

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
January 28, 2020

Committee Members Present: Larry Richardson, Harold Roeder, Jr., Jim Greier, Fred Peckham, Al Henry, Sue Sullivan, Aaron Robinson, David Dean, Jeff Dexter
Committee Members Absent: None.
Staff : Laurie Ramie, Ashley Hall-Bagdonas
NPS Partner: Kris Heister, Jennifer Claster
Guests: Dan Paparella- Town of Tusten alternate, Cheryl Korotky

The UDC's Project Review Committee held its monthly meeting on Tuesday, January 28, 2020 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:35 p.m. There was no public comment on the agenda.

Election of Officers: A motion by Roeder, seconded by Henry, to elect David Dean as Committee Chairperson was carried. A motion by Roeder, seconded by Henry, to elect Susan Sullivan as Committee Vice-Chairperson was carried.

Approval of December 18th, 2019 Meeting Minutes: A motion by Greier seconded Peckham to approve the December 18th, 2019 Meeting Minutes was carried. There was no public comment on the agenda.

Resource Specialist's Update: Ramie provided a report due to the vacancy of the Resource Specialist position since 1/10.

New York

Town of Tusten: Wayne Bank (formerly NBDC) located at 93 Main St., Narrowsburg (SBL 10-1-19), applied for 3 area variances regarding its parking lot. The first variance is for a non-conforming lot: the parking lot is 12,212 sq. ft. which does not meet the 20,000 sq. ft. minimum lot size required in the Downtown Business (DB) Zoning District. The second is a 15-foot right-of-way to allow access to the proposed Town Public Parking area as one had never previously been established. The third is a side setback since the location of the right-of-way (between the side lot line and the building) doesn't "fit" without encroaching in the setback based on a side yard setback of 25 feet in the DB district. The Town is looking to purchase the parking lot adjacent to the bank that it has been renting for several years. To make the acquisition final the variances first must be requested and issued as a procedural formality. There is no construction or expansion intended. Therefore, former Resource Specialist Golod concluded that the 3 variances did not rise to the level of a substantial conformance review, with NPS concurrence. The Town of Tusten Zoning Board of Appeals held a public hearing on 1/6. Also in Tusten, on 1/14 the Tusten Town Board appointed five residents to a Comprehensive Plan Committee to serve with Supervisor Ben Johnson and Councilwoman Jane Luchsinger, and two other members yet to be named. The UDC awarded a \$10,000 Fiscal Year 2020 TAG to the Town of Tusten for Phase 1 of a Comprehensive Plan update project. NPS Land and Community Use Planner Jennifer Claster will be attending a committee towards the end of February to discuss River Management Plan consistency.

Town of Cochection: The NYS Department of Environmental Conservation sent the UDC a copy of a Permit Renewal effective 1/17/2020-1/16/2025 (documents provided in meeting packet) issued to Little Joseph Realty LLC of Farmingdale, NY for the Little Joseph Realty Sand & Gravel Mine operating on NYS Rt. 97, 3,500 ft. north of the Brigham Road intersection, in Cochection. "Authorized activity: Continue to mine and process (dry screen only) sand and gravel from a maximum of 4.5 acres of 9.0-acre total life of mine area, situated on 245 acres controlled by the permittee, in accordance with the plans and reports referenced in Condition #1 of this permit and as conditioned herein." Ramie reported that in 2006, it was found that the permitting process for the mine had circumvented the town's zoning requirements and some turbidity was reported in a small pond across Rt. 97 from the site. Stormwater issues were subsequently addressed and a new permit was issued.

Pennsylvania

Damascus Township: Damascus Hotel (Methodist Home Conditional Use): On 1/2 the full Council voted to recommend to the Secretary of the Interior that the proposed Damascus Hotel project in Damascus Township be found in substantial conformance. On 1/3 Golod submitted to NPS Superintendent Heister a packet including the UDC's signed letter, Class II Significant Project review, and additional information for a final determination on the project. The UDC awaits a final determination from NPS.

