

September 17, 2018 Town of North East/Village of Millerton Comprehensive Plan Update Committee

Committee Attendance:

Edie Greenwood	Ed Downey	John Midwood	Absent: Mimi Ramos
John Crodelle	William Kish	Dianne Engleke	Patti VandeBogart
Dale Culver	Debbie Middlebrook		

Guests: George Kaye, Kathy Chow, Jennifer Fimbel, Agricultural Educator and Ag Navigator from Cornell Cooperative Extension.

Chairman Edie opened the meeting with the first two goals with edits as of 8-20-2018 (“Maintain and protect the natural beauty, rural character and scenic resources of the community” & “Encourage development of a thriving, vibrant, stable and diverse economic base that offers ample employment and entrepreneurship opportunities for all”).

Edie: Asked for clarification on section 1c “The town should ensure that there also be a threshold established to ensure that small lots aren’t created to circumvent other regulations in the zoning.

Nan: The overall number of homes and lot size are two different things and you can control them separately. One controls density, the other controls the lot size. Density tells you how many homes you can put in an area, but you can set the lot size to be smaller. The threshold is usually set to be what the health department requires. It makes is much easier to have a larger piece of property where you’re planning to preserve open space or farmland. It allows for a variation in lot size so it’s not like a standard, uniform subdivision.

Ed: The areas of a piece of property that are best suited to satisfy the board of health requirements are often the areas that are best suited for agriculture. The policy potentially conflicts with another goal.

Dale: If we created it, it allows us to have a tool to that enables us, in certain circumstances, to allow smaller lots with the idea of preserving more open space. If you allow smaller density, it would be better to use up a little bit of agricultural land for four or five houses than to go with the A5 or whatever you require just beyond five acres. Then you can’t preserve a larger tract because each lot gets cut up.

Ed: That depends on how much control a planning board has over the design of a subdivision.

Nan: That’s what the conservation subdivision method does. It gives you the control and lays out the whole process.

Bill: We need to have that mechanism described in the comprehensive plan.

Edie: Asked if density bonus is a defined term.

Nan: Yes, there is a state law identifies how to do it and what the process is for doing it.

Edie: Asked if it was reckless to add recreation to paragraph 3 on page 2 (Making this mandatory for all major subdivision can help the town meet many goals including preservation of character, open space, environment and agriculture).

Nan: It depends on what kind of recreation.

Dale: Suggested adding passive recreation and giving examples.

Ed: In these conservation subdivisions, how are we managing the space that's no longer going to be developed?

Nan: It depends on how it's developed. Sometimes it's done as a homeowners' association, sometimes it's owned by one person, sometimes the land is donated to a municipality.

Ed: Asked if there are communities of our size doing this and how are they doing it.

Nan: There are a lot of communities that have this on the books that are doing it but there hasn't been a lot of development pressure to use the technique. She mentioned the Carvel plan in Pine Plains.

Ed: Asked how the restricted land is being managed.

Nan: It could be a homeowners' association, an easement held by land trust, could be owned by a private individual.

John Crodelle: Asked who enforces if a person is not complying?

Nan: The homeowners' association.

John C: The problem with that is when it goes to court, the town is not going to enforce it.

Nan: If there is an easement held by a land trust or some other environmental organization, they monitor it.

Ed: The two land trusts that are active are in Dutchess and Columbia counties; you need to see what their parameters are. The technique isn't going to work if it has terms they are not going to accept.

Dale: We have to define it, so performance is likely to occur.

Bill: Asked if there can be multi-level enforcement; if the homeowners' association fails to enforce restrictions, can the town enforce it and bill the homeowners' association?

Nan: Probably.

Dale: Wouldn't there have to be a town law for them to enforce it?

Nan: Yes.

John C: Most of the stuff that you're proposing is going to require changes in the zoning code. We should involve the attorney for the village or town who are going to be the ones writing the new zoning law.

Edie: The next step is to have a zoning committee created after the comprehensive plan is adopted.

Dale: On these subdivisions, etc. is that the right place to build in a performance bond as part of the final step?

Nan: Yes. Most subdivision laws have that.

Edie: On page 2, section 6, we are getting quite specific in the siting criteria. Some could be interpreted so differently.

Bill: The planning board could work with this one.

Bill: Section f: He's concerned with offering density bonuses for mitigations; they are appropriate where they can be used a tool to ensure preservation of open space but if we're trying to use it to do things like encourage rebuilding practices, it doesn't seem appropriate. If we're going to increase the density, it should not be an economic result.

