

Conservation and Sustainability Advisory Committee

Minutes of January 11, 2018 meeting

Present: Roxanne Marino, Robert Oswald, Don Ellis

Excused: Sue Poelvoorde, Brice Smith, Andy Hillman, Bara Hotchkiss

Other attendees: Michael Boggs (Town Board member), John Wertis (Planning Board member)

Roxanne called the meeting to order at 7:05 p.m.

Noted that there is not a quorum present, and so no committee actions can be taken.

Approval of Minutes

Minutes of the January 3, 2018 meeting are not available yet, as Sue is on vacation. Roxanne and Don took notes for this meeting.

Updates on Town issues or Board actions relate to Sustainability/Conservation

- There was a brief discussion of the Town Board work plan for 2018, which was discussed by the Board at their January 9 meeting. Michael Boggs said he would email the document to Roxanne, for distribution to the CSAC members.

New Business

- The proposed zoning law revisions (11-28-17 version as presented at 11-30 public information meeting) were discussed, with regard to the requested CSAC participation in the upcoming ZUSC roundtable with stakeholder groups (Jan. 18th). The group also discussed whether or not the CSAC might submit written comments to the ZUSC on the proposed revision (due Jan. 25th).

Don and Roxanne will participate in the January 18 meeting, for the CSAC. The ZUSC has requested that each stakeholder group come with 3 primary “questions”, and / or issues of concern. The group discussed this for quite a while, and identified the following 3 items, based on past discussions of the CSAC and the current thinking of the members present. Mr. Wertis and Mr. Boggs freely participated in the discussion.

Question / issue 1: Lack of clarity with regard to the regulations and administration of such for lot area and yard, and limitation on subdivision of parent tracts sections, regarding residential vs. agricultural use.

Question / Issue 2: The CSAC continues to support the idea of doing more evaluation of the proposed zoning map, to see if it makes better sense based on identifiable and objective criteria to make a more targeted, truly Agricultural Protection zoning with the more limited rules for residential subdivision, and allow more subdivision in directed areas where it might make sense, such as was raised at the last ZUSC meeting.

Question / Issue 3: A majority of our committee members have felt there is a remaining challenge to the ZUSC and the TB to more clearly articulate the goals of the zoning revision, and the defining reasons for the proposed changes. FAQ's are coming but not available yet from the ZUSC. As a sub-question,

why is there so much opposition? Is it due to misunderstanding, miscommunication, and lack of clarity on some key points? What are the true points of concern over how things will change from the current zoning, and can they be addressed with information-based rationale?

It was decided that Roxanne would work from her notes and Don's on this discussion, and draft a document to use as an outline for the ZUSC roundtable discussion on 1-18, and to circulate by email to the committee, for input and then for consideration of submission to the ZUSC as comments on the 11-28-17 proposed draft zoning law. This would be done by email vote, as we don't have the possibility of another meeting before the 25th.

Next meeting and agenda items

- third Thursday in February, 15th at 7 pm, Town Hall); discussion of Town Board 2018 workplan

Meeting adjourned at 8:45 p.m.

Follow on notes (1/29/2018):

Roxanne prepared and submitted a draft of the above referenced set of comments, based on this meeting and several earlier discussions of, and submissions by the CSAC on this topic. Due to busy travel and professional schedules, the CSAC was not able to achieve a quorum by email responses between the Jan 18 ZUSC meeting and the due date for these comments. There were 3 votes in support of the circulated document formally representing the CSAC (Marino, Oswald, Poelvoorde), with the rest of the committee not available to respond in the necessary time window.

As such, the comment document (inserted below) was submitted by chairperson Marino, with the clear acknowledgement that it was not an official submission from the CSAC.

Comments to the ZUSC on the 11-28-2017 draft Zoning revision

Submitted by R. Marino, chair of the Conservation and Sustainability Advisory Committee
1-29-2018

These comments and questions are drawn from, and well reflect discussions at the Jan 11, 2018 CSAC meeting in preparation for the Jan 18, 2018 ZUSC roundtable, and email follow up to that meeting by RM, with the committee. These comments also raise other points consistently discussed by the CSAC during the course of the ZUSC zoning revisions project, and in preparing statements from the CSAC to the ZUSC both orally or submitted as previous written comments (May 2017; Sept 2017).

However, this document does not represent an official submission from the CSAC.

Due to busy travel and professional schedules, we have not been able to achieve a quorum at the most recent meeting (Jan 11) or by email response between the Jan 18 ZUSC meeting and the due date for these comments (Jan 25). As such, this submission is made with 3 votes in support of the document formally representing the CSAC (Marino, Oswald, Poelvoorde) and the rest of the committee not available to respond. We appreciate the brief extension to the comments deadline that we were given by the Zoning Officer.

For the Jan 18, 2018 roundtable, the ZUSC requested that each stakeholder group come up with 3 primary questions / issues of concern; those are detailed below. Additionally, we have included other comments and questions that have arisen during the course of our committee discussions on the most recent draft revision documents.

