

DRAFT
Town of White Creek
Comprehensive Plan and Ag Protection Plan
Steering Committee Meeting Minutes
January 20, 2010

Attendees: Don Sweet, Sarah Ashton, Rody Walker, Jim Perry, Darryl Caputo, Carol Moore
Absent: Tim Smith, Rupert Jennings, J. Tudor, Rich Moses, Bill Badgley, Ed Gulley, Peter Hetko,

Public Attendees: John Brennan, NYS Department of Agriculture

Minutes: The minutes of the October meeting and November meetings were approved by the Committee following motions respectively by Darryl/Rody and Jim/Carol.

The Committee welcomed John Brennan from the NYS Department of Agriculture—the agency which is funding the development of the Comprehensive Plan and Farmland Protection Plan and specifically consultancy services provided by Nan Stolzenburg. Nan reviewed that the purpose of the meeting was to finish up the audits of the Subdivision Law as necessary, discuss an audit of the Right to Farm Law and brainstorm how to include this information in the actual planning documents. In addition the committee would schedule a public meeting.

Subdivision Regulations Audit :

In auditing the subdivision regulations, Nan sought to review them in light of the draft vision statement and goals of the Town of White Creek Comprehensive Plan and desire to have the land use laws as farm friendly as possible. With regard to Article III regarding roads she noted that road standards are often dealt with in subdivision law. Efforts might be taken to ensure that the character of such roads is rural. Right now the requirements are too wide for rural communities. Rural communities typically want to discourage cul-de-sacs, curbs and fire hydrants—these are more sub-urban standards. Cul-de-sacs are sub-urban and aren't traditional rural neighborhoods. Dead end roads or 'T' (into other roads) or 'Y' shaped road patterns are more rural in character. She recommends applying rural design standards to both the subdivision regulations and the site plan review law. Jim suggested that what is included in the law is fine for major subdivisions and why it was put in. It was aimed at big developments. Minor subdivisions typically have no new roads. The concern is where a subdivision occurs and the driveway does not come onto an existing street; hence a new public street is developed which the town might eventually have to service. Nan stressed that even with a major subdivision she suggests that 26' of pavement is too wide and does not conform to rural road design standards which would measure closer to 18' (preferred) or 20' wide. She noted she understood that the highway department would want the wider road. Don noted that the cost of establishing a wider road should be born by the developer. Another comment was can young people afford to build such a wide road. Nan encouraged the committee to think about who the road is being designed for: snow plows or people. Don noted that the best way is to connect roads, rather than have a cul-de-sac. Rody reinforced the need to pass along the cost of developing roads to the developer but wondered if minor subdivisions could be up to three lots in consideration of passing along land to children. Sarah suggested that since the time which these regulations had been developed the 'science of planning' had advanced. Nan stated that the committee could promote a notion of development which is more consistent with the town's current character. Jim noted he supported promoting the rural character. Darryl suggested that it was perhaps premature to detail the specifics of road size as this part of the process; more engineering might need to be done and the plan does not have to deal at such a specific level. This would be work for the future. Jim asked Nan what the principles were for rural design and could examples of these be incorporated in the plan as an appendices as an example. Nan noted that she recommends the rural community of Cairo's design

standards as a model (which she shared); the Committee could include as an appendices for design standards. Sarah confirmed that Nan would also be preparing a proposed list of definitions for terms used in the Site Plan Review and Subdivision Regulations. Darryl noted that the general problem is that layouts are often imposed on land without taking into consideration the character of the land and the opportunities and constraints that a parcel of land offers for development. It's important not to artificially impose but reflect on the amenities of a landscape. Nan noted that conservation subdivision strategies can help communities better reflect on the land. Darryl encouraged the use of design manuals.

