

Chapter 280. Zoning

Article XV. Industrial Districts

§ 280-73.4. Orchard Neighborhood Redevelopment Incentive Overlay (RIO-ON) District.

[Added 8-24-2010]

A. Purpose.

- (1) The purpose of this district is to permit and encourage the redevelopment of vacant and/or deteriorated commercial, industrial and residential properties within the Orchard Neighborhood in a manner that will improve the character of the nearby environs which include an established neighborhood important to the character of the City; remove vacant, obsolete, incompatible, underutilized and marginal structures which are poorly maintained and present opportunities for illegal activities and have a blighting influence on the surrounding area; ensure an attractive entryway into the City of Glen Cove downtown from adjacent communities; and to promote additional housing opportunities which do not currently exist in this area. It is the intent of this chapter to require the demolition or stabilization of vacant, obsolete, incompatible, underutilized and marginal structures which are poorly maintained, and to encourage the maintenance of such structures pending redevelopment. The area to be included in the Orchard Neighborhood Redevelopment Incentive Overlay (RIO-ON) District is reflected on the RIO-ON Overlay Map, prepared by the Turner Miller Group, dated August 23, 2010, on file in the office of the Glen Cove City Clerk.
- (2) In order to eliminate existing blight, blighting influences and incompatible uses, it is recognized that the vast majority of the area covered by this district was historically built as one- and two-family housing, but has undergone significant increases in density (both legally and illegally) over the years, taxing the existing infrastructure in the area, especially the street system; it is necessary to provide incentives and relief in order to promote redevelopment of the area in a manner that is protective of public safety and respectful of the historic importance of this area.
- (3) It is the further purpose of this district to create an attractive gateway into the downtown and to encourage development that maximizes pedestrian-friendly and view-enhancing design features, to provide "eyes on the street" for an area historically characterized by loitering and illegal activities.
- (4) The area encompassing this incentive overlay district has been found by the City Council, after evaluating the effect of potential incentives, which are possible by virtue of community amenities, to contain adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection, and that in designating this district, there will be no significant environmentally damaging consequences and that such incentives are compatible with the development otherwise permitted.

B. Applicability.

- (1) The Orchard Neighborhood Redevelopment Incentive Overlay District shall comprise those areas within the boundary of the district as indicated on the City of Glen Cove Zoning Map.^[1]

[1] Editor's Note: The Zoning Map is on file in the City offices.

- (2) The provisions contained herein are additive to any requirements of the underlying zoning provisions. To the extent that conflicts may exist with the overlay district, the provisions of the overlay district shall govern those applications authorized for the development of incentive uses.
- C. Permitted principal uses. Any use permitted by the underlying zoning district subject to all the restrictions, including bulk restrictions, as prescribed therein.
- D. Permitted accessory uses.
- (1) Any accessory use permitted by the underlying zoning district subject to all the restrictions, including bulk restrictions as prescribed therein.
- (2) As an accessory to multiple dwellings, condominium dwellings and townhouses, the following uses may also be authorized:
- (a) Real estate office for the marketing and sales of the units and signs related thereto, provided such signs comply with the City of Glen Cove Sign Ordinance.^[2]
 [2] Editor's Note: Editor's Note: See Ch. **228**, Signs.
- (b) Indoor and outdoor recreation facilities, including indoor swimming pools, spas, tennis courts, clubhouse, pool house, recreation and/or fitness centers, business centers and meeting spaces, provided that such facilities are planned as an integral part of the principal use and are for the use of residents of such principal use and their guests.
- (c) Off-street parking areas or garages.
- (d) Guard booth.
- (e) Management office.
- E. Prohibited accessory uses. No material used in the conduct of commerce or intended for sale, including but not limited to building supplies, plumbing supplies, electrical supplies, bulk pavers, bulk tiles, bulk stone, soil stockpiles, gravel stockpiles, vehicles, or auto parts shall be stored on any residential lot.
- F. Special uses. Any special use permitted by the underlying zoning district subject to all the restrictions, including bulk restrictions, as prescribed therein.
- G. Usable recreational yard requirements. Each unit of any residential use other than a single-family detached residence shall be provided a usable unoccupied recreational yard area of at least 400 contiguous square feet in a side or rear yard for the enjoyment of occupants. A single joint yard for multiple units may be provided, but such yard shall be no less than the sum of that required for each. Neither driveways, parking areas, areas under fire escapes, nor areas used for storage count toward usable recreational yard area. Areas used for on-site recreational amenities such as playgrounds, tennis courts, clubhouses, fitness equipment, and swimming pools shall count toward usable recreational yard requirements.
- H. Incentive uses permitted by special use permit at the discretion of the Planning Board.
- (1) Townhouses (single-family attached dwellings) subject to the following:
- (a) A minimum lot size of 15,000 square feet is required.
- (b) A minimum of 3,000 square feet of gross lot area shall be required per townhouse unit.
- (c) Townhouse units shall be unlike adjacent units in the same structure in exterior design and appearance. In determining that townhouses are unlike adjacent units in the same structure in design and appearance, the criteria of § **280-45B** shall be applied.
- (d) Each townhouse unit will occupy an entire vertical space between foundation and roof, except where a flat is located below the townhouse unit pursuant to § **280-73.4H(2)**.
- (e) Each unit shall provide at least two off-street parking spaces.
- (f) Maximum impervious coverage shall be 75%.

