

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
July 25, 2017

Committee Members Present: Larry Richardson, Harold Roeder, Jr., Jeff Dexter (6:51 p.m.), Alan Henry, Deb Conway, David Dean, Aaron Robinson, Fred Peckham, Jim Greier (6:57p.m.)
Committee Members Absent: Susan Sullivan
NPS Partner: Kris Heister, Carla Hahn
Staff: Laurie Ramie, Cindy Odell, Pete Golod
Guests: Kelleen Lanagan, Jonathan Dexter

The UDC's Project Review Committee held its monthly meeting on Tuesday, July 25, 2017 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:30 p.m.

A motion to approve the June 27 meeting minutes was made by Peckham, seconded by Roeder and carried. There was no public comment on the agenda.

Discussion Items Report:

Project Review Update

New York

Town of Hancock: Golod reported that on July 11th, Town Supervisor Rowe submitted a letter to the UDC stating that the Town of Hancock will be unable to complete the FY 2017-03 Technical Assistance Grant project. The funds will be de-obligated at the Operations Committee meeting, he added.

Town of Tusten: Golod said he attended the July 11th Town Board meeting where the Town's Subdivision Law and Zoning Law Ordinance Amendments, which were reviewed by the Project Review Committee at the June 27th meeting, were voted on and approved. A copy of Supervisor Wingert's July 18 response letter to the Project Review Committee's comments and questions was provided in members' packets. Golod reviewed the letter with members. In response to the UDC's request for an updated Town zoning map to determine whether certain districts in question are delineated, the response reads, "The zoning amendments that are the subject of Local Law #5, 2017, entitled 'A local Law to Amend the Town of Tusten Zoning Law', did not require any changes to the location or boundaries of the town's zoning map. This map is available on the town's website (www.townoftusten.org). If you have additional questions or need further information about the town's zoning districts, please let me know." Golod added that Supervisor Wingert advised him that an updated zoning map will be submitted upon completion of their codification project. Hahn stated that there are two different zoning maps displayed on the town's website. The map that was passed in 2015 does not include changes that they made in their 2011 zoning.

In response to the UDC's question "Is there a delineation of the hamlet area?", Wingert responded, "To the best of my knowledge, the hamlet of Narrowsburg has no official delineation; it is an area with a concentration of population and downtown-like characteristics."

In response to the UDC's question "Do the General Residential and Downtown Business fall under the hamlet of Narrowsburg?", Wingert responded, "(Please see response to 3 first.) Given the general location of the hamlet, the GR and DB are located in the hamlet."

In response to the UDC's statement, "The definitions of streams, hamlets, and special erosion hazard areas require further clarification being that 'special' may not apply everywhere", Wingert responded, "The term 'special' is used in the zoning law text as part of Special Flood Hazard Areas which is a reference to those areas designated by the Federal Emergency Management Agency (FEMA), and this terminology is included for clarifying purposes. Because these areas possess specific characteristics as determined by FEMA and are commonly known as Special Flood Hazard Areas, the clarification assists readers of the zoning law. As the town continues the review of its land use laws, your advisement on this matter will be taken into consideration."

Golod stated that with approval from the committee, he would like to draft a letter to Superintendent Heister stating that the UDC's initial determination is that the review substantially conforms. A motion to send a letter to Superintendent Heister noting the UDC's substantial conformance recommendation for the Town of Tusten's draft zoning changes was made by Henry and seconded by Robinson. Henry questioned if the Town not having an updated zoning map is causing a problem. Golod said that it creates some confusion. Hahn said she has been intending to have a conversation with Tusten Supervisor Wingert regarding this issue and how it applies to the GIS tool under development. Hahn added that when you look at the maps it tells you something different than their zoning. Henry questioned if this issue can be remedied. Golod told him yes. After a brief discussion, it was decided that Hahn would contact Supervisor Wingert to discuss the status of the Town of Tusten zoning map. A vote was taken on Henry's motion and the motion passed.

Town of Delaware: Golod said he attended the Town's regularly scheduled Town Board meeting on July 12th.