Shohola Township: On 12/19 Golod and NPS Land Use Planner Claster met with the Planning Commission to continue assisting in the substantial conformance review of the Township's Zoning Ordinance which is required as part of the final step in completion for the FY 2019 TAG project. The comparison of Uses in the Township's Schedule and definitions against the LWUG's Schedule of Uses and definitions was completed, which was the first step in the review process. The Principles and Objectives review is the second step. On 1/3 Golod resubmitted the final draft version of the Principles and Objectives review that he went over with NPS Land Use Planner Claster in November 2019. In this review she found 5 objectives that required some modification- mostly the addition of language. Once this review is completed the Project Review Committee must review both the Schedule of Uses comparison and the Principles and Objectives review in order to pass on a recommendation of substantial conformance to the full Council. Claster was invited to meet with the Shohola Planning Commission on 1/16. Robinson said at the January meeting they concluded their conditional use charts. There is no large impediment they foresee. It's a matter of preparing a revised draft.

Westfall Township: Ramie was contacted by Westfall Township Zoning Officer Jeff Cammerino on 1/15 in response to the request to submit projects for the 2019 Annual Code Enforcement Report to ask if two particular projects were reviewable – a new home construction and a house renovation. Ramie checked with Claster to ascertain whether these parcels are located within the Upper Delaware boundary. While they are in the corridor, Claster stated that since Westfall Township is in substantial conformance, only Class II projects need to be submitted. That would not typically include single family home construction or renovations unless they required a variance, site plan review, or conditional use review, which would be unlikely. Otherwise, no submission or review is needed.

Lackawaxen Township: The UDC received a certified letter from PennDOT Acting Assistant District 4 Executive-Maintenance Garrett M. Westover dated 12/19/19 stating that the Commonwealth of Pennsylvania, acting through the Department of Transportation, will place a 10-ton Gross Weight Limitation on State Route 1014, segment 10-190, Masthope Plank Road, Lackawaxen Township, Pike County, PA effective 1/10/2020. "It has been brought to our attention that vehicles utilizing this section of roadway are in excess of the proposed gross weight limitation. If the hauler (user) is making a local delivery, he may be exempt from entering into an excessive maintenance agreement. As haulers (users) of this roadway are identified, the posting authority will determine whether the overweight vehicles are exempt or have to enter into an excessive maintenance agreement with the Pennsylvania Department of Transportation." The contact for any questions is Posted and Bonded Road Coordinator Greg Scochin at (570) 963-4097. Ramie brought the letter to the attention of the Lackawaxen Township Board of Supervisors, UDC Representative Doug Case, and NPS UPDE.

2020 TAG's: Mid-Term Progress Reports will be due by 2/28/2020 from the Towns of Hancock, Delaware, and Tusten (2). Ramie will send reminders for these four grants by mid-February if needed.

Annual Code Enforcement Program Report: In 2017 NPS Superintendent Heister informed Golod that she wanted the Enforcement Program Reports which had been submitted to the NPS annually to reflect a pattern of actual land use changes which have occurred over a period time, whether it be three, five, etc. years and not necessarily an annual report listing construction of decks, sunporches, etc., that do not affect the designated river corridor. As of November 2019 Superintendent Heister once again requested the UDC begin submitting an annual Enforcement Program Report to the NPS. On 1/3 Golod submitted letters to all 13 UDC municipalities Code Enforcement Officers and Planning Board/Commission Chairs requesting they supply all building permits, special/conditional use permits, and variances issued within the designated river corridor from January 1 to December 31, 2019, as well as any modifications made to their laws, plans, ordinances, and zoning map changes. The materials were requested by Monday, March 2nd. Responses received (with dates) as of 1/27: Berlin Township (1/6-no reviewable river corridor projects); Damascus Township (1/8); Town of Cochection (1/10-no reviewable projects); Town of Fremont (1/10); Town of Deerpark (1/13); Westfall Township (1/16-no reviewable projects).

