

Dutchess County Department of Planning and Development

Fax Info Only	To	Date	#pgs
	Co./Dept.	From	
	Fax #	Phone #	

239 Planning/Zoning Referral - Exemption Communities

Municipality: **Town of Union Vale**

Referring Agency: **Municipal Board**

Tax Parcel Number(s):

Project Name: **TC Zoning District Updates & Changes in Street & Private Drive Specs**

Applicant: **Town of Union Vale Town Board**

Address of Property: **249 Duncan Road, LaGrangeville, NY 12540**

Please Fill in this section

Exempt Actions:* 239 Review is NOT Required

- Administrative Amendments (fees, procedures, penalties, etc.)
- Special Permits for residential uses (accessory apts, home occupations, etc.)
- Use Variances for residential uses
- Area Variances for residential uses
- Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals

No Authority to review these Actions

- Subdivisions / Lot Line Adjustments
- Interpretations

Exempt Action submitted for informal review

Actions Requiring 239 Review

- Comprehensive/Master Plans
- Zoning Amendments (standards, uses, definitions, district regulations, etc.)
- Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.)
- Rezoning involving all map changes
- Architectural Review
- Site Plans (all)
- Special Permits for all non-residential uses
- Use Variances for all non-residential uses
- Area Variances for all non-residential uses
- Other (Describe): **All zoning changes involved with updating TC Zone**

Parcels within 500 feet of:

- State Road: **Route 55**
- County Road: **CR Bruzgul & Noxon Roads**
- State Property (with recreation area or public building)
- County Property (with recreation area or public building)
- Municipal Boundary
- Farm operation in an Agricultural District

Date Response Requested:

Entered By: **Casey, Andrea**

These actions are only exempt in municipalities that signed an intermunicipal agreement with Dutchess County to that effect.

For County Office Use Only

Response From Dutchess County Department of Planning and Development

No Comments:

- Matter of Local Concern
- No Jurisdiction
- No Authority
- Withdrawn
- Incomplete - municipality must resubmit to County
- Exempt from 239 Review
- None

Comments Attached:

- Local Concern with Comments
- Conditional
- Denial
- Incomplete with Comments- municipality must resubmit to County
- Informal Comments Only (Action Exempt from 239 Review)

Date Submitted: **11/22/2022**

Notes:

Major Project

Date Received: **11/22/2022**

Date Requested:

Referral #: **ZR22-359**

Date Required: **12/21/2022**

Also mailed hard copy

Reviewer:



Date Transmitted: **12/20/2022**



COUNTY OF DUTCHESS
DEPARTMENT OF PLANNING AND DEVELOPMENT

December 20, 2022

To: Town Board, Town of Union Vale

Re: **ZR22-359, Various Zoning Amendments and Rezoning of the TC District Boundaries**

The Dutchess County Department of Planning and Development has reviewed the subject referral within the framework of General Municipal Law (Article 12B, Sections 239-l and 239-m).

ACTION

The Town Board is considering substantial amendments to regulations in the Town Center zone, including:

- A map adjustment
- Changes to the bulk and use tables
- Numerous edits to Chapter 210, Zoning, including edits to the section on conservation subdivisions, a new incentive program largely focused on sustainable development techniques, and changes to standards and supplemental regulations
- Adjustments to the way recreation fees are set
- Adjustments to road specification requirements
- Edits to Chapter 192, Subdivision of Land, concerning conservation subdivisions
- The addition of a set of design standards for development in the TC district

GENERAL COMMENT

In general, we find that the proposed zoning improves on the Town Center district, providing positive parameters for applicants and making it more likely that development will occur in a part of the Town long intended for it. There are a few ways in which we feel that the proposed changes may not succeed in meeting the stated goal of having a “fully-integrated, mixed use pedestrian-oriented area.” Part of that is the size of the district, and part is specific standards that could be added, adjusted, or expanded in furtherance of that objective. Substantive comments to this effect, along with numerous suggestions for clarity and consistency, are found below.