- (g) The height of the building shall not exceed 2 1/2 stories or 35 feet except where a flat is located below the Townhouse unit pursuant to § **280-73.4H(2)**.
- (h) A minimum side yard of 10 feet is required.
- (i) A minimum rear yard of 15 feet is required.
- (j) A front yard of no more than 20 feet shall be provided along each public right-of-way, except where a townhouse fronts on a public right-of-way, a covered unenclosed front porch extending at least five feet from the front of the building and spanning at least 50% of the width of the unit may be located within a required front yard.
- (k) No residential structures shall be located closer than 15 feet to each other and the Planning Board may require greater than 15 feet where it deems necessary.
- (l) A homeowners' association with rules approved by the Planning Board upon advice of the Planning Board Attorney or other arrangement acceptable to the Planning Board shall be established to ensure maintenance of all required improvements, exterior walls and common lands. Additionally, the homeowners' association shall include irrevocable provisions in its charter that shall require maintenance of exterior walls, windows, sidewalks, garages, parking areas, interior drives, landscaping, roofing or other surfaces/structures visible from a public right-of-way or common area within 90 days of receipt of a request for such maintenance by the City of Glen Cove City Council.
- (m) The minimum lot area per unit, as provided in § **280-73.4H(1)(b)** herein, may be reduced to 2,000 square feet of gross lot area per unit as an incentive at the discretion of the Planning Board, where the following amenities are included in the project:
 - [1] On-site active recreational amenities, including but not limited to playgrounds, tennis courts, clubhouses, fitness equipment, and/or swimming pools with a total area comprising no less than 10% of the total lot area and available to all occupants. In providing this increase in density, the Planning Board shall make a determination that the recreational amenities are substantial and superior to what is typically offered for residents of townhouses in the City of Glen Cove.
 - [2] Each townhouse unit is provided at least one parking space within an attached garage.
 - [3] In addition to satisfying the parking requirement of § **280-73.4H(1)(e)** herein, the applicant shall also provide one additional off-street parking space for each two townhouse units for use by visitors.
 - [4] Each unit (inclusive of flats where proposed) is provided a patio, porch or terrace area of no less than 50 square feet.
- (2) Where townhouses meeting all special permit requirements of the RIO-ON Overlay District are proposed, flats may be proposed to be located in the same structure as the proposed townhouses subject to the following:
 - (a) A maximum of one flat is permitted for each three townhouses.
 - (b) A minimum lot size of 25,000 square feet is required.
 - (c) The flat shall be designed to seamlessly blend into the appearance of the townhouse structure, and its presence shall not be overtly distinguishable except by the presence of an additional door.
 - (d) The flat shall have no more than two bedrooms.
 - (e) At least two off-street parking spaces shall be provided for each flat. Parking for the flat need not be provided in an attached garage, but at least one of the off-street parking spaces shall be assigned specifically to the flat.
 - (f) No unit shall have a livable space of less than 600 square feet.
 - (g) The height of the building shall not exceed three stories or 42 feet.