Seven are pending: Town of Hancock; Town of Delaware; Town of Tusten; Town of Highland; Town of Lumberland; Lackawaxen Township; Shohola Township.

Land and Water Use Guidelines Training: Cluster arranged a training session on the River Management Plan (RMP) and Land and Water Use Guidelines with the Delaware County Planning Board on 1/8. Golod declined to participate, so she made the presentation solo. A session with the Orange County Planning Department, originally planned for 12/19 but cancelled due to a weather delay, awaits rescheduling, then all five river valley counties will have completed the training.

New Business:

NPS Position on Incorporating Utility-Scale Renewable Energies into Land and Water Use Guidelines: Richardson said before Heister starts he wants to comment that he, Ramie and Heister met to discuss how UDC could move forward. He thanks Heister for the effort on it. It lays out for UDC how we can make a step in this whole plan. Ramie said the letter is dated 1/15 and it was circulated to Committee members in advance. Heister said basically what NPS's position in the letter is stated in the UDC's last position paper; which is Utility-Scale Wind and Geothermal are incompatible everywhere. Utility Scale Solar is an appropriate conditional use in recreational segments of the river corridor, and hamlet areas. It is an incompatible land use in the scenic sections of the river. It does not preclude any of those uses in the 90% of each town that is located outside the corridor. It says that small scale is an accessory use and this does not apply to that. Homeowners and businesses can use solar, wind, or geothermal on their private properties and that's perfectly compatible. NPS wants UDC to take a step forward. This letter is not replacing the role of the UDC and its responsibility in the RMP for amending the Land and Water Use Guidelines (LWUG). NPS has a Solicitor's opinion that she shared with the UDC in February 2017 at the first Solar Subcommittee meeting that essentially said NPS doesn't need the UDC to make these changes. Heister said that's not the path NPS wants to go down. Richardson said what he is hearing is that NPS would accept a Letter of Interpretation from the UDC that Utility-Scale Wind & Geothermal is incompatible and UDC could move that with a majority vote. Robinson said if NPS or UDC doesn't include this in our review of Town/ships, could they be out of conformance if they have no zoning on it as NPS legally makes final determination? Heister said that is certainly possible. Richardson said if UDC takes this position, he doesn't expect this will compel any Town/ships to change zoning. If we do take this position, part of UDC's responsibility is to advise Town/ships that we have this position so they know ahead of time. Heister said there are at least seven towns that have already passed renewable energy zoning. We need to separate the Town/ships that have already passed zoning from those that haven't. NPS had an awesome meeting today with the Town of Highland regarding zoning on Renewable Energy; they are out of Substantial Conformance but NPS is going to work with them. Heister said ultimately what NPS is saying is in the absence of any action by the UDC, they are going to formally adopt this position as the NPS. They will advise the Town/ships that it is their position, and they are going to advise the Town/ships that is how they are going to base their final determination of conformance. Heister referenced December 2018, saying UDC staff pleaded that Highland, Lumberland, and Westfall are looking to amend their zoning regarding renewable energies now. Damascus, Shohola, Fremont, Delaware, Cochection and Tusten proceeded without the guidance of the UDC or a proper review from the UDC due to the lack of information in the LWUG and the Schedule of Uses. NPS feels some actions needs to be taken. The LWUG are voluntary guidelines, not regulations.