With regard to Article IV in the subdivision regulations, like the Site Plan Review Law, it needs to include information about farmland to give the planning board information about how the parcel to be subdivided relates to parcels around it. Jim suggested that the planning board did that now through a check list. Nan noted that in practice they might be doing this but unless it is written in the law the applicant may not include the information and could ask what mandates them to provide this information. She would suggest erring on the side of asking for the information in the law. She suggested that with regard to a minor subdivision that information about where the well and septic might be included as well and potentially information about the building envelop—where such items are sited on a lot could be important. Ultimately such information is needed in order to really evaluate the impact to the environment and farming. The planning board may be doing it now but it has to be formalized. Rody asked if a parcel which is used for agriculture could be landlocked by a subdivision which has taken up all the road frontage. Nan note that this should not happen there should be a right of way providing access; Rody noted that suppose that right of way was lined with trees—whose responsibility is it to make sure that necessary equipment can get through to the agricultural parcel. Nan noted that this was an example of how subdivisions should be reviewed in consideration of the land around it and to ensure that farm opportunities are not lost; layout can hinder farming but with a few modifications such a subdivision does not have to. Darryl asked if environmental assessments were required for minor and major subdivisions. Nan suggested that right now there was perhaps not sufficient information required to conduct SEQR for some projects. Sarah asked whether the planning board could consider the use of soils information to determine if a parcel in the future might be used for agriculture; this is available. John Brennan suggested that the Committee recommend that the subdivision regulations require a longer list of items from applicants in their upfront presentations. Nan noted that requesting such information upfront may seem burdensome but in reality it isn't; universally planning board processes are held up because people are asked after their first submittal to provide more information—if you ask for more information upfront this will make the process more efficient. The applicant has the ability to ask for a waiver not to include information requested. Darryl noted that this should not be cumbersome because the information is available online and maps can be included in the Town offices including information about environmental and farm features. Sarah will ask the planning board for a list of the process they follow and Nan will review it.

Article XI: With regard to variances Nan noted that the Planning Board can't issue a variance or change the site plan review law. The Planning Board can 'waive' a certain requirement for information; she would suggest strengthening and making clearer what is meant by a waiver. Right now she noted that this section is not compliant with NYS law and a separate appeals board needs to be established. The enforcement section is also vague and needs to be consistent with NYS law; typically it is the code enforcement official who enforces the law. Administratively the regulations need to be brought up to date. Nan will include such items in the audits.

There was debate about whether or not the maximum minor subdivision should be considered at two lots, three lots or four lots. Jim suggested leaving it at two; Rody suggested raising it to three to allow for local people to subdivide for their children. Committee members were asked to think about the impact of subdivisions over 20 years. Rody suggested that other towns were at 3-4. Don noted that we as a Town thought more sensitively about subdivisions. Major subdivisions cost more money and will

generally be undertaken by larger developers who in turn pass this cost on to the buyer. What if a developer wants to put in 20 homes. Nan noted that 100 minor lot subdivisions done incrementally could have the same impact or more as a huge subdivision undertaken by a large developer. Don suggested that when the laws were drafted the intent of holding the maximum minor subdivision at two was to keep development at a slow pace and actually discourage major subdivision. Sarah asked Brennan if he knew anything about the impact of Luther Forest and if impact studies on communities like White Creek had been commissioned or the impact of such economic development strategies on agriculture more particularly reviewed. Brennan suggested contacting Rocco Ferraro of the Capital Region Planning Commission to come speak and noted that the Town of Malta was looking at strategies to protect its character.

Right to Farm Law:

