

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
April 23, 2019

Committee Members Present:	Larry Richardson, Jim Greier, Harold Roeder, Jr., David Dean, Al Henry, Jeff Dexter, Aaron Robinson, Fred Peckham, Susan Sullivan
Committee Members Absent:	Debra Conway
Staff :	Laurie Ramie, Pete Golod, Ashley Hall-Bagdonas
NPS Partner:	Carla Hauser-Hahn, Jennifer Claster
Guests:	Roger Saumure (Shohola alternate)

The UDC's Project Review Committee held its monthly meeting on Tuesday, April 23, 2019 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:36 p.m. There was no public comment on the agenda.

Approval of March 26th Meeting Minutes: A motion by Peckham seconded by Robinson to approve the March 26th meeting minutes was carried. There was no public comment on the agenda.

Resource Specialist's Update:

Town of Tusten: On 3/25 the UDC received the Town's draft zoning and subdivision law amendments to Articles III, IV, VI, VIII, and XI.

Town of Highland 2019 Draft Zoning Law update: On 1/17 the UDC electronically received the Town's 2019 draft zoning law. On 2/12 the Town had scheduled a Public Hearing for the zoning law with plans to adopt. A preliminary review of the 2019 draft zoning law found more than half of the 22 objectives to be out of conformance with regard to the Land and Water Use Guidelines. On 2/7 the full Council was apprised of the status of the precursory review and the condensed timeframe from the Town's submittal to the public hearing. The full Council voted to submit a letter to the Town explaining the UDC's obligations regarding substantial conformance reviews and request postponement of adopting the current 2019 draft zoning law. Due to weather the Town's Public Hearing had been postponed to 2/25. In that time Golod performed an initial draft substantial conformance review of the Town's 2019 draft zoning law and shared it with the planning consultant, Laberge Group, as well as members of the Town Council. Golod explained that the initial draft substantial conformance review is to be used as a guidance document with the 'review' and 'recommendation' sections acting as comments or suggestions to help bring that specific Objective into conformance with respect to the Land and Water Use Guidelines. On 2/25 Golod attended the Town's Public Hearing which took comments from the public but did not adopt the draft zoning law. The public hearing was then recessed to 3/12 with plans to adopt. On 3/12 Golod attended the Town's Public Hearing and Highland's Town Board meeting regarding the 2019 draft zoning law. Planning Board Chairman Berry Hafkin addressed the Town Board stating the Planning Board did not have the adequate opportunity to review the latest version of the draft law as the Town Board had made changes to the draft as late as Monday, March 11th after the Planning Board met on March 6th. Upon return from an executive session the Town Board recessed the public hearing and postponed adopting the current version of the 2019 draft zoning law until March 26th- tonight. Neither Supervisor Haas or any of the Town Board member addressed the February UDC letter, the February Project Review Committee's letter, or the UDC's draft substantial conformance review of the (now older version) of the 2019 draft zoning law, nor did they direct any questions to me or the UDC.

Eldred Preserve proposed Water Treatment Plant: The NYSDEC draft permit and tentative determination to approve this application for a new SPDES permit is included in your packets along with a GIS map of the (approximate) proposed route. Golod said they are proposing 17,000 gallons of treated discharge into the Halfway Brook. Henry said he is sure DEC has a standard and asked if break down is it primary, secondary, tertiary treatment? Golod said it reads Discharge Class 02 but it doesn't breakdown the coding.

Damascus Township: There was a brief substantial conformance update review on the Floodplain Variance that the Committee heard several months ago regarding a project at 47 Syloro Lane. The committee voted for an initial

recommendation to be made by Full Council. Certain standards that were found lacking on the Townships' application and building permits and were not being completely met were brought to the attention to the Township. On 11/18 the Full Council met and recommended to NPS that the determination be made that Damascus Floodplain Variance substantially conformed on 4/10. UDC received a letter from the Regional Director stating that the Floodplain Variance for tax map parcel #13.8 was in Substantial Conformance with the Land and Water Use Guidelines.

Resource Specialist Report: On 4/2 Golod performed two site checks on two proposed projects; one in Damascus Township and one in the Town of Tusten. On 4/9 Golod attended the NYSDEC Delaware Tailwaters Fisheries Investigation Meeting and provided a report to the 4/16 WU/RM Committee. On 4/23 Golod attended the 7th DRBC Subcommittee on Ecological Flows (SEF) meeting at Lake Wallenpaupack.

New Business:

