

**Planning Board
August 22, 2013**

Members Present: Wendy Martin, Joseph Laquatra (Chair), Thomas Hatfield, David Weinstein, Craig Anderson, Marty Hatch (excused)

Town Staff: Jane Nicholson - Town Planner and Mary Ann Sumner – Town Supervisor

Town Board Liaison: Joe Solomon

The meeting was called to order at 7:00 PM by Chairman Laquatra.

Review and Approval of minutes from July 25, 2013. T. Hatfield motioned to approve the minutes as presented, C. Anderson seconded the motion. All approve.

Supr. Sumner shared the following documents:

Tompkins County Comprehensive Plan

Tompkins County Area Development; Five-Year Vision for Economic Development

Supr. Sumner attended the TCAD meeting today; the County is embarking on a review of their comprehensive plan. The first paper (TC Comp plan) has a list of topics in the current plan and potential other topics; they are asking municipalities and other stake holders to express an opinion on which of those areas are of most interest. She suggested adding open space planning and the Ithaca Town Supervisor suggested including public safety, in particular fire and police protection. She is sharing them to give us insight into their process and things for us to consider for our process.

The second document was given to Supr. Sumner a couple of weeks ago – she is a little disappointed with the report and presumes there will be more writing to follow. She likes the continued interest in the retention and expansion of existing businesses and entrepreneurial ecosystem. She thinks this is an opportunity to get more involved with TCAD and more knowledgeable. We don't do a lot of economic planning here. She recommended reviewing these documents in light of our current plan to update the Comprehensive Plan.

NYSEG has a new realty consultant and asked Supr. Sumner to visit the facility. Jane Nicholson also toured the facility.

It has an amazing amount of reconfigurable office space, a bomb shelter, an excellent dining facility, and an auditorium. They are still using the other side of the building for administrative functions and the utilities for the building all come from the west wing. They would like to rent it long term but would consider selling the building and leasing back the part they are currently using. The switches that run this part of the grid are in the basement of the part they want to lease. Supr. Sumner is interested in it as conference center which she believes Tompkins County lacks.

There are a lot of issues with the building including asbestos that needs to be cleaned up. Ideas for property usage were discussed including the potential for a future conference center or IDA. T. Hatfield questioned the lack of facilities in Tompkins County that can handle a conference of 100 people? D. Weinstein said that part of the new Holiday Inn expansion is a conference center.

Scott Doyle: County Planning Department

Handouts:

Memorandum regarding 239

Guide to Planning and Zoning Laws of New York State

A map of Dryden depicting the Properties Subject of County Planning Agency Review under General Municipal Law Section 239, as of March 1, 2001.

Staff have reached out to him to ask for a 239 review update. He is happy to be reaching out to remind everyone of the process and the updates. He has not reviewed this material with the Planning Board in over a year.

Mr. Doyle grew up in upstate NY but moved to a western state that had from the top down planning. He is very happy to be back in a region that has local land use authority.

This is an attempt by the state to frame how Counties can review projects for county-wide impact. He spent about 30 minutes reviewing the memo with the Board and highlighting areas that he felt were important, including what type of actions are subject to review, what is outlined by state law and how they do the processing including what they can improve.

The State requires certain actions be sent to the County Planning Board for a review to be conducted within 30 days. The county planners often work with municipalities to try to compress that time. If the County doesn't review it within the 30 days, then the Planning Board is free to do as they wish. The turn around has been reduced to about 2 weeks.

They also need to receive the full statement (a complete application) which is everything that the local Planning Board is going to look at to make a determination.

D. Weinstein raised a scenario in which if the Town is doing a site plan review, the Planning Board might identify things that need to change. That suggests that the PB needs to finish the Sketch Plan Review before they get it to the County. And yet, the PB is waiting for the County review because the PB may add some things that need to change because of something that the County pointed out. It is a chicken or egg thing and how do we move forward?

Mr. Doyle agreed with the scenario. Typically the county reacts based on the PB's initial reaction, the requirements that the Town has asked for, or changes they have requested.

Supr. Sumner clarified that the local staff decides when the application is complete and the Planning Board and the County both look at the materials at the same time. The Planning Board has to wait for the decision from the County before they can actually act on the Sketch Plan.

Mr. Doyle said that one thing they try to do is get their information out to the Planning Boards at the same time the packets of information are going out to the members. One thing that causes problems are last minute decisions; they hurt the planners.

T. Hatfield added that the folks trying to get the permit are hurt as well. He pointed out that they just received a bunch of stuff about creating jobs in the next 5 years (TCAD), and he feels that the Planning Board has a responsibility to move quickly on projects that can stimulate the local economy.

