

Mr. Mark Torpey, Chair
Saratoga Springs Planning Board
City Hall
474 Broadway
Saratoga Springs, NY 12866

Dear Mr. Torpey and Members of the Planning Board,

RE: #20210472 – ADVISORY OPINION ON UNIFIED DEVELOPMENT ORDINANCE (UDO)

The City Council has requested that the Planning Board provide them with an advisory opinion on the Unified Development Ordinance (UDO). Sustainable Saratoga has reviewed and made extensive comments to the Council on the first and second drafts of the UDO. We hope that you agree with our concerns and will incorporate them in your recommendations to the Council. Pursuant to Article 10.1.5.1 of the zoning ordinance, the scope of the Planning Board review of the UDO shall include, but not be limited to, “whether the proposed revision is consistent with the Comprehensive Plan”. Our comments presented here are focused entirely on the consistency of the draft UDO with the 2015 Comprehensive Plan.

We believe that there are numerous provisions in the draft UDO that are not consistent with the 2015 Comprehensive Plan. We believe that the Planning Board cannot declare the draft UDO consistent with the Comprehensive Plan until these provisions are removed or revised.

1. A NUMBER OF USES PROPOSED IN THE RURAL RESIDENTIAL (RR) DISTRICT (THE GREENBELT) ARE NOT CONSISTENT WITH THE COMPREHENSIVE PLAN.

45 uses are proposed to be allowed in the RR district as principal uses or uses permitted by the issuance of a special use permit. We believe the following 16 uses are not consistent with the Comprehensive Plan:

- Animal Care Facility – Small Animal with No Outdoor Area (belongs in the urban core)
- Animal Grooming Establishment (belongs in the urban core)
- Campground (too intensive)
- Community Center (belongs in the urban core)
- Country Club (too intensive; the definition should be revised)
- Educational Facility – Primary or Secondary (belongs in the urban core)
- Greenhouse/Nursey – (too intensive; the proposed definition would allow a “Home Depot” type store)
- Inn (belongs in the urban core)
- Lodging House (belongs in the urban core)
- Marina (too intensive)
- Micro-Production of Alcohol (too intensive; the proposed definition allows a tasting room drinking establishment)
- Private/Social Clubs (belong in the urban core)
- Rooming Houses, Small Owner Occupied (belongs in the urban core)
- Rooming Houses, Medium Owner Occupied (belongs in the urban core)



- Rooming Houses, Small Non-Owner (belongs in the urban core)
- Rooming Houses, Medium Non-Owner (belongs in the urban core)

We believe that each of uses are not consistent with the 2015 Comprehensive Plan because:

- The Rural Residential zoning district is all within the Comprehensive Plan’s designated “Country Overlay Area”. The Country Overlay Area is defined on page 61 of the Comprehensive Plan as the City’s “Greenbelt”. It is also the “country” part of the “City in the Country”.
- On page 48, the Comprehensive Plan includes the following recommended actions:
 - “3.4-2 Maintain the greenbelt by restricting incompatible uses and the intensity of uses.”
 - “3.4-1 Maintain and promote the “City in the Country” form that includes an intensively developed urban core, an economically vibrant central business district, and residential neighborhoods with well-defined urban edges and an outlying area of rural character, comprised of agriculture, open lands, natural and diverse environmental resources and low density residential development.”
- The Rural Residential zoning district is all within the Comprehensive Plan’s future land use classification of “Conservation Development District (CDD)”. On page 58, the Comprehensive Plan provides: “this designation allows for low density residential, outdoor recreation, agriculture, and other rural uses utilizing land conservation measures such as clustering” and “Commercial activities should be limited to those that support rural and recreational uses which protect natural resources and maintain natural systems.”
- On page 3-1, the draft UDO itself reads: “The RR Rural Residential District is intended to accommodate low density residential development and agricultural uses in a manner that helps to preserve open space and Saratoga Springs’ rural character areas. Low densities within the RR District are also designed to accommodate specific features of the rural areas of the community, such as prime soils, limiting topography/steep slopes, and a lack of public infrastructure.”