SPECIFIC COMMENTS

The following specific comments are listed by document:

Draft Zoning Map

- As noted above, we remain concerned about the size and length of the Town Center zone, especially considering the barriers that will keep it from ever being a unified district. The parcels in the northwest part of the zone are separated from the area around CR 21 by Jackson Creek, with its wetlands and floodplain, and the large school properties. The stated goal of this zone, as noted above, is for it to be fully integrated and pedestrian-oriented, and that is highly unlikely to happen given its configuration.
- Several of the parcels that are being moved out of TC do not meet the minimum lot size requirement of their new zone. The Board could consider whether there is an alternative to creating these nonconforming lots, such as adding them to a different district than proposed.

- A few of the parcels being moved out of the zone are surrounded by TC lots, raising a question about spot zoning. In particular it is not clear why lots 387254 and 379224 are omitted from the zone. One possible solution would be to change both these lots and the school lots to R1 to maintain connected zones.

Chapter 210, Zoning

- Density Bonus (210-13 C)
 - Is the bonus applicable throughout the Town or just in the TC zone? (2)(a) states that the incentives shall apply to “all zoning districts in the Town” then later specifies “in the TC district.”
 - Some of the density bonus requirements could benefit from additional clarification and detail. We understand and appreciate the desire to give the Planning Board some flexibility in determining appropriate amenities, but are concerned that some of the thresholds could be met by applicants with little community benefit achieved. Specific examples are provided below.
 - The initial draft of the density bonus, which focused on affordable homeownership, was too complex and difficult to implement. We are disappointed, however, to see the extent to which affordability incentives have been removed (Incentive (3)(a), which addresses dwelling unit size, is discussed below). We suggest that the inclusion of affordable (subsidized) rental housing be among the amenities eligible for consideration for a density bonus.
 - (3)(a) is unclear. It appears to be an attempt to retain an affordability-focused incentive, but it is very unlikely to be effective as written. It assigns points for at least 10% of units having “a smaller footprint,” but does not specify what constitutes “smaller.” If most houses are 2,500 square feet and 10% are 2,450, the project would theoretically qualify for these points but would not uphold the stated intent of the provision, which is for those smaller units to “be sold, or rented, at or below average market price.” Instead, the density bonus should be offered based on the affordability of the unit as it relates to the occupying household’s income (typically tagged to it being no higher than a stated percentage of the County’s area median income, or AMI). We would be happy to work with the Town to draft this provision.
 - At (3)(e), are the charging stations to be public, or are private stations acceptable? We suggest distinguishing between types of projects for charging stations, since their applicability varies. In a single-family development with garages, residents can install their own and additional stations will have limited utility. In a commercial context, public charging stations could be incentivized. Most importantly, in multifamily housing or any development where residents do not have their own garages we suggest an incentive either for installing chargers (with the number based on the size of the project) or for making the parking areas “EV Ready” by ensuring appropriate energy supply and laying conduit before pavement is installed.
 - (3)(f) describes “additional” trails and pathways, but it is not clear what the required base level of trails and pathways is. 210-32 (5)(b) says that “a pedestrian circulation and/or trail system shall be sufficient for the needs of residents.” When is a trail “sufficient for the needs of residents” and when is it “additional?”
 - At (3)(i), what would the process be for the Town Board to add additional amenities? Would it be ad-hoc, based on a particular project? If so, there could be due process concerns.
 - We suggest that (5) be edited to clarify that it is a reference to any *affordable* units included as part of the density bonus program.
 - (6)(a)(iii) 4 and 7 are repetitive, and both are likely unnecessary. By assigning a point value the Town Board has established the extent of the public benefit.
- Parking Design Standards (210-25)
 - The Board could consider providing further guidance on where on-street parking is permissible, and could incorporate on-street parking into the street specifications. We suggest that on-street parking be encouraged or required on any new streets created as part of a commercial or mixed-use project.

