

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
January 26, 2021

Committee Members Present: David Dean, Larry Richardson, Fred Peckham, Jim Greier, Al Henry, Aaron Robinson, Jeff Dexter, Susan Sullivan
Committee Members Absent: None
Staff: Laurie Ramie, Shannon Cilento, Ashley Hall-Bagdonas
NPS Partners: Joe Salvatore, Cody Hendrix, Don Hamilton
Guests: Roger Saumure- Shohola Township Alternate

The UDC's Project Review Committee held its monthly meeting on Tuesday, January 26, 2021 via Zoom. Chairperson Dean authorized Richardson to lead the meeting. Richardson called the meeting to order at 6:32 p.m. There was no public comment on the agenda.

Election of Committee Chair and Vice-Chair for 2021: A motion by Robinson, seconded by Henry, to elect Larry Richardson as Committee Chairperson was carried. A motion by Richardson, seconded by Greier, to elect Aaron Robinson as Vice-Chairperson was carried. A motion by Dean seconded by Greier to close the election nominations carried.

Approval of December 15, 2020 Meeting Minutes: A motion by Dexter seconded by Greier to approve the December 15th Minutes carried. There was no public comment on the agenda.

Resources and Land Use Specialist Update:

New York State Town Projects

Town of Delaware: Cilento said the Town of Delaware is purchasing 2.6 acres from the Delaware Youth Center to construct new wells for the Callicoon Water District. According to a 1/22 article in the *Sullivan County Democrat*, "Delaware Supervisor Steve Lundgren told the Democrat that the New York State Department of Health is requiring the new wells. The current well is located near the flood channel that was created to bypass the Callicoon Creek, so in the event of a flood it creates turbidity in the water." The Town is also negotiating with the Trust for Public Land (TPL) for an additional 2.5 acres for well siting. TPL is leading the design process for the proposed Callicoon Park project, in which UDC has been involved in the planning.

Town of Cochection: The former Kingston Pump Station ruins on NY 97 (Cochection 12.-1-24.1) are being cleaned up and stabilized by a new property owner, who is opening a roadside coffee stand adjacent to the pump house. The owner has met with the Town Board and presented architectural renderings of the stabilized pump station, including a glass ceiling, a sculpture garden, and pop-up food court. Cilento will keep updated on the project process to ensure substantial conformance with River Management Plan (RMP).

Town of Tusten: Cilento said the Town submitted preliminary materials regarding the proposed Feagles Lake Subdivision in Narrowsburg. A Planning Board work session via Zoom was held on 10/19 which Cilento attended. The three-phase project would create a private residential community around Feagles Lake with approximately 20-25 homes. Each lot will have a well and septic system and an HOA will be created for road maintenance and other community needs. The project will need a full EAF due to the size and scale of the proposed project. The project engineer has requested UDC review the proposed plan for any major conflicts with the RMP/Land and Water Use Guidelines (LWUG) to address in the early phases of planning. They are on the agenda for the 2/15 Planning Board meeting. Cilento will virtually attend 2/15 Planning Board meeting via Zoom and will continue to follow the project, providing input during the preliminary design processes and completing a Substantial Conformance Review when necessary.

The Town is also purchasing the former Wayne Bank building at 93 Main Street in Narrowsburg with the intent to convert the building into a multi-use community center. Organizations such as the Tusten Historical Society, Tusten

Youth Commission, and Western Sullivan Public Library could use the space for archives and other purposes. The idea of a local history exhibit or museum is also on the list for potential uses. The parking lot behind the bank will be municipal parking for Main Street access.

The culvert going over Little Lake Erie in Narrowsburg is scheduled to be replaced by the Town. Access to the neighborhood across the waterway will be via a temporary bridge which is currently being constructed while the culvert is replaced.

Town of Highland: Cilento said the Town has submitted materials associated with proposed zoning updates to both UDC and Sullivan County Planning. Cilento has prepared a draft substantial conformance review. She said there have been many changes since the 2019 version which should bring the Town back into substantial conformance. A public hearing has not yet been set by the Town. Cilento will make edits and submit to NPS when final version is approved.

Northgate Resorts has acquired the Kittatinny Canoes properties in Barryville. The company operates 11 other campgrounds, including 9 franchised Yogi Bear's Jellystone Parks Camp Resorts. Northgate is proposing to expand and upgrade infrastructure and keep the site a campground. Cilento will keep updated on the project progress to ensure substantial conformance with RMP.