In the Overview of Actions in the memo, the last statement is regarding the legal challenges that a Town can face should they fail to follow the process. Most of the legal challenges are down state but it still provides support for the process.

Mr. Doyle then went through the list of actions subject to review, most of which are familiar because they are the same actions the PB reviews.

The map, although dated, gives you a feel for what properties are generally subject for review, most farms are not. The staff is pretty savvy about what is reviewable and what is not. Some jurisdictions just send things anyway and they will often catch it and send a letter back that day. He offered to update the map and Supr. Sumner asked that he send her a copy.

What do they look for when they review the applications? They are not trying to hinder or block action and try to get the review back as quickly as possible. They may propose a modification that they encourage the Planning Board to incorporate into the plan. If the Planning Board doesn't feel it is necessary, members can override the suggestion with a super majority. There may be occasional rejection letter but percent-wise, most reviews are returned with no county impact.

Technical assistance will only be offered if the Town requests it.

Mr. Doyle continued going through the Memo with the Board. Page 3 has a list of criteria that the County will look for in a Comprehensive Plan. The newest are #19 and #20 dealing with energy use. They are strongly encouraging energy conservation.

J. Laquatra pointed out that in a town downstate, they have incorporated a requirement that all houses be Energy Star compliant.

Supr. Sumner – at the last Board Meeting, the Sustainability Planner had requested support for a grant which would require all homes to have an energy rating before they are sold. The Town of Dryden's Board did not support the grant but thought it was an interesting idea.

The last page of the memo includes information regarding inter-municipal agreements that say the County doesn't review some types of things. The Town of Dryden has not entered into one of these agreements and Mr. Doyle is encouraging the Planning Board to look into that.

T. Hatfield suggested that we don't need more exceptions because otherwise it is something that has to be managed. We can have the county look at everything. It is a matter of how we are going to deal with it in a timely fashion. When we know it is something that is going to be local, and if we get to move the thing, we can make it subject to your review. That is what we did last time we met, it was subject to county (l) and (m) review. If it comes back negative, then we need to deal with it. There is no reason in the world to not move it along; we expected no action from the County. We have been at it a long time and some of the municipalities in this County don't have the sophisticated Planning Department we do. We have 2 different sand boxes here, they are responsible for the County, we are responsible for the Town of Dryden. So it is our sandbox which is why the supermajority can override County review; it is the way the whole thing was put together back in the day and it has been that way for a long time. He doesn't think that we need a list of exceptions because it is just something more for someone to manage.

Mr. Doyle agreed that it does take more thought when you have to decide whether to send it for a County review.

T. Hatfield doesn't see anything wrong with having County look at everything, just that sometimes the 30 day delay is more than a person needs.

Mr. Doyle responded that in most cases, all these things (the list of exemptions that other municipalities take care of) are set up because we see them as having no County impact. So you are right, it would be a quick County review and typically a non-impact.

T. Hatfield guesses that anything that the County would find to have an impact, the Planning Board would have already determined would have an impact. The wait to 30 days is moot.

Mr. Doyle agreed that in most instances that is the case.

T. Hatfield said he was glad Mr. Doyle came out because he thought maybe some things had changed. This is exactly what it was 20 years ago and it doesn't sound like it has changed that radically.

Supr. Sumner interjected that the County is trying (and succeeding) at doing better. Mr. Doyle said they look to the municipalities for support, he tries to respect the municipalities' meeting schedules and try their best to get back to them. He is happy that communication with staff has improved.

D. Weinstein- the only thing that you have mentioned that would directly affect this Board is we have administrative review for subdivisions less than 5 units. If it falls into the category where you should review them, suppose there is a conflict between what you think and the Planning Board?

Mr. Doyle, having reviewed that framework as part of the Zoning update, said they didn't take issue with the process so theoretically you could have some of those projects coming through but I think the key piece of this, the law, connects with the discretionary decision of the local municipal board such as the Town Board, ZBA or Planning Board. If the County said no but the Town says yes, they have to come to the PB to get a super majority.

Supr. Sumner asked if a CEA is subject to a 239 review?

Mr. Doyle responded that it was not subject to a review but they want notification when/if the CEAs are approved.

Mr. Doyle left at 7:50PM

J. Nicholson said that the reason S. Doyle was asked to come was because at the last meeting the Planning Board did a Sketch Plan Review for the Finger Lakes Library System and the process did not go according to the legal process that they need to follow. After the meeting, a couple of members talked to J. Nicholson to let her know that some members might not understand the process.

J. Nicholson handed out a powerpoint (attached). It contains the steps necessary for an applicant to receive approval.

D. Weinstein asked about the situations where the applicant has a terrible sketch and the Planning Board sends the applicant away with recommendations for improvements. How can it be sent to the County before the sketch plan is finished?