- We suggest adding dark sky compliance to B(12).
- Conservation Subdivisions (210-32)
 - We suggest that G(1)(c) be adjusted to allow for a smaller setback when the neighboring parcel is commercial or mixed-use, to allow for better integration between residences and local stores. We note that footnote 3 on the bulk regulations table states that a side lot line could be reduced to 0 with a special permit, and that could be reflected in this section (also see comment on bulk table, below, suggesting removal of this special permit requirement).
 - For G(2)
 - We suggest that here and/or in the design standards, a note be added that this is the preferred design process in the TC and other commercial districts.
 - The Board could specify that, in keeping with traditional neighborhood development, the homes in a cluster subdivision should be located along or close to an existing public road.
 - This paragraph could be edited to use one consistent term for this development type, and this term could be incorporated into the title of the subsection.
 - The Board could consider combining G(5)(b) and (f). As discussed in the Density Bonus comment above, they could also be edited to clarify what constitutes a baseline of expected pedestrian amenities.
- Solar and wind energy systems (210-36).
 - This section should be revised to reflect changes in the use table regarding solar energy systems. 210-36 E states that ground-mounted solar energy systems are permitted as an accessory use in commercial zoning districts, but the updated use table prohibits them. 210-36 G says large scale systems are a permitted principal use in all districts except TC, H, MGH, and GH (the latter two of which do not exist currently), but the use table does not appear to address solar as a principal use.
-
- Standards for Special Permit Uses (210-56)
 - We suggest rewording A(1) for clarity, ex: *Single-family dwelling. A single-family dwelling shall be allowed by special permit in the TC District on an individual lot, within a conservation subdivision, or in a minor subdivision, provided ~~on an individual lot, within a conservation subdivision, or in a minor subdivision~~ that:*
 - It is unclear why two-family dwellings are to be prohibited in this district. This residential type would appear to meet many of the goals of the TC district, including open space preservation and a diversity of housing types.
 - We suggest allowing residential uses as-of-right to remove the cost and burden of a special permit requirement.
 - At A(3)(b), it appears that the total residential land coverage maximum should be lowered from 60% to 50% to conform with conservation subdivision regulations. The cap language could also simply be eliminated here, as it is set in that subdivision section.
 - Subsection A(3)(e) is unclear, and appears duplicative to A(3)(d), which already covers the 12-unit per building limit. Also, the “general occupancy” clause is no longer applicable as the age-restricted housing section has been deleted.
 - The edits to the opening paragraph of A(5) are out of date, as there is no longer a density bonus tied to senior housing.
 - It appears that the edit to B(1) would restrict accessory dwelling units created via conversion within single-family dwellings to the TC district only. We strongly suggest continuing to permit accessory dwellings via conversion in all zoning districts. Such conversions provide welcome flexibility to residents with little to no impact on neighborhoods.
 - We suggest raising or eliminating the 35% of primary dwelling unit limit for accessory apartment conversion found at B(1)(a)[3]. Low percentage limits like this one only make it possible to take full

advantage of the accessory dwelling provision if you have a large home, and often it is those with smaller homes – who are more likely to be of moderate income – who can benefit the most from an accessory unit. The 1,000 square feet limit also found in this section is likely an adequate cap by itself. We also suggest reducing the parking requirement at B(1)(a)[10] to, at most, one additional space per unit.

- At E(6)(j)[2][c][v], the 30 footcandle maximum for gas station canopies is excessive. Five footcandles is generally all that is needed even for high-security areas, especially in a darker rural environment.
 - The Board could consider removing subsection E(7)(d), which only allows inns if they are an adaptive reuse of an older building. Given that few if any appropriate structures exist in the TC, this clause would be a de facto prohibition on the use.
- 210-64 Site Plan Design Criteria
 - At B(5), the Board could consider including a maximum color temperature for light fixtures (we suggest 3,000K).
 - The 20-foot height limit on light fixtures in commercial districts is high, especially for a rural context. We suggest the 15' limit be applied to all districts.
 - 210-82, Definitions
 - Several definitions (ex. Convenience store) contain regulations, especially related to size restrictions. Best practice is to avoid regulating within the definition, rather keeping regulations within the regulatory sections of the code.
 - The Board could consider removing the average density subdivision definition, as it is no longer in the use table.

