

**Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
June 28, 2022**

Committee Members Present: Larry Richardson, Fred Peckham (Zoom), Ginny Dudko, Jim Greier, Harold Roeder, Al Henry, Jeff Dexter, Aaron Robinson
 Committee Members Absent: Susan Sullivan, Andy Boyar
 Staff: Laurie Ramie, Kerry Engelhardt, Ashley Hall-Bagdonas (Zoom)
 NPS Partners: Jessica Weinman – Chief of Facilities Management; Cody Hendrix-Community & Land Use Planner
 Guests: Liam Mayo- *The River Reporter*, Robert Berg (Zoom), Zoe Berg (Zoom), Maya van Rossum (Zoom), Bill Dudko-Deerpark

The UDC’s Project Review Committee held its monthly meeting on Tuesday, June 28, 2022 at the UDC office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:31 p.m. There was no public comment on the agenda.

Approval of the May 24, 2022 Meeting Minutes (2:04 time on recorded meeting): A motion by Dudko seconded by Robinson to approve the May 24, 2022 meeting minutes carried.

Resources and Land Use Specialist Update (2:20):

New York State Projects

Town of Deerpark: Dragon Springs: Engelhardt said there are ongoing issues regarding construction at Dragon Springs not receiving Certificates of Occupancy, but nothing further regarding the lawsuit for environmental issues.

Town of Highland: The Highland Access project had a pre-bid meeting on Tuesday, 6/14.

There were no Notices of Applications Received by the DRBC in the corridor in New York this month.

Commonwealth of Pennsylvania Projects

There were no Notices of Applications Received by the DRBC in the corridor in Pennsylvania this month.

Open Substantial Conformance Reviews

| Project Id | Project Name | Municipality | Action | Status |
|------------|--|--------------|-------------------------------|---|
| 2021-010 | Heron Hill Hunt Club | Damascus | Variance review | NPS agreed with Substantial Conformance, letter dated 5/26 [closed] |
| 2022-003 | Camp Fimfo | Highland | To be reviewed | Still haven’t received a submission from the town |
| 2022-004 | Big Eddy Brewing | Tusten | Class II – Special Use | NPS agreed with Substantial Conformance, letter dated 5/26 [closed] |
| 2022-005 | 90 Main Street (former Rasmussen building) | Tusten | Class II – Special Use | NPS agreed with Substantial Conformance, letter dated 5/26 [closed] |
| 2022-006 | Tusten Zoning Changes | Tusten | To be discussed tonight | To be discussed tonight |
| 2022-007 | Weiden Day Care | Tusten | Class II – Special Use Permit | NPS agreed with Substantial Conformance, letter dated 6/24 [closed] |
| 2022-008 | Eagle Nest Estates LLC | Tusten | Variance | Does not require UDC/NPS review |

Engelhardt said we still have not received a full, final submission from Camp Fimfo – prior submissions have come directly from the applicant, but our review window begins when we receive the submission from the Town, and they

will not send the application along until they deem the application complete. The project was not heard in June, and instead will be presented to the Town of Highland Planning Board on Wednesday, July 27 (the day after next month's Project Review meeting). She sees some issues with the plans, but nothing jumps out at her that indicates that they're not complete (though that's up to the Board's engineering consultant). What will probably happen is that the project will be deemed complete at the July planning board meeting, Engelhardt will review the project for substantial conformance for our August Project Review meeting, and the public hearing at the Town planning board will be August 24th (once again the day after our PR meeting).

Old Business

River Corridor Maps: Engelhardt will show examples at the next meeting of the printed river corridor maps that will be framed and presented to each UDC member town and township.

2021 Code Enforcement Report – Revision: Highland: A Motion by Robinson seconded by Henry for Engelhardt to present the final 2021 Code Enforcement Report, revised to include the Town of Highland permits that were recently obtained, to the full council on 7/7 for UDC approval prior to transmitting it to the NPS as a completed Cooperative Agreement task carried.