J. Nicholson said that the Planning Department is required to review and make recommendations. As soon as the information is complete, even if it is less than ideal, it goes to the County with the same recommendations that go to the Planning Board.

D. Weinstein pointed out that the first sketch is not the one that we want the County to review. We prefer that they be looking at what happened after the sketch plan review.

J. Nicholson said that if changes are suggested and made, the new information goes to the County and the process starts over again.

The Planning Department forwards the materials for a sketch plan to the Planning Board a minimum of one week ahead of the next meeting. She has the authority to determine whether they turned in all of their materials early enough to schedule a sketch plan review. If it is less than a week, then she will usually have them wait until the next month.

Supr. Sumner stated that timing has been a problem with the Town Board, if the information is not turned in on time, then the schedule/agenda might be full.

J. Nicholson commented on the possibility of putting a time requirement into the code, guaranteeing the material will be turned in a week before the next meeting.

T. Hatfield said that is counterintuitive to him because we live in a culture where people turn things in last minute, that is the mentality out there in the world and the market that we live in and for us to be going the other direction, or say that the agenda is too full and they will have to wait a month, he has a problem with that.

J. Nicholson responded that it does depend on the project but it is not fair to the PD - these things take time. To try to slip things in last minute, that is too hard to get it all done. T.

Hatfield agreed that it takes time. J. Laquatra stated he thinks the deadline a week before the Planning Board meeting is good and then they barely make that deadline.

Supr. Sumner suggested that it is fair to say, procedurally and to put in writing, that if an application is received less than 10 days before the meeting, scheduling becomes contingent on the PB agenda and PD ability to get their review done.

T. Hatfield pointed out that in the past they got the sketch plan when they arrived at the meetings so a day or two ahead is great. The week seems too long but at the same time, he hopes that the PD has latitude to delay a sketch plan review. He stated that we need to encourage the development that people want to do around here.

J. Nicholson said that they have that latitude and it is being used. The Planning Department is encouraging local development and the staff feels it is a matter of respect for time and this Board.

C. Anderson observed that a week is probably a minimum since the board discusses whether they will have a quorum about a week before.

Supr. Sumner asked J. Nicholson if there is an option for skipping the sketch plan review. Say if they brought in a complete site plan, do they have to go through SPR?

J. Nicholson said that an applicant has to go through the entire process.

J. Nicholson said the Planning Department is in the process of establishing a separate checklist for Varna which has different requirements.

T. Hatfield (referring to Step 4) asked if we can waive further site plan review with conditions, accepting it as the final site plan. J. Nicholson said that we cannot do that. It is the law.

D. Weinstein asked why it is advantageous to have a site plan review instead of just putting conditions on a sketch plan.

Supr. Sumner verified that a sketch plan review cannot be passed with conditions. Once the conditions are added, then the plan goes to full site plan review.

T. Hatfield feels this is an issue for the Planning Board, he feels that the PB should be able to approve a sketch plan with conditions and the Planning Department should be able to enforce the conditions.

C. Anderson stated that the issue as he sees it, is forcing an applicant to come back to the PB a second time because of a simple step that may have been overlooked. Supr. Sumner asked for an example of a simple request. C. Anderson pointed to the landscaping and T. Hatfield agreed that the landscaping requirement was a simple requirement to him. Both J. Nicholson and Supr. Sumner disagreed and feel that landscaping is not a simple thing. J. Nicholson pointed out that landscaping is not a simple thing and she used Guisado's plan as an example. She is concerned that things might go wrong with the process and thus it is important to follow the steps. T. Hatfield has reservations about having applicants wait for over 30 days for their permits.

J. Nicholson stated that the applicants know what is going on when they first apply. The Planning Department goes through all of the steps with them. When the site plan is filed, it is the Code Enforcement Officers have to be able to identify each step and what has been approved.

D. Weinstein asked if there was a time limit on getting back the engineering report? J. Nicholson responded that the engineer we work with is TG Miller and we can request a timely return as long as it is reasonable.

Site plan review requires a long EAF.

Last month, the Board approved José Guisado's application without the County (l) and (m) review.

J. Nicholson stated that she told (former Chairman) J. Lalley that they could not pass a resolution last month but the Planning Board still moved forward. She is now asking that the Planning Board rescind the motion from last month and start over. Mr. Guisado still has not completed the landscaping plan in accordance with the Town of Dryden Zoning Ordinance. He is also showing a second road cut despite the recommendation from the PB last month that he talk to Treeforms (business next door) about sharing part of a driveway. In fact, Mr. Guisado put landscaping across the connecting gravel driveway.