Robinson said this was not the original framework in the partnership. His view is that NPS is taking a stronger position and it's an imbalance of power. UDC is representing the municipalities. We are not equal if NPS is the final arbiter. When he takes this back to his Supervisors how are they supposed to digest this? Is this a NPS mandate with more to come? The Supervisors may feel that way. He doesn't think the cooperative structure was one of mandates. The position paper was well-reasoned. Personally he and the Shohola Township Supervisors have no problem with the position paper but how do you use it. Sullivan said when Tusten was doing their zoning they got a copy of UDC's position paper and were informed about the Solar subcommittee and what the UDC's thinking was. Greier asked is the Town of Fremont out of substantial conformance because they addressed renewable energy without UDC? Heister said no, we need to separate those Town/ships that passed zoning and they will work with them on that. Richardson said as mentioned, Town of Cochection passed zoning dealing with solar and they do not permit Utility Scale in the Town so they don't have a problem listing it as not compatible in the River Corridor. Their zoning doesn't allow it now. This isn't contrary to something that exists already. In fact, it substantiates what's on

the books. Heister asked why UDC can't come to a unanimous vote? Robinson said it's one of principle. Heister said that's obstructionist. Robinson said it's not obstructionist, it's the way this thing got formed 30 years ago. It was a spirit of cooperation and an element of trust that we wouldn't go beyond these boundaries of the partners. He said he sees it as we know the consequences of commercial solar and commercial renewables but now we have a NPS mandate to alter how things are implemented and forced upon municipalities. Today it's solar, what's next? Richardson said wouldn't it be nice if we could get ahead of them? Robinson said Shohola Township treats itself as a sovereign municipality within limits. Supervisors don't like mandates. Heister said to Robinson: "You wouldn't vote for this until the Township was able to make other changes. The second thing you said was you wouldn't vote for it based on principle. When you said that, that was way back in 2017. That was long before the NPS put out this letter with any kind of mandate." Robinson said the Supervisors don't want any part of amending the agreement. Heister asked where do we go from here? You can't reach a unanimous vote. You can't change the requirement for a unanimous vote. You have people that are voting based on politics instead of position, based on "principle". We have 13 Town/ships that are speaking for their individual Town/ship but you're going in 13 different directions. Heister said part of what she, Richardson and Ramie talked about was what is the UDC if the Town/ships can't agree on a position. Henry said as a few people have expressed, the biggest concern was to initiate some kind of minor amendment. The reason it stopped was because a couple representatives said their Town/ships were not interested in going through procedure that the RMP lays out for changes and that's what brought it to a screeching halt. Henry asked Heister to go over her recommendation and procedure. Heister said her recommendations to the UDC are: 1) Finalize the position paper. Commit as an organization to support that position and move together to influence your Town/ships to vote based on facts not fear for the good of the River Valley. Don't give up on a unanimous vote before you've tried to achieve one and before you have a final position paper to even vote on. Don't accept votes based on principle rather than on that position. 2) Adopt Wind and Geo-thermal Utility Scale via a Letter of Interpretation. Don't pretend a supplement is anything other than recommendations. Don't confuse recommendations with formally adopting new land uses into the LWUG. She is looking for a little forward movement. Heister said she thinks Tom Shepstone was right in some regards; this is about influence. You need to influence each other; you need to influence your Town/ships based on a position that everyone agrees to. Nobody is more familiar with what's in that position paper than you. Take the time to remind the Town/ships that these LWUG are voluntary. Robinson said progressively Town/ships have lost a lot of the aid and support that was offered up by the Federal Government on the onset of this agreement (Law Enforcement & TAGS). He said from a Supervisor's standpoint what's in it for the Town/ships as they keep getting restricted? We're dealing with private property. Heister said what's in it for the Town/ships is an economy based on natural and cultural resources that make this place special. Guidelines are the backbone of the RMP and towns agreed to protect and NPS agreed to not take land. Richardson said our towns already don't allow commercial solar in the river corridor. Why can't we agree? Henry addressed Heister, saying you told us your recommendations to the UDC. What will the NPS do if UDC is unable to do that? Heister said she is very hopeful that you will be able to do that. She has said that NPS will formalize the position paper that is in draft form. They will not modify the LWUG. That's the role of the UDC and NPS would like to work with you to formally do that process.