Cilento said Phase 1 of a project to improve and interpret the D&H Towpath at the Roebling Aqueduct is nearing completion. About half a mile of the towpath is being cleared and the viewshed enhanced. The next phases include installing benches, historical interpretive signage, and public art. Dubbed "The Kate Project," the goal is to tell the stories of children who worked along the canal. The project is being led by The Delaware Company.

Cilento also reached out to the Town regarding the Robinson property at 27.-9-1 on Route 97 in Barryville to follow up on the NYSDOT easement updates associated with construction on the property. The Town has not yet replied.

Town of Lumberland: At their 12/9 meeting, the Town repealed the solar moratorium and adopted the new Solar Energy Law. UDC sent a letter to the Town on 9/22 which provided them with the UDC position paper on utility-scale solar in place of a substantial conformance review.

Pennsylvania Township Projects

Shohola Township: Following submission of the final law to UDC and a Spring 2020 review by Tom Shepstone for UDC, Shohola Zoning Ordinance No. 80 was submitted by Cilento to NPS on 12/28/20 for final review. Cilento will follow up with NPS to ensure UDC receives the final determination.

Project Review Workbook Rollout: Since the Project Review Workbook 2.0 has been completed and posted on the UDC website, Cilento continues to attend municipal meetings to announce its release and implementation.

Town/ship meetings attended as of 1/25: Town of Tusten Planning Board; Town of Delaware Town Board; Damascus Township Board of Supervisors; Town of Hancock Town Board; Town of Lumberland Planning Board; Westfall Township Planning Commission. Cilento is scheduled to attend the 2/18 Shohola Township Planning Commission meeting.

Broadband Expansion Updates: The Sullivan County Chamber of Commerce is hosting a First Friday Networking Breakfast on 2/5 at which the Vice-Chair of the County Legislature will be presenting an update on the County's broadband expansion project, which Cilento plans to attend. Cilento will follow projects and developments as they pertain to the Upper Delaware region.

2020 Annual Code Enforcement Review: Damascus Township has already submitted a report of code enforcement activities for 2020. Cilento will be preparing requests for code enforcement activities within the corridor and sending to member municipalities with a February due date, goal of completion by March Project Review Committee meeting.

FY 2021 Technical Assistance Grants: The FY 2021 (10/1/2020-9/30/2021) round will observe the following schedule: Friday, 2/26/2021 Grantees must submit a Mid-Term Progress Report to the UDC by this date to outline the project's status. Cilento received a Mid-Term Progress Report from the Town of Tusten. The Town's of Delaware and Hancock both acknowledged they received the request for the Mid-Term Progress Report and will be forwarding them along. Friday, 8/20/2021 Grantees must complete their projects to the satisfaction of the Contract Criteria and submit a payment request to the UDC for reimbursement of allowable expenses.

Cilento noted that all 2020 TAG's have been closed out and paid.

Old Business

1/25 Project Review Workbook Orientation Training Video Report: Richardson asked if there was a count on how many people participated in the Project Review Workbook Orientation Training Video? Ramie said there was a bit of confusion only because a few were signed in twice under a phone and computer. She said it was about 48 people between both sessions, including staff that participated. Ramie said we felt it was a very healthy turnout. Ramie said that the people that participated seemed very engaged. Though there weren't a lot of questions perhaps that's a product of how good the video is and it answered any questions they may have had. Ramie said we got great assistance from the National Parks Conservation Association (NPCA). They have a lot of experience with Live Zoom events and were able to give us advice on having a script. Anyone is welcome to view the video on our YouTube or Vimeo channels by searching Upper Delaware Council or through our website. If you have an email from Cilento you can find the social media links provided in her signature. We also recorded the Zoom Training for anyone that would like to view it in that format with the introductions and the Q&A. Cilento said format-wise she thinks it turned out well and this format could be used in the future for educational programs. Peckham noted there were a few times when the pages were blurry on the training video. Cilento said she doesn't think they are blurry in the actual film. It might have been a connection issue. Ramie said we also have a Closed Captioning feature so you can read the text for ADA compliance. Dexter noticed places in Jennifer Cluster's presentation that said in order to achieve substantial compliance, you have to comply fully with every single component of the RMP. He feels we need to address that somehow. Ramie said that's certainly been the stance of the previous NPS administration; that in order to substantially conform you must meet every principle and objective. She thinks where the difference comes into play and the flexibility is how you meet those. Ramie said that's the purpose of the "D: Other" when a Town/ship doesn't fit into A, B, or C, but here in D is how we're meeting that objective. Ramie said later we will be discussing the definition of substantial conformance and the devil's advocate would ask which of the principles and objectives are we willing to let go or how do you quantify how many objectives you must meet before it doesn't substantially conform? She said it's a really delicate issue where you have to weigh the pros and cons of what is included and decide where you can compromise.