Golod reported that on July 19 he attended the Town Planning Board meeting for the proposed Seminary Hill Ciders project. He said he does not have a Class II Significant Project Review as the project fell under the Agricultural classification. Golod stated that the Doetsch family has contracted with River Architects to design Seminary Hill Ciders in the hamlet of Callicoon. The applicants have filed for both a Special Use permit and a building permit. Golod projected a site map on the screen and pointed out that the orchard is sited on 59.59 acres off of Wagner Road which falls just inside the designated river corridor. Golod showed drawings of the proposed facility noting it will be designed as a classic bank barn. Golod explained where the proposed cidery will be located and members discussed where it may be visible from. Golod shared some details of the orchard noting that Seminary Hill expects 100% of all the fruit produced in their orchards will be used towards the cider, however, assuming cider production begins in the fall of 2019, they will likely use some locally purchased or foraged apples in the mix initially.

Golod projected some schematics of the project on the screen and stated that some items to consider are that the slope varies from approximately 8% to the highest which is 20%; the site will utilize an existing private well as a water supply; a retention pond/rain garden will be built to mitigate roof and surface area runoff; and there will be two pervious parking areas proposed to accommodate guests and workers. Golod projected a slide which showed the main parking lot situated in front of the proposed building and a second parking lot located within the existing tree line to minimize the visual impact.

Golod reported that per the Land and Water Use Guidelines and Project Review Workbook, his review determined that this project falls under Agricultural Use which is defined as, "A use involving the production, keeping, or maintenance for sale, lease or personal use of plants and animals useful to man, including but not limited to forages, grain and seed crops, dairy animals, poultry, beef, sheep, horses, pigs, bees, fur animals, trees, food of all kinds, vegetables, nurseries, and lands devoted to soil conservation or forestry management programs." Hahn asked Golod if he provided the substantial conformance review documents. Golod said he did not perform one because of the determination of Agricultural Use. Hahn noted that the proposed building is to be in total around 6,600 square feet with the lower level containing the production space and the upper level containing the tasting area and reception space. Robinson asked for clarification that there is a non-agricultural component to this agricultural use. Golod stated that under New York State Agriculture and Markets Law (AML), due to the fact that they are an on-farm cidery, they are allowed to host events. He spoke of some of the criteria they are required to fulfill under this law. Heister stated that Governor Cuomo signed this law in 2013. Robinson noted that the square footage is greater than the 2,000 square foot maximum laid out in the River Management Plan. Heister said the Project Review Committee is looking to determine what definition box this project falls under. Golod is recommending that it is an Agricultural Use, which is a compatible use. Robinson stated that he favors this type use, but noted that in the River Management Plan, which preceded the New York State Law, there is a 2,000 square foot cap on commercial structures. He questioned if the River Management Plan is being negated by New York State Law in this case. Heister said this is a new land use and a position paper is being developed to address it. She added that the conclusion, because of the fact that New York and Pennsylvania law differ, is that it should be a conditional use or special use. Golod said that Pennsylvania does not have any definitive regulations regarding cideries, breweries, wineries, or distilleries and shared some of what he learned while researching this. Hahn noted that her struggle is that the project is not even being reviewed as a result of the Agricultural Use determination. Robinson questioned if Pennsylvania townships that might have such a project proposed, will be at a disadvantage because the state law is not

structured in the same way as New York, or because New York State facilitates such use, it would default to their standard. Heister noted that she believes the recommendation is going to be that it is a Special Use or Conditional Use. Hahn said the purpose of the Land and Water Use Guidelines was to keep development standards the same on both sides of the river. Robinson shared his concern when the regulations regarding a use are different from state to state. Heister said, "We are saying that where this falls in the table of compatible, incompatible or conditional uses, because New York says it's compatible and Pennsylvania says nothing, in order to provide consistency across the whole corridor, our recommendation to you will be that it be considered allowable as a conditional or special use." He asked if the square foot limitation won't play a role in the review. Roeder commented that it won't because of it being an agricultural use. Robinson said he doesn't want to see priority given because of a state law. Members discussed that this determination would give the decision-making to the towns and townships. A brief discussion about the location of the project took place.

Ramie asked if the Town has a vote on the project coming up. Golod stated that the Planning Board is meeting Wednesday, July 26 to approve the project. Heister suggested when writing a letter regarding the project, to call it what it will be called on both sides of the river which is that it's appropriate as a conditional or special use because it is considered agricultural in New York. A brief discussion about apple production took place. A motion to send a letter to the Town of Delaware with comments on the Seminary Hill Ciders project, including that it is appropriate as a conditional use, was made by Henry, seconded by Dexter and carried.

