

**Upper Delaware Council**  
**PROJECT REVIEW COMMITTEE MEETING MINUTES**  
**November 26, 2019**

Committee Members Present: Larry Richardson, Harold Roeder, Jr., Jim Greier, Fred Peckham, Al Henry, Sue Sullivan, Steve Adams, Aaron Robinson, David Dean  
Committee Members Absent: Debra Conway  
Staff : Laurie Ramie, Pete Golod, Ashley Hall-Bagdonas  
NPS Partner: Jennifer Claster  
Guests: Brian Smith, Sims Foster, Cheryl Korotky

The UDC's Project Review Committee held its monthly meeting on Tuesday, November 26, 2019 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 8:14 p.m. There was no public comment on the agenda.

**Approval of October 22, 2019 Meeting Minutes:** A motion by Dean seconded Peckham to approve the October 22, 2019 Meeting Minutes was carried. There was no public comment on the agenda.

**Resource Specialist's Update:**

New York

**Town of Delaware:** On 11/14 the UDC received a packet requesting comments for the Town's proposed Wastewater Treatment Plant (WWTP) including a SEQR review. The Town is seeking to replace the 27-year-old WWTP which is currently located in the floodplain to a new alternate location outside of the floodplain. Golod will attend the Town's public hearing on 12/11 regarding the WWTP. Comments are requested by 1/8/20. Golod said the new WWTP would provide treatment of sanitary sewage for the existing Callicoon Sewer District. The existing NYS DEC permit of discharge location to Callicoon Creek will be maintained. The existing WWTP will be razed upon start-up and operation of the new facility. Golod said the last Notice of Application Received from the DRBC he had gotten was from a few weeks ago and it did not mention the WWTP. Roeder attended the 11/13 meeting and said the Town has signed to proceed with purchase of the land, however, there are so many contingencies because that purchase is subject to the larger parcels being sold and taken over. Ramie said it's part of the County Park project for which the UDC submitted an application of support. Roeder said the location is going to be a lot better for the Town. It's in a place that's nothing but sand and gravel underneath. Golod said Delaware Engineering also stressed it will be updated. The current WWTP is extremely deficient.

Pennsylvania

**Damascus Township:** On 10/22 the UDC received the final adopted printed copy of the East Central Wayne County Plan (ECWC). No changes were made to the final document which would affect substantial conformance. On 11/7 the full Council forwarded the recommendation of substantial conformance of the ECWC Comprehensive Plan Update to the NPS. Golod provided a copy of the submittal letter to the NPS in the meeting packet.

**Methodist Home Conditional Use:** Golod sent out a brief narrative sometime last week. He said this isn't a Class II review but is an introduction to this project proposed for Damascus Township. Damascus Township is within the Recreational Segment of the designated river corridor. This project falls within the Township's River District (RD), which is intended to conform to the requirements of the National Wild and Scenic Rivers Act and the regulations developed by the NPS. Currently, the Township's RD does not allow the Use of motels/hotels. The Township's current zoning defines Hotel/Motel as a facility offering temporary (generally for periods of two weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, and traditionally providing additional services such as restaurants, meeting rooms and recreational facilities. The Land and Water Use Guidelines defines Motel as a building or group of buildings which: (a) contains living or sleeping accommodations used primarily for transient occupancy, and (b) has individual entrances from outside the building to serve each accommodation. It defines Hotel as a building in which lodging, or boarding and lodging, are provided and offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby. A small hotel is defined as a building or group of buildings, which (a) contains living or sleeping