Bulk Table

- We are concerned that the 2,500 square foot building maximum will be low enough to stifle potential projects in the district. We suggest limiting the size of each commercial space rather than the building as a whole, or using other bulk regulations that allow for greater flexibility while still protecting the district from big-box style retail.
- Footnote 3 states that the 25' minimum side yard listed in the table can be reduced to 0 feet with a special permit. We suggest removing that special permit requirement and setting the side yard minimum at 0, and also suggest including a maximum side yard setback to support walkability and a hamlet feel.
- The minimum parking setback (15') is lower than the principal building setback (25') despite front yard parking being prohibited in the district.

Use Table

- A large number of uses in the proposed table require a special permit, which adds cost and complexity to an application. We suggest that more uses be allowed by right, including mixed-use buildings and mixed style housing, which are key to the mission of this district.
- As noted in a comment above, it is unclear to us why two-family dwellings are to be prohibited in this district. .
- Senior citizen housing, defined in the code as being public or non-profit, is not allowed in the district. What about private (for-profit) age-restricted housing? If that is allowed, we suggest clarifying that in the code.
- The Town is proposing to prohibit solar and geothermal energy systems as an accessory residential use. It is unclear whether this includes residential rooftop solar and residential geothermal. This entry in the use table would seem to include such systems, but 210-36 (C)(1) states that roof-mounted solar energy systems are permitted as-of-right in all districts. We understand that, per the density bonus, solar-integrated building materials are preferred, but that technology is still in its early stages. We suggest that rooftop solar be allowed, with language added to the design standards if aesthetic considerations are a factor. Geothermal heating and cooling systems, which have no aesthetic impact, should also be permitted.

- The “maximum 12 units” note for the multifamily dwelling use could be removed, with regulatory language like this left to the regulatory sections of the code.
- There are two listings for “Mixed Use Building” – one under residential, the other under commercial – and they have different permissions. Only one definition of “Mixed Use Building” has been added to the zoning code. Uses with different permissions should have clearly distinguishable names.
- Now that short-term rentals are being explicitly permitted in a zone, the Town should consider creating STR regulations to govern this sometimes controversial use. The Board may also wish to consider whether a special permit would be appropriate for this use.
- A 2,500 square foot limit on museums and libraries likely renders those uses unworkable. In addition, while we understand the concern about having tax-exempt properties in the district, civic and cultural uses can bring life to a mixed-use center. We suggest allowing them.
- A definition for “movie house” has been added to the zoning code, but there is no definition for “movie theatre,” which is already a listed use in the Use Table. One movie-related use would be sufficient since the square footage cap is specified elsewhere.
- The Board could consider prohibiting the “Restaurant, fast-food or drive in facility” use in the TC district. This use, with its high vehicular turnover, is generally not conducive to a pedestrian-oriented, rural community.

