

Callicoon & Delaware Farmland Protection Plan Committee Meeting, 7-16-09

Virginia Andkjar	Tom Bose	Linda Babicz
Stefan Gieger	Paul Hahn	Tanya Hahn
Sonja Hedlund	Joe Horak	Earl Myers
Nan Stolzenburg	Mary Tonjes	Jill Weyer
Alice Diehl	John Gain	Melinda Ketcham
John Kline-Callicoon PB	Don Meltz	Jim Scheutzow
Linda Roche-Delaware ZBA	Rosie DeCristofaro- Delaware PB	Gerald Euker- Delaware PB
Howard Fuchs	Fred Fries-Callicoon PB	Terry Zieres- Delaware PB
Matt Hofer		

1. Presentation of Zoning Audits and Buildout Analysis.

Nan:

3 phases of project: learn about current agricultural conditions, set a vision for future direction, and define strategies and actions the town can take, to reach those goals and visions. We're beginning the third stage. We've been doing a lot of mapping, looking at changes in agriculture, getting public input, and conducting and analyzing surveys of farmers and agri-businesses.

Using all of this, we've produced a profile and inventory document for each town.

Having completed our zoning audits and buildout analyses, the committee felt it was very important to bring in the municipal board members, to inform them of the process and its progress. The committee will draft a plan, using public input, and submit it to the Town Boards, who will adopt it. The consultants' role is to guide the committees through the process, and offer a variety of options for farmland preservation. We want to give you an honest assessment of your local conditions, and what that could mean for the future of local agriculture. We are currently in the very early stages of making recommendations.

Buildout Analysis: a tool to help you understand the long-term potential implications of your zoning. Takes into consideration environmental constraints. Has nothing to do with recent trends or current developments— does not give any time frame or rate of growth. It simply takes the current conditions (what land is available for development in your town), and applies your zoning to those conditions. In other words, if every buildable lot is fully subdivided and built, how many houses will there be?

You might think the scenario presented is unrealistic. But, if you allow for it in your zoning, you set up the possibility that this could happen.

We use GIS to do the buildout. Several steps:

1. Look at areas that already have residential development, using tax data. (note that the dots on the map don't represent exact locations of houses—just indicate that there's a house on the parcel).
2. Look at areas that are not available for development (areas with a conservation subdivision on them, state, federal, or town-owned land, commercial uses that are already heavily developed).
3. Look at environmental constraints that might impose building difficulties or regulatory limitations (wetlands, wetland buffers, water features, steep slopes, flood hazard areas).
4. Look at zoning (what districts do we have, where are they, what is minimum lot size, what other regulations need to be taken into account).
5. Apply the zoning to each parcel that is developable according to the zoning.
6. Now subtract environmental constraints to see the number of houses that could be built. Callicoon has 1538 existing residences, and would accommodate 10,000 new dwellings if built out to the full extent of the zoning (before subtracting out land that has environmental constraints). With those environmental constraints subtracted, there is a capacity for 7720 new structures. Delaware has about 1500 houses, zoning allows for

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Now, you as a community need to ask if this level of development is consistent with the goals you have set for your town? Our committees only look at agricultural goals. Your comp plans also consider goals like rural character, environmental health, and many others.

If these numbers look consistent with the kind of community you want in the future, then we can look at other ways to enhance and protect agriculture (incentives, etc.) But if these numbers don't look good to you, then we have to consider ways of changing the zoning.

Zoning Audits: Nan looks for "farm-friendliness" of codes. Do definitions support a wide variety of farm operations? Does the plan state that agriculture is important to the town? Is agriculture allowed as a permitted use in most districts? Does zoning put area restrictions on farms that might restrict agriculture? This isn't legal in a NYS certified agricultural district, because here, ag is considered a primary land use. We also look at setbacks, lot sizes, height limitations, etc. that could impede ag uses. Look at intent and regulations of each district, and where ag actually occurs in relation to where it's zoned. Does the zoning establish a capacity that will allow ag uses to continue? We know that zoning itself can't keep land in agriculture. But it sets up an opportunity to establish new ag uses, and to not impede existing ag uses.

Some highlights:

- Comprehensive Plans are the reason behind your land use regulations.
- Callicoon needs to update its comp plan, to widen its focus and address agriculture specifically.
- Delaware has a new comp plan, in which ag plays a very important role.
- Purpose statements and definitions:
 - The Court will look at the purpose statements if there's ever an Article 78 action filed against the town. Definitions must be clear. Every use described in your use table, and every agricultural use, should be defined. Both towns need some updates on purpose statements and definitions.
 - Open Space: defined narrowly, and oriented to active recreational uses in both towns. This is fine, but might inhibit ag protection. For example, a farmer might wish to subdivide a piece of her land for a cluster subdivision, and continue to farm the open space on the land she sells. That's not addressed in your laws, and if you require that a large portion of your open space is used for active recreation, then farming won't be allowed. You don't want to take this opportunity away from farmers.
- Use table. Should promote agriculture, and allow for niche, seasonal, or value added operations. They don't always fit neatly into the definitions, so they should be clearly identified as uses and defined separately to ensure that they can be promoted.
 - Both towns are in good shape, in terms of allowing agriculture in most or all districts. But, you also allow a lot of other uses that may interfere with agriculture, in the areas you say you want to be low-density residential and agricultural.
- Neither town mentions agriculture in site plan or special use permit procedures.
- Neither town addresses the agricultural data statement and how it must be used. In an ag district, the planning board is obligated to look at the impact of any new development on the surrounding agricultural uses.
- Both towns have old cluster development sections that are not well defined. Probably haven't been used much, if at all. There has been a lot of work done in the past few years, and the Department of State has model laws to help guide developers.
- Density: a very emotional, contentious issue. But you as a committee need to evaluate your zoning. I can only say that, from my experience and research, the more development you have, the harder it is to retain

agriculture. More development changes farms also—you go from livestock to small hobby and niche farms. This is not to say that high development means no agriculture, just that ag probably won't be what it is today.

