

Attachment VIII.C.3.b.-1

§ 250-27.2. Planned resort development.

[Added 11-21-2006 by L.L. No. 6-2006]

A. Purpose; zoning objectives; other zoning regulations.

- (1) Purpose. Section 2.2.5 of the Town of Thompson— Village of Monticello Joint Comprehensive Plan states that "providing for land uses such as the Concord Resort Hotel is necessary to preserve major employment centers and preserve a source of attraction to the Town and region. The number of major resorts has dwindled and those which remain should be protected from incompatible adjacent land uses and permitted to expand and develop, provided those development plans maximize the protection and enjoyment of the Town's natural resources on which the bulk of the tourism industry depends." It is the intent of this section to establish a use entitled "planned resort development" ("PRD") which facilitates the accomplishment of these goals and objectives, and which provides for the orderly development of complementary commercial, residential and entertainment uses and the creation of a more desirable community environment than would be possible through strict application of the zoning regulations found elsewhere in Part 1 of this chapter. The use of sound integrated resort planning and land use concepts which reinforce the goals and objectives of the PRD shall be considered.
- (2) Zoning objectives. The objectives of a PRD are the development and/or redevelopment of one or more destination resorts meeting the requirements of Section 250-27.2 B(3)(a) having various commercial, retail, lodging, entertainment and recreational facilities and complementary one-family dwellings and multi-family dwellings through comprehensive planning and maximum flexibility of design, which will in turn result in or accomplish the following:
 - (a) Preservation of significant natural resources, such as wetlands and water bodies, and other areas of scenic and ecological value.
 - (b) Innovation and variety in the type and design of residential development and lodging, providing a wide choice of living environment, occupancy tenure and housing cost.
 - (c) Efficient use of a site to facilitate adequate and economical construction and maintenance of streets, stormwater management facilities, and water supply and sanitary sewerage systems.
 - (d) Preservation of property values in the vicinity of a PRD and the protection of neighboring areas from any adverse impacts of development of a PRD.
 - (e) Enhancement of commercial, entertainment and recreational opportunities for residents of the Town, county and region.

- (f) Creation of diverse full- and part-time employment opportunities for residents of the Town, county and region.
- (g) Inducement of private investment in the Town, county and region, including reinvestment in existing businesses and the attraction of new seasonal and year-round businesses.
- (3) Other zoning regulations. Except with respect to the land use and development regulations, procedures and requirements which are set forth in Subsections B and C below, § 250-14B, 250-22C and 250-28 of this chapter, a PRD shall comply with all other provisions of this Part 1.

B. Land use and development regulations.

- (1) Permitted zoning districts. A PRD may be established within the RR-1 Rural Residential-1 District, the SR Suburban Residential District, the HC-1 Highway Commercial-1 District, and the HC-2 Highway Commercial-2 District; provided, however, that a PRD may only be established in the HC Highway Commercial District on lots or parcels having frontage on a state or county highway and which are located within 2,500 feet of the intersection of two or more state or county highways.

(2) Permitted land uses in a PRD:

(a) Permitted principal uses:

- [1] Hotels and motels and related accessory facilities and amenities including convention centers, exposition centers, indoor or outdoor water parks and theaters (as defined below).
- [2] Convention centers and exposition centers, whether or not accessory to a hotel/motel.
- [3] Indoor or outdoor water parks, whether or not accessory to a hotel/motel.
- [4] Casino and Racino uses (as defined below).
- [5] One-family dwellings and multi-family dwellings, in any combination of detached, semidetached, attached, mid-rise or high-rise structures, whether such residences are to be owned in fee simple, rentals, time shares or made subject to a declaration of condominium or membership in a homeowners' association, or any combination thereof.
- [6] Seasonal and year-round indoor and outdoor recreational, cultural, sports and amusement uses, including:
 - golf courses, golf facilities and uses in support of such principal use;
 - general winter recreational facilities, including but not limited to, down-hill skiing, snowboarding, snow tubing, snow shoeing, and cross country skiing facilities

including lifts, trails, lodges, snow-making equipment, and uses in support of such principal use;