Design Standards

- We suggest stating that all sidewalks must meet ADA standards, especially since materials other than concrete are permitted.
- The Board could consider specifically requiring sidewalks along Route 55 and CR 21 frontage, to facilitate pedestrian movement between TC parcels.
- C(2)[2] and [4] do not quite match the bulk table. The table does not distinguish between parcels fronting on Route 55 or other roads, and sets a minimum of 20’ and a maximum of 35’ for all. If the Board is trying to note in the design standards some particulars that can't be captured in the bulk table, we suggest that the table have a note that refers back to the design standards.
- The “to the maximum extent practical” and similar caveats found in A, C(1), and 4(a)[3] create a loophole to the mandatory “shall” that is likely to be exploited. We suggest removing this language.
- At C(2)(a)[3] and other outdoor dining/plaza sections, the Board could consider whether different standards should apply to such uses if they face Route 55, with its higher speeds and traffic volume.
- At C(2)(C)[2], the Board could consider raising the minimum building frontage. A buildout of 60% is unlikely to achieve the desired “near-continuous façade.”
- The Board could consider clarifying how these guidelines would be applied to single-family residential developments. For example, what would the side/rear parking requirement mean in a single-family context?
- Figure 5 shows an example of off-street parking in front of the building, which is prohibited.
- At C(8)(b)[2], it is not entirely clear what is meant by “sidewalks connecting to residential districts.” Is it those that connect a residential area to a commercial one? The Board could consider whether all sidewalks should have a minimum required planting strip.
- At C(10)(a) and (b), we suggest that definitions be reserved for the definition section of the code. If they remain in the design guidelines, we suggest they be replicated in 210-82.
- At C(12), while ideal, undergrounding utilities can be a large expense and has the potential to be a high hurdle for developers.
- At C(13)(b) and (c), the building height and story limit are an unusual match. A 12 foot first story would leave 21 feet of allowable height, but only one story in which to use it. We suggest removing the 2-story maximum, letting the 35’ height maximum govern design.
- C(13)(e): as noted above, the 2,500 square foot building maximum may be low enough to stifle potential projects in the district.
- C(14)(a) and (b): We suggest merging (a) and (b), listing flat roofs among the permitted types and including the requirement that mechanicals must be hidden. We note that the required parapets and cornice details at (b)[2] and [3] will not apply to all the listed roof types.

- Given the 2,500 square foot maximum building footprint, C(15)(a) is likely unnecessary – few if any buildings will exceed a 60' façade.
- C(18)(a): we suggest limiting the number of awnings that can have signs and lowering the total building square footage limit, which is substantially higher than the allowable limit for any other type of sign in the TC district.

Chapter 192, Subdivision of Land

- Per the edits to the zoning code, a cluster subdivision is a type of conservation subdivision. Throughout this chapter, the two terms are used as if they are separate development methods. We suggest simply using the term “conservation subdivision,” and referencing the cluster method in the definition. If both terms are to remain, we suggest adding a definition of cluster subdivision to the chapter.
- At 192-18 C(1)(a) we suggest editing the final sentence to read “...shall preserve a minimum of 50%...”
- 192-25 A states that a conservation subdivision may be created only in residential zoning districts, but the Town Center is listed as a commercial district.
- Article IX and X are numbered incorrectly.

Chapter 128, Fees

- The first sentence of the edited section (128-1 H(2)) is difficult to follow. The Board could consider editing it for clarity.

Chapter A215, Street Specifications

- A215 1.A states that standards for private streets are the same as public streets; this is not what figure 1 shows (public and private subdivision streets are listed separately, and there are some differences between them).
- A215-6 (Classification) says there are 3 classifications, then lists 4.
- The Board could consider removing the ‘suburban or rural-type’ qualifiers from the public/private subdivision street descriptions, since all are now expected to meet the same standards.
- A215-29 states that sidewalks are shown on figures 2, 3 and 4, but figure 4 does not show sidewalks. The Board could consider adding them to the figure, especially as this type of street is likely to be part of any developments in the Town Center zone, where sidewalks are more likely to be required.
- The Board could consider requiring sidewalks for new commercial streets.
- Figure 1:
 - o The Board could consider whether the ROW, clearing and grading width should be reduced given the narrower pavement section
 - o Shoulders: width should depend on whether sidewalks are provided. 5 ft shoulders are preferred on collector/commercial roads if there are no sidewalks. Shoulders should be provided regardless of the presence of asphaltic berms to allow for walking/bicycling safety.
- Figure 1A: change sidewalks/pedestrianways from “NA” to “As required by Planning Board”
- In figures 2, 3, 10, and 14 a 4 foot sidewalk is shown. 5 feet is preferred for a minimum width, especially on a commercial street.
- The title of figure 5, ‘Rural-Type Street (Private),’ does not match the title in figure 1 (‘subdivision street (private residential)).’

RECOMMENDATION

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.

Eoin Wrafter, AICP
Commissioner
By

A handwritten signature in black ink, appearing to read 'Dylan Tuttle', with a horizontal line extending to the right from the end of the signature.

Dylan Tuttle
Planner