

**Town of Caroline
Land Use and Economic Development Task Force**

Meeting 3

September 28, 2020

7:00 PM

Agenda

1. Privilege of the floor
2. Comments from the Task Force
3. Red Hook Formula Business, precedents, questions
4. Continuing Discussion of Design Guidelines for Site Plan Review (e.g. Danby, Dryden)
5. Zoning, process
6. Establishment of smaller working groups
7. Adjournment

Attendance

Yusmin Allim; Jonathan Bates; Michele Brown; Barbara Knuth; Kathryn Seely; Ken Miller; Barbara Lynch; Rebecca Schillenback; Ellen Harrison (Site Plan Review Board representative); Bill Podulka (Planning Board representative); Tim Murray (Town Board representative); Greg Colucci (Planner); four members of the public

Absent from the Task Force was

Notes

1. Tim Murray opened the meeting by allowing privilege of the floor; no member of the public spoke.
2. Rebecca Schillenback brought up the Red Hook Formula Business Ordinance, which banned those businesses all together and asked if that was even legal; Tim said we could discuss this later in the meeting.

Greg Colucci followed-up on questions posed at the previous meeting about options of land use control for Caroline under the Municipal Home Rule Law vs. Town Law. Municipal Home Rule Law grants the Town authority to enact legislation for “the protection and enhancement of its physical and visual environment.” The extent of this allowance has been defined over time by court cases. Town Law also allows for a Town to enact laws based on land use. The law does not regulate aesthetics, which has been the topic of some of the conversations (Design Guidelines), but common law has provided a path for Town’s to pass legislation based on aesthetic considerations.

Tim said a planner from Tompkins County may join the next Task Force meeting; he also proposed meeting every week. Tim's conversation with Town Attorney Guy Krogh confirms that the Town can enact design restrictions in relation to Site Plan Review. One of Guy's cautions is that a Town should not regulate everything via Design Guidelines, but the Town certainly has the authority to implement stricter guidelines as long as they relate to the Town's revised Comprehensive Plan. Another precaution is that certain review criteria may be appropriate for one development but not another. Lastly, the Design Guidelines are meant to mitigate impacts, but not the use itself; that is zoning.

Ellen Harrison brought up the current Site Plan Review, which allows the review board to disapprove a proposal, but it does not give the board any criteria to disapprove it. She asked whether a size restriction for a building would need to be in Zoning or in Site Plan, and whether Formula Business Restrictions would be passed as their own separate law or added to the Site Plan Review. Tim stated, per his conversation with Guy, that the 10,000 square foot threshold in the current Site Plan Review is arbitrary and could be amended.

Yusmin Allim brought up the reading on "Adopting Zoning for the First Time" and asked if the Town would need to follow the seven steps outlined in the reading; Tim stated that those seven steps are state prescribed and would need to be followed if zoning was adopted.

Ken Miller asked if he could send emails to everyone and there were no objections; he drafted his own definition of formula business and wants to share it. Ken asked Bill Podulka if comments for the draft Comprehensive Plan would be posted on the Town website; Bill said that the Town Board has not decided yet.

Bill asked if the Task Force was concerned that there was a meeting participant identified as "Cornell" and whether that person should identify themselves; Greg stated that Open Meetings Law [Advisory Opinion] does not require meeting participants to identify themselves.

Lin (a student at Cornell) introduced himself to the Task Force.

3. Tim asked for feedback on the Red Hook reading. He noted that the Red Hook's ordinance was an amendment to its Zoning.

Bill mentioned how short and to the point the ordinance was to simply ban formula businesses in a specific zone district. He noted that an outright ban town-wide doesn't sound legal, but that if it's allowed in certain zones then it could be legal to ban in others. He asks that the Task Force look into all options for the Town in regards to formula businesses, whether by a ban, by allowing them in certain areas, or by regulating them through Site Plan Review.

Barbara Lynch brought up that the revised Comprehensive Plan suggests that the more important land use consideration is location of certain uses and not necessarily banning them or the design of the uses.

Ellen said that's not what she understood about the Plan, but asked for clarification. She also asked whether without zoning the Town can regulate uses by location.

Bill answered the Comprehensive Plan questions stating that it encourages preservation of open space and other environmental resources so that development is encouraged in specific areas; Bill also noted that Dryden's Design Guidelines delineate areas of the Town into "character areas" that differ from the zone district boundaries.

Greg followed up saying that zoning is the primary tool to regulate location of uses.

Jonathan Bates said that, based on his understanding of Municipal Home Rule Law, a Town doesn't need zoning to ban something. He said that if the Town wants to regulate the size of a building, it wouldn't necessarily need zoning to do so.