- snowmobiling courses and trails and uses in support of such principal use;
- roller skating, skateboarding and ice skating facilities and uses in support of such principal use;
- horse drawn sleigh ride facilities
- off-road motorized vehicle courses and tracks, including facilities for motocross, off-road utility and truck vehicles and uses in support of such principal use ;
- non-motorized vehicle courses and tracks, including facilities for mountain bikes, and uses in support of such principal use;
- boating, fishing and other water-based recreational uses and uses in support of such principal use;
- tennis courts and uses in support of such principal use;
- amusement and family entertainment facilities, including but not limited to, miniature golf, batting cages, petting zoos, and arcades that include electronic, mechanical or video game facilities and uses in support of such principal use;
- equestrian trails, harness and horse racing tracks and uses in support of such principal use;
- bowling alleys and uses in support of such principal use;
- billiard parlors and pool halls and uses in support of such principal use;
- trap and skeet shooting course and uses in support of such principal use;
- Indoor and outdoor athletic and recreational facilities that are open to the general public, groups, clubs, leagues and organizations, including but not limited to, basketball and squash courts; baseball, football, lacrosse and soccer fields; and uses in support of such principal use.
- Cultural facilities such as a designated location, auditorium, hall or similar facility developed for the purpose of accommodating groups of persons for meetings, exhibitions, shows, festivals and other public interest events and uses in support of such principal use.

[7] Agricultural uses including related retail facilities such as farmers markets, farm stands, roadside stands, community gardens, pick-your-own gardens and orchards, farming educational centers and demonstration farms, or any combination thereof, that allows agricultural producers to attract customers and promote the sale of New York State agricultural-related products at retail directly to customers. Agricultural-related

products include, but are not limited to, all agricultural and horticultural products, animal feed, baked goods, maple-syrup, ice cream and ice cream based desserts and beverages, clothing, Christmas trees and related products.

[8] Theaters and Production Studios (as defined below).

[9] Retail uses including:

[a] Neighborhood retail (as defined below); and

[b] Destination retail (as defined below).

[10] Personal service shops and business offices including medical and dental offices and clinics.

[11] Restaurants and catering facilities.

[12] Restaurant brewers, (i.e. “brew pubs” licensed by the New York State Liquor Authority whose beer production shall not exceed 5,000 barrels per year per location).

[13] Health spas, whether or not accessory to a hotel or motel.

[14] Utility structures and facilities, public and private, including telecommunications facilities and structures.

[15] Child day-care centers.

[16] Heliport; provided, however, that a heliport shall not be permitted within 750 feet of a residential use, and that the hours of operation and flight path shall be subject to the approval of the Planning Board. The Planning Board may limit the number of heliports in a PRD.

[17] Recreational Vehicle Parks (as defined below).

[18] Civic Centers (as defined below)

[19] Microbrewery (as defined below)

[20] Microdistillery (as defined below)

[21] Wineries (as defined below)

(b) Permitted accessory uses: uses and facilities accessory to any of the above.

(c) Adult eating and drinking establishments, adult establishments, adult theaters and adult uses shall all be prohibited in a PRD.

(3) Development regulations. All of the development regulations for a PRD set forth in this section, including those regulating permitted land uses and the density and arrangement of buildings and structures, shall be applied to each approved PRD Comprehensive Development Plan as a whole and shall not be applied to any individual areas within the PRD Comprehensive Development Plan site, notwithstanding the subdivision of the PRD site pursuant to Subsection C(3) below into two or more separate development sites and/or the separate ownership of such development sites, provided that no development within the PRD Comprehensive Development Plan may take place except in material conformance with a PRD Comprehensive Development Plan (as defined below) approved by the Town Board. The development regulations for a PRD are as follows:

(a) Minimum site area: 1,200 contiguous acres in common ownership at the time of the application for approval of a PRD Comprehensive Development Plan, which must include at least one eighteen-hole regulation golf course; provided, however, that:

[1] The lot(s) or parcel(s) which constitute the PRD (including the minimum site area of the PRD) may be divided by public or private streets or rights-of-way; and

[2] Noncontiguous land in excess of the minimum site area in common ownership with the minimum site area at the time of the application for approval of a PRD Comprehensive Plan may be used as a PRD provided that the lot(s) or parcel(s) are located within 3,500 feet of the minimum site area as set forth in subparagraph 3(a) hereof.

