

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
February 28, 2023

Committee Members Present: Larry Richardson, Fred Peckham, Harold Roeder, Ginny Dudko, Al Henry, Jeff Dexter, Aaron Robinson
Committee Members Absent: Andy Boyar, Jim Greier
Staff: Laurie Ramie, Kerry Engelhardt, Ashley Hall-Bagdonas
NPS Partners: Superintendent Lindsey Kurnath, Don Hamilton- Chief of Natural and Cultural Resources
Guests: Bill Dudko, Attorney Michael Sussman, Barbara Arrindell, Mary Jones, Bette Randazzo, Colin Cunliffe, Fiona Raby, Jacqueline Sailer, Tom Hayes, Anie Stanley, Louise Washer, Ayelet Gezow, Mike Poska, Rosie Starr- WJFF, Laurie Staurt- River Reporter

The UDC's Project Review Committee held its monthly meeting on Tuesday, February 28, 2023 via Zoom. Chairperson Richardson called the meeting to order at 6:30 p.m. There was no public comment on the agenda.

January 28, 2023 Meeting: A motion by Ginny Dudko seconded by Peckham to approve the January 28, 2023 meeting minutes carried.

Resources and Land Use Specialist Update:

New York State Projects

Short Term Rental Permitting: The planning board secretary in Highland has been forwarding to Engelhardt, the various applications for short-term rental permits. So far, two of the properties in question have been located in the river corridor. Both applications are for existing single-family homes, with no new construction or improvements proposed. Neither property fronts the river. She has determined that Project Review is not necessary for either application.

Town of Cochecton – Comprehensive Plan: The Cochecton Comprehensive Plan Supplement was approved at the February 8th town meeting. Engelhardt reviewed the plan and didn't have any comments. There were 11 recommendations included in the report, and she hopes that the town seeks a Technical Assistance Grant in the future to aid in executing some of these recommendations, which call for updating the code relating to, among other things, short term rentals, glamping, slope standards, communications facilities, resort redevelopment, and Skinner's Falls Bridge.

Town of Tusten – Lot Line Adjustment: Hankins Road: The Town of Tusten Zoning Board of Appeals received an application for a Minor Subdivision, really a lot line adjustment between two adjoining lots. Presently, both lots are bisected by Hankins Road; as a result of this lot line adjustment, one of the parcels will be located entirely to the north of Hankins Road. As there are no new improvements proposed, and the lots are greater than two acres (both before and after the adjustment), the application does not require Project Review. Engelhardt has attached the checklist from the Project Review Workbook to the end of the report.

Bobov Yeshiva Educational Retreat: There is a Special Use Permit application in Tusten that is garnering a lot of attention, and in fact the application was sent to us. However, the project is not located within the river corridor, so it is outside of our concern.

Sun NG Kittatinny RV LLC, D-2023-001 -1: An application to approve various improvements to an existing seasonally-operated campground facility located in a flood hazard area. The project involves the removal of several existing buildings, the construction of a new welcome center, a maintenance building, an aquatic play area, a mini-golf course as well as upgrades to electrical infrastructure, landscaping and fencing, solid waste collection infrastructure, roadways, and parking. The proposed project will reduce the number of existing campsites from 342 to 339 campsites and will convert 283 of the existing campsites to Recreation Vehicle type. Water for the project

will continue to be supplied by existing onsite wells. The project will generate 29,080 gallons per day (0.0291 mgd) of wastewater which will be disposed through 9 existing and 16 proposed septic systems. The project is located in the Town of Highland, Sullivan County, New York within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which the Commission has designated as Special Protection Waters.

Open Substantial Conformance Reviews

Project Id	Project Name	Municipality	Action	Status
2022-03	Camp Fimfo	Town of Highland	Special Use Permit	Letter received from NPS 2/17/23. Next Planning Board hearing 3/22/23.
2022-11	Lackawaxen Zoning Ordinance Amendment	Lackawaxen Township	Engelhardt attended the Planning Commission meeting on January 10.	Recommendation of Substantial Conformance forwarded to NPS 2/3/23.
2023-01	Kevin Rozza-SFH	Lackawaxen Township	Conditional Use Permit	Application received from Lackawaxen Township 2/7/23.

Camp FIMFO: Superintendent Kurnath issued a letter to the UDC dated February 17, 2023, which will be discussed under New Business. The Highland Planning Board met January 25 and February 22.