accommodations used primarily for transient occupancy, and (b) has individual entrances from outside the building to serve such living and sleeping, and (c) meets the following conditions: (1) does not exceed 12 rental units in size, (2) is located immediately adjacent to an arterial road, and (3) is compatible with the natural and scenic characteristics for which the river was designated. A small hotel is defined as a building, in which (a) lodging or boarding are provided and offered to the public for compensation, (b) ingress and egress to and from all rooms are made through an inside lobby, (c) includes, but is not limited to, country inns and youth hostels, and (d) meets the following conditions: (1) does not exceed 12 rental units in size, (2) is located immediately adjacent to an arterial road, and (3) is compatible with the natural and scenic characteristics for which the river was designated. The Land and Water Use Guidelines' Schedule of Uses lists Other: Motels and Hotels as an Incompatible Use within the Recreational Segment. Damascus Township issued a Conditional Use for a 28+ room hotel and traditional amenities to convert the interior of the vacant former Wayne Delaware Manor building (Methodist Home) located on Rt. 652 and Methodist Home Road. The project sits on a 17.75-acre parcel and has a new on-site sewage disposal system with 4,350 gallons per day capacity in addition to an older functioning system. There will be no impacts on public improvements as on-site water, sewage disposal systems, and utilities already exist on site and will not require upgrades. There will be no change to the footprint of the building and only maintenance, repairs and other cosmetic improvements will be made to the exterior. The application involves minimal structural changes, minimal land disturbance, and no new infrastructure. Only interior renovations of the existing building will be made. The dining hall and cooking facilities will be utilized as a small restaurant and is intended only for guests of the hotel or friends/family of guests. Traffic generated can range from 4.67 - 14.64 trips per occupied room per day compared to the estimated Wayne Delaware Manor 4.52 - 5.64 trips per day. A pervious gravel surfaced 30-space parking area has been proposed. Stormwater control measure will be installed in accordance to the Storm Water Management Ordinance and an Erosion and Sedimentation Plan will be submitted. Existing landscape will be enhanced. As few as five employees working on-site are anticipated.

Golod said Damascus Township hasn't received a Site Plan for the interior modifications yet. Golod and Claster spoke with Adams and ZCEO Ed Lagarenne for information gathering and they felt like now was a good time to introduce it to the committee. Golod said there is a small site plan of the project included in the meeting packet. The Township also submitted three pages to the UDC for the Project Review Committee explaining how it was a non-conforming use and when it was a Retirement Center it had fallen under an Institutional Use which would be classified as a Conditional Use in PA. However, with the Change of Use going from a non-conforming use as an Institutional Use to a non-conforming Use as a Hotel, per the purview of the Schedule of Uses it is considered incompatible. Golod stressed there is no change in footprint. He provided a copy of the Schedule of Uses in the meeting packet. It's not a new hotel going up; it's a preexisting structure with only interior modifications. Greier said he feels like it should be grandfathered in just like any other projects in this valley like the Job Corps, Delaware Valley Central School, Narrowsburg School, etc. Richardson said he would like to introduce Mr. Sims Foster, as the owner and developer of the project. Richardson asked if the number of rooms is changing? Foster said no, it is staying the same as it was in the Methodist Home days. Adams read page 116 from the Land and Water Use Guidelines: "Non-conforming Uses: Uses which do not meet current standards are usually identified as 'non-conforming uses' and it is appropriate to not only exempt or 'grandfather' them from meeting current standards, but also permit reasonable expansion and replacement of such uses and, in some cases, allow the conversion of one nonconforming use to another which is less non-conforming. Towns may allow expansion to a proportion of the existing structure/use (to be determined by the town), or process such proposals as conditional (Pennsylvania) or special uses (New York) to review impacts on the river. Replacement of non-conforming uses in the event of storm damage, fire damage or other disaster should be permitted regardless of existing non-conformities." Adams said that pretty much says it all. Peckham said this is what tourism is all about and UDC has talked about how important tourism is to the Upper Delaware. Claster said she thinks the question raised by the passage Adams read is that it says conversion of a non-conforming use to another non-conforming use that is less non-conforming may be appropriate. She said the question then to the Committee would be: is the proposed non-conforming use less non-conforming than the existing non-conforming use? Robinson said when you look at a motel occupancy vs. a nursing home, there is probably a ratio of time used vs. time not used. Sullivan said being from Narrowsburg, and speaking for the Town, they would be very happy with this project because it will be a crossover of business. It will be an economic plus for Narrowsburg. She added that the building is an empty structure and it's a bad idea to have an empty building. Seeing that building deteriorate over the years is sad. She said her Town had an empty school issue and it would have been a disaster if it was empty any longer than it was. It required the Town to redo the Zoning Map so it wasn't restricted. Claster said something they discussed with the Township was that Damascus doesn't have any Hamlets designated in the River Corridor. An idea of something they could consider doing through

