Zoning regulations nimble and simple, that goal must be balanced by clear, legal, and documented procedures that guide everyone, now and in the future, in consistently carrying out a balanced zoning plan.

INSERT DOWNTOWN COMMERCIAL ZONE MAP (CZ1) here

Commercial Zone Map

DOWNTOWN COMMERCIAL DISTRICT

Boundaries: Includes portions of Main Street, Broad Street, and St. Patrick's Place.

Boundary starts on the north end of Main Street, west side of the street, to the north of (and including) 4331 Main (known as “Frank's Knotty Pine”). On the east side of (the north end of) Main Street, the boundary begins at the alley north of the building on tax lot 97.64-3-11. (This is the building currently housing Celotti's and Lightworks Reiki & Yoga; the building is also sometimes referred to as “The Foote Block”).

The Downtown Commercial Zone extends south on Main Street to (on the east side of Main) Rice Lane (includes “Stewart's”), and on the west side of Main, to Henry Street (includes “Adirondack Hair Associates”).

On Broad Street, the Downtown Commercial District covers the lots from the intersection of Main and Broad, west to the eastern entrance to Lewald Lane (on the north side of Broad), and to the boundary between the Post Office (3260 Broad St.) and the currently empty lot to the immediate west of the Post Office. 3260 and 3255 Broad are the westernmost lots included.

On St. Patrick's Place, the Downtown Commercial District includes the properties between Main and the alleyway (on the north side), and the Mac's lot on the south side (which is already included due to its frontage on Main Street). The “Port Henry Diner” building is included within the District.

All lots within the above boundaries, with frontage on Main Street, Broad Street, or St. Patrick's Place, are included in the Downtown Commercial District.

The above boundaries are displayed on map CZ1 with a red “pencil line”.

Comments and explanations regarding the boundaries:

Extending the Zone to the Village limits, as the current Moratorium does, was considered unnecessary, due to the current mix of residential and commercial activities beyond the proposed boundary. The properties on Convent Hill should be allowed to develop in whatever manner future economic conditions dictate: either “Commercial” or “Residential” uses (but not “Industrial”) should be allowed in this area. Likewise, the part of Main Street to the south of Rice Lane or to the south of Henry Street is currently a mix of residential and commercial, and should be allowed to continue, in the future, to develop in either direction.

Placing the restrictions of the Downtown Commercial Zone on these portions of Main Street, or further west on Broad Street, would not protect a sufficient number of existing commercial sites (from conversion to residential), to warrant extending the Downtown Commercial Zone into those neighborhoods.

Similarly, properties on Church Street and the block of College between Church and Broad, are not included, but these could also be considered “transitional” (see later discussion). It is noted that the existing Development Review Law 1.04, (A) (2) considers these portions of Church and College to be part of the “downtown”.

Downtown Commercial District

Permitted Land Use

All retail activities;

Professional offices and services;

Existing residential properties may remain “residential”, or may be converted to “commercial” uses;

Existing properties may include a mix of “commercial” and “residential” uses.

Buildings that are “commercial” on the ground-level, may be used as “residential” on upper levels.

Ground floor residential use is permitted at the rear of commercial sites, not to exceed 25% of the total floor space.

Restrictions:

Existing street-level commercial space cannot be converted to residential. (Exception applies if the residential portion is to be occupied by the owner).

No “Industrial” uses (defined later).

Comments and explanations regarding the “Allowed Uses” and “Restrictions” for the “Downtown Commercial Zone”

This Zoning Law would formally implement the current Moratorium, but on a smaller district. Current store fronts within the boundaries of the “Downtown Commercial Zone” must remain commercial (subject to appeal procedures that would be detailed in the final Law).

Existing multiple-use activities, such as the barber shop, remain protected and are not subject to the “no conversion” rule if the building owner is the occupant of the property.

Residential District

Permitted Land Use

Single family dwellings;

Multiple family dwellings;

Group homes or “Room and Board” facilities;

Temporary lodging, such as B&Bs;

“Home-based” businesses that can be operated out of a portion of the home or garage (subject to compliance with Development Review Law requirements for parking, and subject to restrictions regarding hours of operation). Examples that would be allowed include a hobby shop, second-hand goods store, or small engine repair. Also allowed would be a home-based Internet sales business, as long as deliveries and shipments do not require over-the-road semi trucks. (UPS, Fed Ex, Post Office shipment and deliveries are allowed; but a business requiring daily motor freight traffic would not be allowed).

Other examples of “Allowed” home-based businesses would be professional offices (attorney, accountant) or professional services (hair, beauty, music lessons).