Q / Issue 1: Lack of clarity with regard to the regulations and administration of such for lot area and yard (Section 212-29), and limitation on subdivision of parent tracts sections (212-29.1), regarding residential vs. agricultural use. Regulations as written don't seem to agree with oral comments and answers to questions from the public, given at recent ZUSC and related public meetings.

Examples:

For the Lot area and yard requirements, C – “maximum lot size shall be 4 acres.”

- **Should this say “residential lot size” to be most clear?** or better “maximum lot size for a new dwelling”? The latter gets away from whether the parcel is residential or agricultural?

Our committee asks how this will work in practice, with regard to enforcement, if there is a different standard (i.e. allowed lot size) for a purely residential vs. farmland parcel? How do you avoid “gaming the system” if there is a different standard for residential vs farmland parcels, with regard to allowing residences? See following, related comments.

- **Does the current zoning draft intend to permit a residence to be built on any size new lot, if the lot is used for agriculture / farming?** There is confusion. It seems that we have heard this said in answer to questions on the proposed zoning during recent ZUSC and other public meetings. If true, this seems in contradiction to what is currently written in Section 212-29 and 212-29.1. Those sections never address residences on farms / actively farmed land as a separate consideration, and do not have language that seems to allow for dwellings on parcels larger than 4 acres.
- **Does the ZUSC have examples of how this sort of requirement is enforced in other municipalities that have such a provision in their ordinance?** Or examples of other Agricultural Protection Zoning ordinances, as a maximum lot size is non-farm lots is often recommended as an important provision to help ensure that farmland is protected. It would be helpful to have examples / an explanation in the Q&A the ZUSC is preparing, for demonstrating to the public how this approach works in practice.
- **Clarification is needed on the total number of subdivided lots allowed from a parent parcel, and the relationship to use.** Section 212-29.1 clearly says “A parent parcel may only be subdivided to create no more lots than equals the total number of acres of the tract divided by 15 and rounded using normal rules.” This would seem to define the total number for all lots, agricultural or residential (with or without a dwelling)?

Then 212-29.1 C says: if a parcel resulting from subdivision consists of 20 acres or more with the intent to remain in agriculture (not eligible for a building permit for 25 years), ... this subdivision does not count toward the total number of allowed subdivisions of the parent parcel.

So, **is it the case that Ag parcels** (certified somehow by the owner) **20 acres or more don't count towards the “divide by 15” total, but smaller parcels kept in agriculture** (i.e. parcels larger than 4 acres, but less than 20 acres) **DO count** in the total subdivisions allowed?

If yes, then might small farms (> 4 but < 20 acres) be viewed as being discouraged vs. farms larger than 20 acres by the parent parcel owner, due to reduced ability to maximize subdivision of the land, with regard to provision (C) above? We are just pointing out that a clearer understanding of the rules and options is needed by all.

And if the above understanding is correct, this seems to be at odds with oral explanations given at ZUSC and other public meetings in response to questions regarding when a farmer can build a house and live on their farmland. Perhaps we have misunderstood those answers by the consultants, but we feel this issue needs clarification in the proposed written regulations, and in the FAQ's being developed.

- **A related, and important clarification needed:** If someone wanted to purchase land subdivided from a parent lot to farm, and live on the farm, do they need to purchase 2 lots, one for the farmed lot (larger than 4 acres, no residential building allowed on it), and one for the farmer's residence?

Q / Issue 2: The CSAC continues to support the idea of doing more evaluation of the proposed zoning map, to see if it makes better sense to have a more targeted, truly Agricultural Protection Zoning area with the more limited rules for residential subdivision, and another zone (Ag/Rural?) that allows more subdivision in directed areas where it might make sense (availability of municipal water, etc), based on objective criteria. This idea of relooking at the map was raised at the Jan 8th ZUSC meeting (extending the Conservation zoning type min lot size of 5 acres in the SE portion on the town contiguous to the CZ, increasing / keeping R1 or R2 near Trumansburg Village in NW portion of town, etc.). We support all of these considerations and further analysis and possible revision of the proposed zoning map.

- There might be a smaller, but more truly protected area of the town for agriculture and very limited residential development into the future, using for example Agricultural Protection Zoning principles. The area designated should be based on a set of justifiable criteria (for example, soil type, a concentration of larger / viable farming tracts, etc).

The CSAC remains concerned over issues with the current proposal (and described in our May 4, 2017 submission to the ZUSC) such as fragmentation of the road frontage with residential lots and associated issues of water quantity and quality problems, and eventual demand for water districts, and increased conflict between residential and farming uses (health, noise, odor, farm vehicle traffic, etc). A smaller, more focused APZ could allow for more stringent constraints on the amount of allowable residential development, and reduce the potential health and environmental concerns and neighbor conflicts that Ag and Markets law AA-25 (section 305-a) also seeks to minimize.