appropriate public process is creating a new Hamlet Zone since it's like an extension of Narrowsburg Hamlet on the other side of the bridge, if the Township wanted to do that. In a Hamlet it is considered an appropriate and compatible use to have a hotel larger than 12 rooms. Adams said there is actual physical proof it is less of an impact. The previous institution used 300 gallons of sewage; a hotel/motel setting uses 100 gallons of sewage a day. He said these were all concerns brought up at the Conditional Use Hearing. Adams said if this was a new facility it wouldn't even be considered because it would be in a RD and this discussion wouldn't be happening. The reason for the discussion is because the Township had no choice but to approve it because of what it was. Henry said he considers this a non-issue and personally, considers it one of the best things Damascus Township and the Upper Delaware could do to enhance the property instead of having another place fall down or be a visual blight. There are always people looking for rooms. He said from what he has heard of Foster he is sure it will be wonderful for everybody all around. He said if the footprint hasn't increased he could ask the NPS "Where is a clear and direct threat and what's the issue when there is less use than the Methodist Home?". Richardson said he knows of Foster's projects through Sullivan County and they are all top-notch. Not that it should have any bearing on this discussion, but he could see visitors of the motel walking across the bridge, spending their time and money in Narrowsburg and he sees that as a plus. Richardson said Adams makes a good point, if it was a new project UDC would have no choice but to deny it. He feels it should be grandfathered in. An argument could be made that it's less incompatible because the sewer is going to be improved. We're dealing with runoff in a better way than what existed prior, etc. Foster said he appreciates all the comments and he wanted to address the fact of "less non-conforming". The data presented to the Township says it will have less traffic than if it were a nursing home. The nursing home, because of medical issues, had to have a robust septic system and had two leach fields. Foster said their sewage will be less, their water will be less. Foster said occupancy, as much as he'd love to be at 100%, if you are able to get at 50% you are doing pretty well and at a 50% occupancy rate traffic is less on Rt. 652. He said he doesn't know where visitors parked when visiting people at the nursing home; there was not sufficient parking so they improved it by pervious parking adequate for everyone there with low impact. Foster says they intend to be geographically part of the business community and be part of Darbytown.

Sullivan said Country Inns are ok, so why is this project not considered a Country Inn? Claster said it's because of the 12 room cap. Greier said this a great opportunity to enhance our tourism base of the valley without changing the footprint. Roeder said it's an asset to the community, the river, and the people. Roeder said regulations are not laws and a guideline helps guide you, it does not read "Land and Water Use Laws" it's Land and Water Use Guidelines. Dean said being a businessman, he sees it as a positive. Claster said the way this process will probably work is at some point the Project Review Committee will be discussing the project and will make a recommendation to the NPS. It's NPS's job to interpret the Land and Water Use Guidelines in a way that's fair to all the communities in the river valley. She said anyone that's served on a Zoning Hearing Board or Planning Commission knows that as much as you may like a project, you still need to evaluate it according to the rules of the Township. In this case, we have the Land and Water Use Guidelines. Claster said what NPS will need from UDC in order for NPS to make a final determination is a really well-reasoned position about why the Use is acceptable. She asked for all to keep that in mind. She said she heard a lot of good thoughts tonight but the decision that is made will have implications in the rest of the river valley on how other similar non-conforming uses are handled. There are similar buildings that may have not been conforming when the Land and Water Use Guidelines went into effect. UDC's decision could have implications that might allow those buildings to be used for other things that you might not want to see. She said when UDC puts their recommendation together please think about that so it has the effect UDC wants. Richardson said he thinks that very good advice. Henry said if NPS looks at what happened at the Rt. 97 project in Barryville where there has been encroachment, footprint changes, and people building on State property, this project will not affect the footprint, will be less of an impact and a benefit to the community. Robinson said for years someone has been paying taxes on the place and when you are paying commercial taxes there is an expectation you'll get a return on investment. It wasn't abandoned and didn't go for tax sale. He said based on that, the anticipation that the value of the facility holds is retained in some form is a big consideration. Robinson said in this whole corridor you go from Sparrowbush up to Hancock and there are a lot of buildings that are empty that were either boarding houses or some form of accommodations and it would be nice to see them back in business. Robinson said we don't want to put a stumbling block in front of a potential investor or developer. It serves the communities along the river well to have these types of projects. Robinson feels the NPS shouldn't be so critical. Claster said the NPS has made no positional statement regarding the project. Robinson said the burden was on the UDC to present it the right way but the NPS should be in the mindset that this is good for the community. Claster said she's just trying to convey it's UDC's job to make the recommendation. Foster wanted to confirm that everyone received the "Foster Supply Hospitality Substantial Conformance Narrative" in the meeting packet. In that document is the data to support the

Guidelines. He said it is somewhat confusing to be having this conversation after going to the Planning Commission getting approval by the local municipality and executing the sale based on that approval. Foster said he's here for the community. The data that Damascus Township agreed to is referenced in the document. Richardson observed that it would not be the first time that the cart came before the horse. Sullivan said every time we take an old business and repurpose it that's great and that should be our rationale. Wayne County Commissioner Brian Smith said he's encouraged by the clarity of thought by UDC's board members. Anytime you can take a hotel or a building, make a hotel and improve a property you should be seriously looking at doing it. It is very hard to get businesses to move into Wayne County and when we have someone who is trying to do that he wants to encourage that and he will encourage that every day. Adams said Claster made a valid point and something the Township Supervisors are looking at is to create Hamlets along the river, Damascus and Darbytown being a two of them. Foster said he has no idea how long it takes government to create a Hamlet but they would like to be open for Summer season of 2020. Richardson said the Project Review Committee will move forward with a review of the project.