Nan: When you offer a density bonus, it becomes an important policy of the town.

Dale: It would important to have a density bonus consistent with New York State law.

Nan: The law does not say it has to be X number; you set the density. The notion of the density bonus is that the town is seeking something that's valuable to it in return for giving higher density. The town has to decide for what reasons it wants to offer a density bonus.

Ed: The classic use of a density bonus is that you have to choose among competing interests. To a certain extent, you have to balance them.

Dianne: Nan's group of things (recreation, affordable housing, open space preservation) covers a number of things.

Dale: It allows for a trade-off if there's a need.

Edie: Do the mechanics of a density bonus rest with the planning board?

Nan: It can be done a couple of different ways. It can be written so that the planning board is authorized to review a request and approve it as part of their process. Other communities have it where it's a two-part where the density bonus is approved by the elected officials, then the process is finished by the planning board.

Bill: Gated communities are not an appropriate type of subdivision. They don't meet the goals we are trying to address. It should be something to prohibit or discourage.

Ed: How do you define a gated community?

Bill: One that includes an access mechanism that prevents the public from reaching a residence without a key card, punching a code. Does not want to see that type of development here.

John Crodelle: It's a big thing in Florida. It's a sense of security for people who purchase property.

Edie: Doesn't want to limit these developments. They can help us with our economic development.

Ed: People who come here from the metropolitan area have two approaches: they are here because they want to be out of the city, others who come here want to be very much engaged in the community. Neither of those is a bad thing. Trying to regulate how someone will respond to the community is very hard.

Debbie: At one of the village meetings, Leslie Farhangi spoke up and said we don't want to be like Silo Ridge.

Nan: There's a difference in saying that it's the desire of the town to prohibit gated communities. You could say you want to discourage the creation of a gated community.

Ed: Suggested saying we encourage inclusive communities.

Nan: She sees two different things; one is discouraging gated communities, the other is encouraging communities (a gated community is not considered inclusive).

Dale: Asked if we should find out if it's legal to say that before putting it in the comprehensive plan.

Nan: Will try to find out if it is legal.

Ed: It amuses me to think about Silo Ridge and the Wassaic Project are three miles from each other. It's two points of view of how to engage a community. They are different and that's what you want.

John Midwood: Likes the positive tone of the wording.

Edie: Asked the committee if they were comfortable with putting this revised draft into our goals. It was agreed, and the Committee moved on to the economic goal.

Bill: Section 1q: Relating to permitting large mines. We don't want large mines as a permitted

use in any zone.

Edie: Asked if that's a zoning issue.

Nan: Yes. You can prohibit large mines, but you have to say that. If you don't say anything about it and a mining company wants to come in, the Department of Conservation (DEC) can regulate it through their mining process.

Dianne: How do we define large-scale mines?

Nan: It's generally anything greater than 750 cubic yards per year. Anything smaller than that is regulated locally.

Bill: The comprehensive plan should prohibit mines in excess of 750 cubic yards per year. We should recommend that as a zoning mechanism.

Bill: He asked how a transfer of development right (TDR) works.

Nan: This was a carry-over from the 1994 plan and it's a decent suggestion to keep in.

Ed: Doesn't think we should keep it.

Dianne: Thinks we should.

Edie: Feels the same way about BIDs (business improvement districts); it's never going to fly in the next 10 years, but on the other hand, the concept will be laid out if ever needed.

Nan: The transfer of development rights is a very hard technique to get all the bugs out but it's a valid technique that could work out under all the right circumstances. That being said, it's a technique the NYS Dept. of Ag & Markets encourages. They have grant money to help towns develop TDR programs.

Dale: Asked Jennifer Fimbel, Cornell Cooperative Extension's Agricultural Educator and Ag Navigator, if there is much discussion on this at the county level.

Jennifer: Not right now.

Nan: You're not hurting anything by keeping this in. Consider the TDR if the conditions warrant it.

Edie: Was surprised with #11 (pg. 7) regarding pop-up retail stores since we already have them. Asked if they are prohibited with the zoning.

Nan: Sometimes this comes under what used to be called peddler's permits for example a food truck. They're usually done through a license and not zoning. Should update it to be more modern. You can write it for the town and the village, so you allow for temporary business uses through peddler's licenses.

Dale: He thinks of a pop-up store as one that uses retail space for a short period of time, he doesn't see them as traveling in and out where it may impact existing businesses. The traveling business doesn't pay any property taxes that attribute to the fire district, etc. He sees pop-ups as being incubators; if they are successful then they might stay.

Ed: In Millerton, you're either renting space or you're not.