(b) Permitted density of residential uses:

[1] Maximum number of residential units per approved CDP: 4.0 units per acre of net site area.

[a] Maximum aggregate total net floor area of residential accessory uses: 10% of the aggregate total net floor area of residential uses.

(c) Permitted density of nonresidential uses:

[1] Maximum number of hotel/motel units (excluding units existing and/or approved as of the date that application for approval of a PRD Comprehensive Development Plan is submitted to the Town Board pursuant to Subsection C below) per approved CDP: 1.75 units per acre of net site area.

[a] Maximum aggregate net floor area of hotel/motel accessory uses per approved CDP: 15% of the aggregate total net floor area of hotel/motel uses.

[2] Maximum net floor area of casino/racino uses per approved CDP: 450,000 square feet.

[3] Maximum aggregate total floor area ratio of permitted principal and accessory commercial uses per approved CDP (except casino uses and hotel/motel accessory uses): 0.0175.

- (d) Permitted building height of all uses: The maximum building height shall be 350 feet, measured from the average elevation of the finished grade along the front of the structure to the ceiling of the highest occupied floor of such structure. For purposes of this section, the front of the structure shall be identified as the façade containing the main point of ingress and egress.

[Added 8-18-2008 by L.L. No. 7-2008*Editor's Note: This ordinance also redesignated former Subsections B(3)(d), (e), (f) and (g) as Subsections B(3)(e),(f), (g) and (h), respectively.*

- (e) Minimum number and locations of parking and loading spaces: The minimum number and locations of parking and loading spaces for each use in a PRD shall be set forth in the design standards (as defined below) for the PRD Comprehensive Development Plan (as defined below).

[Amended 8-18-2008 by L.L. No. 7-2008]

- (f) Notwithstanding § 250-14B of this chapter, the following shall be excluded from the calculation of building height: flagpole, spire, belfry, chimney, transmission tower, skylight, elevator or stair bulkhead, and mechanical equipment, provided that such mechanical equipment shall be screened and the visibility of such equipment from public rights-of-way shall be minimized to the extent feasible under the circumstances.

[Amended 8-18-2008 by L.L. No. 7-2008]

- (g) Section 250-16 of this chapter shall not apply to commonly owned residential accessory uses in a PRD, including community pools and clubhouses.

[Amended 8-18-2008 by L.L. No. 7-2008]

- (h) Notwithstanding § 250-18 of this chapter, fences and walls may exceed six feet in height with the approval of the Town Engineer.

[Amended 8-18-2008 by L.L. No. 7-2008]

- (4) Utilities. All contiguous land within a CDP shall be served by a commonly controlled publicly owned or publicly regulated central water and sewer systems. All water, sewer and gas lines and all other lines providing power and communications service shall be installed underground in the manner prescribed by the state and local agencies having jurisdiction.
- (5) Open space. Not less than 35% of the gross site area of a PRD shall be devoted to open space which may be used for public or private recreational purposes including, but not limited to, a golf course, and/or preserved in its natural state. The open space shall include lands having significant ecological, aesthetic and recreational characteristics, with topography, dimension, location, access and improvements suitable for its intended purposes.

- (6) Certain definitions. For the purposes of this section, the following terms shall have the following meanings:

MICROBREWERY

Any facility where up to 60,000 barrels per year of beer is manufactured for sale; and all offices, granaries, mashrooms, cooling rooms, vaults, yards, and storerooms connected therewith or where any part of the process of the manufacture of beer is carried on or where any apparatus connected with such manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept.

CASINO AND RACINO USES

Gaming casinos and racinos (including, without limitation, facilities established and activities conducted pursuant to Article 34 of the New York State Tax Law, as amended, the New York State Racing, Pari-Mutuel Wagering and Breeding law, as amended, and other applicable laws), simulcasting facilities, and other related accessory facilities and amenities.