**Shohola Township:** On 11/21 Golod met with the Planning Commission to assist 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. Work consisted of comparing the Township's Schedule of Uses and definitions against the LWUG's Schedule of Uses and definitions. Golod will attend the Commission's 12/11 meeting to continue the work. He said he should be able to present a report at the 12/17 Project Review meeting.

**Resource Specialist's Update:** On 10/29 Golod met with Damascus Township Supervisor and Zoning Code Enforcement Officer (ZCEO) Ed Lagarenne to discuss a Conditional Use issuance. Golod completed the three-session Pennsylvania Municipal Planning Education Institute (PMPEI) Course in Zoning on 10/30, 11/6, 11/13. A report of the course has been included in the meeting packet. On 11/7 Golod and Claster conducted a UDC/NPS River Management Plan/Land and Water Use Guidelines training session for Pike County Planning. On 11/13 Golod sent to the NPS the UDC's recommendation of non-conformance for the Town of Highland's 2019 Zoning Law. A copy of the letter was provided in the meeting packet. On 11/14 Golod and Claster met with the Damascus Township Supervisor and ZCEO to discuss the Methodist Home. On 11/20 Golod and Ramie met with Claster and Superintendent Heister to discuss "substantial conformance". He said he understood that substantial conformance must meet each of the Principles and Objectives contained in the Guidelines and the RMP by 1. Employing a combination of management alternatives listed in the guidelines or 2. For the municipality to demonstrate a way that meets the objective in another way. On 11/21 Golod met with the Shohola Planning Commission. Robinson asked if the definition of substantial conformance was a recommendation or interpretation by Superintendent Heister? Golod said that definition is out of the Land and Water Use Guidelines. He said when they met he was looking for clarification on substantial vs. total and per the definition in the Guidelines we have to follow that. Golod read the definition of Substantial Conformance on page 131 of the Land and Water Use Guidelines: "Conformance with respect to the list of Compatible, Conditional, and Incompatible Land Uses set out in these guidelines and with the substance of each of the principles and objectives set out in these guidelines so as to carry out the intent of the Upper Delaware legislation." Robinson said "substantial" is a misnomer then? Ramie said the way we saw it, substantial provides room for flexibility by using that other option where the Town/ship proves their case of how they met the Principle; that is the substantial part. Richardson said correct, he believes UDC has always contended it doesn't have to meet every aspect of what's listed. Robinson said if a review is done on all of the current Zoning Ordinances would most of them be put out of substantial conformance? Claster said you are probably right. Robinson said many Town/ships aren't in the position to rewrite their zoning. If Town/ships are put out of substantial conformance what does that do to a Town/ship? What does that do to the UDC and the review process? Technically, the review process becomes much more thorough for the NPS if a Town/ship is non-conforming. Claster said it also becomes much more thorough for the UDC if a Town/ship is nonconforming. UDC then must review Class I and Class II projects and so does NPS. Claster said it's been a long time since a lot of the Town/ships have had a substantial conformance review that is on record. There have probably been incremental changes over a fairly long period of time that have resulted in Town/ships coming out of conformance. She said no one is saying Town/ships are now out of conformance; if a Town/ship is redoing its zoning UDC will look at it and try to make it more in conformance. Richardson said he disagrees with the perception if you review them now you will find most of them are out of conformance. He said Tom Shepstone was involved with many of the zoning codes that have been done. Most of the zoning Richardson has seen over the years is geared towards reaching those objectives. He said in Cocheton they put specific wording that said: "No projects can be approved that do not agree with the goals and objectives of the River Management Plan." Sullivan and Robinson confirmed their Town/ships include that kind

