

**TOWN OF NORTH EAST ZONING REVIEW COMMITTEE  
MINUTES  
December 20, 2021**

The Town of North East Zoning Review Committee meeting took place on Monday, December 20, 2021, via Zoom at 6:30 PM. Board members present were Chair Edie Greenwood, Dale Culver, Ed Downey, George Kaye, Julie Schroeder, Bill Kish and Dave Sherman. Also in attendance were Will Agresta, Eliot Ramos, Sam Busselle, Meg Winkler, Kathy Chow and Deb Phillips, secretary to the Zoning Review Committee.

Chair Greenwood opened the meeting at 6:30PM. She announced she would meet with Bill Kish and Ed Downey to discuss the December 12, 2021, materials that Will Agresta sent to the Committee.

Greenwood asked Agresta to explain the difference between an overlay district and a floating district. A full description of both were provided by Agresta.

At the last meeting Downey suggested we begin the discussion of the Land Conservation District by asking "Is It Really Just About Land or is it a Resource Conservation District?" We need to think about the risks and justify why we need to manage them. For example - Flooding: Increased risk caused by climate change.

Kish: Much of Millerton's business district is adjacent to or (in some cases) within a flood district. It's critical that we understand how the possibility of heavy-duty flooding might impact that district. We need to protect our water, habitats and wildlife corridors.

Sherman: He is concerned because the Town's municipal water is from ground water; we do not have an aquifer protection area or a well head protection area around that resource. That's important because it is our sole source; we don't have multiple locations to pull water from for our citizenry.

Chair Greenwood: North East is the head waters of two major water sheds. It's vital that our Town care a great deal about water pollution. It's remarkable how much of our Town is in an aquifer recharge area (see Comp Plan Appendices page 28). The current code hasn't addressed the many steep slopes we have. We haven't had ridgeline protection either. Being able to integrate the best practices for dealing with steep slopes in an LC District makes a lot of sense.

Kish: Asked Agresta if the FEMA 100-year flood area that the Committee is seeing is up-to-date.

Agresta: It varies from location to location because the maps are updated periodically. Regardless, they are regulatory of what's being enforced. The DEC wetlands are a small amount of the overall wetlands. He thought Devin Rigolino would have the National Wetland Inventory as it's readily available. When you are on the Parcel Access, you can see the 100-year floodplain and the 500-year floodplain; the majority of the areas of the map are the 100-year ones. It also shows the locations of some of the elevation data studies that were done. It shows the base flood elevation in certain locations. These maps don't show the floodway. They show a historical floodplain and a map floodplain which may be updated.

Chair Greenwood: Asked how other towns go about defining land conservation districts.

Agresta: Most towns have dealt with aquifer protection zones, flood plain regulations which North East has, and an inland wetlands law. Some Towns get into agricultural protection separately.

Chair Greenwood: Asked if a wetlands law would be separate from zoning.

Agresta: Most towns that are regulating wetlands have a separate law. Wetlands laws don't necessarily restrict use; they create a permitting process. An applicant shows what they want to do and then show how they are avoiding impact, or how they are minimizing and mitigating the impact.

Downey: Asked if any municipalities create an overlay district which includes within it the critical areas, based on available studies, where there is a high probability that there are issues.

Agresta: You could have the layers that are the bases that you know generally where these critical areas are. They aren't creating the district line, they are just giving you an overlay of the Town of where these resources typically are, based on the data available. But at the time of development, you're going to map these specific to your property. That's exactly how a wetland law works. Looking at your zoning ordinance, I don't see anything about wetlands.

Chair Greenwood: Asked if that sort of detail be included in our Zoning Law so a prospective developer would know what they are getting into.

Agresta: Yes, you would define the resources that you're interested in protecting and you would tell them the standards. You're getting at impact avoidance, minimization and mitigation, in that order.

Kish: Question about corridors. Wildlife corridors have very little to do with property a boundary. Would we ask Hudsonia to propose what the corridors would look like?

Agresta: There are two ways of looking at that: There are corridors and there are defined corridors that are of huge scale, but animals don't take the same path every time. The best to look at is unfragmented habitat that kind of creates a corridor. When you fragment that habitat, that's when you start messing with the movement of animals. It is subdivisions that are going to affect the corridor.

Agresta: One thing that is clear is that you have a lot of Ag land in the Town that by its nature destroys the biodiversity.

Chair Greenwood: Asked what the next steps should be to create the LC district.

Agresta: You have to decide what you want to do with this LC District. You have to define what is the content of it.

Agresta: Do you want to define the criteria and have a district so if you're in it, you're in it? Or do you want to do it a different way where it's more of a regulatory process of defining it on a case-by-case basis?

Kish: It seems like a combination is the two would be the way to go. The stuff that is easily mapped, we should map. The stuff that is not easily mapped, we have to do in regulatory fashion.

Agresta: The mapped way is a little stronger in some respects.

Agresta: If you're going to do a district, that means you have to map it to some extent. You could have it mapped on a case-by-case basis and treat it as an overlay district. What you have now is a natural zone. An overlay zone is based on the resources that get mapped on a case-by-case parcel-by-parcel level. Then you regulate it accordingly. That's a strong thing if you do it that way. The only drawback is it isn't as obvious to everybody because they're going to have to do some work to make sure what's in and what's out. Whoever is regulating the zoning would have to be comfortable confirming those mappings on a parcel-by-parcel basis.

