

**Town of White Creek
Comprehensive Plan and Ag Protection Plan
Steering Committee Meeting Minutes
November 18, 2009**

Attendees: Don Sweet, Sarah Ashton, Rody Walker, Peter Hetko, Jim Perry, Darryl Caputo, Ed Gulley

Absent: Tim Smith, Rupert Jennings, J. Tudor, Rich Moses, Bill Badgley, Carol Moore,

Minutes: The minutes of the October meeting will be submitted at the next meeting.

Nan recapped the last meeting noting that the Steering Committee had reviewed her audit of Town's existing Site Plan Review Law which compared the Law in relation to the draft vision and goals of the Town of White Creek's Comprehensive Plan and to the desire to have land use regulations as 'farm-friendly' as possible. She had provided the Committee with a six page table which described each article and offered for the Committee's consideration a recommended strategy to amend the law to be more in conformance with the evolving Comprehensive Plan. Nan reiterated that the audit was based on her opinion. She clarified that the Site Plan Review Law authorizes the Planning Board to look at projects on a parcel by parcel basis; to look at how a project will function on a particular parcel—considering items like traffic, lighting, landscaping, environmental issues.

Walker commented that Planning Boards need to be trained to conduct Site Plan Reviews and understand the various regulations otherwise they could do harm to that which they seek to protect. Perry noted that the Comprehensive Plan will help them to implement the Site Plan Review Law and understand it better. Nan noted that NYS now mandated that Planning Board Members have a certain level of training and the Town Board can further mandate this. Also the Planning Board has the ability to hire surveyors, planners, architects and engineers to help them review and better understand the impacts of site plans. This is the reason for collecting the application fees and ultimately it is the developer not the community that should pay these fees for these services.

The audit offers suggestions to improve the site plan review law. Walker confirmed that the Comprehensive Plan is a guide and a plan and the site plan review should fit the goals of the plan. Gulley confirmed that the two should go down the same road. Nan reiterated that the site plan review law has weak definitions and these need to be strengthened to help the Planning Board review site plans. She noted that the Site Plan Review law only applies to new commercial developments—not to houses; agriculture is exempt from site plan review too (except agricultural composting). Walker suggested that everyone has to be treated the same. The composting element probably emerged because of concerns about commercial composting of animals and development of composting facility in the Town of Cambridge. He noted that there are regulations for composting on farm components. Walker noted that the Rite Aid in the Village went through Site Plan Review and the process has the power to effect change. Ashton noted that though all won't agree the process resulted in a much better structure than that originally proposed. Nan noted that site plan review can be effective in helping a community achieve its goals but the vagueness of the current law is problematic. Sweet noted that laws have to be changed by the Town Board and therefore its composition is important. Nan noted that the Comprehensive Plan can direct the Town Board to change the laws. She recapped the major policy recommendations that she suggested be made with respect to the Site Plan Review Law including

(See footnote recapping those discussed during October meeting.)¹ Aside from better definitions, recommendations try to strengthen how it is applied, ensure that the procedures are clear and specific enough to be easily followed, and define design objectives more effectively. Hetko noted that a good Site Plan Review Law will give adequate guidance to the planning board. Nan asked the Committee to review the recommendations she has offered for the Site Plan Review Law and call her with any questions. Ashton asked her if she could please post the existing Site Plan Review Law on the website.

Review of Subdivision Regulations

In advance of the meeting via email Nan handed out a seven-page table offering her audit of the Town of White Creek Subdivision Regulations. The table describes a given article and offers recommended strategies to amend or strengthen the law in light of and in relation to the draft vision and goals of the Town of White Creek Comprehensive Plan and to the desire to be farm-friendly.

Nan noted that the policy statement of a law is critical. It identifies what is to be accomplished by the land use law. There is nothing in the policy statement that talks about the need to protect and promote the rural character or agriculture. It is a generic subdivision law and she recommends could be adapted to meet the community's goals better. This is important to identify and establish the need and goals of protecting and promoting the rural character and agriculture in the policy statement.

The pre-application (sketch plan review) process might be offered to the owner before any significant money is spent on design. This is excellent but such a process should include identification of existing farmland within or near the parcel if one of the recommendations of the plan is to protect farmland and ultimately such farmers should be notified if there is a subdivision of the public hearing. A fee schedule set by the Town Board rather than an actual dollar amount should be included in the law. If it does not exist a checklist should be established to help the applicant compile the right information; Perry thought there was one. Nan clarified that 'plat' is another word for 'plan' progressive Subdivision regulations also ask for information about buildings that will be constructed and the building envelopes. Traffic should be reviewed as well as curb cuts etc regardless of major or minor. Hetko suggested the proximity to streams be included in the review. Nan noted that in her view subdivision regulations determine where the line is placed which in and of itself does not impact on landscape but where the driveway is located and where the house is situated do impact on the landscape and these are site plan review questions. Section 2-4.4 of the Subdivision Regulations should make sure that all relative county, state, and federal permits are obtained.