Town of Tusten Substantial Conformance Review: Richardson said we are moving new business up. First up is Town of Tusten Substantial Conformance Review. Golod started Principle A: Maintain the high water quality found in the Upper Delaware River. 1. Soil erosion and sedimentation from construction on steep slopes is limited by: A. Conditional use/special use review for projects over 15% in grade. Review: 6.18 Timber Clearcutting, Land Clearing, and Development on Steep Slopes. Golod said the key information there is the following activities in all zoning districts shall be considered Special Uses and are subject to Site Plan Review approval. Recommendation: Principle A, Objective 1 is substantially met. 2. Maintain natural cover to control storm-water runoff, limit flooding, protect groundwater supplies and provide erosion control by: E. Other. Review: The current draft ordinance limits the disturbance of steep slopes to no more than 25% of the area of the total project site however, the Land and Water Use Guidelines state, "Other regulations designed to achieve this objective should ensure no more than 10% of any lot characterized by slopes in excess of 15% in grade is built upon, covered with an impervious surface, regraded or stripped of, at any one time, vegetation." Recommendation: Principle A, Objective 2 is not substantially met. Golod's recommendation is modifying verbiage regarding buildable percentage of lot on slope to achieve conformance of this objective as observed in Criteria A, "Limiting lot coverage or impervious surface coverage to 10% on small lots. Employment of a sliding scale decreasing allowable percentage of impervious lot coverage as lot size increases" or Criteria B, "Limiting clearing for building purposes to 20% of the lot area with reduction to 10% for slopes over 15% in grade." He further recommends that lot clearance maximums for the Downtown Business District (DB), Roadside Business District (RB), and Rural Residential District (R1) in the Schedule of District Regulations mirror the lot clearing and lot coverage totals of the Scenic River (SR) and Recreational River (RR) districts. The DB, RB, and R1 are also located within the Upper Delaware Scenic & Recreational River Corridor. 3. Protect special erosion hazard areas along river banks through one or more of the following measures: A. Requiring that buildings be setback from the river consistent with State required setbacks of septic systems from streams. In New York: 100 feet, in Pennsylvania 50 feet. Review: Article IV: Schedule of District Regulations: Scenic River District (SR), Recreational River District (RR), and the Rural Development District (R1), have minimum river & road frontage requirements of 300 feet. Whereas General Residential District (GR), Roadside Business District (RB), Downtown Business District (DB) are located in what would be identified as the Narrowsburg Hamlet Commercial Segment. The underlining zoning of the zoning 2012 zoning law section 6.17.5 Special Setback Requirements states that "No building, structure or any part of any septic system in the Scenic River (SR) and Recreational River (RR) Districts shall be located less than one-hundred (100) feet from top of the river bank of the bank of the Delaware River." Section 6.13.13 of the underlining zoning for Stormwater Management and Soil Erosion Control states: "In accordance with NYS stormwater permit requirements, and prior to commencing construction activity, the owner or operator of a construction project that will involve soil disturbance of one or more acres must obtain coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity." Recommendation: Principle A, Objective 3 is substantially met. 4. Protect special erosion hazard areas along the ridge lines through one or more of the following measures: A. Requiring conditional use/special use review of principal structures within 100 horizontal feet of the ridgeline and D. Other. Review: Town of Tusten 2012 zoning law: 6.17.4 Ridgelines Applicable in all areas of the Scenic River (SR) and Recreational River (RR) Districts. 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 (RMP) or which is proposed at a lower elevation and which would be visible from the Delaware River shall be considered a Special Use and the Applicant shall submit for approval a plan detailing how the proposed use will be developed in accord with the intent of the RMP. Recommendation: Principle A, Objective 4 is substantially met. 5. Limit pollution problems

from septic systems located on poor soils, by one of the following measures: A. Requiring a town or district wide minimum lot size for new river corridor lots of not less than two acres (outside of hamlets). Review: Outside of the Hamlet-Commercial segment, Article IV: Schedule of District Regulations lists the Scenic River District (SR) development standards to require a 5-acre minimum lot size; Recreational River District (RR) development standards to require a 3-acre minimum lot size; Rural Residential District (R1) development standards to require a 3-acre minimum lot size. Recommendation: Principle A, Objective 5 is substantially met. Richardson said he thinks it's important to remember in NYS septic systems must meet certain PERC requirements. If they don't, an engineer would look at it. It may not be addressed through the zoning but through the state. 6. Solid waste disposal sites must be located outside of the river corridor. Review: addressed in the underlying Town of Tusten 2012 zoning law: 6.17.3 Prohibition of Types of Non-Residential Development Junkyards and salvage operations, solid waste disposal sites, light manufacturing, commercial uses which involve more than two-thousand (2,000) square feet of floor area or five (5) employees and major airports shall not be permitted in the River corridor. Recommendation: Principle A, Objective 6 is substantially met.

Principle B: Provide for the protection of the health, safety, and welfare of residents and visitors while also providing for the protection of natural resources. 1. Provide for light, air and an uncluttered landscape through adequate separation of principal structures by: A. Requiring a 150-foot river frontage for new lots (with exceptions for clustering); B. Requiring a 150-foot minimum width average lot width, road frontage or width at the building line (with exceptions for clustering). Review: Article IV: Scenic River District (SR), Recreational River District (RR), Rural Development District (R1), have minimum river & road frontage requirements of 300 feet. Whereas General Residential District (GR), Roadside Business District (RB), Downtown Business District (DB) are located in what would be identified as the Narrowsburg Hamlet Commercial Segment. Recommendation: Principle B, Objective 1 is substantially met. 2. Provide for light and air and maintain an uncluttered landscape by limiting the height of principal structures by: A. Limiting building height to 35 feet with exceptions for farm structures, water and grain towers, small windmills, bridges, etc. Review: Article IV: Schedule of District Regulations: the maximum building height in all districts is limited to 35' ft., with the exception of the General Residential District (GR) which has a limit of 28' ft. Recommendation: Principle B, Objective 2 is substantially met. Golod has been talking with the consultant about the 28 feet within the General Residential District. 3. Provide for light and air and maintain an uncluttered landscape by requiring adequate setbacks of principal structures from highways by: A. Requiring a minimum front yard of 35 feet. Review: Article IV: Scenic River District (SR), Recreational River District (RR), and Rural Development District (R1), require a minimum front yard setback of 50 feet, whereas General Residential District (GR), Roadside Business District (RB), Downtown Business District (DB) require a minimum front yard setback of 40 feet. Recommendation: Principle B, Objective 3 is substantially met. 4. Prevent unnecessary sign proliferation by limiting off-premises signs by: D. Other. Review: Off premises signage is not related to this Ordinance Amendment review. Recommendation: Principle B, Objective 4 is substantially met. 5. Business identification (on premises) signs larger than 10 square feet in size should be limited by: F. Other. Review: The objective does not apply to this Ordinance Amendment review. Recommendation: Principle B, Objective 5 is substantially met.