Restrictions:

No “Industrial” uses (defined separately).

Buildings without portions being utilized for residential purposes cannot be used for commercial activities.

Home-based businesses requiring heavy truck deliveries or shipments.

Home-based businesses without sufficient off-street parking for customers.

TRANSITION ZONE(S)

We consider the properties facing Main Street, both to the north and to the south of the Downtown Commercial Zone as “transition” zones: future development and growth could move in either direction (more commercial and less residential, or more residential and less commercial), and is likely to remain a mix of both uses.

This zone consists of all properties with frontage on Main Street that is between the north or the south Village boundary, and the beginning (or end) of the Downtown Commercial Zone. (This is not specifically pointed out on any of the maps). The large lot owned by Edward Kudlacik (107.23-1-1.000) which includes land both to the north and south of McKenzie Brook, is included in its entirety in this zone.

It is the Commission's recommendation that this area (property with Main Street access, but outside the Downtown Commercial Zone) be allowed to develop as future economic opportunities occur, and that property owners be allowed to develop either “Residential” or “Commercial” uses. Any use that is permitted in either “Residential” or in “Commercial” zones would be permitted in the “Transition Zone”.

The “no industrial” restriction that exists under both “Commercial” and “Residential” (see pages 11 and 13) is the only restriction from those two zones that would apply in “Transition” zones. But note that some lots in the Transition Areas are also listed under the discussion of possible Industrial sites (see page 15-16).

It should also be noted that the old school lot at the junction of Church St. and College St. is zoned “Residential” on our maps, but could easily be considered part of the “Transition Zone”, to allow for future commercial use if an appropriate plan arises.

INDUSTRIAL ZONE(S)

Industrial uses will be permitted within the Village only on designated properties at the north and south edges of the Village.

Industrial uses include, but are not necessarily limited to, businesses that are characterized by any one or more of the following:

- Warehousing and/or Storage;

- Distribution centers;

- Petroleum or propane storage and distribution;

- Auto recycling and repair

 - (Retail auto parts, however, would be considered “Commercial”);

- Used car lots;

- Any business that generates excessive noise or fumes from its ongoing operations;

- Businesses that primarily rely on “delivery”, rather than “over-the-counter” contact with their customers.

These properties should be zoned “Industrial” only when a specific use is applied for. We have not received testimony or comments from the property owners other than William Bryant. The other lots, or portions of lots, are listed either based on their current usage, or on their proximity to the highway at the southern edge of the Village.

97.64-2-21.211 (Bryant's storage area off of Dock Lane)

97.64-2-2.200 (North end pump station)

97.64-7-2.000 (Griffith Energy)

Note: This property would be “Waterfront and Public Recreation” if existing Industrial use terminated.

97.72-3-47.000 (Nu Way Laundry)

This property is included only because of its existing use. The preferred future development would be “Commercial”.

97.80-2-2.000 (Joint Water Treatment Plant)

(But would otherwise be “Waterfront and Public Recreation”)

“Walt's” (previously propane, now used cars) and other lots near “Henry's Mill Road” and the west side of the highway.

The general location of additional properties along south Main St. that could easily become “Industrial” are noted on the map.

97.72-3-58.000 and 97.72-3-60.000

(“Edwards” and “Burlingame” lots between the Town Hall and the Highway)

97.72-3-61.000 (“Sample”, strip of land between railroad and highway, south of the exit from the train station).

Portions of 97.72-3-51.000 (D&H) that are not in use for the station, and portions south of the road to Van Slooten Marina and the Town Campground.

Portions of 97.80-2-1.003 (“Old Chimney LLC”, also know as the Van Slooten Marina) that are along the tracks, and not in use for the Marina. (Preferred development for property on the lake side of the tracks is “Waterfront and Public Recreation”, but if Industrial uses can be identified, they should be allowed).

WATERFRONT and PUBLIC RECREATION

Property along the lake shore is designated as “Waterfront and Public Recreation”.

Preference should be given to uses that improve access to the lake, provide increased opportunities for public enjoyment of the lake, and offer additional recreational opportunities. However, these zoning recommendations include no new restrictions on the use of privately owned land for either residential or commercial purposes.

Marinas, campgrounds, beaches, and parks are examples of land use that is encouraged in this zone. The development of tourist-oriented businesses, including lodging and food service is also encouraged.

This zone is a mix of publicly-owned and privately-owned lands. All land with waterfront access is included in this zone. Additional properties with lake views, or properties abutting lots with lake access, would be appropriate future additions if/when requested by property owners. Paul Salerno's property (approx. 14 acres, lots 97.72-3-49.000 and 97.72-3-50.210) is a specific example of property that should be included in this zone.