Town of Highland: Golod stated that the Town held a public hearing on the Town's draft zoning on July 6th. The Town will hold a second public hearing on August 3rd. Golod added that he was unable to attend the July 6 meeting and will not be able to attend the August 3rd meeting due to UDC full Council meeting schedule. Golod reviewed the draft Substantial Conformance Review for the draft Zoning for the Town of Highland. He projected the report on the screen and reviewed his areas of question. Those were:

Principle B. Objective 3. which reads "Provide for light and air and maintain an uncluttered landscape by requiring adequate setbacks of principal structures from highways by:

- A. Requiring a minimum front yard of 35 feet; or
- B. Requiring a minimum building setback of 35 feet.
- C. Other (Explain) _____

Review:

Zoning: District Schedule of Area and Bulk Regulations states "Front Yard Setbacks shall be measured as follows: 20, 35 or 50 feet to property line or 45, 60 or 75 feet to centerline of road if property line is center line."

Golod said during his review he was looking for the draft zoning to have some clarification regarding front yard setbacks as he was unclear which set of setbacks that he would utilize for the objective and if backyard setbacks would be similarly applicable to front yard setbacks. Robinson stated that a lot of setbacks are triggered by how the deed description reads. Hahn commented that the draft zoning does accommodate for both ways; those being to the property line or to centerline of road if property line is center line.

Golod's second question was in regards to Principle C. Objective 2a. Provide for the orderly development, operation and maintenance of campgrounds and recreational parks by:

- A. Limiting gross density to not more than 8 sites per acre for recreational vehicle type camping or 10 sites per acre for tent camping; and
- B. Requiring a minimum of 10 acres of land for a recreational vehicle park and a minimum of 5 acres for tent campgrounds (unless subjected to site plan review); and
- C. Prohibiting permanent or long-term occupancy of any campsite and prohibiting any permanent structures on any individual campsite (other than tent platforms and concrete pads); and
- D. Prohibiting independent on-site sewage disposal or water supply systems for individual recreational vehicle campsites.
- E. Other (Explain) _____

Review:

Zoning: p.98 D (1), (2); p.97 C (2), (3); p.100 J (1), (2) and p.99 I mirror the language of the LWUG.

He noted that essentially all the items of this objective are required to be met. He said they were all covered with the exception of "D. Prohibiting independent on-site sewage disposal or water supply

systems for individual recreational vehicle campsites.” Dean stated that in a typical campground it is not unusual for there to be a dump station. Golod and Hahn stated that the draft zoning does not address “D” at all. Golod questioned if the criteria substantially conforms as it meets three of the four. Robinson suggested this issue may be limited by state agencies. Richardson said the Town of Cochection does not allow individual septic systems because they don’t want campsites to become permanent or semi-permanent. Heister suggested asking the Town for more clarification regarding the criteria. Members agreed.

The third issue to be addressed was Principle E Objective 2. Ensure town, county, state, and federal activities will promote the conservation of the river corridor resources by:

- A. Prohibiting the location of sewage treatment plants and municipal sewer interceptor lines on lands with frontage on the river or on any agricultural lands except with respect to existing hamlets or in circumstances where a community is under state or federal orders to do so; and
- X B. Prohibiting new impoundments of the Upper Delaware River, or any tributary which is within the boundaries of the river area. Exceptions for small agricultural ponds not on tributaries, eel weirs and other stream improvement structures for fishery management purposes can be made; and
- X C. Prohibiting major oil and gas transmission lines and refining/production facilities for other than local service. Individual wells and lines constructed to provide service to or collect from individual customers or wells will be permitted; and
- X D. Prohibiting the mining of uranium and disposal of low or high level radioactive or toxic wastes in the river corridor; and
- X E. Prohibiting power plants, stream channelization and other projects listed as incompatible uses in the Schedule of Uses.
- X F. Other (Explain) ___ p.1 G, H _____

Review:

Zoning: p.40 C (3); p.20 Public Utility Structures; p.40 C (5); p.38 C; p.38 D; p.37 A; p.1 G, and H mirrors the language of the LWUG.