Q / Issue 3: We feel there remains a challenge to the ZUSC and the TB to **more clearly articulate the goals of the zoning revision, and the defining reasons for the proposed changes.** We support generation of a FAQ's document, and are interested in it and willing to review drafts.

- Related question that came up in discussion: if this zoning revision makes sense for the Town, why is there so much opposition? Is it due to misunderstandings coming out of miscommunication and lack of clarity on some key points? What are the true points of concern over how things will change from the current zoning, and can they be addressed with clearer explanation supported by rationale?

Comment: The CSAC agrees with NYS Ag and Markets (AA25) declared policy on the value of agricultural lands and the importance to protect them, and supports zoning that will help achieve this.

Excerpted from section 300, Article 25-AA, Declaration of legislative findings and intent:

“It is therefore the declared policy of the state to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds, as well as for aesthetic purposes. ...It is the purpose of this article to provide a locally-initiated mechanism for the protection and enhancement of New York State’s agricultural land as a viable segment of the local and state economies and as an economic an environmental resource of major importance.”

Comment: Section 212-27, -28 Uses allowed by site plan approval, special permit

- **212-27 E. Animal Processing structures. The CSAC strongly opposes this use being moved to an allowed use by Site Plan Review (212-27), and would like it moved to back to the use allowed in the current zoning, by Special Permit (Section 212-28).**

As expressed in the document CSAC Recommendations to the ZUSC (submitted May 4, 2017), we feel that these type of facilities (along with CAFOs and animal-waste storage facilities, which in the current draft have been returned to section 212-28, Special Permit) must be sited and constructed to minimize any and all threats to public and environmental health. The specific topography of our town, with its many streams and roadside ditches feeding into major creeks that flow directly downhill into Cayuga Lake, makes this a particular challenge requiring extra oversight. Cayuga lake is an important resource for drinking water, recreation, and tourism, and pollutants associated with poorly sited or run animal confinement, waste, and processing facilities (such as harmful bacteria, excessive nutrients, and volatile toxins) can have serious negative impacts on health and environmental quality. It is the responsibility of the Town government to have regulations in place to best protect all our residents, and to be good stewards of the environment.

- **212-28 B, C The CSAC strongly supports keeping Animal Waste Storage Facilities (B) and CAFO’s (C) in Section 212-28, uses allowed by Special Permit.**
- Further, we maintain that **stronger specific standards for all three of these uses need to be developed and included in the revised zoning.** The CSAC members are happy to assist with engaging local experts and drafting or reviewing such standards.
- We believe that **the Town Board, not the Planning Board, should make the final decision on Special Permits for the above-discussed uses,** given the level of potential impact on surrounding residents and environmental quality. As such, we request the change in the draft zoning revision to Planning Board approval of Special Permit be returned to Town Board approval.

Question / Comment: Sections 212-141, -142 Land Subdivision Regulations

- 212-142 C. Simple subdivisions are required to be reviewed by the Zoning Officer for “conditional approval, approval, or disapproval” (p.8 of Nov 22, 2017 Draft Land Subdivision Regulations), as in existing code. The proposed addition to this section lists 5 numbered criteria that “should be applied.

What does this mean, should be applied? Is this a squishy site plan review? Are the criteria merely suggestions, or requirements? As such, what if the applicant does not choose to follow the criteria, can the Zoning officer disapprove the subdivision? Is this akin to what the Ag committee has been advocating (a simple SPR procedure for each subdivision of parent parcel land?).

More clarity is needed here. And perhaps these criteria should be referred to earlier on in the zoning law (Section 212-29.1?), in case landowners and potential buyers don't read all the complicated Subdivision Regulations through before entering into a purchase agreement for a lot subdivided off a parent parcel? This would seem particularly relevant if the criteria are requirements and as such the subdivision can be disapproved if the owner is unable (or unwilling) to meet them.

- **The CSAC proposes modifying criterion #4 in 212-142 C as follows**, to include wording parallel to #3: "fragment lots are allowed to be subdivided one at a time so long as they are located along an existing road", to include "and to the extent reasonably possible, to maintain the largest amount of contiguous open space along the road frontage".

For the reasons outlined in the CSAC comment document submitted May 4, 2017 (Resolution 1) and in Q / Issue 2 of this document, we are concerned about the continued development along road frontages and the potential conflicts between farming operations and closely located residences, and the current ZUSC proposed zoning being too weak on discouraging over-development of rural road frontages in the Ag Priority Area (as per the Town Comp Plan, p. 41, and Ag and Markets policies and laws).

- **We request consideration and discussion by the ZUSC of the following:** can we be more effective in achieving the stated goals of the Agriculture zone (particularly if a decision is made to modify the currently proposed map to create a smaller but stronger Agricultural Protection zone) if the subdivision regulations are more definitive, and require rather than suggest the criteria be met, for simple subdivision, with an appeal process using review and approval of the BZA? or Planning Board if BZA is not legally allowed to take on this type of task?