Nan: One of the things that's in the audit for the village is changing the requirements for hefty permit fees on businesses that are going into existing buildings. They're not really changing anything; they're just renting a space.

John Crodelle: Asked for a definition of a pop-up business.

Nan: It could be either; if there is a vacant lot and someone wants to put a food truck in or someone wants to rent a space for three weeks or a month and then move on. Pop-ups are becoming more common and you don't want to put up barriers to incubate new business. She can get clarity from Ellen Pemrick.

Bill: #7 on pg. 6 regarding home occupations: He is worried it might turn into a table of occupations and it should be performance based. We should be concerned with noise, traffic, visual impact, number of employees, etc. We could manage this by talking about the impacts and the performance aspects.

Edie and John Midwood like #13 (pg. 7) regarding establishing an Economic Development Committee.

Bill: Doesn't like #16 (pg. 8), thinks it's not feasible because of expertise and cost. We should change it to encourage the development of 5G that would provide the internet coverage that most people need.

The committee agreed to encourage the development of 5G network.

Edie: Likes #18 (pg. 8) regarding considering establishing a small business development loan fund.

Ed: #20 (pg. 9), Berkshire-Taconic Foundation is now focusing on primary and secondary education, civic engagement; not promoting tourism and arts. Suggests working with Berkshire Taconic and Dutchess Tourism to address issues of local concern.

Dale: Tourism is so important for our town for the economic aspect.

Nan: (Working from "Protect our valuable farmlands, support our farms and their produces, and encourage the continuation and diversification of agricultural activities.) Sections a-b-c-d of #1 are standard. Section 1e is the modified site plan review process. Some of the businesses on farms can impact the community. On one hand, we don't want to over-regulate farms but on the other hand we recognize that sometimes there are impacts. The modified site plan allows the town to have some level of review but not to the extent of a normal review site plan process. It's based on the recommendations that are in the Ag & Markets guidance. Farm worker housing is something that is also part of the Ag & Markets law; you can't prohibit but you can have certain regulations related to it. Density bonus is a technique that could help leave some farmland open. Section j (requiring that all major subdivisions be required to be designed as per a conservation subdivision) was written before the conversation where the committee wasn't comfortable with that requirement that you wanted to leave it as an option. It needs to be changed to match what had already been discussed. Having rural siting standards to make sure that when development does take place so there is an opportunity to maintain active farmland.

Edie: Asked if there was a definition of a major subdivision or a minor subdivision.

Nan: It's in your law; it's based on the number of lots that are split off. Section k is to make sure that your zoning language mirrors the requirements of the Ag & Markets law. The Ag Disclosure Statement is something that is required in Ag & Markets Law that whenever a piece of land is sold that's located in a NYS Ag District, the real estate agent is supposed to disclose to the buyer that they are buying land in an Ag district and that there is noise, small and things that go on about farming. She recommends that when a planning board does a subdivision that's in an agricultural district, a plat plan note be added to the subdivision saying that the subdivision is in an ag district. It's a small thing that current and future owners recognize that ag districts are important.

Jennifer Fimbel: Mentions the 500-foot buffer from a farm.

Dale: Asked why is it 500 and not 1,000 feet?

Nan: That's what is in the state law. Section l (farm stands, right-to-farm law): We have a county and state level right-to-farm law. Section m (right-to-farm law to protect farmers) was in the 1994 plan.

Edie: Asked if we automatically come under the Dutchess County Ag & Farmland Protection Plan.

Jennifer Fimbel: It's not regulatory but there is a model for you to use that you can use as an appendix.

Nan: Section n (consider use of an Ag overlay zoning district) needs some discussion. The Ag overlay district is an overlay that identifies critical areas of farming activity in the community and you recognize the importance of those farming activities by creating other development standards designed specifically to protect those farms.

Bill: Asked if it pertained to active farms or potential farms.

Nan: It could be either.

Section o (buffers): Buffers are a really important. When you have a subdivision that you want to make sure there are adequate buffers, either physical or distance wise between new development and an active farm. That protects the farmer by reducing the number of nuisance complaints. It's the requirement of the new subdivision to create and include that buffer in their subdivision, not the farmer's job.

Section p is adding in a one-liner into site plan subdivision and your special use processes that ask the planning board to evaluate the impact of that development on agricultural operations that might be adjacent or nearby that development.

Section r (zoning for solar panels and wind turbines) is one that often gets overlooked at the state level. Solar panels and wind turbines that are used in the operation of a farm are considered farm structures just as silos are. They need to be recognized that way in your zoning.