Roeder asked what will happen with the Letter of Interpretation? Heister said one of the tools to make a clarification to what's in the LWUG is a Letter of Interpretation. In this instance, the original position paper stated that all of the types of Utility-Scale Renewable Energy were incompatible because they met the definition of a power generating station. We backed off from that because we said renewable energy might not be what was envisioned as a power generating station in 1986 and we've looked at the actual impacts of those different types of renewable energies and ultimately arrived at this position paper. The impacts of Utility-Scale Wind and Utility-Scale geothermal are similar to the impacts of a Power Generating Station that was envisioned historically. Heister said your Letter of Interpretation simply says we interpret the definition of the power generating station to include Utility -cale Wind and Utility-Scale geothermal. Solar requires an amendment. It's not reopening the RMP. If you're all in agreement, write it, announce it at a UDC meeting, accept public comments, and take a vote. Ramie said the problem is we've been stymied on this and she would love to see UDC do something with it because it's not so much waiting for the Town/ships to develop zoning on renewable energies; it's to provide UDC with a framework when these projects come before us for review so we have something to go on. Ramie said we had a few instances where we had to send letters to the Town/ships and say UDC couldn't review it because we don't have anything on the books to compare it against.

Claster said the position paper for Solar does say that it's a conditional use in Recreational and Hamlet areas so there is some give there. Sullivan said a finalized position paper isn't hard. She said let's make an assumption and say we can finish the position paper. Next step is a Letter of Interpretation and as the UDC we vote. Then we would have something to present to the Town/ships. A recommendation Tom Shepstone came up was not to open the plan to any type of minor amendment or major revision. He recommended that UDC put a Letter of Interpretation affixed to the plan so people can find it. In the Letter of Interpretation, we're going to modify the definitions of utility-scale for wind and solar. Shepstone recommended we have an addendum and supplements to give future direction to the LWUG, any concerns or changes, similar to what we're talking about here. That's what the plan says you need to do to elaborate or straighten out any concerns. An addendum to the plan would keep us from opening up the plan. Henry said in the future people can ask if we modified the plan we can say yes, but we didn't do what was recommended in the plan because the procedure is too onerous and difficult. We will send a Letter of Interpretation to the Secretary of the Interior advising them of those concerns and UDC is going to proceed by Supplement. Heister said you are going to be changing both the LWUG and the RMP and claim it's not a formal change because it's not an amendment? Roeder said if UDC and the Town/ships in the UDC agree with this position paper as well as the NPS, it's a matter of how to get it into the documents. Roeder said you're putting a big stumbling block up. Perhaps the NPS had done things prior to this that should have gone through the same process. Claster said the position paper has at least one item in it that needs to be finished. Ramie provided that handout and Heister said that decision was for Utility-Scale Solar, will it be compatible or conditional in a Hamlet (option A or B). NPS's position is adopt the conditional use. Henry said in the process we need some kind of mechanism in the position paper that addresses the use of the Letter of Interpretation and some way to find it. Richardson said if we can't ultimately agree on a minor amendment then it should be added to the LWUG as an addendum in the back. Utility-Scale Solar itself is not incompatible. It would be subject to Special Use or Conditional Use. It's up to the Town/ship in the Corridor. He feels we should deal with the issues that are not compatible issues. Discussion on including solar continued. Heister said the Solicitor's opinion was that in order to use a Letter of Interpretation you are interpreting something that is already in the plan. It is a clarification. In this case we're clarifying that the definition of a power generating station includes Utility-Scale Wind and Utility-Scale Geothermal. Hydropower is already in that definition. UDC hasn't added definition for Solar yet and is not appropriate for a Letter of Interpretation. Henry asked Heister to please furnish the 2017 opinion from the Solicitor and Heister said she would. A Motion by Richardson, seconded by Roeder for staff to prepare the Letter of Interpretation regarding Utility Scale Wind and Utility -scale Geothermal for a vote at the 2/6 meeting carried. He requests that it be ready beforehand to show Town/ships. Paparella asked if a draft position paper could go out regarding Solar? Ramie said the position paper provided in the meeting packet is the latest version. She said she doesn't know if the committee wants her to go through it unilaterally to accept the suggested changes as that's the board's job. Heister said the last time the position paper went out to the committee it was full of edits. The Project Review committee requested that UDC Resource Specialist Pete Golod accept the changes. She suggests sending out that version.