Principle C: Provide for recreational and other public uses while protecting the Upper Delaware as a natural resource. 1. Encourage recreational providers to locate intensive use recreational facilities outside of undeveloped or scenic segments of the river by: A. Zoning such areas for low intensity activities (Le. tent campgrounds vs. recreational vehicle facilities); B. Limiting the size of recreational facilities consistent with the definition of intensive use recreational facilities; and D. Other. Review: The Town of Tusten contains all three river segments as outlined in the Land and Water Use Guidelines Schedule of Uses (Scenic, Recreational, and Hamlet-Commercial). Much of the Town is designated in the Scenic River Segment. Although the Town's underlying zoning adheres to the LWUG's objective requirements for camping and recreational vehicles, the Town's Schedule of District Regulations contained in the amendment conflicts with the 2012 adopted zoning. The Town's Schedule of District Regulations allows for Campground or RV Park and Canoe Liveries as a Special Use which are an Incompatible Use within the Scenic River segments per the LWUG's Schedule of Uses. The LWUG states, "Encourage both private and public agencies that are recreational providers to locate intensive use recreational facilities outside of undeveloped or "Scenic" segments of the river corridor. Intensive Use Recreational is defined as "Boat rentals, canoe or other watercraft liveries, tourist recreational facilities, recreational vehicle campgrounds, golf courses, public recreational facilities, clubhouses and other recreational uses likely to require significant amounts of parking, restaurant facilities, rest room facilities and other accessory services." However, the Town created an additional overlay zoning district, the Stream Corridor Overlay District, to assist in protecting the watercourses in the town

classified by the NYS Department of Environmental Conservation (NYSDEC). Recommendation: Principle C, Objective 1 is partially met. Recommend removing these two uses from the Scenic River District (SR) in order to maintain conformance for this objective, and to mirror the language in Stream Corridor Overlay District, the LWUG, and the underlying adopted zoning. 2a. Provide for the orderly development, operation and maintenance of campgrounds and recreational parks by: E. Other. Review: Although this Amendment does not directly address the objective, the Town's underlying adopted zoning meets the criteria of this objective. Town of Tusten 2012 zoning law: 6.2.1 Campgrounds: Evidence that all New York State Department of Environmental Conservation and Health Department regulations applicable to campgrounds will be met; A minimum of ten (10) acres of land must be provided for the campground; the property must be served with central water and sewage facilities; density shall not exceed 8 sites per acre and permanent occupancy shall be strictly prohibited. Recommendation: Principle C, Objective 2a is substantially met. 2b. Provide for the orderly development, operation and maintenance of boat livery and other recreational uses by: A. Requiring a minimum of two acres for any new river-related recreational facility used for the parking of vehicles or the erection of any structures. Review: Article IV: Schedule of District Regulations: Lot acreage minimum requirements: Scenic River (SR) District – 5 acres; Recreational River (RR) District – 3 acres; Rural Residential District (R1) – 3 acres. Recommendation: Principle C, Objective 2b is substantially met. 2c. Provide for orderly development, operation, and maintenance of all recreational uses by: A. Requiring public facilities to meet the same standards as private ones; B. Requiring all river-related recreational facilities to comply with state health regulations; and C. Requiring all proposed river-related recreational facilities be subject to site plan or conditional use review. Site disturbances should be limited and vegetative screening required where necessary. For erosion control purposes, access to the river bank should be limited. Review: Campground or RV Park and, Canoe Livery require a special use permit and are additionally subject to site plan review by the Town of Tusten Planning Board. Although this Ordinance Amendment does not directly address the entire objective, the Town's underlying adopted zoning meets the remainder of the criteria of this objective. Town of Tusten 2012 zoning law: 6.2.1 Campgrounds Evidence that all New York State Department of Environmental Conservation and Health Department regulations applicable to campgrounds will be met. Recommendation: Principle C, Objective 2c is substantially met.

Principle D: Provide for the continuation of agricultural and forestry uses. 1. Encourage and support agricultural uses in the corridor by: B. Making agricultural activities principal permitted uses within existing zoning districts. Review: Article IV: Schedule of District Regulations lists Agriculture/Farming Operations as a Principal Permitted Use in the Rural Residential District (R1). Recommendation: Principle D, Objective 1 is substantially met. 2. Encourage the appropriate location and mitigate the effects of certain intensive livestock operations which are likely to create problems of waste disposal or odors by: D. Other. Review: This Criteria does not include dairy operations, the growing of crops, or personal use livestock operations. 6.19.5 Prohibited Activities The use or storage of chemicals, such as fertilizers, herbicides, and pesticides. Waste storage and disposal including but not limited to disposal and dumping of snow and ice, recyclable materials, manure, hazardous or noxious chemicals, used automobiles or appliance structures, and other abandoned materials. Aside from the Town's already established Scenic River (SR) and Recreational (RR) Districts which are intended to complement the Upper Delaware Scenic and Recreational River corridor per the RMP and intended to preserve the scenic character of the corridor which is presently undeveloped, the Town has also created a third overlay zoning district, the Stream Corridor Overlay District, which is established to assist in protecting the watercourses in the town classified by the NYSDEC. Recommendation: Principle D, Objective 2 is substantially met however, Golod recommends making Intensive Livestock Operations which are likely to create problems of waste disposal or odors a special use. 3. Provide for sound timber practices within the corridor by: C. Making clear-cuts over two acres in size subject to conditional or special use review, subject to a professional forester's review with exceptions for agricultural purposes and wildlife management programs; and E. Providing for removal of only individual selected trees within 50 feet of either side of the river or other perennial streams so 50% or more of the overhead canopy will remain. Review: 6.6.2 Clearcutting Provisions: All clearcutting is subject to the lot clearing limits as stated in the schedule of regulations of the Town of Tusten Zoning Law. A special use permit is required for clearcutting which involves more than one (1) acre of land disturbance not performed in connection with an approved building permit, special permit or site plan. 6.18 Timber Clearcutting, Land Clearing, and Development on Steep Slopes. To assure impacts on soil, water, vegetation and wildlife resources are minimized, clearcutting of timber or land clearing for development, construction or other purposes in excess of one (1) acre in size or in excess of 50% of the area of a lot in all zoning districts shall be considered Special Uses and are subject to Site Plan Review approval. Timber harvesting in that area within one-hundred (100) feet of the normal high water mark of the Delaware River or any stream, shall be of the selective cut

method only and not less than fifty percent (50%) of the overhead canopy shall be maintained. Recommendation: Principle D, Objective 3 is substantially met.