Downey: This overall point of conservation should be viewed as an interrelated exercise. If we could create a comprehensive overlay, identifying those particular areas which we think are important, there needs to be scrutiny done when there is a particular resource contained in the parcel. It seems we could do it in a way that made us think about it holistically, it might be more effective but also more flexible in the long run. Another goal we have is to make our land use regulatory process heavily front-loaded, so an applicant knows what it is they need to respond to.

Chair Greenwood: Asked if aquifers would be an appropriate part of an LC.

Agresta: Most of the aquifer protection laws prohibit certain types of uses. You can build in the aquifer area; you just don't want to pollute it.

Downey: Asked if we created this sort of comprehensive overlay zone, would it mean that we wouldn't have a land conservation district?

Agresta: You would have the undefined overlay district which is defined by certain resources. Then when development comes, they do it on a case-by-case bases. The LC overlay district wouldn't be mapped on the zoning map. You might have an appendix that shows you the available resource data

it's including, like the DEC map, the NWI map, aquifer map, the FEMA floodplain map. Those are all used as resources; you'll map all these things as they exist on your property. Then you will have supplemental standards on what you can and can't do in those areas. That might be different depending on what resource you're talking about; you might say certain uses aren't permitted. It is more comprehensive than just mapping the district and stating the uses that are allowed.

Kish: Prefers the approach that describes what the resource is and how to protect it be as a standard.

Agresta: If you map what I said (DEC, NWI, FEMA), you can limit what can be done in those areas. The point of having these maps that you have been collecting from the County, is to see how much of the Town land does it affects and where it is located.

Kish: Let's map what we know is there, and also make people aware that there may be things that we don't know about and it's going to be their responsibility to tell us whether they exist or not and here is the exhaustive list. And by the way, if you find them, these are the ways in which we expect you to protect them.

Agresta: There are two kinds of standards. Right now, your code is heavily related to the uses. You have a use, and that use has specific standards. Not every use has that, but a lot of them do. The other kinds of standards are for example landscaping. The current code doesn't have a lot of details for standards about landscaping, how much landscaping a site need. You have a series of standards to go with landscaping. The other part we were updating are the use standards. If you have a special permit use, you should have some standards that go with the special permit use. You develop standards to comply with the points outlined in the Comprehensive Plan.

Chair Greenwood: We have a deferred issue in terms of uses that requires a vote. In the M-A District we need to decide if we are allowing commercial storage warehousing as a principal use. We decided to allow it in the Irondale Business District.

Agresta: Before you do that, when you think about a warehouse or a manufacturer, the other sub question would be if you not allowing it to be a principal use, you could have a manufacturer and 90% of the facility could be a warehouse and not necessarily be a principal use.

Chair Greenwood: In our discussions, we've never object to storage as an accessory use.

Agresta: My point is if you have a manufacturer and 90% of it is warehouse, is the length of it being entirely warehouse the end of the world.

Kish: We've never discussed the 90% possibility. We only have one M-A District in town, it's one building. If that building were to become 90% warehousing, how many jobs would disappear. That's what worries me about allowing this is as the principle use in that area. If a buyer such as Pepsi-Cola become the current, then it would likely become a warehouse. Once it becomes a warehouse, it's very hard to un-warehouse it and that's not good for the economic environment in our community.

No votes: Kish, Downey, Sherman.

Yes votes: Culver, Schroeder, Kaye, Greenwood.

Warehousing, Commercial storage buildings will be a permitted use in draft M-A district.

Chair Greenwood: Our next meeting is scheduled for January 10 from 4:30 to 6:30 PM.

#### Public Comment:

Sam Busselle: He felt the approach of assessing risk versus dwelling on regulations is the right approach. One of our overarching roles in the Comprehensive Plan is to determine how we can improve the commercial spaces in order to increase jobs. That should be one of our performance standards that relates to one of our overarching goals. It's fine to worry about the bog turtle but what about the number of people who can't afford to live here. What about inequality and segregation. The same thing is true with agriculture. That's a huge resource; how do we increase that resource with our zoning. There's nothing here in terms of performance standards.

Another aspect is that housing should be within walking distance to the Village. Can there be a limitation then to someone buying or being able to develop a piece of property next to the Village? They can't build their own single estate without considering the issue of our need for concentrated housing. Tom Parrett mentioned the current subdivision application for 11 parcels which are obviously going to be for the very well heeled. Do they have to consider providing some housing or some funding for housing for people who are going to work for them? I think all of those issues are intertwined.

Ed was mentioning it in terms of the resource-related areas. Resource-related areas has to do with being able to employ more farmers or build another creamery. Housing has got to be one of the resources that we are looking to provide, and we need a performance standard for that. I think the discussion that was made between the standards that have to with regulations and the ones that have to do with our goals for the Comprehensive Plan are two very different things. I think the way the discussion was going of the LC District you concluded that you wanted a description of what should be confined in a conservation district in terms of water and flooding could be in other districts. You just mentioned it's important and you want an applicant to take that under consideration when they are wanting to divide or buy a piece of property. I'm encourage that that is sort of the framework you are trending toward. It's absolutely correct that we spend more time on those implications for our North Star or our desirability of getting people to live here that can afford it. The jobs are extremely important, and it doesn't come with an initial zoning definition if you go by just the size of the property.

Chair Greenwood adjourned the meeting at 8:30PM.

Respectfully Submitted,

Deb Phillips  
Zoning Review Secretary