Nan reviewed the Right to Farm Law and as with other land use regulations conducted an audit with an eye toward ensuring that it supported the vision statement and goals outlined in the plan and was farm friendly. She suggested that the law be reorganized; typically the legislative intent and policy statements come first. Critical definitions are not included in the law—like agricultural products and farmer and agriculture. Those definitions developed for the Comprehensive Plan and Farmland Protection Plan could be used. Consideration should be given to amending the law to include a mediation board. In Section 3 the main thing missing in the desire of the town to declare the “Right to Farm” is not there. The intent of the law needs to be established more concretely. In Section Four talks about what is a ‘nuisance’; there are five-six standards that have been developed describing what is a nuisance and she suggests that these be included in the law. Nan will provide a list of these 5-6 nuisances. Section 5 is generally good but needs to actually reference the NY law and add a NYS disclosure policy regarding the policy of NYS and White Creek to conserve, protect and encourage the development and improvement of agriculture. A copy of the policy should be available from the Town Clerk and should be given to Real Estate Agents to share with landowners and prospective buyers. Real Estate Agents are supposed to disclose that a property is in an agricultural district. This disclosure might also be included in the subdivision and site plan review process as well because many times these do not involve real estate agents. (Nan will add this need for a disclosure statement to the audits of the Site Plan Review and Subdivision Regulations.) Brennan mentioned a paper that he could forward that helps municipalities connect the dots between various policy documents. With regard to Section 10 of the Right to Farm Law, she noted that current it is found at the end of the law; most laws put it more upfront and as a major thrust of the policy. The intent is fine but as written the law requires that parties will submit their dispute to a grievance committee—rather than giving them the option of settling the controversy in direct negotiation and then offering the opportunity to go to a grievance committee. She suggested renaming the committee to a ‘dispute resolution committee’ and make the law clearer that dispute resolution should be encouraged before taking someone to court. She suggested that giving the Town Board a role the authority to resolve a dispute may be problematic and it may not even have such authority to do so. She suggests that the Town board should be taken out of the dispute process—as essentially this is asking a legislative body to become a judicial body. Jim suggested that if parties were required to go to the dispute resolution board this could be a step before going to court. Nan noted that you can’t take away someone’s right to go to court and can’t mandate that they go to dispute resolution. Rody suggested that more local bodies have more information to make an informed decision. Carol noted that some people may want to take the matter to an arbitrator; Vermont has a tradition of this; outside costs of an arbitrator should be born by the parties in dispute. A larger question was asked if the Town of White Creek actually has a ‘grievance board’. Can it be established by the Town Board as needed and what is its composition? Do farmers’ more broadly need to be involved? Legal counsel should not participate in the grievance committee. (Nan: I think you were going to give some guidance here right?) Jim noted that being part of an agricultural district allows for certain rights of land use and these have to be upheld by the Town. It was suggested that Town consider revising the law to

‘encourage the use of a local grievance/dispute body’ before sending the parties elsewhere to resolve the dispute.

NYS Department of Agriculture: In closing, John Brennan thanked the committee for its work on the plan. He urged the committee to consider strategies to promote and encourage the next generation of farmers and engage new, young farmers (20s and 30 year olds) in agriculture in White Creek. He noted and applauded the community for two articles in the newspaper the Eagle regarding new agricultural businesses in the area including a natural beef raiser in Salem. He asked the committee to think about adopting other strategies to diversify local agriculture, promote local markets for products and experiment with new approaches to agriculture through new partnerships. For example, there are grant programs to allow farmers to create greenhouses to grow salad greens on a more year round basis and start seedlings earlier. (He will send Sarah the information to pass along). Carol noted students from Bennington College interested in agriculture frequently visit Happenstance, the organic farm she and her husband run. (How can these links be strengthened?)

Next Steps:

- **Audits in the Plan:** The Committee has to decide how it will include (or not include) recommendations regarding the audits of the Site Plan review, Subdivision and Right to Farm Laws. Following some discussion it was suggested to include a summary of the recommendations from the Site Plan Review, Subdivision Law and Right to Farm Law in the body of the Comprehensive Plan and then include the full audits undertaken by the consultant as appendices. The language used would ask the Town to ‘consider’ changes. Details of such changes would be worked out subsequent to the adoption of the comprehensive plan most likely with the support of a Town Board appointed committee and would go through a public review and hearing process. Outside counsel would probably need to review the revised laws; Nan will provide insight on the types of experience the Town would look for in such a professional. Nan will prepare text for the Comprehensive plan summarizing the recommendations to share with the committee for its input.
- **Planning Board:** As per the last meeting, Sarah and Jim will attend the February 3rd White Creek Planning Board meeting to review and get Planning Board Member’s feedback on the audits of the Site Plan Review law and Subdivision Regulations. Sarah passed out for review a draft memo to accompany the audits for the Committee’s consideration. Brennan noted that it was a positive step to engage the planning board at this stage in the process. A planning board member is also on the Steering Committee.
- **Public Meeting:** To seek input on the emerging Comp Plan and Farmland Protection plan vision, recommendations etc , the Steering Committee will hold a public meeting on Weds. March 17th in Jermain Hall. Articles will be placed in the newspaper and steering committee members are urged to invite community members and farmers to participate. The Steering Committee will develop a plan for the meeting agenda and format at the February 17th meeting.
- **Next Meeting Weds. February 17th at 7:30pm in the Town of White Creek Mountain View Drive Offices.** Purpose of the meeting: review mobile home ordinance and plan for public meeting in March