Some clarifications:

- We acknowledge that some of the proposed uses that we find inconsistent with the Comprehensive Plan may already be permitted in the RR district in the current zoning ordinance. All these uses were established prior to 2015 when a new Comprehensive Plan was adopted by the City Council. The new 2015 Comprehensive Plan established new, stronger policies regarding the “Greenbelt”. New York State law requires that all uses in the zoning ordinance must be consistent with the latest version of the municipality’s Comprehensive Plan. We believe the City is compelled to remove any uses, no matter when they were originally enacted, if they are judged to be inconsistent with the current Comprehensive Plan. Uses established prior to the 2015 Comprehensive Plan should be classified as pre-existing non-conforming uses.
- We acknowledge that state laws or regulations exempt certain types of uses, such as home day care facilities, places of worship, etc. from local zoning ordinances, or at least limit local control. We have tried not to include those uses in our list of uses that are inconsistent with the Comprehensive Plan.



- We see no meaningful distinction between principal allowable uses and those uses allowed upon the issuance of a special use permit. The Planning Board seldom denies special use permits. While permits may be issued with special conditions or limitations, usually they are not significant, and they do not prevent the permitted uses from becoming established.

In summary: 16 of the 45 uses proposed in the RR district are inconsistent with the 2015 Comprehensive Plan. They should be removed, or have their definitions revised, because:

- The RR district is in the Greenbelt, where only low-intensity uses are permitted.
- Most of these 16 uses are institutional and commercial uses that do not reflect the low-intensity uses allowed by the Comprehensive Plan. These uses belong in the urban core, where there are appropriate services and clients or customers for these establishments. To place them in the Greenbelt defies the policy calling for a “well-defined” edge between the urban core and Country Overlay Area. Blurring this well-defined edge constitutes an expansion of sprawl.
- Retaining these 16 uses represents an erosion of the “country” part of the “City in the Country” theme of the 2015 Comprehensive Plan.

2. A NUMBER OF USES PROPOSED IN THE COMMERCIAL GATEWAY RURAL (CG-R) DISTRICT (THE GREENBELT) ARE NOT CONSISTENT WITH THE COMPREHENSIVE PLAN.

66 uses are proposed to be allowed in the CG-R District as principal uses or uses to be allowed by the issuance of a special use permit. We believe the following 39 uses are not consistent with the Comprehensive Plan:

- Adult Care Facility (belongs in the urban core)
- Animal Care Facility – Small Animal with No Outdoor Area (belongs in the urban core)
- Animal Grooming Establishment (belongs in the urban core)
- Art Gallery (belongs in the urban core)
- Arts and Fitness Studio (belongs in the urban core)
- Broadcast Facility TV/Radio – No Antenna (belongs in the urban core)
- Campground (too intensive)
- Car Wash (belongs in the urban core)
- Community Center (belongs in the urban core)
- Country Club (too intensive – the definition should be revised)
- Cultural Facility (belongs in the urban core)
- Dwellings – Multi-Family Above the Ground Floor (belongs in the urban core)
- Dwellings – Multi-Family Residential Only Structure (belongs in the urban core)
- Dwellings – Single-Family – Attached (belongs in the urban core)
- Dwellings – Townhouses (belongs in the urban core)
- Dwellings – Two-Family (belongs in the urban core)
- Eating and Drinking Establishments – More than 40 seats (belongs in the urban core)
- Educational Facility – Vocational (belongs in the urban core)
- Financial Institutions (belongs in the urban core)
- Food Pantry (belongs in the urban core)
- Funeral Home (belongs in the urban core)



- Greenhouse/Nursery – (too intensive; the definition would allow a “Home Depot” type store)
- Health Spa (belongs in the urban core)
- Hotel – More than 20 guests (belongs in the urban core)
- Industrial Design (belongs in the urban core)
- Industrial Artisan – No Outdoor Storage or Activity (belongs in the urban core)
- Inn (belongs in the urban core)
- Marijuana Dispensary (belongs in the urban core)
- Medical/Dental Offices (belongs in the urban core)
- Micro-Production of Alcohol (too intensive; the proposed definition would allow a tasting room drinking establishment)
- Office (belongs in the urban core)
- Passenger Terminal (belongs in the urban core)
- Private/Social Club (belongs in the urban core)
- Professional Service Establishments – More than 2,000sf GFA (belongs in the urban core)
- Reception Facility (belongs in the urban core)
- Residential Care Facility (belongs in the urban core)
- Retail Goods Establishments- More than 2,000sf GFA (belongs in the urban core)
- Social Service Center (belongs in the urban core)
- Specialty Food Service (belongs in the urban core)

We believe that each of these uses is not consistent with the 2015 Comprehensive Plan because:

