

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

Aug. 20, 2013, a **PUBLIC HEARING** on the Commission's "Preliminary Report", setting forth recommendations (to the Village Board) for the establishment of initial zoning boundaries and regulations:

The Village's current "Moratorium" was designed to protect street-level retail and commercial spaces in the downtown area from being converted to apartments. This Moratorium is a temporary solution, since NY State law does not allow such restrictions to continue in just one selected area of a Village. Village-wide zoning (or no zoning at all) is required. The Zoning Commission was appointed by the Village Board and assigned the task of preparing an initial recommendation for zoning.

We are proposing zoning laws that will:

- Protect the downtown commercial area from additional street-level residential use;
- Protect the commercial and residential areas from "industrial" development;
- And still allow significant freedom (minimum restrictions) in both commercial and residential areas' uses and development.

When this report is finalized and presented to the Village Board, the Zoning Commission will have 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 then decide whether to move forward with the implementation of zoning. Our "Final Report" will provide 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.

Tonight's Public Hearing is another opportunity for you to provide testimony, comments, and suggestions, either in support of or in opposition to any portion of the proposal.

Evelyn Celotti

Jeff Kelly

Kelly Ann King

Sandra Lovell

John Viestenz

INSERT “OVERVIEW” MAP HERE (pg 1)

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);

Transitional 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.

Additional notes that apply 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.

Property owners of lots in the “Undeveloped Zone” were not personally contacted and did not submit testimony or comments. One property owner in the “Industrial Zone” (William Bryant) testified; no other owners of “Industrial Zone” properties were directly involved in identifying property for this Zone.

And “advice” from the Zoning Commission to the Village Board, 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.

INSERT DOWNTOWN COMMERCIAL ZONE MAP (CZ1) here (pg 4)

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).

It is the Commission's recommendation that this area 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 6 and 8) is the only restriction from those two zones that would apply in “Transition” zones. But note that some lots in the Transitional Areas are also listed under the discussion of possible Industrial sites (see page 10).

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 “transitional” in nature, 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 residential 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. While no property without lake access is included, additional properties with lake views, or properties abutting lots with lake access could be appropriate future additions.

Notes:

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

Land to the north of “Valez 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.

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. (pg 13 and 14)

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 to the south of McKenzie Brook, tax map 107.23-1-1.000, owned by Edward Kudlacik, sometimes referred to as the “Fish and Game Club” property. Note that portions of this tax lot are not included as “Undeveloped”, as there is access to Highway 9N/22.

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 in map 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.