#2: She wasn't sure if state law allowed for an agricultural member to be on the planning board.

#3: Maps and data that comes out of the town's protection plan should be readily available to the planning board.

#4 is to revive the Ag Advisory Committee.

#5 (highway maintenance) is to make sure when culverts and bridges are replaced that the passage of farm machinery is recognized as a use of the road.

#10 (advocate with Dutchess County the importance of fully implementing the county Agricultural and Farmland Protection Plan) has a lot of good stuff in it that could be very helpful to town and the town should support the county in implementing that plan.

#13 is some carryovers from the 1994 plan.

Jennifer Fimbel: Our county planning is really helpful in agriculture.

Nan: We can add in that the planning board should take advantage of Dutchess County Planning as the resource for Ag-related help and questions.

Jennifer Fimbel: The town should keep in mind that in order to get an agricultural assessment, they need seven acres, excluding a house, and gross \$10,000 in product sales. If it's less than seven acres, then they have to gross \$50,000.

Bill: Asked what is the working definition of agriculture that we are using.

Nan: Basically, a commercial operation.

Bill: Does it have to produce something that is consumed?

Jennifer Fimbel: No. Horse boarding can be agricultural.

Nan: You're doing it on a commercial basis, not for your private use.

Jennifer Fimbel: By definition federally, a farm is considered any place that sells over \$1,000 worth of products. When it comes to the right-to-farm law, you're usually protected with Ag value assessments and are in an agricultural district. Those two things coupled together qualify you for the right-to-farm law.

Nan: That's at the state level. Communities can write their own right-to-farm law and include whatever they want as a farm. Your zoning can define a farm.

Jennifer Fimbel: You have to be aware that agricultural is continually changing (i.e. breweries). You have from high end to someone who is just doing conventional farming.

Nan: What happens sometimes is that zoning laws define farms as having to be X number of acres and larger to fall under the zoning. That misses the boat because of lot of commercial farms, greenhouses or organic farms are smaller. The definition of agriculture is important, but it should not be so limiting that it limits you from being inclusive to include a lot of different kinds of agriculture.

Ed: Asked if there was a reason why you wouldn't adopt the state definition.

Nan: A lot of communities do that. The state makes distinctions between an operation that's doing these things as a commercial operation versus a backyard operation. Those are zoning issues that you could choose to address.

Dale: So, the important thing is to adopt a state regulation so that with zoning we can deal with what might be the nuisance angle. Asked Jennifer if we could get a checklist regarding zoning issues.

Edie: Jennifer gave us (at an earlier meeting) an audit list that was done in 2014. She will re-circulate it.

Jennifer Fimbel: Highly recommends that someone from planning and other offices to go to the Oct. 16 meeting in Millbrook entitled "Making Your Community More Farm friendly through Planning and Zoning". It will have tools that the towns can use; it will give a list of questions and will be a very comprehensive look at how farm friendly you are, see where you are going and how to fix what isn't working.

Nan: Asked the committee if it wants to go back and re-review the farmland or go over it at the next meeting.

Bill: He feels the farm markets can do whatever they want because they are not covered by zoning.

Edie: Our current zoning has conflicting criteria related to farm markets and should be looked into.

Bill: His concern is that other people's things are being sold at a farm market with a little bit of their own.

Jennifer Fimbel: Usually with farm markets and farm stands, it's up to 50% of your own what's raised or made on the farm.

Bill: Brought up Section 1q (zoning should exempt agricultural structures from height limitations):

Jennifer: Indoor riding arenas become an issue sometimes.

Bill: Why do we want to exempt those from height limitations?

Jennifer: Sometimes those structures need to be that high.

Nan: The role of the comprehensive plan is to clearly set the direction and the policy. We can

make a recommendation to make sure that the zoning is consistent with the state.

Public comment: Kathy Chow asked if there was any provision for slaughterhouses.

Nan: No, but many communities do allow for small operations. You can't prevent them from being on a farm.

Jennifer: It's something that needs to be addressed.

Edie: Asked the committee if we should be adding additional meetings to cover the materials.

Nan: The environment goal is ready for review and there are six more.

Edie: Her goal is to have the first of the two public hearings in January 2019. We need to have a draft available for public review by the end of this year or the very beginning of January.

Nan: Suggested that to speed up the process, the committee needs to come prepared with questions instead of her reviewing each item at the meetings. Also suggested that members e-mail her with questions and she would reply via e-mail to all.

Meeting was adjourned at 6:15PM.

The next meeting will be October 15 at 4PM at The Annex.