- High density not only affects ag, it also affects schools, community services, environmental health, etc.
- As you develop, you fragment farmland, which leads to more nuisance complaints. At some point, farmers just give up.
- Also, lots of farmers rent their land. If that land is sold and developed, the farmers will have a hard time staying in business.
- What I've done is to give you a wide range of tools, which are options you can consider: increase minimum lot size, thereby decreasing the overall density. Some towns are going to very large lots—Rensselaerville is trying to implement 20 acre minimum lot sizes. I'm not necessarily advocating this—it gives you somewhat larger chunks of land but doesn't ensure meaningful farmland.
- Sliding scale density is widely used in Ohio and Pennsylvania. Smaller parcels are not likely to have meaningful agriculture on them, so let's let them develop at a higher rate (greater density) than large parcels that are still relatively intact.
- Net acreage: also reduces density. If you have a 100 acre parcel with 20 acres of wetlands, then you deduct those 20 acres and calculate your density based on the remaining 80 acres. This is often used to try and bring the development capacity to a sustainable level for a particular parcel. It's very parcel-specific.
- Decrease density but give it back with incentives. For a traditional subdivision, you get 7 acre density. But if you do a cluster development, or preserve farmland, or do any other thing that the community agrees is important for protecting ag, then you get 3 acre density (for example).
- Enhanced use of clustering and conservation subdivisions. These are oriented toward protecting a particular resource. Many municipalities are mandating them for subdivisions of a certain size, for example. These have been on the books as an optional method for many years, but nobody is really doing them unless it's mandated. Clustering isn't the way to preserve all of your farmland, but it can go a long way in protecting smaller or even larger fields.
- Transfer of development rights program: For example, you have 100 acres of prime farmland in Area A, and your zoning is 2 acres. So you could build 50 houses. Under a TDR program, you can sell 50 houses worth of development rights, but the houses will be built closer to the village where there might be infrastructure to support them, and where they won't hamper ag. The town designates the "sending" and "receiving" areas. Usually this is done with an incentive. So, we might say, if you buy these 50 development rights, we'll actually let you build 60 houses. (The developer buys a piece of land nearer to the village, and builds her houses there). TDR is very complicated, and we probably don't want to come up with a complex TDR, but there are simple ways of allowing development rights to be transferred from one place to another. The land that has sent its development rights away is permanently protected under an easement. More and more communities, municipalities, and the state are becoming interested in TDR. We can't implement one today, but it's important to keep it on the table for the future. It can be very powerful, because it gives the landowner full equity for the land, and the community gets density in the location it can best support.

2. Town Discussions

Delaware:

- As we propose zoning changes, we need to think about people's desire to live in a rural vs. a more dense area.
- Ag definition: discussion of economic gain as a necessary pursuit for ag operations. Discussion of whether kennels, which would fit into a broader definition of agriculture would therefore be less strictly regulated, however this could be handled through a separate ordinance.
- Intensive livestock operations: thresholds are low, but committee members expressed concern about raising the thresholds and allowing for some intensive uses to be less strictly regulated.
- Cluster development: members don't want to force it on anyone
 - Concern that the market isn't ready for it
- Sliding scale concept: members are interested in this, and would like to learn more
- Transfer of Development Rights: concern about limited sewer capacity in potential receiving areas
- Ag Data Statements: Town does a lot with these, it's just not written into the law
- Delaware Zoning Law: text (especially the bulk and use tables) cuts off when viewed online

Callicoon:

- This phase of our project is focused on recommendations and strategies related to zoning and other land use laws. We will also create strategies that focus on incentives, marketing, agricultural economic development, educational tools, and other areas. Zoning tools are only one component of the plan.
- Yet, the terms of the grant specify that this project is for the preservation of viable farmland. So, we need to focus on that.
- Changing the zoning could open up a big debate.
- Clustering: how do you achieve it in a rural area where there isn't water and sewer infrastructure? Depends on the size of the cluster development. And, a large development can include regulations that the developer provide water and sewer. Your review process can require that a subdivider shows test pits. There are not mandates that water access be proven.
- What about living in a village? People need a reason to live in the village. Need infrastructure and jobs. Otherwise, people would rather live outside the village.
- Keep in mind that the zoning doesn't make it happen. Only establishes the opportunity for it to happen.
- The plan will have a broad statement of purpose, but this statement must clearly define what we are trying to accomplish.
- Intensive livestock operations should be more clearly defined. It could be very restrictive as defined.
- Discussion of density: what do we want to do? We need to somehow reduce density to preserve farmland. Would incentives work?
- Increasing lot sizes is opposed by several—makes it harder for young people to buy, takes away landowners' rights. Smaller lot sizes are better in some areas (for example, the Village of Jeffersonville), as a tool for affordability. In fact, some communities are saying, if you can get a well and septic in, then you can build. So, if you regulate by density, rather than by minimum lot size, you get a lot more flexibility.

Be sure to send your notes, comments and suggestions to Nan at least a week prior to the August meeting!

Next Meeting: Thursday, August 20th, 7:30 pm. Location TBA.