Principle E: Conserve river area resources. 1. Ensure traditional resource extraction operations (not including subsurface and major surface mining) are permitted but consistent with the protection of the public health, safety and welfare by: B. Requiring that all natural resource uses comply with state and federal mining laws and C. Other. Review: 6.19.5 Prohibited Activities: (partially addresses Criteria A) Mining and/or any other activity causing the addition and/or displacement of soils or bedrock which changes the existing natural slope by 5% or covers an area that exceeds 5% of the area of the overlay zone on a single property or on adjacent properties under the same ownership. Town of Tusten 2012 zoning law: 6.11 Mineral Extraction. All mining and mineral extraction (these terms shall, for purposes of this Law, be synonymous) shall require issuance of a Department of Environmental Conservation (D.E.C.) permit as required and a Special Use permit from the Town of Tusten. In addition, stripping of topsoil for sale or use on other premises, except as may be incidental, and no more than is necessary, to a construction project, is prohibited within the Town without the issuance of a Special Use permit by the Planning Board. Major mining operations shall be prohibited within the Recreational River (RR) and Scenic River (SR) Districts and elsewhere limited as provided on the Schedule of District Regulations. They shall require a wooded setback of least one-hundred (100) feet in width from all property lines unless the site is presently unwooded in which case a fifty (50) feet wide evergreen screen of least eight (8) in height shall be established. Recommendation: Principle E, Objective 1 is substantially met. 2. Ensure town, county, state, and federal activities will promote the conservation of the river corridor resources by: F. Other. Review: The objective does not apply to this amendment review and is addressed in the Town's adopted 2012 zoning law. Recommendation: Principle E, Objective 2 is substantially met.

Principle F: Maintain existing patterns of land use and ownership. 1. Limit housing density and intensity of uses with consideration to the existing character of the River corridor by: A. Establishing a special zoning district for the river corridor within which the minimum lot size is two or more acres; C. Using "overlay districts" or "sub-zones" to set density for those portions of a zoning district within the river corridor and those which are of special concern. Review: The Town has already established Scenic River (SR) and Recreational River (RR) Districts which are intended to complement the Upper Delaware Scenic and Recreational River corridor per the RMP and intended to preserve the scenic character of the corridor which is presently undeveloped. The Town has also created a third overlay zoning district, the Stream Corridor Overlay District, which is established to assist in protecting the watercourses in the town classified by the NYS Department of Environmental Conservation. Both the SR and the RR districts require a 2-acre lot size minimum. Recommendation: Principle F, Objective 1 is substantially met.

2. To control density the following considerations must be remembered: D. Other. Review: Article IV: Schedule of District Regulations: The R1-Rural Residential District is intended to provide for low-density residential development in combination with compatible commercial activities appropriate to rural areas of the Town of Tusten; The GR-General Residential District is intended to provide for higher-density residential neighborhoods where public water and sewer infrastructure is available, along with other essential public services; The RB-Roadside Business District is intended to provide for commercial activity at relatively higher density in areas with substantial highway access and public sewer services; and The DB-Downtown Business District is intended to accommodate existing high density commercial activity located along Bridge, Main, and Fifth Streets and Erie Avenue adjacent thereto, higher density residential development and associated service activities. Recommendation: Principle F, Objective 2 is substantially met.

Conclusion: With the exception of the three objectives laid out before the committee Golod is currently working with the Town and planning consultant, Peter Manning. They are willing to work to resolve those issues. Review of the revisions to Articles III, IV, VI, VIII, and XI of the Zoning Law and adjustments to the Subdivision Law has found that the Town of Tusten has met the principles and objectives as laid out in this Substantial Conformance review. Golod has been talking with the consultant about the 28 feet within the General Residential District. Golod recommends that the Project Review Committee approve to the full Council the recommendation that the Town of Tusten's Zoning and Subdivision Law be found to be in substantial conformance.

Peckham said Tusten is Scenic, Recreational and Hamlet-Commercial. The bulk is in the Scenic segment. How would one go about being reevaluated to recreational, where your zoning requirements are less? Hauser-Hahn said you would have to take that back to Congress. They identified the Scenic & Recreational segments when they designated the Upper Delaware and that hasn't changed. Sullivan said the Town of Tusten designates on its zoning