- The Commercial Gateway-Rural zoning district is all within the Comprehensive Plan’s designated “Country Overlay Area”. The Country Overlay Area is defined on page 61 of the Comprehensive Plan as the City’s “Greenbelt”. It is also the “country” part of the “City in the Country”.
- On page 48, the Comprehensive Plan includes the following recommended actions:
 - “3.4-2 Maintain the greenbelt by restricting incompatible uses and the intensity of uses.”
 - “3.4-1 Maintain and promote the “City in the Country” form that includes an intensively developed urban core, an economically vibrant central business district, and residential neighborhoods with well-defined urban edges and an outlying area of rural character, comprised of agriculture, open lands, natural and diverse environmental resources and low density residential development.”
- Most of the Commercial Gateway-Rural zoning district is within the Comprehensive Plan’s future land use classification of “Specialty Mixed Use -Gateway (SG)”. On page 60, the Comprehensive Plan provides: “This designation allows for a variety of low to moderate intensity uses that focus on maintaining a distinct entrance to the City. The goal for the commercial gateways is not to foster more intense or dense land use development, but rather to improve the physical appearance and attractiveness of the commercial uses.”
- On page 4-2, the draft UDO itself reads: “The GC-R Gateway Rural Commercial District is intended to accommodate commercial development of a suitably rural, low-intensity character, creating a gateway at the edge of the City and into key character areas that celebrates and preserves the natural beauty and rural character.”



Some clarifications:

- We acknowledge that some of the proposed uses we find inconsistent with the Comprehensive Plan in the geographic area now proposed as the CG-R district may already be permitted in the current zoning ordinance. All these uses were established prior to 2015 when a new Comprehensive Plan was adopted by the City Council. The new 2015 Comprehensive Plan established new, stronger policies regarding the Greenbelt. New York State law requires that all uses in the zoning ordinance must be consistent with the latest version of the municipality's Comprehensive Plan. We believe the City is compelled to remove any uses, no matter when they were originally enacted, if they are judged to be inconsistent with the current Comprehensive Plan. Uses established prior to the 2015 Comprehensive Plan should be classified as pre-existing non-conforming uses.
- We acknowledge that New York State laws or regulations exempt certain types of uses, such as home day care facilities, places of worship, etc., from local zoning ordinances, or at least limit local control. We have tried not to include those uses in our list of uses that are inconsistent with the Comprehensive Plan.
- We see no meaningful distinction between principal allowable uses and those uses allowed upon the issuance of a special use permit. The Planning Board seldom denies special use permits. While permits may be issued with special conditions or limitations, usually they are not significant, and they do not prevent the permitted uses from becoming established.

In summary: 39 of the 66 uses proposed in the CG-R district are inconsistent with the 2015 Comprehensive Plan. They should be removed, or have their definitions revised, because:

- The CG-R district is in the Greenbelt where only low-intensity uses are permitted.
- Most of these 39 uses are institutional and commercial uses that do not reflect the low or moderate intensity uses allowed by the Comprehensive Plan. These uses belong in the urban core where there are appropriate services and clients or customers for these establishments. To place them in the Greenbelt defies the policy calling for a "well-defined" edge between the urban core and Country Overlay Area. Blurring this well-defined edge constitutes an expansion of sprawl.
- Retaining these 39 uses represents an erosion of the "country" part of the "City in the Country" theme of the 2015 Comprehensive Plan.

3. THE DEVELOPMENT DESIGN STANDARDS FOR THE RURAL RESIDENTIAL (RR) DISTRICT (THE GREENBELT) ARE WEAKENED AND NO LONGER CONSISTENT WITH THE COMPREHENSIVE PLAN.

The draft UDO does not propose any building and site design guidelines for most of the development in the Rural Residential (RR) district. It does propose some new design standards for conservation subdivisions that cover some of the new development in the Greenbelt. We believe the guidelines have the following key problems:

- While some are purported to be mandatory, most of the guidelines are meaningless because they do not provide enough definition or illustrations. It is not helpful to



require building or site design to have “rural character” without defining or illustrating it.

The Design Review Commission undertakes Architectural Review (Article 7.5) for building-permit-required activity along six of the major roads that run through the RR district that is part of the Greenbelt. However, the UDO proposes no design standards for landscaping or non-building permit activities. Nor does the architectural review ordinance have any criteria relating to rural character; it is largely about compatibility with adjacent neighboring structure, whether rural or non-rural in character.