- (h) On-site recreational amenities shall be provided including, but not limited to playgrounds, tennis courts, clubhouses, fitness equipment, and/or swimming pools with a total area comprising no less than 10% of the total lot area and available to all occupants. If applicable this provision shall be inclusive of, not additive to any similar provision for townhouses in the RIO-ON district.
 - (i) Reduced usable recreational yard requirement. The usable recreational yard standards of § ~~280-73.4G~~ shall be provided as follows: not less than 200 square feet for each efficiency unit; 300 square feet for each one-bedroom unit; 350 square feet for each two-bedroom unit.
- (3) Multifamily residential buildings,
- (a) A minimum lot size of 40,000 square feet is required.
 - (b) Each dwelling unit shall have no more than two bedrooms.
 - (c) Minimum livable floor area for residential uses shall be as follows:
 - [1] Five hundred fifty square feet per efficiency dwelling unit.
 - [2] Six hundred fifty square feet per one-bedroom dwelling unit.
 - [3] Eight hundred square feet per two-bedroom dwelling unit.
 - (d) The minimum lot area per residential unit shall be as follows; provided, further, that all coverage, height and setback requirements are satisfied:
 - [1] One thousand eight hundred square feet per efficiency or one-bedroom unit.
 - [2] Two thousand five hundred square feet per two-bedroom unit.
 - (e) Each residential unit shall provide the following minimum off-street parking:
 - [1] One space per efficiency unit
 - [2] One and one-half spaces per one-bedroom unit, except that units that prohibit occupancy by persons under the age of 18 shall provide one space per unit.
 - [3] Two spaces per unit with two bedrooms, except that units that prohibit occupancy by persons under the age of 18 shall provide 1 1/2 spaces per unit.
 - (f) Maximum impervious coverage shall be 75%.
 - (g) The height of the building shall not exceed 3 1/2 stories or 45 feet.
 - (h) A minimum distance from property line: 10 feet.
 - (i) A front yard of no more than 20 feet and no less than 10 feet shall be provided along each public right-of-way. No off-street parking shall be provided between the building and the street. No structured parking shall be visible from any public street.
 - (j) On-site recreational amenities shall be provided, including but not limited to playgrounds, tennis courts, clubhouses, fitness equipment, and/or swimming pools with a total area comprising no less than 10% of the total lot area and available to all occupants and acceptable to the Planning Board.
 - (k) Reduced usable recreational yard requirement. The usable recreational yard standards of § ~~280-73.4G~~ shall be provided as follows: not less than 100 square feet for each efficiency unit; 150 square feet for each one-bedroom unit; 200 square feet for each two-bedroom unit.
 - (l) At least 30 square feet per unit of improved parkland available to the general public is provided and irrevocably offered for dedication to the City of Glen Cove. Parkland shall be improved with playground equipment, landscaped sitting areas, outdoor fitness equipment, and/or other facilities acceptable to the Planning Board and the Glen Cove City Recreation Director. This improved parkland may be located off site but must be located within 750 feet of the proposed site and within the RIO-

ON Overlay District. This parkland may be counted toward the satisfaction of on-site recreational amenities and usable recreational yards.

