



Zoning Law Matters: Hyde Park's Greenbelt District and the Town of Clinton's Comprehensive Plan and Open Space Protection Plan

As we've seen with the two denials of the IHG Six Senses Application, the Town of Hyde Park, NY has a **Greenbelt District** as part of its zoning regulations. But what about the Town of Clinton? Are developers free to build anywhere as long as they offer sleek designs and a fancy narrative? **The answer is NO, they must follow the law.**

What's the Hyde Park Greenbelt District?

The purpose of the Hyde Park Greenbelt District is to preserve and expand agricultural operations in the Town, protect historic resources, protect streams, wetlands and other natural resources, and to integrate natural resources into existing landscapes. Anything but small-scale residential development in the Greenbelt is generally barred to ensure the open space quality of the land is retained.

The parcels where IHG wants to build, like the rest of the Greenbelt District, are defined by topographical and soil features, including rock outcrops, terraces, and wetness, that severely limit development and give it a rural character. These are the very areas that provide significant habitat for wildlife – fauna, flora. From butterflies to bats, turtles to turkeys, **the connected ecosystem supports life and sustains biodiversity and Hyde Park aims to keep it that way.**

What about the Town of Clinton?

It's true that the Town of Clinton has not yet enacted a Greenbelt District. Yet, zoning decisions are and must be governed by the Town's intent as reflected in the policies and strategic plans it has adopted. In addition to the code provisions that restrict hotel uses, the Town has also adopted a Comprehensive Plan and an Open Space Protection Plan. These three governing mandates – the Code, the Comprehensive Plan and the Open Space Protection Plan – highlight **why the ZBA must reverse the erroneous determination of the Town's building inspector.**

Clinton's Comprehensive Plan <https://www.townofclinton.com/community/comprehensive-plan/>

The Comprehensive Plan has at least four relevant goals as follows:

1. The town should maintain adequate land use and planning regulations to protect the natural landscape of the town and maintain the rural atmosphere of privacy,

peace and quiet, and a friendly community. **There should be a strong community resolve to enforce Town policies and regulations.**

2. [T]he land use plan for Clinton allows a more concentrated level of development and a wider variety of uses in and around the existing hamlet centers, while **limiting potential development in the outlying sections, especially areas with sensitive natural characteristics.**
3. The town should preserve the natural resource base on which the quality of life in Clinton depends. Of particular concern is the “Crum Elbow watershed, which is part of a larger ‘significant biodiversity area’ known as the ‘Dutchess County Wetlands.’”
4. Development outside of the hamlets should be **reduced**, not expanded.

The Comprehensive Plan also notes 252 species of plants and animals that are of conservation concern (either observed or are likely to be present based on habitats), representing only a portion of the great diversity of species in the town. This is why the Comprehensive Plan calls for low or no development.

The Open Space Protection Plan <https://www.townofclinton.com/community/open-space/>

The Town of Clinton also has an Open Space Protection Plan (OSPP) prepared by an Open Space Committee and Farmland Protection Committee . It defines open space as “any space or area characterized by natural scenic beauty or, whose existing openness, natural condition, or present state of use (including working and historic landscapes), if retained, would enhance the present or potential value of abutting or surrounding development, or would maintain or enhance the conservation of natural, agricultural, cultural, or scenic resources.”

The following is Town of Clinton's vision statement for the Open Space Protection Plan:

The Town of Clinton desires to maintain its rural character consisting of natural landscapes, native ecosystems, working farms, hamlet-scale development and historic structures to preserve its scenic quality, promote our small town atmosphere and protect our quality of life.... In addition to providing habitat areas and a variety of other ecological functions (such as filtration for water quality or absorption of flood waters), open space provides economic, social and cultural benefits.

Most importantly the OSPP specifically states that:

The plan serves as the foundation for designing and implementing land use controls and/or programs which will effectively protect the value open space was assigned by the community. Furthermore, in doing an open space plan, a community is also in many ways formulating a plan which identifies areas suitable for development.

Notably, the very parcels IHG Six Senses want to develop are singled out for their special characteristics and importance to the OSPP:

- On Map 2 (p. 43), the parcels are identified as the **Route 9G Wetlands Important Area** – Includes Rare Animal Species and Habitat
- On Map 4 (p.45), the parcels are identified as **Important Farmland Area**

The OSPP explains these are areas where species of conservation concern are found.

It states that the “areas between the Hyde Park Important Area, Crum Elbow Creek Wetlands and the Route 9G Wetlands contain Blanding's turtles. They serve as corridors between known areas of importance and provide quality habitat such as streams and shallow wetlands which are commonly utilized by species such as Blanding's turtles.” It goes on to state that: “This area is of importance since it contains **numerous wetlands, diverse habitats, and limited development; it is part of a larger area designated as the Dutchess County wetlands complex by the USFWS.** Directly west of the Hyde Park area is the Crum Elbow Creek Wetlands (#4 on Map 2), also designated by the NYNHP [the New York Natural Heritage Program]. This area provides quality habitat due to limited development, density of streams and wetlands, and limited fragmentation and includes suitable habitat for Blanding's turtles. North of the Crum Elbow Creek Wetlands are the Route 9G Wetlands (#3 on Map 2) which provide good **habitat consisting of streams, wetlands, and upland areas, as well as limited fragmentation and development. As with the other areas in this watershed, it is recognized as an important area by the NYNHP.**”

Generally, the OSPP finds that “healthy watersheds depend on a network of wetlands, streams, lakes and ponds. Watershed health also depends on forested land and vegetation that captures and filters water, and stabilizes soil. All of these watershed features also provide a variety of habitats that support the town's array of plants and animals. Just as streams connect the town's surface waters, they also provide important habitats, corridors and connections that are used by plants and animals. All species depend on water resources to some degree. This includes aquatic habitat for all or some life cycles stages; water's edge habitat including wetland, floodplain, riparian, streambank; sources of food and drinking water; or travel corridors between habitat patches. Some of these species are particularly affected by land use changes that may degrade or change the habitat features they depend on.” The OSPP also finds that “A landscape that is biologically diverse is more resilient to changes.”

<https://tinyurl.com/mv332sj7>

Conclusion

In sum, in interpreting the laws, zoning officials must follow the guidance in the code and governing strategic plans. The Town of Clinton must reject the IHG Six Senses proposal as inconsistent with the letter and intent of its laws just as Hyde Park has done twice already.