New Business

2/17 NPS letter re: Camp FIMFO Substantial Conformance Recommendation: Engelhardt verbally provided Camp Fimfo’s submission timeline. On 8/12/22 they submitted: An updated site plan set, Existing Conditions Plan Set, Tracking Document, Map of Structures/Campsites/Amenities, images of the structures/campsites/amenities, percolation/deep pit testing results, Section 3.2.5 of the Full Environmental Assessment Form (FEAF), survey maps of the project boundaries and floodway/flood plain maps.

9/15/22: Revised plan set, Stormwater Pollution Prevention Plan (SWPPP), response to comments, and tracking document. In addition, the project received a sign off from the New York State Office of Parks, Recreation, and Historic Preservation

10/12/22: They sent an updated plan and revised EAF

1/11/23 Updates include: Ground level perspective renderings; Drive by video mp4; Lighting cut sheets; Plan set; Surface area cut/fill analysis; Tracking document; Sound Impact Assessment Report; and Water Level Analysis Letter Report.

On 2/15/23 they sent revised plans and revised EAF. Engelhardt said that's everything that has been submitted since UDC made our recommendation. A lot of the plan revisions were providing information like clearing limits, although they have still have not put a number value to clearing limits or lot coverage on the front cover sheet of the plans they are buried in the Environmental Assessment Form. That shows there’s going to be a loss of 14.6 acres of forested area and the entire site is 223 acres, that’s 6.5% cleared, which is well below any thresholds we would be looking at.

Engelhardt said people had concern that Camp Fimfo didn't have final numbers when they submitted to us, such as saying that they would be doing less than 10% lot coverage. That meets UDC’s requirements because she is referencing the Principles and Objectives that are in the Land and Water Use Guidelines. The applicant has to meet each objective. Some of the objectives have a list of “and” statements, and every one of those statements has to be met in order to say that the applicant is meeting that objective. Many of the objectives have a list of “or” statements so the applicant only has to satisfy one of those things in one of those requests in order to meet that objective. For example, Principle A Objective 2. The applicant met the requirement because the plans say that less than 10% lot coverage or impervious surface coverage. In the latest EAF they said that roads, buildings, etc., is 22.9 acres after completion, and that's actually 10.3%, so the definition of lot coverage in Highland is just buildings and structures so if we're going by that definition, then they're less than 10%. If we're going just by impervious coverage then they

are a smidge over, and they will have to reduce some of their impervious coverage in order to still meet that requirement. For Objective 3, Protect Special Erosion, Hazard Areas Along River Banks. They are meeting this objective, because all of the buildings are set back from the river more than 100-feet from the mean high-water mark.

As she relayed in her email but will repeat for the record, when she made her initial report in August, she checked that no construction is proposed within a 100-feet of the mean high watermark of the river. That is incorrect as Kurnath and Don Hamilton pointed out, because they are proposing a new parking area so there is construction happening within 100 feet of the river. However, the objective is met by “or” statements. They will still satisfy the objective because the buildings are still back 100 feet from the river. They have submitted supplemental documentation, they still don't have their approval from the Department of Health which is the septic design, and they will not get an approval from the Highland Planning Board until they get that. Engelhardt said she doesn't see anything that would necessitate a re-vote.

Henry said NPS is concerned with an area that did not flood during the 2004 and 2006 flood and they compared it with an area upstream that did flood. Henry said a lot of debris came down from that campground and if you're going to require this new applicant to disconnect everything and move it out if there is a high-water event, then you would have to look upstream. If you look at the campground just upstream and the livery just upstream, they have a number of these parked RVs. He asked if the letter would hone in on just Camp Fimfo or all campgrounds and liveries along the river? Kurnath said she's engaged with the regional GIS team. Some of the plans received have the 100-year flood plain from 2006 mapped on it and pending layering the proposal with that. She said the intention was not to ask them to remove everything, but to remove things that are within that flood plain. She said playing the “new kid card”, her understanding is that the elevation doesn't change too much there. Kurnath said we're all trying to protect the river. Her intent was not to go after evacuation plans for everybody along the river. As Superintendent she wants to make sure there is a plan. It's on her to recommend to the Secretary of the Interior that in the event of a high-water event, what are we doing to make sure what happened in a similar area won't happen in a different area along the river again and if the chance exists, what can we do to make sure we've minimized that?