Ramie said regarding the issue of checking with other sources she reached out to Tom Shepstone, one of the original authors of the Land and Water Use Guidelines, to get his interpretation on what was the intent in the way that it was written up and specifically ask why they didn't include a definition in the LWUG? Shepstone did get back to her which is something Ramie will be putting into a paper. Ramie said she simply ran out of time to do that for this meeting. Richardson also found a helpful source from previous Superintendent Sean McGuinness when McGuinness was commenting on how compromising is really the heart of this whole experiment in the Upper Delaware. He specifically addressed being flexible about substantial conformance. Ramie said we have that in a letter that she will also include in her write-up. Ramie said through informal meetings with Salvatore he has indicated that he's not a proponent of believing substantial conformance requires 100% conformance. Ramie said it's not necessarily a battle that's brewing if Salvatore philosophically has that in mind as well. She said it would be his verdict that would be relevant to us, not previous Superintendents. Salvatore said he's not a bureaucratic-type; he never likes to say "no" he likes to say "here's what we need to do to get there". Salvatore said he, Cody Hendrix, and Don Hamilton have had phone conversations on this matter and they want to be flexible. They also want to conform to the RMP. He said it's a case-by-case basis but rigid is not something they want to use in their narrative. Dexter said maybe it would have been more appropriate to say all sections shall be addressed; not all sections need to be 100% conforming. Cilento said in the Project Review Workbook there is an "Other" in each section. She said we can't really go back and change the video now but that covers us. Ramie said there are some issues we would never allow such as pollution or degradation of the resources. Ramie said one example is the Damascus Methodist Home and the conversion of that into a hotel. The NPS did ultimately rule that although it does not technically

conform because it doesn't meet the criteria that it was grandfathered in because of the type of use that it was. NPS agreed that they would allow that project to proceed as a conforming use. She said that showed a level of flexibility that was very encouraging at the end of Superintendent Kris Heister's tenure. Henry said the issue of Claster saying 100% conformance should have been addressed before the video was released. He said the Project Review Committee needs to keep in mind that the term is "substantial" conformance when reviewing projects. Cilento said in the Town of Highland Substantial Conformance Review there are two objectives that are largely met and two uses that aren't necessarily compatible by definition but she would still argue that it substantially conforms because 90+% meets our guidelines. Salvatore said the word substantial is very subjective. He noted that Cilento said 90% and said that's great but the ratio doesn't matter. He said every project is different but again rigidity is something he is trying to get us away from. He said it's also important to be in conformance with the RMP and he's not going to lose his job over a bad decision. Richardson said he understands what Salvatore is saying, even if something is 90% in conformance that 10% could be a critical component. Cilento said she also agrees. Richardson said he really feels we are on that same page. He appreciates Salvatore's comments and feels we can work through this.

Feagles Lake Subdivision Site Plan Review: Cilento used the share screen on Zoom to pull up the map for Feagles Lake Site Plan. Cilento said the project developer has asked for the late February Tusten Planning meeting for her to prepare any glaring or major issues with the site plan to let them know. She said they are including us early in the process which is great. She said there is going to be individual sewer, septic and water on each of these parcels. Hendrix asked if he was reading it correct that the estate lots have the purple dashes through them? Cilento said he was correct. Richardson said looking at the terrain, as you drive by some of that terrain is going to be steep slopes. His concern would be where those onsite sewer sites would be located. We wouldn't want to see that drain water migrate off the sites, down the hill and into the lake. Henry asked if they had done an elevation or balloon test from the PA-side? He said that's always been a concern when building along ridgelines. Cilento said she doesn't believe those tests were done but would look into it. Sullivan said she has seen issues with big lots in property Home Owner Associations (HOAs). When problems arise, the Town/ship can get stuck in the crossfire of that. Richardson said the Planning Board could mandate that those lots could not be subdivided in the future. Cilento said the Town and Planning Board also want to see a full Environmental Assessment which will take a lot of time.

Substantial Conformance Definition: Discussed above.