Golod noted that all items of this objective are required to be met as well. The draft town zoning does not address sewage treatment plants or sewage management systems. The only mention was found under a section called “rural commercial floating districts preliminary site plan requirements”. Golod read from that section. Conway spoke of other stipulations in the rural commercial floating district adding that none of these districts exist in the river corridor.

Golod referred to Principle F Objective 2 which reads. To control density the following considerations must be remembered:

- _ A. Clustering is an appropriate approach, but the overall density for the zoning district must remain the same;
- _ B. Densities for nonresidential uses should be based on an equivalent dwelling unit concept (tied to estimated sewage effluent)
- _ C. Appropriate lot sizes may often be set due to natural limitations.
- X D. Other (Explain) _____ 7.0.3 Individual Lot Size _____

Review:

Zoning: Schedule of Area and Bulk Regulations; and p.81 B mirrors the language of the LWUG.

Recommendation:

Principle F, Objective 2 is substantially met.

Golod noted that the Town of Highland created a River Overlay District. The definition reads “The Highland River Overlay District has been established to guide residential, commercial, and recreational development substantially in compliance with the provisions and purposes of the Upper Delaware River Scenic and Recreational River Corridor within the Town of Highland. The Overlay District is further intended to preserve the scenic and environmental integrity of this portion of the Upper Delaware River Corridor within the Town of Highland, while allowing appropriate development, to the extent which would remain compatible with the River Management Plan.” He noted that during the joint review with Carla Hahn from the NPS, they had some reservations regarding the rural commercial floating district which they define as “The Rural Commercial Floating District and associated regulations provides a carefully guided approach for the Town of Highland to consider certain forms of commercial development in appropriate locations that would not otherwise be permissible under typical zoning regulations. In strict conformance with the associated provisions and standards, the Town Board is authorized to consider the rezoning of lands to allow for compatible commercial-oriented development that would not result in

significant adverse impacts to the Town's residential, open space, environmental and community character while at the same time adding positively to the town's economic base." Henry suggested having the Town clarify if the Rural Commercial Floating District provision is applicable in the River Overlay District.

Golod said that he had a few questions with some of the definitions used in the draft zoning. The draft zoning defines "farm stand" as a "small open-air-type structure sometimes but not always roofed, for the display of farm produce for sale." The Land and Water Use Guidelines defines Minor Commercial Development as "In recreational areas, commercial uses limited to professional offices associated with residences, small neighborhood retail convenience stores, farm stands or similar retail facilities with less than 2,000 square feet of floor space, or less than five people, and compatible with the natural and scenic qualities of a designated recreational river." After a brief discussion, members decided this was a non-issue. Heister suggested asking if the farm stands are temporary structures.

Golod noted that the draft zoning defines "public utility structures and facilities, such as electric lines and poles, gas mains, water mains and telephone lines, poles, switching stations, equipment buildings, and other related uses, not including, however, telecommunication towers, micro-hydroelectric generation facilities, wind energy conversion systems, solar power facility or any other type of power generating facility." Golod stated that per the Land and Water Use Guidelines (LWUG) major electric lines and major oil and gas transmission are incompatible uses. Golod suggested that the committee recommend he seek clarification on the definition versus the Land and Water Use Guidelines. Members agreed with that approach.

Golod reported that the Town's draft zoning defines Mining, Small-scale as "removal of an amount equal to or less than 1,000 tons or 750 cubic yards of earth material during a period of twelve (12) successive months, (the threshold above which a permit is required pursuant to the New York State Mined Land Reclamation Law, [Environmental Conservation Law Article 23, Title 27] for commercial purposes pits, rock quarrying, stripping of topsoil, subsoil removal, and/or removal of such materials for sale, other than what may be required to prepare a site for construction. In no event shall "mining" be construed to mean, be, or include natural gas and/or petroleum exploration activities or natural gas and/or petroleum extraction activities as those terms are respectively defined in this section." Golod asked if there is a limitation on the amount of material removed, how does the amount of material removed apply to the Land and Water Use Guidelines of Minor Surface Mining Operation which is "any new extraction of minerals by, but not limited to, strip mining, dredging, or quarrying, not exceeding two acres of active face at one time plus an area equal in size to the active face necessary for accessory use"? After a brief discussion, Henry suggested recommending to the Town that they use verbiage similar to that out of the LWUG as it is easier to calculate acreage than weight. Members agreed.