Substantial Conformance Review 2023-01: Kevin Rozza, Lackawaxen Township: Engelhardt said the property in question is located at 191 Masthope Plank Road in Lackawaxen, Pennsylvania; Tax Parcel #014.00-01-08.006. It is within a Recreational segment of the Upper Delaware Scenic and Recreational River. It is located in the RU Rural zoning district, is 3.39 acres in area, and extends between Masthope Plank Road to the west and the Delaware River to the east. It is relatively flat. Neighboring parcels to the north and south (on the same side of Masthope Plank Road) are single family, residential dwellings. There is an existing stone driveway on the site. The applicant (Kevin Rozza) is proposing to construct a single-family home on the property. According to the conditional use application, it will be located approximately 128' from the edge of the Delaware River. The proposed home will be visible from the river, which is what necessitates the conditional use permit. The Applicant is seeking a conditional use permit to allow the construction of the proposed home. Section 536 of the Lackawaxen Zoning ordinance reads in part: Any proposal for a building or structure or use located within one hundred (100) feet of the ridgeline as designated in the River Management Plan or which is proposed at a lower elevation and which would be visible from the Delaware River shall be considered a conditional use and the developer shall submit for approval a plan detailing how the proposed use will be developed in accord with the intent of the RMP. Aside from this requirement, the application would not require a review from the Upper Delaware Council and the National Park Service. There are no steep slopes on the property, and only one (1) tree will be removed for the proposed development. The site is greater than two acres. The proposed use is a Compatible Use in the Recreational Segments of the river corridor, and is consistent with neighboring properties. The River Management Plan itself does not prohibit new construction from being visible from the river. The Project Review Forms from the Project Review Workbook are attached to this report. This project conforms to the objectives of Criterion 1. We do not find the proposed development to be objectionable in the proposed location in the Recreational Segment.

Engelhardt finds that this project substantially conforms to the River Management Plan, and recommends a finding of substantial conformance from the National Park Service. We do not have an opinion as to whether or not the conditional use permit should be granted by the Lackawaxen Board of Supervisors. A Motion by Roeder seconded

by Ginny Dudko to accept the Resources and Land Use Specialist's recommendation and forward draft UDC 2023-01: Kevin Rozza, Lackawaxen Township to the 3/2 full Council carried.

Town of Tusten Technical Assistance Grant Mid-term Progress Report: The Town of Tusten has submitted their mid-term report. Engelhardt spoke with Jane Luchsinger today and they have all of the zoning amendments that were in progress last year. Those have all been incorporated into the online Township Code that's available on their website and eCode. They are working to finalize the rest of the ordinance amendments and then those too will be incorporated into the online eCode.

Report on 2/9 Pike County Comprehensive Plan Meeting: Ramie attended this meeting on Engelhardt's behalf while she was out of town. Pike County last did its comprehensive plan in 2006. They have hired consultants from Michael Baker International to lead them through this process, which involves an 18-month time period, and it will ultimately be a 10-year plan when it is approved. The 2/9 meeting was a Resource Management and Future Land Use focus group. They brought together stakeholders and agency people to talk about those sorts of topics. It was an exercise to contribute information to their plan. They did on site contributions of topics of what's important to people. They have different focus groups set up for housing, transportation, community services, economic development, and workforce development. The Pennsylvania Municipalities Planning Code recommends reviewing comp plans at least every 10 years. It's not required, but they can consider it best practices to do so, and they really want to focus on making this plan implementable as a living document, as opposed to sitting on a shelf somewhere. In March and April, they will be providing a series of community surveys, then in June they'll have a first community engagement meeting and a second one in the fall. By the winter of 2024 they anticipate having a draft plan together to put out for public comment, and then they hope to adopt it in early spring 2024.

Other: None.

Old Business

2/2 UDC-NPS Telecommunications Subcommittee Report: Robinson said Ramie prepared a summary of our last meeting. We had a short meeting because we had other work to do. Engelhardt prepared a draft Position Paper with key elements and the subcommittee started to review each element for specifics and will continue that process on Thursday, 3/2 at 6 p.m.

Status of 2022 Annual Code Enforcement Report: Engelhardt will send requests for calendar year 2022 code enforcement activity within the river corridor to UDC member towns and townships to compile the annual report required under the UDC-NPS Cooperative Agreement.

River Corridor Maps Distribution: Engelhardt will send the PDF of the Town of Deerpark river corridor map to the Dudkos to review for accuracy, provide the Town of Lumberland map to Nadia Rajsz to present to the town board, and work with Jessica Yoder at Pike County Planning to produce the GIS printed maps for Shohola, Westfall and Lackawaxen Townships.