Article 421-12D of the existing Subdivision Regulations has an extensive set of concise, well-illustrated, voluntary “rural design and siting standards” but these were not included or strengthened in the proposed UDO.

We believe the lack of strong development standards is not consistent with the Comprehensive Plan because:

- The Rural Residential zoning district lies entirely within the Comprehensive Plan’s designated “Country Overlay Area”. The Country Overlay Area is defined on page 61 of the Comprehensive Plan as the City’s “Greenbelt”. It is also the “country” part of the “City in the Country”.
- On page 48 of the Comprehensive Plan there is the following recommended actions: “3.4-1 Maintain and promote the “City in the Country” form that includes an intensively developed urban core, an economically vibrant central business district, and residential neighborhoods with well-defined urban edges and an outlying area of rural character, comprised of agriculture, open lands, natural and diverse environmental resources and low density residential development.” (emphasis added.)

In summary: The development standards for the RR district are not consistent with the 2015 Comprehensive Plan.

- The draft UDO fails to provide any meaningful design standards for structures and site changes that will preserve the required rural character of the Greenbelt. Without clear design standards, the vision for the City in the Country will be more difficult to maintain. Detailed, mandatory design standards should be established for conservation subdivisions, as well as all residential and nonresidential uses allowed in the Greenbelt, to achieve the vision for the “Country” portions of the City in the Country.
 - Design standards in conservation subdivisions are weak and not illustrated. If the City is not going to improve the proposed standards, then the existing voluntary design standards in conservation subdivision should be retained and made mandatory. They should also be expanded to include all residential areas. Graphics need to be added to the UDO to illustrate the standards.
 - There are no design standards presented for nonresidential uses that are allowed in the RR district, other than the non-rural oriented architectural review along the major roads. The rural character of the Greenbelt cannot be preserved without meaningful and mandatory design standards for ALL uses in the Greenbelt.



- The Comprehensive Plan recommends several actions to enhance the Land Use Review Process, including the use of design graphic representations. Graphics should be included in the design standards.
- Detailed, mandatory design standards for all development for the entire RR district should be established. We believe this could best be done by strengthening the existing Article 421-12D of the Subdivision Regulations, which are an extensive set of concise, well-illustrated, rural design and siting standards

4. THE DEVELOPMENT DESIGN STANDARDS FOR THE COMMERCIAL GATEWAY RURAL DISTRICT ARE WEAKENED AND NO LONGER CONSISTENT WITH THE COMPREHENSIVE PLAN.

The UDO proposed building and site design guidelines for the CG-R district are presented on pages 4-9 through 4-22. We believe the guidelines have the following key problems:

- There are not enough clear distinctions between the guidelines for the CG-U and CG-R district. The distinctions between these districts should be much greater.
- While purporting to be mandatory, most of the guidelines are meaningless because they do not provide enough definitions or illustrations. It is not helpful to require building or site design to have “rural character” without defining that or illustrating it.

The Design Review Commission undertakes Architectural Review (Article 7.5) of activities requiring building permits along two of the major roads that run through the CG-R district, which is part of the Greenbelt. However, the UDO proposes no design standards for landscaping or activities that do not require building permits. In addition, the architectural review ordinance does not have any criteria relating to rural character; it is largely about compatibility with adjacent structures, whether rural or non-rural in character.

The building and site design guidelines in the current zoning ordinance in the geographic area now proposed as the CG-R district are found in Article 3.2 “Gateway Overlay District – Zone A”.

- We have advocated that these guidelines, which should be made mandatory instead of voluntary, are more appropriate than the guidelines currently proposed and include detailed illustrations that better convey the desired rural character for building site layout.

We believe the lack of strong development standards is not consistent with the 2015 Comprehensive Plan because:

- The Commercial Gateway-Rural zoning district is all within the Comprehensive Plan’s designated “Country Overlay Area”. The Country Overlay Area is defined on page 61 of the Comprehensive Plan as the City’s “Greenbelt”. It is also the “country” part of the “City in the Country”. These areas are described and mapped in the 2015 Comprehensive Plan. This Country Overlay area is required to have a rural (not urban) character.
- On page 48 of the Comprehensive Plan, there is the following recommended actions: “3.4-1 Maintain and promote the “City in the Country” form that includes an intensively developed urban core, an economically vibrant central business district, and residential neighborhoods with well-defined urban edges and an outlying area of rural character,



comprised of agriculture, open lands, natural and diverse environmental resources and low density residential development.”