NPS Policy on Communications Towers: Hendrix and Weinman presented a handout of excerpts from National Park Service Reference Manual 53B: Rights-of-Way dated 6/22/2021 which includes information outlining standards on the placement of new telecommunications services to avoid direct conflict with the department or agency's mission. It states, "NPS policy recommends that NPS units develop appropriate planning documents addressing how NPS units will manage telecommunications technology and related facilities. Among other things, this document may establish where telecommunications infrastructure is allowable in the NPS unit and may be used to guide and evaluate future telecommunications ROW permit applications... Producing a communications plan may provide an opportunity to highlight critical viewsheds, landscapes, or other resources." Weinman emphasized that this manual is referring to federally-owned land and not the private lands situation in the Upper Delaware. Engelhardt observed that it does speak to the idea that there is no absolute flat objection about these towers. It's clear that the intention is for NPS units to develop planning documents for how to manage them. Weinman agreed that since this land use doesn't fit into the existing Land and Water Use Guidelines, she suggests the UDC and NPS should work on a joint position paper to address this. Engelhardt said that would provide both organizations with review guidelines. Robinson said this had gotten thrown in with major commercial development but he feels we should evaluate these towers in terms of public safety and perhaps issue a Letter of Interpretation. Weinman said a Letter of Interpretation would need to be reviewed by the NPS Solicitor, and that if the existing definition of major or minor commercial doesn't fit this land use, an interpretation could not be made. Peckham said he believes this would be a major amendment to the River Management Plan that would require hearings. We would need to get all of the towns to go along with the guidelines such as how many towers would be allowed and where they can go. People do need to communicate with cell phones. Richardson said he disagrees that a Letter of Interpretation is the way to go. Much like the solar issue, this doesn't exist in the Plan currently. A position paper would provide justification for when cell towers may be appropriate in certain areas. Greier said this is a matter of public safety. When the Plan was written, there were landlines everywhere. Now we have areas where cell phones don't work. Roeder said it would be good to ask the towns for their opinions. Richardson said he bets most of our member municipalities already address communications towers in their zoning. Peckham said that cell service providers are not interested in this area because there aren't enough subscribers. Richardson responded that our only job is to come up with reasonable guidelines. Dudko agreed that we need to be prepared to review any such proposals. That's our goal with this. Roeder said that the NPS "stonewalled" the idea of cell towers in the river corridor a few years ago. Dudko said this is a different time. Richardson asked Robinson if he would be willing to head up a subcommittee to discuss this further, with the objective to develop a UDC-NPS position paper to guide our reviews of telecommunications facilities in the Upper Delaware Scenic and Recreational River corridor. Robinson agreed. Committee members agreed that the opportunity to serve on it should be opened up to the full Council membership and asked Ramie to include the subcommittee's establishment on the 7/7 UDC meeting agenda.

Other: None.

New Business

Substantial Conformance for Tusten Zoning Update re: Communication Towers: Engelhardt noted that the Town of Tusten opted to remove the communications tower references in their updated zoning document. She will attend the 7/5 Town of Tusten public hearing for its Zoning Code Update, for which the UDC has submitted a substantial conformance recommendation to NPS to request a final determination and is the subject of a Fiscal Year 2022 Technical Assistance Grant that must be finalized by 8/19 to request reimbursement payment from the UDC.

Pike County Hazard Mitigation Plan – comments due by 7/6: Engelhardt said for those Interested they can review the Pike County Hazard Mitigation Plan in its entirety (which is 1,082 pages long) or excerpts via https://www.pikepa.org/news_detail_T27_R227.php and provide any comments to her by 9 a.m. on 7/5 to include with hers in order to meet the 7/6 public comment deadline. This item was deferred from the 6/21 Water Use/Resource Management Committee due to lack of a quorum.

Other: Henry said road work on Peggy Runway will start in August. They will be having a pre-construction meeting shortly.

Public Comment (32:00 time on recorded minutes): Robert Berg introduced himself as a resident of Scarsdale, New York. He's an attorney, a fly fisherman and a conservationist. Berg fishes on the Upper Delaware River several times per year, usually in the main stem and sometimes on the West Branch. He said one of the river's best licensed guides has become a close personal friend to his son and him, and they usually go drift boat fishing with him on the river. The Upper Delaware River is his favorite float trip in the Eastern United States, beyond being one of the East's best wild trout rivers. The Delaware always provides a float trip of incredible beauty. The wildlife they see is phenomenal. Nearly every bird is an eagle or an osprey. They find American Shad, Striped bass, Walleye and small mouth bass sharing the waters with the big rainbow and brown trout on the main stem. Deer and the occasional black bear frequent the banks. The foliage in the fall is world-class. All of this remarkable beauty is found in under a two-hour drive from New York City. Berg said the Delaware River is a national treasure and the Scenic and Wild River must be protected from the onslaught of encroaching development. He said there's nothing more destructive to pristine wild scenic viewsheds than wireless cell towers which are present everywhere else in our country.