CIVIC CENTER

Auditoriums, halls, galleries, governmental offices and facilities, recreational or similar facilities developed for the purpose of accommodating groups of persons for recreational activities, meetings, exhibitions, shows, festivals and other public interest events and uses in support of such principal uses.

DESTINATION RETAIL

Retail uses not intended primarily to serve the residents of the PRD or guests of a hotel/motel, including but not limited to shopping centers and "big-box" retailers. Such uses shall be limited only to those areas as permitted by a duly adopted PRD Comprehensive Development Plan.

MICRODISTILLERY

Any facility wherein up to 35,000 gallons per year of liquor are manufactured for sale. For the purposes of this definition, liquor means any distilled or rectified spirits, brandy, whiskey, rum, gin, cordials, or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

FLOOR AREA RATIO

The net floor area of all buildings divided by the net site area.

NEIGHBORHOOD RETAIL

Retail uses intended primarily to serve the residents of the PRD or guests of a hotel/motel.

NET FLOOR AREA

The sum of the total horizontal floor areas of a building which are devoted to the exclusive use and occupancy of tenants or owner operators, measured from the interior faces of interior walls, but not including the areas of: floor space of cellars; floor space devoted to off-street parking or loading; elevator shafts; stairwells, common corridors

and exit corridors; floor space used for mechanical equipment or storage; and any other floor space not accessible to the general public.

NET SITE AREA

The gross area of the PRD site less the area of land underwater, wetlands (but not wetland buffer or adjacent area) as defined under state law, existing public roads and existing public and private vehicular rights-of-way, and existing underground and above-ground private and public utility easements.

RECREATIONAL VEHICLE PARK

Any parcel area, tract of land or portion thereof where one or more sites are rented to users of Recreational Vehicles (as defined in this Part 1) and which are occupied for temporary purposes. The presence of any one vehicle in the park shall be limited to a period of not to exceed ninety (90) consecutive days in any twelve (12)-month period).

THEATERS AND PRODUCTION STUDIOS

Establishments such as movie theaters, indoor performance theaters, outdoor performance amphitheaters, dinner theaters, and stage, sound, movie, television, and video multimedia production studios primarily engaged in the making, presenting, or showing of either live or previously recorded productions which are intended for persons of all ages and are not in violation of section 250-27.2B(2)(c) of this Chapter.

WINERIES

Any winery or farm winery established in accordance with Art. 6 of the New York Alcoholic Beverage Control Law.

- (7) PRD comprehensive development plan. Conceptual development plan(s) of the PRD ("PRD comprehensive development plan") shall be submitted to and approved by the Town Board in accordance with Subsection C below. A PRD shall only be developed in compliance with the land use and development regulations set forth in this Subsection B and in material conformance with one or more approved PRD comprehensive development plan(s), as such plan may be amended from time to time.
- (8) In the event of any conflict or inconsistency between these PRD land use and development regulations (Section 250-27.2B et seq.), and Article II of Chapter 250 (Section 250-2 et seq.) of the Town Code, then the PRD land use and development regulations shall control.

C. PRD comprehensive development plan approval; site development plan approval; subdivision approval.

- (1) PRD comprehensive development plan approval. The development of a PRD shall materially conform to the PRD Comprehensive Development Plan(s) approved by the Town Board. The PRD Comprehensive Development Plan(s) shall conceptually show the general layout and disposition of currently proposed and potential future uses, buildings and structures, the densities of such buildings and structures, parking and loading areas, pedestrian and vehicular rights-of-way, access and circulation, private and public open spaces and public uses, if any, and the proposed phasing of development. Each PRD Comprehensive Development Plan shall show on-site wetlands, water bodies and

watercourses, and other significant topographic and ecological features, generally show the proposed architectural character and design concepts of uses and structures, and shall identify proposed stormwater management techniques and generally show existing and proposed new sanitary sewer and water facilities, whether public or private. The PRD Comprehensive Development Plan shall set forth design standards, including but not limited to maximum building heights, minimum required yards and setbacks, buffer and screening requirements, lighting and signage standards, street and roadway widths, and off-street parking and loading requirements ("design standards"). From and after the approval of a PRD Comprehensive Development Plan, the design standards shall be deemed to be additional development regulations for the purposes of Subsection B(3) above.