- On page 25 of the Comprehensive Plan there is the following recommended action: “3.2-7 Encourage high quality aesthetically pleasing gateways into the city.”
- On page 48 of the Comprehensive Plan there is the following recommended action: “Identify priority gateways in the City, such as Route 50 and South Broadway, and develop/review guidelines for appropriate area-specific amenities and treatment.”

In summary: The proposed new development standards for the CG-R are weaker than the current ones and represent a step backwards. Therefore, they are not consistent with the 2015 Comprehensive Plan.

- The UDO fails to provide any meaningful design standards for structures and site changes that will preserve the required rural character of the Route 50 and Route 9 gateways which are in the designated Greenbelt. Without clear design standards, the vision for the City in the Country will be more difficult to maintain.
- Detailed, mandatory design standards should be established for all uses in the CG-R district within the Greenbelt, to achieve the vision for the “Country” portions of the City in the Country. We believe this could best be done by strengthening the existing standards in Article 3.2 “Gateway Overlay District – Zone A”.

5. THE DESIGNATION OF COMMERCIAL GATEWAY RURAL (CG-R) FOR THE AREA ON SOUTH BROADWAY IMMEDIATELY SOUTH OF CRESCENT AVENUE IS NOT CONSISTENT WITH THE COMPREHENSIVE PLAN.

The 2015 Comprehensive Plan’s Future Land Use Map classified this area as “Specialty Mixed Use-Park” and not as “Specialty Mixed Use -Gateway”. The intention of the plan was to make a clear distinction between the two future land use categories. The draft UDO inappropriately designated this geographic area as a Commercial Gateway-Rural (CG-R) zoning district.

We believe that the proposed uses and design guidelines for the CG-R are not consistent with the 2015 Comprehensive Plan because the “Specialty Mixed Use-Park” land use category, described on page 59 and 60 of the 2015 Comprehensive Plan and shown on the Plan’s Future Land Use map, provides:

- This area should “support research and development, creative economy workplaces, “green and clean” technology businesses, and other low to moderate uses that do not negatively impact this critical gateway to the City.”
- “Future growth in this area should be designated as a campus-like setting to create a distinctive gateway that complements the beauty of the adjacent Spa State Park.

In summary: The proposed uses and design guidelines and designation of this area as a CG-R zoning district are not compatible with the unique description expressed in the 2015 Comprehensive Plan in that, to be consistent with the Comprehensive Plan, a new zoning designation matching the uses and design features set forth in the Plan needs to be developed.

6. THE ZONING DESIGNATION OF URBAN RESIDENTIAL-2 (UR-2) FOR THE AREA EAST OF MARION AVENUE IS NOT CONSISTENT WITH THE COMPREHENSIVE PLAN.



The 2015 Comprehensive Plan's Future Land Use Map classified this area as "Conservation Development District (CDD)." This area includes tax parcels #153.-2-3.1 and #153.-2-4. It is the area east of the utility easement behind the Mobil car wash and gas station.

The UDO inappropriately continues to designate this geographic area as an Urban Residential-2 zoning district. The UR-2 zoning district allows a zoning density of 2.2 units/acre (or 20,000 sq ft lot size). This residential density exceeds the 2015 Comprehensive Plan cap of 0.5 units/acre in the CDD.


We believe that the UR-2 zoning is not consistent with the 2015 Comprehensive Plan because the "Conservation Development District" land use category, described on page 58 and 59 of the 2015 Comprehensive Plan and shown on the Plan's Future Land Use map, provides that "the maximum density in the CDD is an average of 0.5 units/acre of unconstrained land".

In summary: The Urban Residential-2 zoning designation for this area is not consistent with the density limitations in the 2015 Comprehensive Plan. To be consistent with the Comprehensive Plan, the zoning in this area should be changed from UR-2 to RR.

In this letter we have only focused on the key issues in the proposed UDO that we believe clearly are inconsistent and contrary to the policies of the 2015 Comprehensive Plan. There are a number of important policy directives of the 2015 Comprehensive Plan in areas such as diverse and affordable housing, environmental protection, energy efficiencies, and community character that have not been addressed in the draft UDO. These failures are missed opportunities rather than overt inconsistencies.

We appreciate the opportunity to comment on these important UDO issues.

Sincerely,



Wendy Mahaney
Executive Director

cc: Susan Barden, Principal Planner
Vincent DeLeonardis, City Attorney