Henry shared a couple of concerns of a local livery owner in regards to Highland's draft zoning. One was parking spot requirements. Golod said that mirrors the Land and Water Use Guidelines identically. Henry said the second concern was that he heard that vegetation cannot be cut down within 100 feet of the river and this person's concern is with Japanese Knotweed. Golod said there is a vegetation clearing clause that reads "no vegetation shall be removed within 100 feet of the mean high water of the river for the purposes of achieving views."

Pennsylvania

Lackawaxen Township: Golod stated that it was recently reported that Kinder Morgan's Tennessee Gas Pipeline has begun installing a new pipeline alongside an existing one on Tow Path Road. This new project is to expand the capacity of the Orion Project pipeline. Heister said the project is supposed to be completed by December and they are about to go from a dry crossing to a wet crossing. She said this is a problem because the last time they did a wet crossing there was an incredible amount of sedimentation that resulted from that effort. They were required by a number of agencies to do an analysis of various crossing methods. Heister spoke of the effort on the Park Service's part to facilitate different methods other than the wet crossing and of the potential results of conducting a wet crossing this time of year.

Millennium Pipeline Project: Golod reported that on July 6 the DEC accepted the application for Millennium Pipeline's \$275 million natural gas Eastern System Upgrade project which calls for 7.8 miles of pipe to be laid in Deerpark, Greenville, and Minisink. The project would add more horsepower to the existing compressor in Hancock and build a new 22,400-horsepower compressor station in the Town of Highland.

On July 6th, the Sullivan County Legislature asked the Federal Energy Regulatory Commission (FERC) for intervener status in Millennium's Eastern System Upgrade. If granted, the county would have the right to participate in hearings and other FERC proceedings related to the project. Millennium plans to go into operation by September 2018.

Resource Specialist's Report:

- On July 15, Golod attended the NPS Zane Grey festival and staffed a booth as the representative for the Upper Delaware Council.
- On July 17, Golod participated in Kittatinny Canoe's 28th Annual River Clean-up.
- On July 18, Golod sent a reminder letter to the Towns of Tusten and Highland and to Shohola Township regarding the August 18th deadline for FY 2017 TAGs.

Old Business

Frontier Communications June 29 Conference Call Update: Ramie said that she, Golod and Robinson participated in this conference call with two representatives from Frontier. Ramie said the questions posed were if it is feasible to put the Red Alert phones at the six sites previously identified and what are the costs involved. Ramie said they were told it is feasible and provided the details of the engineering report. In terms of the costs, the box itself, the pole, the wiring and the labor are expected to cost around \$4,000 per unit. The yearly charge for service would be approximately \$30 per month. Ramie said that once the poles are placed, they are "owned" by whoever ordered them and the maintenance becomes their responsibility as well. She added that we were advised that the cost could be less if they could use existing Frontier poles. Frontier did say they would not get started unless they are assured that the funding is available. A brief conversation about funding took place. Henry suggested that if the Council feels this is a good opportunity, we should reach out to Sullivan County Emergency Management Services as it will assist them. Richardson asked if the Council is still going to explore the GoTenna option. Henry shared his GoTenna research information. After a brief discussion, a motion to send a letter to Sullivan County Emergency Management Services summarizing the UDC findings on the Red Alert phone system, requesting information on potential funding sources, and partnership opportunities was made by Henry, seconded by Robinson and carried. Ramie referred to a July 21 *Times Herald-Record* opinion column by Steve Israel titled, "Call for help: Sullivan needs better cell phone service" provided in members' packets.

Project Review Guides Update: Ramie said that Hahn is working on flow charts for these guides and that they are still a work in progress.

Other:

New Business

Town of Delaware Seminary Hill Ciders Project Update: Addressed during Golod's Discussion Items Report.

Town of Highland Draft Zoning Law Review: Addressed during Golod's Discussion Items Report.

Other: Ramie mentioned that the FY 2018 TAG program was opened on June 27 and we are accepting applications for land use related projects. She said the Sullivan County Department of Planning, in their most recent newsletter, focused in on the UDC's program and offered their assistance to any Sullivan County town that wants to submit an application.

Public Comment: None

Adjournment: A motion by Roeder, seconded by Henry to adjourn the meeting at 8:17 p.m. was carried unanimously.