- (a)** An application for approval or amendment of a PRD Comprehensive Development Plan shall be submitted to the Town Board, which shall immediately thereafter refer the application to the Planning Board for its report and recommendation, which may include recommendations for appropriate conditions or modifications to the plan. The Planning Board shall review the PRD Comprehensive Development Plan and shall submit its report and recommendation to the Town Board within 60 days after the first regularly scheduled meeting of the Planning Board after the referral by the Town Board. The Planning Board may hold a public hearing on the proposed PRD Comprehensive Development Plan, provided that notice of the public hearing is advertised at least once in a newspaper of general circulation in the Town at least 10 days prior to the hearing. In the event that the Planning Board fails to submit its report and recommendation to the Town Board within such sixty-day period, then the Town Board may approve the PRD Comprehensive Development Plan without regard for such report.
- (b)** The Town Board shall hold a public hearing on the application within 30 days after the date on which the report of the Planning Board is due as provided in Subsection C(1)(a), above. The public hearing must be advertised at least once in a newspaper of general circulation in the Town at least 10 days prior to the hearing.
- (c)** Within 45 days after the public hearing, the Town Board shall act to approve with modifications or disapprove the application. Notwithstanding the foregoing, the time within which a final decision must be rendered may be extended by mutual agreement of the Town Board and the applicant.
- (d)** The Town Board may condition such approval as is reasonably necessary to accomplish the purposes and objectives of a PRD, and may set time periods within which such conditions must be satisfied. Such conditions may include, but are not limited to, conditions requiring the phased installation of sewer, water and other public utility infrastructure and road improvements sufficient to serve the immediate and anticipated future needs of the PRD, and requiring that the performance of such improvements be adequately secured to the Town by written agreement, recorded instrument, and/or performance and/or maintenance bonds in form, sufficiency, manner of execution and surety satisfactory to the Town Board and Town Attorney.
- (e)** An application for approval of a PRD Comprehensive Development Plan shall be subject to compliance with the State Environmental Quality Review Act ("SEQRA"). Mitigation

measures imposed or required by the Town Board as conditions to approval of the PRD Comprehensive Development Plan under SEQRA shall without further action by the Town Board be deemed to be conditions to all subsequently approved site development plans of the portion, phase and/or development site of the PRD to which such conditions relate.

- (f) The PRD Comprehensive Development Plan may from time to time be amended in accordance with the procedure set forth above; provided, however, that application for amendment of a PRD Comprehensive Development Plan may only be made by the Master Association (as defined below) of the PRD.
- (2) Site development plan approval. Before a building permit may be issued by the Building Officer for any use within a PRD, a site development plan of such use shall be approved by the Planning Board in accordance with and subject to all provisions of §§ 250-50, 250-51, 250-52 and 250-52.1 of this chapter and the provisions of this Subsection C, provided that the Planning Board shall not unreasonably withhold approval of a site development plan submitted under this section or require that such site plan be materially revised or amended if the site development plan substantially and materially conforms to a PRD Comprehensive Development Plan approved by the Town Board and complies with this section and all other applicable provisions of this chapter. An application may be submitted for site development plan approval of all or any portion, phase and/or separate development site of the PRD.
- (a) An application for site development plan approval shall be made by the Master Association of the respective duly adopted PRD Comprehensive Development Plan, or if the portion, phase, and/or separate development site of the PRD for which site development plan approval is sought is owned or leased by a different person or entity then jointly by such Master Association and that person or entity. In the event the request for a joint application to the Planning Board is denied by the Master Association, the Master Association shall have sixty (60) days from the date of the applicant's first formal written request to state in writing to the applicant and Planning Board the reasons, consistent with this Subsection C2, for its objection to the application. Failure to provide such written objection shall be deemed to be Master Association consent to application.
 - (b) An application for site development plan approval shall be subject to § 52-3D of the Town Code, requiring the applicant to pay for the costs of the Planning Board's consultants.
 - (c) Notwithstanding any provision of this section, a site development plan shall not be approved by the Planning Board unless it is in material conformance with the approved PRD Comprehensive Development Plan, as the same may be amended from time to time. An application for site development plan approval which does not materially conform to the approved PRD Comprehensive Development Plan shall not be made except in conjunction with a corresponding application to the Town Board for amendment of the PRD Comprehensive Development Plan.