Notes:

The joint water treatment plant is a non-conforming use, but permitted by the “existing use” exception.

Land to the north of “Velez Marina”, know as “Craig Harbor” is also part of the “Waterfront and Public Recreation Zone”, although the Zoning Commission does recognize that prior attempts to develop this land for a campground were not permitted by the Village Planning Board, due to limited road access for emergency vehicles. (Road access to specific lots is a topic not considered by the Zoning Commission, and would need to be reviewed, lot-by-lot for final zoning implementation.)

Additional properties that are separated from the lake only by the D&H railroad property could be included in this zone if access across the tracks was obtained.

In the future, each property's unique situation would need to be carefully considered.

[This zone is not specifically displayed on the maps]

INSERT both “Undeveloped Zone” maps (UZ1 and UZ2) here.

UZ1

http://www.porthenrymoriah.com/files/public/PDF_Docs/Village_Minutes_2013/Zoning_Maps/Prelim_for_0730_revised/UZ2_Undeveloped_Areas_South_-_Rev_08_20_13.pdf

UNDEVELOPED ZONE

This zone is limited to the specific properties listed below, which are within the Village, but lack one or more of the key Village services (water, sewer, street access) and are generally in a “natural” and undeveloped state.

These properties cannot be further sub-divided without reviews and approvals of the Zoning Board or Planning Board. These properties cannot be developed without an approved “development plan”, and the nature of the development (such as residential, commercial, or recreational) approved by the appropriate Board.

Properties designated as being in an “Undeveloped Zone”:

Area along and to the north of Mill Brook, tax maps 97.56-1-1.210 and 97.56-1-1.100, owned by Terra Mountain LLC.

Area to the west of the old Moriah & Lake Champlain Railroad right-of-way, tax map 97.71-1-14.000, owned by Rockville Pictures, Inc..

These lots are marked on maps UZ1 and UZ2.

Maps

References on maps to colors (such as “thin red pencil line”) refer to the colored maps on file at the Village Office, which are also available online at the [Zoning Commission's webpage](#).

<http://www.porthenrymoriah.com/living-here/village-port-henry/village-government/zoning-commission>

Printed copies are in black&white, and the “pencil line” appears as solid black.

All maps are partial copies of a map compiled and created by Keith Osier, 3/2/13. Maps may not be further copied or distributed without the expressed written permission of the Essex County Real Property Tax Services Agency.

A “**Special Thanks**” is extended to:

Literacy Volunteers, who provided the Zoning Commission with a meeting space;

Essex County Real Property Services, for the pdf map file;

Presbyterian Church, for providing extra chairs for the Public Hearing;

Denise Daly, for always responding quickly to requests for printing of downloaded documents (the “master pages”) and to Denise, Paula Monett, and Janelle Jurkiewicz for allowing time (without much advanced notice) on the office photocopier for the Zoning Commission's printing requirements.

**Village of Port Henry Zoning Commission
4303 Main Street
Port Henry, NY 12974**

Aug. 26, 2013

The following Resolution was approved by the Zoning Commission at the Aug. 26, 2013 meeting:

RESOLVED that the Zoning Commission adopts the “Final Report”, as revised through 08/26/13, and approves the submission of the “Final Report” to the Village of Port Henry's Village Board.

Moved by: Sandra Lovell
Seconded by: Evelyn Celloti

Discussion: John Viestenz explained that Kelly Ann King had earlier stated she that she still did not support this “Final Report”, since only a small percentage of the Village residents have testified. She feels that the comments in support of zoning do not represent the majority sentiment of the Village. Additionally, she feels that zoning is not necessary in a Village as small as Port Henry, especially since there is no other zoning in the Town.

John Viestenz provided the Zoning Commission with a hand-written statement from Jeff Kelly, supporting the “Final Report”, and stating that he would have voted “yes” if he had been able to attend.

Sandra Lovell, Evelyn Celotti, and John Viestenz stated that they support the Final Report as written, but do recognize that Kelly Ann King's objections concerning the views of the majority of the Village are a valid viewpoint and a potential future concern. “We hope she is not correct, but fear that there may be an as-of-yet unvoiced negative reaction to zoning from the public”.

Aye: Evelyn Celotti, Sandra Lovell, John Viestenz
Nay: None
Absent: Jeff Kelly and Kelly Ann King

By a vote of three to one, with two absences, the Resolution was passed.

John Viestenz
Zoning Commission Chair