- (4) Mixed-use commercial and residential structures. Multifamily residential structures are permitted on upper stories over commercial uses subject to the following criteria:
 - (a) All special permit criteria applicable to multifamily residential structures.
 - (b) The ground-story commercial use is a permitted use in the underlying zoning district; or is a special permit use adhering to all required special permit criteria.
 - (c) The Planning Board makes a determination that any nonresidential uses contained in the structure are compatible with residential occupancy and do not pose a risk to the health, safety or general welfare of occupants therein.
 - (d) The full parking requirement for all uses are met on the site.

I. Waivers.

- (1) Waiver of affordable housing. The City Council may waive any requirement by the City of Glen Cove for the set aside of affordable housing where adequate on-site and off-site improvements to the neighborhood are made which enhance the quality of life of affordable housing residents in the neighborhood, including, without limitation, landscaping improvements, mass transit improvements, facade improvements, and lighting and security improvements. The City Council shall determine that there is approximate equivalence between potential affordable housing lost or gained or that the City has or will take reasonable action to compensate for any negative impact upon the availability or potential development of affordable housing caused by the provisions of this section. In determining whether to waive affordable housing requirements, the City Council shall consider the following criteria in determining equivalence:
 - (a) The type(s) of on- and off-site neighborhood improvements proposed by the applicant.
 - (b) The manner and program followed by the applicant in relocating existing tenants of any affordable residences, which may have resided at the site prior to the applicant's purchase of all or a portion of the minimum lot area.
 - (c) The number of affordable housing residences in the neighborhood which would benefit from the on- and off-site neighborhood improvements being proposed by the applicant shall be at least five times the number of affordable housing units, which would otherwise be required under the Zoning Ordinance.
 - (d) The recommendation of the Planning Board.
- (2) Waiver of hillside protection provisions. In recognition of the topography in the RIO-ON District, the fact that the majority of the area is already developed and contains man-made steep slopes and retaining walls, and the density requirements necessary to incentivize redevelopment of this location, the City Council may waive the hillside protection provisions of the Zoning Ordinance, subject to the applicant satisfying the following criteria:
 - (a) The application of best management practices and their ability to mitigate impacts from stormwater runoff;
 - (b) The employment of engineering practices in stabilizing soils and man-made slopes;
 - (c) The ability of foundations and engineered walls to safely develop the site without impacting surrounding real property or roadways;
 - (d) The ability to secure the site and its walls and steep slopes in a way that insures the safety of future residents and other persons;
 - (e) The manner in which the project adapts to the terrain and its resulting appearance; and
 - (f) Whether or not a viable project would be achievable without waiver of the slope provisions.