of language also. Robinson said he's not being critical of the NPS. he's just looking ahead at how a Town/ship will function likely being noncompliant. Golod said all 22 objectives need to be met for all 6 principles to be in substantial conformance. Claster said the result would be that the Town/ship would submit Class I and Class II projects. Robinson said he thinks it will throw the UDC into turmoil. Sullivan said Shepstone worked on Tusten's original zoning in 1993. Historically, none of the Town/ships had zoning, then the river corridor was created. The River Management Plan is where the zoning was created from. She said life goes on and she doesn't think any of the Town/ships are out of conformance in terms of the spirit of the plan. Peckham said all the flexibility was done when they made the RMP. He said NPS wants you to follow the RMP exactly and has seen four or five Superintendents come through with that mindset. Ramie said the UDC never changed the RMP or the Land and Water Use Guidelines so the same standards exist today that did then. Unfortunately, over the years perhaps the UDC has been lax on enforcing what is there or helping the Town/ships to get there. There is interpretation and there always will be. Robinson said in comparison going back two zoning rewrites in Shohola, the revision that Shohola Township is making now he understands was accepted by the UDC but NPS never reviewed it. What was accepted originally is not accepted now. He said the only thing that triggered this review was that the Township opened up the zoning. He said the nature of this is that Town/ships are not going to want to tinker with their zoning. Richardson said he doesn't see the Project Review Committee or the UDC starting a top to bottom review of all the zoning any time soon. If it shows up it will come up in a project. Ramie said she brought that up in the meeting and asked Superintendent Heister is UDC going back and looking at all of the zoning? Superintendent Heister said she had no interest in that and she's talking about this point forward. We can strengthen the zoning to be in compliance. Dean said the word "substantial" conformance has some leeway and said frankly, it's a matter of opinion. The way zoning is written substantial is important. The NPS should take that to heart when a project is 90% there, that's pretty substantial and the part that isn't, is that a threat?

Ramie said with the Discussion Items Report, she would like one clarification since it was stated that the township already issued a Conditional Use permit for the hotel. What happens next with the Damascus project? Richardson said the committee will formally review the project and he believes Foster will cooperate. Claster asked what the timeframe would be for that? Richardson said he thinks UDC should start right away.

#### **Old Business:**

**Project Review Guide Discussion and Vote:** Golod said we have some questions that need to be resolved from the committee. Three years ago they were tasked with softening the tone. Originally, Carla Hauser-Hahn, Ramie and Golod had done that. Claster keyed in on removing all language of "eminent domain" from the Project Review Guide. They also streamlined it. They went from a 140+ page document to 86 double-sided. They incorporated the Project Review Committee's suggestions from the 10/3 Special Meeting. They incorporated an outside third-party member's suggestions. Some forms were consolidated and condensed by Claster. If there are any further questions or changes this committee wanted to see made to the Project Review Guide, they need it as soon as possible because once it's approved it will be sent to W Design. Upon approval Golod and Claster would like to meet with the committee to go through the final draft and have a special training session, Golod said he and Claster are looking for the committee's recommendation on should the training be by State, municipality, Planning Board, Supervisors, etc.? A special training will be conducted with the Project Review Committee. The next step would be the rollout. Golod said if you would like to wait to discuss the rollout that's fine. Richardson said he would not focus on Town Supervisors; in New York Town Supervisors rarely get involved with projects. Greier agreed with Richardson. Roeder suggested the Code Enforcement Officers. Richardson asked if the document was going to be printed in sections? Golod said it's going to be one document. Ramie said it will be available online so you can access the section that is relevant. Richardson said the Cocheton Town Planning Board doesn't use a computer. Golod said there was a suggestion made by Hauser-Hahn before she left to have the document tabbed out by W Design. Henry recommended making it so you can update the document in the future with adding a page that says "this page was left blank". A Motion by Henry seconded by Sullivan to approve the content of the Project Review Workbook carried with an abstention by Peckham.

**Amendment Process for River Management Plan and Land and Water Use Guidelines:** Richardson requested this matter be carried to next month's meeting.

**Other:** None.

**New Business:**

**Descriptions of previously accepted website TAGS:** Richardson said over the years UDC has approved many website projects and some of the applications were written tighter than others. He believes it's a worthy TAG proposal and the committee should find a way to get a good program approved. Further discussion will take place.

**PMPEI Zoning Course Report:** A report by Golod was provided in the meeting handout for the committee to review.

**Other:** None.

**Public Comment:** None.

**Adjournment:** A motion by Roeder, seconded by Sullivan, to adjourn the meeting at 9:20 p.m. was carried.

*Minutes prepared by Ashley Hall-Bagdonas, 12/4/19*