map zoning districts that are set by the Town. Hauser-Hahn said when doing Substantial Conformance Reviews there are uses that are acceptable in scenic segments, uses that are acceptable in recreational and in hamlet areas. When the zoning is being worked through with the Townships that's what NPS/Golod refer to the Scenic and Recreational segments and the uses that conform or don't conform. Peckham asked if there was a review mechanism through NPS? This corridor was not made to be stagnant, it was made to grow at a slower, leisurely pace. At some point, some of these places are going to have to go to the next step because of the requirements. Hauser-Hahn said the Schedule of Conditional, Compatible and Incompatible Uses that's in the Land and Water Use Guidelines Peckham is asking can the uses be changed? Peckham said it creates unfair competition if you are looking for money for tourism because Wild is more restrictive than Scenic, which is more restrictive than Recreational. As you go up your economic opportunities decrease. Richardson said that was the intent of legislation that those not be degraded. Richardson said keep in mind, you can't create Scenic areas if they don't exist. Sullivan said on page 5 it says R1 is in the River Corridor. Tusten also has a R-2; Rural-Development Section. Golod said according to the Town's map they don't fall into the corridor; R-1 does fall into the corridor. Claster said in several locations on the zoning map they show the Upper Delaware Scenic and Recreational corridor boundary line. Golod showed Sullivan the zoning map noting the R-1 district. Henry noted on page 14; 6.19.5 Prohibited Activities The use or storage of chemicals, such as fertilizers, herbicides, and pesticides and asked if there were amounts placed on those. Golod said no, that is directly from the amendment, there are no amounts given. Henry said if there is a house in the area of this zoning you can't have pesticides, fertilizer and herbicide? He was curious to see if there are houses in that area. It seems a bit draconian that it's prohibited. Richardson said he understands what Henry is saying but he has seen other zoning similar to this and he's never seen anybody say you can't keep more than 50 pounds of it. Henry said it's in there and he's not sure if saying it's prohibited means it could be subject to a fine for having it. On page 15 Timber Cutting, what happens within one-hundred (100) feet of the normal high water mark when there is severe weather like we have had or some kind of infestation of pests that kill your trees and you decide you want to cut them down. People have to live by what's written there. If you have heavy storm damage from a tornado on an acre property people have said "I want to cut it all down". Hauser-Hahn said that's not being measured in the Land and Water Use Guidelines; that would be the Town's decision. Richardson said in NYS you have the ability to challenge this through a variance. You could appeal to a Zoning Board of Appeals and explain why you need to make a change. Greier said these regulations are limited to the river corridor. He said for instance he has a piece of property partially in the river corridor and the bigger portion is outside of the river corridor. If he has a project that doesn't conform he could build it on his property outside of the river corridor. He asked if he was correct. Several committee members agreed he was correct. Richardson said most cases when you go to the planning board you have to decide if you want it in or out.

Claster said she started to review the law amendments today. She thinks there may be some issues they should discuss with Golod at a Project Review team meeting before the committee votes on this. Ramie said of course NPS has a right to do their own review. UDC does joint reviews but it's UDC's name on it ultimately. Claster said something she doesn't see is a comparison in the uses that are allowed. The schedules that were provided in the amendment against the compatible, incompatible and conditional uses that are in the Land and Water Use Guidelines should be part of any sound law review. Hauser-Hahn said when UDC makes a recommendation based on something you think the Township is going to do rather than something they have already accomplished NPS can't accept that as a recommendation from UDC. Richardson said UDC is making a recommendation of a review of a proposed ordinance. Once that ordinance is adopted then UDC needs to do another review. That's when UDC will give the final recommendation to NPS. Richardson said he thinks this is a review, UDC has come to a conclusion, UDC can correspond with the planning board with any concerns UDC has. Sullivan said she thinks Tusten is going to have a public hearing which has already been scheduled. Golod said he spoke with the Town Supervisor last week who said she was going to get in touch with the planning consultant. The planning consultant did try contact Golod yesterday but Golod was not in. He emailed Golod today and it appears that the town supervisor and planning consultant had made contact. Golod said he knows that they are working on it. Claster said the determination of whether the uses are allowed within each zoning district conform with the schedule in the Land Water Use Guidelines is a critical part of the review of any zoning ordinance or zoning ordinance amendment. That really needs to be taken into consideration when UDC is making a recommendation to NPS. Richardson said are you saying that there is something specifically that you don't agree with? Claster said a portion of the review that's missing is a comparison of the uses that are associated with each district against the table. She started to do the comparison today. Golod asked what's missing. Saumure said the Table of Uses in the River Management Plan. Claster said their Table of Uses are part of the zoning ordinance amendment. Golod said you mean the District Schedule of Regulations? Claster said yes. S-R, R-R, R-1, R-2, each one lists uses that are permitted, uses that are permitted with

special use approval and Claster thinks if this is compared against the schedule of uses that's in the guidelines there may be some uses that are not consistently treated in the Town's proposed amendment. That could be a problem going forward because when UDC and NPS start to look at projects in theory the way this process is meant to work is that the ordinance is reviewed, and the uses line up with the Land and Water Use Guideline. Projects in theory would not be proposed that would not be in conformance with the plan. If there are uses in the schedule, in the zoning, in theory that's how it works. It's important to look at whether the town is allowing uses in a certain zoning district that would be incompatible according to the Land and Water Use Guidelines. Hauser-Hahn said looking at the schedule in comparison with schedule in the guidelines is one of the steps in the substantial conformance review and it just wasn't addressed in this particular review. Sullivan asked Claster to be more specific; what particular use is she concerned with? Sullivan said if you have uses in the Land and Water Use Guideline those uses were delineated in 1986; it's now 2019 and the town is delineating uses. She knows one of the uses they've put in is solar which of course is not in the Land and Water Use Guidelines and it's a special use. People would have to go to the planning board to have a project. Claster said that's not necessarily where she's coming from. She just started the review today so she hasn't had a chance to finish it. She only looked at one district against the schedule of uses. Claster looked at the S-R district (Scenic River). Claster said as Golod pointed out in his review there are some uses that would be considered intensive recreational according to Land and Water Use Guidelines, which would not be allowed in that district. Sullivan said she's thinking of the Town of Tusten and the recreational is all from the Town of Tusten up north into Landers Camp area. Claster said she only looked at the Scenic River District. Sullivan said south of the town there aren't any recreational things going on. Claster said but they are allowed according to the proposed zoning. It's not a determination based on what's there, it's from what the zoning allows. Golod mentioned that use in his review. If you go through every single use, there are other uses that are also incompatible in a scenic area that are allowed in the Town's zoning to occur in this scenic river district. That's one small part of this. There are a number of other districts that also occur within the Upper Delaware Scenic & Recreational Corridor boundary. Claster said it appears the Town may not be comparing the uses that they are allowing closely with the Land and Water Use Guidelines. Some of these uses are uses specifically mentioned in the Guidelines. An example Claster provided was Canoe Livery would fall under intensive use recreational facility. Golod brought this up in his review. An intensive use recreational facility is incompatible in a scenic segment. It seems like it would be worth going through the different schedules and checking side-by-side. Hauser-Hahn said as the committee is growing into this process she thinks it would be very helpful to the Towns and for the reviews for the council members to be working with the Towns as they are developing their zoning to work on the team. It would be helpful to have that assistance of the members of the Project Review committee at the Townships early on so that they understand what the guidelines say so it can be addressed before the last minute Project Review. It's intended to be something that's guided as a partnership. Henry asked would it be wise to reach out to the consultant with these concerns? Hauser-Hahn said UDC should reach out to the Town not necessarily the consultant.