- J. Additional incentives and bonuses. An applicant may apply for an incentive adjustment to the lot area and bulk requirements of this chapter in exchange for one or more of the following incentives. Incentives and bonuses may be combined, but in no case shall the maximum residential density of the site exceed 35 units to the acre.
- (1) Density bonus for structured parking. In recognition of the detracting character of large expanses of parking and asphalt associated with multifamily development, where an applicant proposes to accommodate at least 75% of the required parking within structured on-site parking, which is located out of substantial public view, the Planning Board may reduce the required minimum lot area per dwelling unit by 25%.
 - (2) Density bonus for streetscape improvements. In recognition of the narrow and deteriorated street conditions in the vicinity of the project site, where an applicant proposes significant improvements to the streetscape that would result in enhanced safety and appearance, the Planning Board may reduce the required minimum lot area per dwelling unit by 25%. In determining whether or not to grant this density bonus, the Planning Board shall consider the following:
 - (a) The extent and dollar value of off-site improvements to the surrounding streetscape;
 - (b) The public costs that would otherwise be required to effect the same improvements;
 - (c) The improvement to the safety and appearance of the immediate neighborhoods as well as the possible marketability of the downtown from the proposed improvements.
 - (3) Density for green building. The Planning Board may reduce the required minimum lot area per dwelling unit by 25% for units that it finds are located within a proposed structure eligible for a gold certification from the US Green Buildings Council under their Leadership in Energy and Environmental Design (LEED) Green Buildings rating system.
- K. Money in lieu of community benefits or amenities.
- (1) At the request of the applicant or on a determination by the Planning Board that the identified amenities and benefits to the City are not immediately feasible or otherwise not practical for the applicant to provide, the Planning Board may refer the application to the City Council, which may require, in lieu of incentives, a payment to the City of a sum determined by the City Council. In referring the matter to the City Council, the Planning Board shall include its recommendation. If cash is accepted in lieu of other community benefit or amenity, provision shall be made for such sum to be deposited in a trust fund to be used by the legislative body of the City exclusively for specific community benefits authorized by the City Council.
 - (2) Any money in lieu of community benefits or amenities must be received prior to issuance of a building permit for construction of the proposed residential development.
- L. Procedure.
- (1) An application for waiver, incentive special use and/or incentive bonus shall be in writing and submitted to the Planning Board and to the City Council as required herein. The application shall include a conceptual site plan along with a narrative describing the proposed development program, including a statement as to the buildable yield of the proposed development parcel, an EAF or DEIS, and a boundary or topographic survey accurately depicting site conditions.
 - (2) The narrative shall describe the waivers, incentive special use, incentives and bonuses being applied for and address the criteria and considerations that the Planning Board and/or City Council must consider in deciding whether to grant such incentives and bonuses.
 - (3) The applicant may include in its narrative any further considerations of community benefit or amenities beyond those identified herein being provided by the project.
 - (4) Where the applicant is requesting to provide money in lieu of community benefits or amenities, the applicant shall provide a calculation and proposal of an appropriate payment. The City Council shall consider the proposal for payment by the applicant in determining whether the community benefits and amenities may be achieved.

- (5) At the discretion of the applicant, a full site plan may be submitted in place of a conceptual site plan as a basis for the Planning Board and/or City Council to make their decision regarding authorization of incentives and bonuses.
- (6) The application for authorization of a development under this section will be subject to the provisions of Article 8 of the Environmental Conservation Law.

M. Concept site plan required.

- (1) Within 45 days of receipt of a concept plan or, if a DEIS is required for the application pursuant to 6 NYCRR Part 617 (SEQR), within 45 days following a public hearing held on the DEIS, the Planning Board shall provide any required recommendations to the City Council with respect to the authorization of incentives and bonuses. This time period may be extended by consent of the applicant.
- (2) The Planning Board shall consider the conceptual site plan against the following standards in determining whether to authorize waivers, incentive special uses, incentives or bonuses and in making its recommendations to the City Council:
 - (a) Building scale and density should be balanced with the maximization of open space within the development, and the use of landscaping to mitigate and balance the visual impact of building size (including landscaped roof terraces to the extent practicable).
 - (b) The architectural treatment of buildings shall be such that when viewed from a distance, building masses are broken up visually through the use of techniques such as, but not limited to, stepping bays and recesses, balconies and terraces, and changes of material, to create a sense of scale and visual relief.
 - (c) The building scale and density shall be balanced with the maximization of concealed parking facilities within the development area, the use of landscaping, architectural treatments, roof gardens and courtyards, to conceal or mitigate the visual and environmental impacts of parking structures or surface lots on the site and the surrounding areas.
 - (d) The architectural treatment of those portions of buildings, in particular the facades of first and second floors, that face or adjoin pedestrian-oriented streets, sidewalks, open spaces and esplanades, is such that the quality of the pedestrian experience is maximized through the use of techniques such as, but not limited to, quality and variety of facade materials, architectural detail, variety in massing such as bays and recesses, location and scale of windows and doors, inclusion of features such as porches, steps, planters, awnings, etc.
- (3) Public hearing required. The Planning Board and/or City Council shall hold a public hearing on the proposed application for development under the provisions of the RIO-ON prior to making any determinations on whether to authorize incentive special uses, waivers or additional incentives and benefits, including, without limitation, acceptance of money in lieu of incentives or benefits. Notice of the public hearing specifying the incentives and bonuses being sought, as well as the total number of units being proposed, shall be sent by mail to each owner or occupant of all parcels of property located within a radius of 300 feet measured from all points of the subject property line by certified mail, return receipt requested. Said notice shall be postmarked no sooner than 20 days and no later than 10 days prior to the date set for the public hearing. An affidavit of mailing, together with the certified letter postal receipts, shall be filed with the Council. The hearing date shall also be advertised by posting of a sign stating the time, date and place of the public hearing to be held on the property which is the subject of an application. The sign shall be posted at least 10 days prior to the date of the hearing. The sign shall be visible from adjacent rights-of-way. If the subject property is on more than one right-of-way, a sign shall be posted facing each right-of-way. If the sign is destroyed or removed from the property, the owner of the subject property shall be responsible for replacing it. Ten days prior to the public hearing, the owner of the subject property shall execute and submit to the Department of Planning an affidavit of proof of the posting of the public notice sign(s) according to this subsection. If the owner of the subject property fails to submit the affidavit, the public hearing will be postponed until after the affidavit has been supplied. Where a full site plan has been submitted for consideration of authorization of incentives and bonuses, the Planning Board shall schedule its public hearing on the site plan jointly with the City Council's public hearing on the authorization of incentives and bonuses.