Other: None.

New Business

Town of Highland Zoning Law - Substantial Conformance Review: Cilento sent her 80-page draft Substantial Conformance Review for the Town of Highland Zoning Law in advance to committee members. The first half she sent last week was all of the Objectives. The second half she sent this weekend was the Comparison of Uses. For some background, Cilento had the former Substantial Conformance Review that was done back in 2019 that took the Town of Highland out of Substantial Conformance for their former law. Cilento also had some notes left from former employees Pete Golod (UDC) and Jennifer Claster (NPS). Cilento said those notes were really helpful because she was able to see the progression in the new version of zoning of what the changes were. Cilento said all of the objectives were met. There were two that were largely met because they were ones that had multiple requirements to meet within the objective and met all but one. Cilento said with the Comparison of Uses all of those were brought into conformance because in a lot of places in the zoning they put "except in the Upper Delaware Corridor". She said they defined and designated the Upper Delaware Corridor. There were some things that were pretty easy fixes taking things out of the river corridor so they can still have the development they want outside but not in the river corridor. There were two uses in the R1 and R2 Districts Cilento said did not conform or were incompatible. One of those was Wind Energy Conversion Systems; which she put as not conforming because they allow their windmills or wind turbines to be up to 150 ft per their zoning law but that can be easily fixed by being only 35 ft. in the river corridor. The UDC doesn't have much to say because it isn't defined. UDC's Position Paper was on Solar and posed general support for wind energy because it is better for the environment but she didn't want the height of a potential windmill to affect the viewshed so she did say that one did not conform. Mixed Commercial Residential Development is a Special Use in R1 and R2; they don't quantify a size but they do for all the others to make them Minor Commercial Developments. Cilento felt that could be turned into Major Commercial

Development so she said that one did not conform. She said all other 70+ uses do conform. She's open to discussion and comment on those.

The only use she did not comment on was Farm Brewery. Richardson had emailed Cilento to let her know the Town of Delaware addressed breweries in their Zoning. Ramie had sent the UDC's Cidery Position Paper which is similar. Cilento said the reason why she didn't feel comfortable making the determination on that yet, without input from everyone, was they had it not producing more than 75,000 bottles or units of brewery products a year. She said she doesn't know anything about industrial output and if that would make it a major industrial development or light industrial development and what would be allowed. She said those are the three problem uses but the rest is much improved from the first Zoning Law from two years ago. Cilento said there have been major improvements and hopefully we can get the Town of Highland back into conformance. Richardson said he knows Claster spent a lot of time with the Town and thought she shared if the Town followed through with the suggestions would in fact come back into Substantial Conformance. Cilento said that Claster had suggested wind turbines being 35 ft in the river corridor and quantifying Mixed Commercial Residential but those did not happen. She's not sure if that was oversight or deliberately not addressed. Cilento found Claster's notes as well as the Town sending the documents in advance very helpful. Richardson said NY may have some definitions for the breweries. Cilento said she'll do her research and appreciates the insight. Cilento asked for comments by noon 2/3. Ramie said regarding Farm Breweries; she doesn't think there's any surprise if the RMP and LWUG don't address that because that industry wasn't really around in the 1980's. The comment could be UDC doesn't have a position on that when we haven't addressed it before. She said ultimately, we are making a recommendation to the NPS. If they would like to take it a step further and do hours of reach into it they are welcome to do so. She knows that Cilento has invested days of research into this zoning and her recommendation is not to get too hung up on one particular small issue. UDC's comment can be we don't have a comment. Cilento said her first two Conformance Reviews were very easy conforming use permits in Narrowsburg to an entire review of a hopefully now conforming Zoning Law that wasn't conforming. These are two complete ends of the spectrum so she appreciates the guidance.

Land Use Complaint 2021-001 – Barryville Sewage: Cilento said UDC received a complaint on 1/7 where a resident on River Rd. in Barryville complained about an ongoing sewage smell that was occurring. The complainant said the culprit was a damaged culvert pipe or someone having more capacity for their sewer than allowed. Cilento contacted the Town and was having their contact at the Department of Health look into it. The County had their culvert and environmental staff look into it. Bill Rudge from the DEC had staff look into it. No one could locate the source. Cilento said the resident now has that direct contact at DEC. The complainant's concern was that no sewage was going into the river and also that the smell was unpleasant. This is an intermittent condition. Robinson said he lived there and is very familiar with two grated areas that would go into River Rd. and eventually the Delaware River. Robinson believes this one drains into a wetland. When he lived on River Rd. you did get a septic-like smell but a lot of it was rotting vegetation. He said they are intermittent situations because they do dry out. Robinson said it was an old problem. Cilento said the complainant said it was going on a while. Robinson said he's curious to see what the DEC comes up with; they may have simple solution. Cilento said she did find it helpful that everyone she contacted immediately had people looking into it.