- (d) In connection with the approval of a site development plan, the Planning Board is authorized to approve minor modifications to the design standards that the Planning Board determines to be appropriate with respect to the specific portion, phase or development site for which approval is sought. Notwithstanding any provision of this section, the approval of such minor modifications to the design standards shall not be considered to be an amendment to the PRD Comprehensive Development Plan and shall not be subject to the procedures set forth in Subsection C(1) above. For the purposes of this Subsection C(2)(d), a minor modification shall be a modification that does not increase or decrease, as the case may be, any design standard by more than 15%.
- (e) An application for site development plan approval shall be subject to compliance with SEQRA. In connection with the SEQRA review of an application for site development plan approval, the Planning Board may require the applicant to identify and analyze, and mitigate, potential environmental impacts which were either not addressed by the Town Board in connection with the SEQRA review of the PRD Comprehensive Development Plan, or which might arise as a result of changed circumstances or conditions within the PRD and elsewhere.
 - [1] Mitigation measures imposed or required by the Town Board as conditions to approval of a PRD Comprehensive Development Plan under SEQRA shall without further action by the Planning Board be deemed to be conditions to all subsequently approved site development plans of the portion, phase and/or development site of the PRD Comprehensive Development Plan to which such conditions relate.
- (3) Subdivision approval. Subsequent to the approval of a PRD, all or any portion of the land area which constitutes a PRD may be subdivided either horizontally or vertically into separate development sites for purposes of sale, lease or mortgage and/or (to the extent permitted by law) tax lot creation without regard to the minimum site area or any minimum lot area or to any other bulk, dimensional or development regulation set forth in Subsection B(3) above or elsewhere in this chapter except the approved design standards of the PRD Comprehensive Development Plan provided that all lots, parcels or development sites so created shall in all events be developed and used only in conformance with the approved PRD Comprehensive Development Plan, the approved design standards of the PRD Comprehensive Development Plan and with any approved site development plan(s). Applications for subdivision approval shall be made to the Planning Board as set forth in Chapter 212 of the Town Code (the Town of Thompson Land Subdivision Regulations) and shall be subject to the provisions of Chapter 212; provided, however, that in the event of any conflict or inconsistency between the PRD Comprehensive Development Plan and/or the design standards and the standards contained in Article IV of Chapter 212, then the PRD Comprehensive Development Plan and the design standards shall control.
- (4) Master Association. It is anticipated that each PRD Comprehensive Development Plan will be developed in phases over time, and that different phases, portions and/or development sites of each PRD Comprehensive Development Plan will be developed and owned by different persons and entities, including duly formed condominium and/or homeowners' associations. To ensure that conditions of approval of a PRD Comprehensive Plan may effectively be enforced by the Town, and to prevent potential conflict between the different

future owners, the applicant for the original approval of a PRD Comprehensive Development Plan shall be required to: duly form an association under New York State Law to act as the master developer of the PRD (the "Master Association") against which conditions of the approval of the PRD Comprehensive Development Plan may be enforced; and require all future owners of the separate phases, portions and/or development sites of the PRD Comprehensive Development Plan to be members of the Master Association. The organizational documents of the Master Association shall provide that only the Master Association shall be entitled to apply to the Town Board for an amendment to the PRD Comprehensive Development Plan.

- D.** Effect on New York Town Law. To the extent that any one or more of the provisions of this section is inconsistent with any provision of the New York Town Law, including NYS Town Law section 274-a, then this section shall, pursuant to the New York Municipal Home Rule Law, be deemed to supersede any such inconsistent provision.