- N. State Environmental Quality Review (SEQR). The generic environmental impact statement for the Glen Cove Master Plan served as the generic environmental impact statement (GEIS) required by § 81-d of the General City Law in enacting the incentive zoning district. That generic environmental impact statement identified no significant impacts as a result of granting incentive density. The GEIS required that an application for incentive redevelopment provide a site-specific environmental review subject to the requirements of SEQRA. Therefore, development under the provisions of the Residential Incentive Overlay District shall be deemed a Type 1 action pursuant to SEQRA, and any site-specific EIS must further address the consideration of § 81-d of the General City Law. When an application for development subject to the provisions of the Residential Incentive Overlay District requires the preparation of a draft environmental impact statement (DEIS) pursuant to SEQR, it is the intent of this chapter that any public hearing by the City Council and/or Planning Board to consider an application for waiver, incentive special use, incentives and bonuses hereunder shall be a joint hearing with the lead agency on the DEIS.
- O. Action by City Council.
- (1) The City Council shall not authorize any incentive or bonus pursuant to this section until the Planning Board files its report of recommendation, except in the instance where the Planning Board fails to convey its report to the City Council within the time frame specified by this section, in which case such failure to report shall be construed by the Council as a recommendation to approve.
 - (2) In determining whether to authorize incentives and bonuses as detailed herein, the City Council shall:
 - (a) Consider the recommendations of the Planning Board.
 - (b) Determine that the proposed redevelopment project satisfies the purpose and intent of the Orchard Neighborhood Redevelopment Incentive Overlay District.
 - (c) Determine that the proposed redevelopment project is in harmony with the recommendations of the City Master Plan.
 - (d) Find that authorization of the incentives and bonuses will not result in significant adverse environmental impacts, or that such impacts have been mitigated to the maximum extent practicable.
- P. Site plan approval required.
- (1) Any development under the provisions of the Orchard Neighborhood Redevelopment Incentive Overlay District shall require full site plan review by the Planning Board.
 - (2) The Planning Board shall only approve a site plan which is substantially identical to the conceptual site plan submitted as part of the application for authorization of incentives and bonuses in terms of:
 - (a) Layout.
 - (b) Building heights.
 - (c) Architectural quality.
 - (d) Number of bedrooms and units.
 - (e) Number of parking spaces.
 - (f) Treatment of slopes.
- Q. Severability. Should any provision of this section be rendered invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof, other than the part rendered invalid. Should the provisions governing the acceptable benefits and amenities listed herein be rendered invalid, the incentives and bonuses associated with such benefits and amenities are declared prohibited absent such benefits and amenities.