Saumure asked if the Guide book was coming out sometime soon? Hauser-Hahn said Heister has asked to hold it for a little bit because there are some things she would like to check. They are talking to Heister regularly but not sure how long it will be on hold. Ramie asked what the timetable was for the ordinance and what prompted it in the first place Sullivan said this is the outcome from the Zoning Rewrite Committee. Sullivan said all she's been doing is reminding the people on the committee and the town board they don't want to go forward without consulting Golod. Ramie said the consultant called for Golod yesterday and was very concerned about making UDC's deadlines and said in his mind they are already 30 days into the 45 days. He was waiting to see what would happen with this review tonight to get the changes that UDC would propose to have the best product available. Golod said the Town Supervisor did not tell him about a public meeting. Sullivan suggests checking on it because there are other laws being looked at to amend and the public hearing might just be on one of them. Golod said it was submitted to UDC on March 25th. He's not sure how this factors in though because Claster was not here. Essentially the timetable starts when a project or application is received so Golod started moving forward with it. It is Golod's understanding that the Town Supervisor and consultant are willing to work with UDC on these issues. Hauser-Hahn asked if they were recommending this for being the final ordinance or were they submitting for comment. Golod said they did not specify. Hauser-Hahn said the 45-day period may not apply yet. Saumure asked when you have criteria that is not substantially met, how many of those before you say the whole thing does not substantially conform? Richardson said it's not defined, particularly you have to look at what is the concern. If it's something major and serious that whole part could put you out of substantial conformance. Richardson said he doesn't have a problem with this review and recommendation. Claster brought out some very important parts. Richardson would like UDC to reach out to the planner regarding the issues brought up. Sullivan added when Golod speaks to Supervisor Carol Ropke Wingert, to ask her what specifically is going to come up at the public hearing.

Roeder said Golod has done a very thorough job. He talked about the benefit of seeing the red in the Conformance review because that's what he should be aware of. He's glad Golod had that in red print because that showed the committee that Golod had a concern with it. That's what he needs to know, he doesn't need to read through every section. Each time Golod finds that it meets it and has good reasons for it, that's fine, why read through the whole thing? Discussion ensued. Richardson said historically that's how the council got to a point where all reviews were done by Dave Soete. Soete reviewed them, the committee didn't go point-by-point, he presented at the Project Review Committee. Richardson said you may or may not agree with that sole interpretation. Hauser-Hahn said there are really only two people looking at the zoning heavily with the exception of the Township representative. Golod said he thinks Roeder's suggestion is good and would expedite things. Golod also agrees with Richardson when it comes to substantial conformance unlike significant project review, where you can glaze over the things that aren't as critical to the project. Golod said personally speaking, after doing this for three years, when it comes to zoning and ordinance amendments these are the types of things you don't want to glaze over. Golod does appreciate Richardson considering putting the weight on Golod's shoulders but if he was to miss something, he wouldn't want to mess anything up, miss anything that the committee may have a question about. Golod knows it's laborious but this is the nuts and bolts of the Town and Township as opposed to a project. Roeder asked if these could be sent out ahead of time so the committee could review before the meeting. Golod said he tries to send them out ahead of time but is not always able to with his schedule. Golod said he will defer to the chairman and the committee on how they would like to proceed. Richardson said he doesn't know how to proceed because quite honestly most of the committee is delinquent when this information goes out for the committee to review. A good case in point is the Renewable Energy position paper. There have been several attempts to have the committee read the position paper and make comments and it hasn't happened. Discussion ensued. Richardson said if you start with number one and ask does anyone have a problem with number one? If they do, there will be a group discussion, if not they will move on. It could speed things up. Richardson would like to see a copy of the Town's schedule of uses. Henry said for the future for any substantial conformance make it mandatory that everything is in there, you must list all of your uses in the town and do a comparison against the Land and Water Use Guidelines. Dexter said when a project comes in to the town they don't read these documents. Their consultant doesn't read these documents. They go to the schedule to see what's allowable and what's not.

Town of Highland Substantial Conformance Review: Richardson said this is an adopted regulation. Cluster asked if the Town sent a final version that they voted on? Golod said no, he was told the final version is online. Cluster said they changed their map but the committee doesn't have it. Richardson asked if the copy provided in the packet was printed from the website? Golod said that is his review against the most current (what's listed on the Town's website). Golod said the map on the website is dated either 3/6 or 3/11 from when they had the last final draft. Cluster said she went to look today and did not see it on the website. Golod said the 3/18 zoning law that he used is the one that is on the website listed as adopted. Henry said on Golod's review it would be beneficial that it's mentioned on the front that Golod reference the specific date of the zoning ordinance for clarification purposes. Richardson said this has been adopted, does the committee want the map attached? Does the committee want to put this off for a month? Hauser-Hahn said UDC is supposed to review it within 45 days and then submit it to NPS within that 45-day period. Then NPS has 45 days to review it or they don't have anything to say about it. Richardson said what is the feeling of the committee? Roeder said we know what the conclusion is going to be but we should have documentation to back it up.