¹ From October Notes: In reviewing the analysis with the Committee she noted that Article B Section 2 presented an enormous loop hole. It exempts all commercial structures of less than 7900 sq feet from Site Plan approval process; many small strip malls, convenience stores and gas stations are less than this size—in her 15 years of working on plans she has never seen such an exclusion. She suggests removing or lowering the size limits for site plan review exemptions for commercial structures less than 7900 sq ft in size. (Her job she reiterated is to point these things out and the Committee's to decide what components of her recommendations they think the community would want incorporated into the recommended plan. Another section of great concern regards Section #5 Definitions needs a lot of work. They need to be bolstered. The purpose statement of the Law is excellent but the definition section is weak. A list of definitions has to be included and defined. Ashton asked Nan if she could produce such a list and propose definitions. These could be appended to the analysis. Nan suggested that if nothing else definitions needed to be added to the Site Plan Review Law. Finally, Section 4 raises another big issue. It allows the Board to undertake a less intensive review of structures 20,000 sf or less in size. The Town could run into a whole lot of trouble here—not only should the size limit be significantly lower but what defines 'less intensive review' and how does an applicant 'request or apply for' a less intensive review—there should be a process.

There needs to be an escrow for all planning board fees. Perry noted that they know all go into a separate account. Guidelines for subdivision process to continue to retain the ruralness and promote farming might be desirable—they can be mandated by the regulations or just guidelines to the landowner to give them a choice. Perry noted that the planning board typically looks out for agriculture. Caputo thought that such guidelines could be included in the Comprehensive plan for the community to consider but at this point not mandate them. Nan pointed out that

Article Three focuses a lot on the planning for new roads. In her audit, she found it troubling as 26' paved road is a very wide and suburban type of road; 18-20 foot roads are more in character with the volume and ruralness. There was significant discussion about why this might have been written so. Walker noted that it may have been written such so that the cost of establishing such a road which might in the future be turned over to the town was born by the individual land owner rather than the Town; Sweet noted that the regulations may be guided by the standards of NYS with regard to roads and highways. But Nan suggested that the result could be overbuilt roads instead a right of way for a bigger road could be secured and specifications in broad terms delineated but in the short term a narrower road constructed. DPW will not want any changes to the subdivision regulations probably but there are rural road standards that acknowledge the different needs of low volume roads. Perry suggested that the Planning Board take a look at the Article and make suggestions.

Nan identified three other areas for significant improvement:

- (1) Better enforcement. There need to be clearly identified penalties and remedies.
- (2) Variances: Right now the regulation allows the planning board the authority to issue a variance. They do not have this right. According to Article 78 proceedings there has to be a board of appeals established and variances are considered by the Board of Appeals. The Town should look at correcting this to protect itself as this is an error. (Note: Nan clarified that a variance is requested if the regulation says that the set back has to be 50' and the owner prefers 30' for example. A 'waiver' is when the law requires information about something like wetlands and the owner makes the case to the board that there are no wetlands or it is not a factor to consider.) Variance needs to be defined. Hardship exemptions can be offered but again they have to be defined and the board of appeals has to grant a variance.
- (3) Number of lots for minor and major is very restrictive. Three lots is a major subdivision and in other communities it is five or more. Some said the lower thresh holds may be desirable to discourage subdivisions.
- (4) Section 2.5 exempts agricultural subdivisions and those involving the division of a one parcel transferred to a family member or bulk sale or exchange of land of forty acres or more of land among others. Nan suggested it was problematic because if one of the subdivided pieces is subsequently sold to someone else for another purpose then it should go back to the planning board for review....but the catch 22 is that the subdivision has already happened and it is hard to undo something like that. The Town has no authority to enforce a deed restriction. Also to be legal the subdivision needs to be filed with the County and the County requires the approval/signature of the planning board to file it but if it is not reviewed how can it be filed as a new legal lot.... See Nan's more comprehensive notes. She notes that the intent of the regulation is clear but she has never seen anyone try to develop such a regulation before.

Steering Committee members were asked to carefully review her audit and resulting recommendations for both the Site Plan Review Law and the Subdivision Regulations and come to the next meeting with specific comments.

Next Steps: Public participation and engaging the agricultural community is important so at the next meeting a plan for the next public workshop should be developed. In advance of the next meeting, Nan will:

- review the Right to Farm Law (which she noted based on a preliminary review was fairly standard but had a few things missing).
- Review the Trailer Ordinance which Ashton will provide her.
- Begin to develop a list of definitions for the Site Plan review for inclusion in the Comp Plan as recommendations.

Next Meeting Weds. January 20th 7:30PM Town of White Creek, 28 Mountain View Drive. Please review tool box of recommended strategies, Site Plan Review Law recommendations and Subdivision Law Review.