Richardson said since we have a large public this may be an opportunity to summarize what this project is about. Engelhardt said establishing the river corridor was defined as from ridge to ridge, so everything that flows directly into the river. However, making that mappable, is a challenge and it was done in the 1980s, then when GIS became more prevalent and readily available it was upgraded to GIS, and so all of the various counties have that information but our townships didn't necessarily have that information and didn't have detailed maps. Engelhardt has been communicating with the various County GIS departments, and they have all been developing maps for UDC for each town and township that show the entirety of the municipality and parcel boundaries (they're not labeled) so anyone can determine for certain which parcels are in or out of the of the river corridor.

Access to River Corridor GIS Mapping Tool: Engelhardt said it seems as though we may have to wait until there is a new Community Planner at the NPS to resolve this matter of permissions. Kurnath said she is working on it.

Other: None.

Public Comment: Richardson said they requested limiting comments to 3 minutes and to avoid being repetitive if possible. Barbara Arrindell said she's both a member of the public and also director of Damascus Citizens for Sustainability. Arrindell said UDC should suspend its vote to approve Camp Fimfo since the vote was premature, as you did not have all the information to accurately evaluate their plans, the impacts and public input. She asked why weren't these important documents made available to public? Does UDC have them? She asked what are the new plans? What's the archaeological survey the hydrologic and other studies, and the meeting agenda says the NPS letter is available as a handout. She said these handouts should be on the UDC website as you receive them. Arrindell heard that Sullivan County gave Camp Fimfo a \$1.5 million grant contingent on breaking ground within a certain time. What is that timeframe? Does UDC have a copy of that grant? If this is true, this is public money, so shouldn't the arrangement be available to the public? Arrindell said she understands that even the NPS wants more information because there are concerns about the compliance of this project with the River Management Plan, and questions whether there should be an independent EIS. Laurie Stuart commented that the grant was from the Mid-Hudson Regional Economic Development program.

Arrindell also shared a paragraph from Josh Fox, Oscar nominated filmmaker and local citizen: "A development like this has no place in the Upper Delaware watershed. Our area is a wildlife sanctuary and important source of clean water for 16 million people, and one of the last pristine rivers and forests in the world. We don't need massive new, commercial developments, water slides, chlorine pools, and other trappings of the kind- the kind of tourism that doesn't suit the character of our area. At very minimum, an extensive environmental impact study is required. We also need to have stakeholders from the entire region consulted in the process as it will impact us all around the area. This project faces considerable opposition from a very active base of environmentalists, hunters, fishers, wildlife lovers, and community members, and our voices are far more important than agreed of developers that don't understand or care for the character of the region, and the sanctity of our water and forests."

Attorney Michael Sussman said he appreciates the work we all do, and it's very interesting to listen to that work. He's been hired by the Delaware Riverkeeper Network with regard to the project. He wanted to reiterate a couple of points that he's heard Arrindell say. He feels one of the problems here is that before the applicant had a relatively finalized project, there were partial reviews done, and a sort of rush to judgment here which given the stakes he doesn't understand. After listening to Engelhardt's description of the project within six-weeks of receipt of the project UDC passed a Resolution supporting the project which allows the sponsor to run around, saying that it has this critical support. He said that was done before many of the relevant studies were done, and it's very difficult to understand how that process could have happened. He said he thinks the NY SEQR laws very clear, that where something has the potential to have significant impacts, whether aesthetically or environmentally, a scoping session needs to be held by the lead agency, the lead agency must produce a scoping document, a DEIS must be done. It must be declared complete. There must be a place for public comment on it. The applicant then has to respond to each of those. Sussman said that's not being done on what appears to him to be a fairly major expansion. He said NPS wrote an exception letter, which was echoed at the Planning Board meeting by several planning board members, but the planning board members themselves raised all sorts of issues at the last meeting last week which they had not previously raised and asked the applicant for all sorts of information that had not been previously requested and yet, the UDC is on record as already supporting the project which seems incoherent to him. He feels all information needs to be presented. It should have been systematically done through the environmental review process set up by our SEQR laws. This is not a project for a long form E.A.S. He echoes what Arrindell said he thinks it's very important that UDC suspends its approval until the information requested by the Town Board and NPS is proved and analyzed so that Camp Fimfo cannot go around the county and the State, saying we have the approval of the UDC.