Highland River Access Update Review: This information was included in the Discussion Items Report. Sullivan County is coordinating improvements at the Highland River Access. They won a grant through the Delaware Watershed Conservation Fund to do that. The UDC and others submitted support letters and they finally received funding for implementation. In the last three pages of the Discussion Items Report Sullivan County has now submitted this project to the UDC for review. This is considered a significant project. It's an unusual project for UDC in a sense because it's not someone's house or property per se but as she understands it would apply for a Substantial Conformance Review which is something we do in conjunction with the NPS. This is the first project Ramie is suggesting the Project Review Committee submit to our interim consultant, Tom Shepstone, that we have retained to get that process started. A Motion by Richardson seconded by Henry to submit the necessary Highland River Access documents to Shepstone Management Corporation carried with one abstention.

Other: None.

Old Business:

Consulting Service Agreement Executed: Ramie provided a copy of the executed Consulting Services Agreement with Tom Shepstone of Shepstone Management Company, Inc. This was agreed on by a majority vote of the Project Review and Operations Committees. Ramie said he will not be doing any work without UDC's authorization. Claster referenced Item 5. under duties reading: "Conduct site inspection of lands and proposed developments for

Class I and II significant projects.” She asked if UDC anticipates the consultant will be going out and doing site inspections? Ramie said the rest of that line reads, “as appropriate and with landowner permission” which is the relevant part. These are the same tasks that a Resource Specialist would undertake for UDC so we wanted to include that possibility.

1/10 Letter from Town of Highland re: 2019 Adopted Zoning Law: Ramie said this is the letter that the Town of Highland’s attorney sent in response to receiving the determination of nonconformance from NPS. Heister and Claster had a meeting with the Town of Highland this morning with Jim Hanson, Fred Bosch, and Jeff Haas. Claster said Hanson and Bosch are on the Zoning Committee. Heister said they took Jessica Weinman, the new Acting Superintendent. They went through the sections of the Wild and Scenic Rivers Act and legislation that relates to the LWUG. They separated the Schedule of Uses discussion from the Principles and Objectives discussion. They focused on the Schedule of Uses because that’s what triggers enhanced acquisition authority for the NPS. It was a very amenable meeting. Heister said they would like to continue to work directly with the NPS. Claster will be meeting with them in the next two weeks to start going through the Schedule of Uses. One thing Heister wanted to bring up to the Project Review Committee is that the Town of Highland doesn’t have a copy of the RMP and the LWUG. According to Town of Highland officials they were following the UDC Design Handbook. NPS looked at that briefly while they were there and said they would bring back this information to the Project Review committee. Sullivan said the same thing happened with the Town of Tusten and she had to make the clarification that the Design Handbook is not the RMP or LWUG. Heister said they are going to continue working with the Town of Highland and they are willing to make changes to the ordinance.

Project Review Workbook Status: Ramie and Claster had a meeting on 1/2 with Dorene Warner of W Design telling her about the requirements for ADA Compliance and asking her to submit a new proposal based on significant changes that have occurred with the Workbook structure since her 2016 quote. Ramie received a new estimate late this afternoon and will need some time to assess the information. Warner anticipated about a two-month turnaround time for it to be ready. Ramie also needs to figure out the finances for this and if it could be a cost-share project between UDC and NPS.

Other: None.

Public Comment: None.

Adjournment: A motion by Roeder, seconded by Greier, to adjourn the meeting at 8:15 p.m. was carried.

Minutes prepared by Ashley Hall-Bagdonas, 2/3/2020