Principle A: Maintain the high water quality found in the Upper Delaware River 1. Soil erosion and sedimentation from construction on steep slopes is limited by: A. Conditional use/special use review for projects over 15% in grade; or F. Other. Review: The 2019 zoning law does not address projects on steep slopes >15% grade. However, Per the Town's District Schedule of Use Regulations, Dwelling, one-family, on slopes 15% or greater and Dwelling, two-family, on slopes 15% or greater are allowed in all districts with a Special Use Permit but no Site Plan Approval is required. Additionally, the schedule ignores other types of construction on steep slopes such as restaurants, retail stores, service establishments, etc. Recommendation: The zoning law should address what is in the Town's District Schedule of Use Regulations regarding construction on steep slopes including the previously mentioned construction examples. Therefore, Principle A, Objective 1 is substantially not met. Richardson asked when they require a Special Use Permit, they don't have attached to the Special Use Permit the Site Plan Review? Golod said correct. Golod said they have listed for example single family and two-family dwellings, on slopes 15% or less, they do not require site-plan approval. However, those on 15% or greater do require a site plan review along with the special use permit. Golod said that's not in the zoning, that's why there's a conflict between the two between what

the zoning law addresses and the schedule of use regulations. They have it listed as a permitted use in the Scenic segment of the River Corridor. However, the zoning states that boat liveries and RV campgrounds are not permissible in the River Corridor. Claster wanted to add that RMP suggests that when you're doing a Substantial Conformance Review that the special use permit criteria also be looked at. If a community requires a special use permit for a certain use, that on the face of it may not be enough to pass a review if they have no criteria related to that. Then the fact that they're requiring a special use permit isn't as strong as if they actually had standards related to that particular subject. For this particular objective that deals with soil erosion and sedimentation during the construction part of the project, they didn't have a lot in their zoning that was required. Discussion ensued. Hauser-Hahn said if the zoning conforms with the Land and Water Use Guidelines and the enforcement officer is referring to the zoning it shouldn't be a problem as far as the committee is concerned with the project because it gels. Richardson said the issue he has in the back of his mind is if you read the public statement that the supervisor put out on this matter; he said UDC is crazy. He said basically the zoning is better than it was prior. Richardson wants to make sure UDC has t's crossed and i's dotted before a definitive statement is made.

2. Maintain natural cover to control storm-water runoff, limit flooding, protect groundwater supplies and provide erosion control by: E. Other. Review: § 190-73. Special Permitted Uses and Site Plan Approval states, "Necessary provisions have been made to assure that all surface runoff to adjacent properties does not exceed levels in existence prior to construction." There is no further mention or protocols in order to maintain natural cover to control storm-water runoff, limit flooding, protect groundwater supplies and provide erosion control. Furthermore, the H-C (Hamlet Commercial) district allows for 50% lot coverage per 1-acre which well exceeds Criteria A, "Limiting lot coverage or impervious surface coverage to 10% on small lots". Recommendation: Principle A, Objective 2 is not substantially met.

3. Protect special erosion hazard areas along river banks through one or more of the following measures: A. Requiring that buildings be setback from the river consistent with State required setbacks of septic systems from streams. In New York: 100 feet, in Pennsylvania 50 feet; Review: Per the Town's District Schedule of Use Regulations, a minimum building setback line of at least 100 feet from the high water line of the Delaware River shall be required however, this should also be addressed within the text of the 2019 draft zoning law. Recommendation: Principle A, Objective 3 is substantially met.

4. Protect special erosion hazard areas along the ridge lines through one or more of the following measures: D. Other. Review: Aside from a definition located in the glossary, ridgelines are only mentioned in § 190-13. Rural Commercial Floating District states, "Given the rural nature of the Town and the associated environmental resources, including vast tracts of forested areas, steep slopes, ridgelines and the Upper Delaware River, a majority of commercial growth is located in designated Hamlet areas. There are however, additional areas within the Town that may be suitable to support appropriately-scaled commercial development compatible with the surrounding environment." There are no further provisions set forth in the 2019 zoning law to protect erosion hazard areas along ridgelines. Recommendation: Principle A, Objective 4 is not substantially met.

5. Limit pollution problems from septic systems located on poor soils, by one of the following measures: A. Requiring a town or district wide minimum lot size for new river corridor lots of not less than two acres (outside of hamlets); D. Other. Review: § 190-20 states Accessory dwellings shall only be permitted on lots that meet the minimum lot size requirement for at least one dwelling unit in the applicable zoning district as follows: (1) Residential District (R-1): Minimum of two (2) acres required. (2) Residential-Agricultural District (R-2): Minimum of three (3) acres required. (3) Hamlet Commercial (HC): Minimum of two (2) acres required. However, the 2019 zoning law's 2-acre requirement for the Hamlet Commercial (HC) district conflicts with the Town's Area and Bulk Regulations and District Schedule of Use Regulations which allows Accessory Dwellings in the HC district on a minimum lot size of 1-acre, as is the same with single family dwellings. Effectively with a single family dwelling and an accessory dwelling on a 1-acre lot would equate to a ½ acre per dwelling which falls well below the 2-acre minimum set forth by the LWUG. Recommendation: Principle A, Objective 5 is not substantially met. Hauser-Hahn said they probably didn't revise their schedule. Richardson asked if Hamlets have municipal sewer? Robinson said there is no central sewer in Barryville. Most of the parcels in Barryville are one acre or less because they're grandfathered, and small. Claster said also the Rural Commercial Floating District can have whatever setback they determine so that also makes it not conform because you can't guarantee in a Rural Commercial Floating District that they will conform with the committee's standard. Claster also noticed there is no stand-alone definition of setback in the Town zoning law. They mention setbacks under the definition for building line. They don't really