Anie Stanley lives in Tusten and moved here in 2006 and experienced the flood. She wasn't able to drive down Rt. 97 after the flood between here and Barryville. Between the Ten Mile River, Rt. 23/97 intersection and Barryville was completely closed. There were RVs and miscellaneous things floating down the river, including farm animals, vehicles and propane tanks. She doesn't feel that the assessment of that flood situation is accurate. There is new construction going on at the site. She heard the point about evaluations of other new construction projects going on in the Delaware River Corridor. She stressed this is new construction; it's not a campground, it's a resort. Stanley said we have to stop thinking about this as being a grandfathered campground.

Louis Washer said they live on River Road in Damascus. She wanted to support the comments so far and is shocked that this scale could be going in along the river, a place we treasure for its natural beauty and peace. She's wondering if the UDC has looked at projects that have removed 14.5 acres of forest and added 30,000 gallons of waste water a day? She feels this is a larger scale project than anything previously done that's she's been aware of in the last 30 years here. She is wondering if it was being considered how it would change the experience of anyone coming here to flyfish or to kayak down the river, or even to drive down beautiful Rt. 97. Seven acres of impervious surface is also huge and 14 acres of forest to lose has to affect water quality. Regarding the floods, one things that hasn't come up is we're living through climate change and we know that floods are going to get worse. We need to prepare differently and to look at new construction with an eye towards the future. She thanks the NPS for trying to do that and thinks the UDC should also be considering that.

Peckham said there was a public comment letter that Ramie sent out to members where someone referenced FEMA and stated that UDC is here to preserve the Delaware River. Peckham said we're not here to preserve the Delaware River. The RMP is a conservation document, not a preservation document. That means it's set up to allow growth; how much growth is debatable. As far as clear-cutting, more land has been turned back to forest than ever before. There are no more farms along the river like there used to be, so as far as clearing a few acres, it's nothing compared to what it was when this all started. Peckham feels the public wants UDC to do things it is not set up to do. When Camp Fimfo submitted their plans we followed the guidelines of the RMP and that's what the committee based their vote on. Peckham said UDC is not a regulator, we just preserve the RMP with the NPS as our aide. We have no regulatory authority whatsoever.

Washer asked how often the RMP was updated and how much climate change effect has been included in that? Richardson said it has never been updated and is a working document. It can be amended and could be changed. Richardson feels if they opened up the RMP again, they would never get it finished again; they'd never get an agreement on the approval.

Jacqueline Sailer agreed with all proceeding comments made by the public and wasn't going to comment until Peckham mentioned that the UDC uses the NPS as an aide. She said the fact that we know there's going to be additional information coming in response to the lengthy letter that the NPS submitted to the Town of Highland, will UDC reconsider its position once those responses are made to the NPS? Richardson said we will look at those responses carefully to see if there's anything substantial that might change our thinking during the review process. There's a lot of good information that the NPS is asking for and those things might help them in their deliberations.

Richardson said one point was mentioned about the tax abatement. UDC has nothing to do with that. It's not under the purview of the UDC in any way. There's mention of SEQR process; all that should be done or should have been done through the town planning department. That's not a process UDC gets involved with. UDC is limited on the scope that we can review. We've said many times we are not a regulatory agency, we only review it to the best of our ability in regards to our RMP, and then we may, based on our findings, make a recommendation to the NPS. Ultimately, NPS says yes or no. There was a question about the haste of which UDC reviewed the project. He feels the committee reviewed it thoroughly based on the information we did have. By law, we have to do it within a certain timeline, and we did do that. We don't have the ability as much as a planning department might have to extend the review process.

Robinson said he wanted to clarify the role of the Upper Delaware Council. We serve the 13 member townships that comprise the corridor, and our role is really twofold. One, we work with the townships to make sure that they're zoning is in compliance with the River Management Plan, and that's a broad level of assistance. Then, as projects come into the townships, if within the corridor, we review the projects to make sure that they're consistent with the township zoning which is in compliance. So it's a very straightforward process, but we have a limited scope. It's really the townships that have the ultimate say. In planning a project we just verify that the project meets their zoning, and that zoning was previously accepted as being in compliance. The UDC has limited role in these things. We could make input but the burden really is on the towns, and that was by design, because one of the key elements of this RMP was local control. Robinson feels Richardson did a good job discussing the potential of opening up the RMP. It took a lot of work to get what we have in place, and if the RMP was opened up for amendments, you probably could never get consensus by the 13 Member towns.

Adjournment: A Motion by Roeder, seconded by Greier, to adjourn the meeting at 7:45 p.m. carried.

Minutes prepared by Ashley Hall-Bagdonas, 3/2/2023