Land Use Complaint 2021-002 – Crawford Road Dock: Hendrix alerted Ramie and Cilento of this complaint. One of the NPS Law Enforcement Rangers had observed a dock on Crawford Road in the Town of Tusten by Ten Mile River (TMR). It had been seen when it was docked and with a recent storm it brought the dock into someone else's yard. Hendrix reached out to Army Corps of Engineers to see if the dock had been permitted. He also reached out to the Town and the Code Enforcement Officer who didn't know anything about the dock. Hendrix is still waiting to hear back from the Army Corps of Engineers. Once he hears back from them he will provide an update to Cilento and Ramie.

FY 2021 TAGs Mid-Term Progress Reports: Cilento received a Mid-Term Progress Report from the Town of Tusten letting us know that their Comprehensive Plan Committee has been meeting regularly with their consultant, Peter Manning via Zoom. They are on track to finish by the deadline. The Towns of Delaware and Hancock both acknowledged they received the request for the Mid-Term Progress Report and will be forwarding them along by the 2/26 deadline.

Update on Skinners Falls, NY-Millanville, PA Bridge: Ramie said today she received and accepted an invitation to join a Project Advisory Committee for the design of the Skinners Falls Bridge. She said that sounds promising because that sounds like there will be another bridge of some sort. PENNDOT and NYDOT are convening this committee with a consultant. They anticipate meeting twice by video-conference between now and May 2021. The first meeting will be sometime in February.

Other: Ramie said Wayne Holbert vowed to keep attending Lackawaxen Township meetings, inquiring about the assertions he's making. Ramie said some claims are inaccurate representations. The NPS proposed a 2015 Resolution to clear up information in the River Management Plan (RMP) where there was a discrepancy of what the map showed and what the narrative was for where the boundary line is in Lackawaxen Township. It made a difference of about 450 acres. She said that was the whole impetus for that Resolution Ramie said somehow that has been twisted into fears of taking land and personalized to Holbert's proposed expansion. Holbert Quarry attempted to amend the Conditional Uses under which they operate, changing the hours to a 24-hour operation and the number of trucks they were allowed. That came before the Township and was withdrawn because the neighbors came out in full force along with a few environmental groups to oppose it. Ramie said UDC inquired to ask the PA DEP what was going on there. She said we were also involved in a Freedom of Information Act Request from one of the residents in the area. UDC's attorney advised that we are not obliged to disclose certain material and turn over records dating back to 2011. Ramie said with these newspaper articles being circulated she feels that UDC not saying anything when we have factual and valid information is putting too much onus on the Township Solicitor to explain and defend the River Management Plan (RMP). Ramie said she heard back from several committee members who feel we should address it. Richardson said UDC was really not a part of the final settlement of that dispute. It was the NPS and other entities. Richardson's question is whether the NPS is looking to respond to this vs. UDC? He would defer to the NPS first. Salvatore said he saw the articles the last few weeks and has just started to pull this onion back and there are many layers to it. He said if NPS does respond it won't be him responding it will be the Regional Director and Solicitor responding. Hendrix asked in 2011 when the Township gave Holbert the new Conditional Use Permit, did the NPS and UDC have a say in any of those conditions? Ramie said we didn't know that happened at the time. That's what UDC discovered when they went to amend the Conditional Use. Hendrix said moving forward he's willing to do whatever to have a collaboration. Like Ramie said, NPS and UDC aren't going to infringe on Mr. Holbert's First Amendment Rights but we also don't want him to smear the UDC and NPS with misinformation. Discussion continued. Cilento noted that Heather Clark was just appointed as the Township's P.R. person and she might be a good person as far as a communication standpoint to have included. Ramie will reach out to Lackawaxen Township and UDC Township Representative Doug Case to provide them with the information UDC has on this subject.

Public Comment: None.

Adjournment: A motion by Robinson, seconded by Henry, to adjourn the meeting at 7:56 p.m. was carried.

Minutes prepared by Ashley Hall-Bagdonas, 2/6/2021