Berg said the Upper Delaware Council, working hand in hand with the NPS and the surrounding municipalities, are on a serious mission to protect and preserve this amazing river corridor for future generations. Berg said he's here to say that wireless facilities are not compatible with the River Management Plan for a Wild and Scenic River. As an attorney he's developed over the past few years a specialty in challenging wireless telecommunications facilities throughout the nation. He generally represents citizens and organizations who oppose the deployment of particular proposed wireless facilities on inappropriate sites. Most of these sites are in densely populated; residential neighborhoods that are very close to schools or day care centers. Berg said he has a major case in Federal court in Lake Tahoe where Verizon is trying to put up towers on a ridgeline break with the ski area and it's also in a residential neighborhood. He said there's a serious problem with the view and also with microplastics pollution. He said in his experience the telecoms will say and do anything to get their wireless facilities sited wherever they want, and they really don't care about the environmental degradation and property depreciation. He recognizes that you folks think there's a safety issue involved with some gaps in wireless coverage in your area but that typically is not as significant a problem and there are alternative ways of dealing with it than sticking a tower in your scenic river corridor. And it's something you really have to be very careful with because besides the visual degradation you get. There's a growing body of peer-reviewed science demonstrating severe environmental impacts of cell towers. Berg said here in your river corridor you've got eagles everywhere and they could roost in these towers and get zapped by radiation which could interfere with reproduction and egg development. There has also been found to be an increase growth of turpine in pine trees which these birds frequent and that increases fire risk in these forests that have wireless towers in them. There was a massive three-volume study published late last year that documents all sorts of environmental harm to flora and fauna by these towers. Berg said when you try to do a siting of a tower in a zone like this, you really have to do major environmental studies. This is not a simple process, and particularly here where we have this confluence of the NPS, local municipalities and the UDC. Berg said he feels it's really not consistent with the River Management Plan and we should really think about the environmental impacts and visual damage to the viewshed here, which certainly affects the tourism industry as well.

Zoe Berg introduced herself and said that she's Robert (Bob) Berg's daughter. She thanked Ramie for helping them be part of the public comment period today. Zoe Berg shared that she is also an avid angler who has frequented the Delaware River Basin and also has a stake in protecting this area. Berg studied Environmental Policy at Bernard College and Columbia University, and is currently a law student at Tulane University specializing in Environmental Law and Telecommunications Law. At this present time, she is working for an environmental health nonprofit called the Environmental Health Trust. They help municipalities, State legislatures, and even correspond with Federal officials about how to enact policies that adequately protect public health and the environment. The core issue that they are working on now is wireless radiation. Berg said there's a very calculated and reasoned way to deploy wireless technology so as not to harm the environment and public health. Berg asked the committee to consider a few things. Albert Manville, PhD, who lectures currently at Johns Hopkins University and worked for the US Fish and Wildlife Services as a scientist, has done a lot of research on the environmental effects of electromagnetic radiation on wildlife, and he might be a great person to be in touch with. Berg said in 2014 the U.S. Department of the Interior sent a letter to the FCC which UDC may find of interest. Berg read from the letter: "Radiation studies at cellular communication towers were begun circa 2000 in Europe, and continue today on wild nesting. Bird study results have documented nest abandonment, plumage, deterioration, locomotion problems, reduced survivorship, and death. Nesting migratory birds and their offspring have apparently been affected by the radiation from cellular phone towers in the 900 and 1,800 Megahertz frequency range. Megahertz is the standard cell phone frequency used in the United States. Berg said the electromagnetic radiation standard set and used by the FCC continued to be based on thermal heating, which is how much radiation actually causes heating effects. They have not been addressed since 1996, which was the year she was born. Berg said that's 26 years ago so they're highly outdated. The Environmental Health Trust filed a Federal lawsuit against the FCC challenging its outdated and insufficient exposure guidelines regarding wireless radiation and they won that case in August 2021. The National Resource Defense Council filed an Amicus Brief on their behalf and NRDC lead attorney Sharon Buccino wrote that radio frequency radiation generated by wireless service has biological effects that can harm human health as well as other living creatures in the environment. In a review of a 113 peer-reviewed publications, at least 70% of studies concluded that RF electromagnetic fields had significant effect on birds, insects, and plants. EMFs (electromagnetic fields) can disrupt navigation abilities of migratory birds and as Bob Berg mentioned and we all know, the Upper Delaware of River Basin is home to a multitude of endangered species and it's a major migratory path for birds. Berg said she would be happy to pass along the information cited. She stated she understands this is a complicated topic and they are not anti-technology. They recognize that emergencies happen, and people need to get in touch with emergency services. Berg said they can go back to some of their engineering friends and experts to discuss the issue with them. They can offer proposals on alternatives to accepting these wireless telecommunications in this scenic corridor, so that we can reconcile those problems and address them sufficiently and effectively.

Richardson and Ramie thanked the Bergs for their comments and asked them to forward any information to the UDC.

Adjournment: A Motion by Roeder, seconded by Robinson, to adjourn the meeting at 7:18 p.m. carried.

Minutes prepared by Ashley Hall-Bagdonas, 7/7/2022