define it. They just say the building line is the setback line established by this chapter. It's buried in another definition. Greier said this is one we can't decide it goes by property lines and the property owner. Every town is different and every road is different. Richardson said the more he thinks about this the more he could be persuaded to say this could substantially conform. He said you're talking about one district, a difference of 15' and new development. You could make an argument for that. Claster said there's also consideration in Hamlets. The Towns can vary the development standards to make them consistent with existing development patterns within those patterns. So there's flexibility in the guidelines within Hamlet areas. Henry said this is frustrating, ultimately we're going to have to have the Town of Highland and Laberge Group to come in and defend themselves if they are not in substantial conformance. Henry's recommendation is instead of wasting time now, have people that wrote it and the Town at UDC to defend it. Henry said he doesn't believe the UDC is going to allow 50% to be out of conformance. If a Town is going to go out of Substantial Conformance, it says the Town has to come to UDC and review with the Town and explain to the Town why they are not in Substantial Conformance. Henry thinks it would be more beneficial to have the consultant and someone from the Town to defend or enlighten the UDC. Claster's understanding from the conversations from this committee was that that was what the committee was trying to facilitate over and over again by sending those letters to the Town. Ramie said they haven't taken any advantage of UDC's offers. Chances are the consultant is off the clock now; they finished their work. Ramie doubts the Town would pay the consultant to review what they accepted. Discussion ensued. Golod said when he was talking with Ramie, Claster and Hauser-Hahn the RMP and Land and Water Use Guidelines don't definitively address a municipality that goes out of conformance. What they address is when the document was first approved in 1986, it was the initial substantial conformance reviews that were being done on Towns and Townships. If the review was found that a municipality was found not in substantial conformance that's when there was a process of the UDC working with Town or Township. At that point if the Town was not found in substantial conformance they had 45 days to work with UDC to get into conformance. The plan does not speak about what happens after or what Saumure asked at a previous meeting, what happens to a Town that was in conformance and goes out of conformance. There is no direction. Golod said because he thinks the plan or the architects of the plan had conceived of a Town willingly going out of substantial conformance. Golod said with all objectivity they made no attempt to work with UDC or NPS. Robinson said isn't it the plan when a Town zoning is nonconforming then every project within the Town is under review? Golod said Class I and Class II. Robinson said who determines the class, it's recited in the RMP? The Town is out of compliance, so the town is not trustworthy. The Town is going against the bylaws of UDC's operation then who reviews each project? Richardson's interpretation would be NPS. Discussion ensued. Sullivan said UDC may have motivation to resolve this so the Town is in compliance. They seem to have little to no motivation. She wonders if it's worth it to reach out to UDC Town representative that is also part of the Town of Highland that has the motivation as well. Golod said page 42 of the RMP has recommendations regarding substantial conformance. Henry noted page 46 of the RMP is where it talks about the council communicating with the Town. Hauser-Hahn said the biggest part of this whole process is intended to be working with the Town while they are developing their zoning, not after the fact, going in early on and letting them know what they need to do. She said she thinks they all intend to conform if they know how. Claster said similar to what she said before, this review doesn't include a comparison of uses against the uses in the Land and Water Use Guidelines. Claster has done that and it is even more out of conformance. It's something that should be discussed with the Town if they agree to meet. Hauser-Hahn said perhaps if you went to a Town Board meeting and addressed them you would get a different response. Robinson said personally, he resents this project because UDC has a member working against the organization. It's consuming a lot of volunteer time. When Robinson looks at the situation, time is of the essence. Richardson asked if it would make sense to send another letter to the Town and make note of the fact that UDC has done a review of this ordinance? Before UDC makes a final determination UDC understand that the feeling on the Town's part is that they do substantially conform. That UDC would like a meeting for the Town to explain their side and UDC will explain our side. Ramie said the UDC is creating a paper trail to show that UDC has made every effort. Discussion ensued. Hauser-Hahn said until the committee finishes the new guide we should be following the old guide and the RMP does say if the Town's will establish procedures for doing the reviews. A motion by Richardson to send a certified letter to the Town of Highland Supervisor, cc'ing the Chairman of the Planning Board and UDC Town Representatives, detailing all of UDC's communications and attempts to negotiate the issue as well as making another offer to have a sit-down meeting to resolve the matter because UDC finds it out of conformance with a two-week timeframe to respond by seconded by Henry was carried with an abstention by Peckham.

Old Business:

FY 2020 TAG Program Criteria Review: Ramie said committee members to look at the comments from Kris Heister on the second page of the handout and tell staff if they agree with making these changes to the Technical Assistance Grant Criteria. For the next meeting we will have the language for the committee to review. Also, the offer was made by Heister if we felt it was warranted the NPS solicitor could get involved with the contract review portion. One thing it doesn't address unfortunately is expanding the scope of the projects. This is more about the accountability for the federal funds that are being used, which do need to be tightened up. Ramie is not sure how far the conversation can go without Heister and Patrick Reidy being here. Richardson said if you go back and read the RMP about TAGs it's not solely about zoning. UDC has kind of zeroed in on zoning and that's been a preference but it references other projects that TAG money could be available for. Discussion ensued. Ramie and Golod thought that the six points on the handout were all reasonable additions to UDC's criteria. UDC does usually solicit these invitations in June so UDC is under a timeframe to get this done. Ramie is asking committee members to review this and get comments back by 5/2.

Other: Peckham referenced on page nine of the Renewable Energy Position Paper where it says: evaluation factor and second one down says clear and direct threat, solar. It says special permit criteria. It doesn't list any criteria. Peckham said there's never been criteria on this. It could mean one thing to one town and something completely different to another town.

Public Comment: None

Adjournment: A motion by Greier, seconded by Peckham, to adjourn the meeting at 8:52 p.m. was carried.

Minutes prepared by Ashley Hall-Bagdonas, 5/1/19