D. Kwasnowski believes that this project needs to go to the DOT for review as well.

The following motion was offered for consideration:

Resolution #9 - rescind Resolution #8, Finger Lakes Library System approval

Whereas, the Town of Dryden Planning Board believed they could pass a Site Plan review with conditions and pending receipt of County GML § 239 (l) and (m) review; and

Whereas, it has been determined that they cannot attach conditions and they must wait for County GML § 239 (l) and (m) review; and

Therefore, be it resolved that the Town of Dryden Planning Board has withdrawn its approval of the Finger Lakes Library System Sketch Plan with conditions.

The motion was offered by T. Hatfield, seconded by C. Anderson and passed unanimously.

J. Nicholson then showed the PB the latest sketch that Mr. Guisado turned in.

The County has sent back their review and has asked that only one road cut be made rather than two. T. Hatfield argued that all businesses are required to have two egresses.

W. Martin asked who chose the plants for the landscaping. J. Nicholson responded that the Contractor insisted on doing it himself (he is not a landscape architect). In the Zoning code, the use of native plants is required.

Section 911: Use of Native Species of Plants Required

No required landscaped Buffer Strip, Site Plan or other required landscape plan or planting schedule shall contain or propose an Invasive Species, and no Invasive Species shall be planted or maintained in such Buffer Strip, landscape plan or plantings

W. Martin doesn't believe that the area between Rt. 366 and the parking area is conducive to plantings. The salt and plowing will make it difficult. If you are looking for evergreens that are hardy and will soften the landscape, then native plants are not the right choice. W. Martin stated that zoning is forcing the business to use wacky plants that probably won't survive over the winter. Favoring native plants is nice but not the best idea.

D. Weinstein said that the rule does not say you have to use Native Plants. The specifics say clearly that you are not supposed to put in any invasive species. That is the intent, not that you can only use native plants.

J. Nicholson responded that was what she was told by D. Kwasnowski.

W. Martin said native plant requirements are a hindrance to businesses.

J. Laquatra asked if the Planning Board is going to ask the applicant to use one drive way or two and disagree with the county.

T. Hatfield refused to put the public at risk by not having 2 ways in and out.

C. Anderson asked about sharing with Treeforms.

M. Hatch asked if there was an agreement in place between Treeforms and the FLLS. D. Weinstein responded that he thought there was a shared agreement but then J. Laquatra pointed out that with the plantings blocking the gravel drive, they clearly don't have an agreement.

J. Nicholson is going to ask the applicant to provide a copy of a shared driveway agreement.

D. Weinstein stated that it bothers him to set a precedent that if a place has employees, they have to have 2 accesses.

C. Anderson pointed out that a lot of places have a hard surface that a truck can drive on. If they need access they'll jump a curb or they will make it through another parking lot. A plastic chain across the second entrance will work.

J. Laquatra suggested asking Mr. Guisado to maintain the eastern access and share a driveway with Treeforms. That would mean eliminating the plantings between the properties.

C. Anderson asked if approval was dependent on sharing a drive. D. Weinstein pointed out that the shared drive would be for emergencies.

David Weinstein offered the following resolution:

Full Site Plan Review Required (Without Public Hearing)

Resolution # 10

Whereas, José Guisado representing the Finger Lakes Library System has presented a clear development proposal that meets the requirements of a sketch plan review per Article XI of the Town of Dryden Zoning Ordinance; and

Whereas, the Planning Board finds the project to be generally consistent with the zoning, design and comprehensive plan guidelines; and

Whereas, the Town of Dryden Planning Board and Planning Department have made suggestions and recommendations for consideration by the applicant before submission of the project for full site plan review to the Town of Dryden Planning Board;

Therefore, be it resolved that the Town of Dryden Planning Board requires a full site plan review without a public hearing for FLLS with the following conditions or modifications:

1. A shared driveway agreement with Treeforms for safety and emergency use.

2. A landscaping plan that conforms with the Zoning requirements as outlined in Section 911 text.

C. Anderson seconded the motion. All approved.

W. Martin offered the following resolution:

Resolution #11 – Changes to Section 911 of the Town of Dryden Zoning

Whereas, the Town of Dryden Planning Board believes Section 911 of the Dryden Zoning requirements is misnamed; and

Whereas, the requirement, as named, provides a significant challenge to business development in the Town of Dryden;

Therefore, be it resolved that the Planning Board asks the Town Board to review Section 911 and clarify it's meaning.

D. Weinstein seconded the motion. All approved.

There being no further business, T. Hatfield moved to close the meeting at 9:04 PM. The motion was seconded by D. Weinstein and approved by all.

Respectfully submitted,

Erin A. Bieber
Deputy Town Clerk