Bill agreed with Jonathan and said that a law would need to be passed to ban something; a land use couldn't be banned as part of Site Plan review.

Tim cited Town Law saying that a local law could be the mechanism for a town-wide ban.

Barbara Knuth agreed with the interpretations thus far that absent zoning a town-wide ban on a land use could still take place. She asked if there is currently a formula business in Caroline and if so what would happen if an ordinance were passed relating to it. Tim answered that the Dandy Mini-mart in Slaterville Springs is considered a formula business, but it could be grandfathered in to new regulations; Greg agreed.

Greg said he is aware of bans based on use and size, but not design, which is what he understood Formula Business Restrictions to be; Michele said that she understood the discussion on bans to be about use, not design.

Tim followed up noting that Formula Business Restrictions seem to be more about the activity, and not just the design; Barbara Knuth agreed citing the Red Hook example.

Bill said that the rural character of Caroline can be used to define design considerations; he also agreed with the others that FBRs are about use and design.

Kathryn Seely asked the group to consider the other socio-economic populations of the Town as those who may shop at a formula business instead of the Brookton.

Jonathan said that the business model of certain formula businesses is to have as many as possible so if someone really wants to go to one they can drive 10 miles and find one. Ellen brought up Economic Impact Analysis in that if the Town does consider this approach, it should include factors such as whether the business is using local goods. She supports a limitation on formula businesses in the Town, including requiring other design standards. There could be exemptions, or waivers, where if a formula business cannot meet certain requirements then an Economic Impact Analysis could be required.

Barbara Knuth brought up the exemption of agricultural based businesses being exempted from the Red Hook ordinance example as an indication that the Formula Business Ordinances are at least in part use-based.

4. Tim asked for feedback on Design Guidelines, which are included under various tools that the Town Board charged the Task Force with researching.

Ken said he understood that design might be okay per law, but pitting formula businesses with other types of businesses might not be allowed. He also followed-up on a previous point made about formula businesses being too close together if unregulated saying that if those stores were further apart people traveling to them would contribute more to climate change.

Tim asked for feedback on Danby or Dryden's Design Guidelines; Ken listed items that could be considered in reviewing design and siting of a land use.

Barbara Knuth liked the visuals and graphics of both example guidelines saying that they could be good to incorporate in Caroline's.

Bill felt that the example guidelines mostly have more teeth than Caroline's, but there is some squishiness to the guidelines. The Dryden example has character areas, which are relatable to Caroline's hamlet areas. He also mentioned that the Dryden Design Guidelines have an "escape clause" saying that they are intended to be used as a framework for development, but are not necessarily required.

Barbara Lynch worried that the Dryden Design Guidelines are encouraging a suburban preciousness. She said that design requirements may create a sense of false uniformity if taken too far and that other factors such as use, location, and size are more important factors to consider.

Rebecca asked about the enforcement mechanism to design guidelines; Greg said that Danby's are an appendix to the Zoning Ordinance.

Bill clarified Rebecca's question saying that the Town could amend the current Design Guidelines within the Site Plan Review Law.

Jonathan asked for clarification on the mechanism of Danby's and Dryden's Design Guidelines; Greg answered that Danby's is an appendix to the Zoning Ordinance and Dryden's is not - it's a separate document to be adhered to by developers. Jonathan said we need "pre-zoning" solutions so we should look at solutions that don't require zoning. Bill clarified that design guidelines do not require zoning.

Ellen said that the design guideline examples are specific in some areas and general in others. She asked whether size restrictions can go in design guidelines; Tim said he believed so. Greg said he is not sure if this could happen, but Site Plan Review is a place to include thresholds on size.

Tim said that Danby's Design Guidelines talked about "imported pre-fab materials" which could discourage drop-in-place formula businesses. These wouldn't ban the use.

Jonathan talked about zoning laws requiring lots to be certain sizes and wondered if similar types of laws can be adopted without zoning.

Bill said he expects that the Town could pass a law prohibiting certain sized developments. Greg referenced the Town of Ulysses Zoning Ordinance that restricts agricultural buildings to 20,000 square feet.

Yusmin asked to talk about what Caroline needs now because the group was talking about places that have zoning; Kathryn agreed and suggested that the group was getting too fine grained in the discussion, especially on design. She brought up that good land for development is often good land for farming, so it might be worth defining potential areas for development and areas not for development to better have direction.

Ellen discussed the current Site Plan Review and suggested that the Design Guidelines (or Standards, as she suggested to rename) should state that prime agricultural land cannot be developed. She is interested in using Design Guidelines as a tool.

Bill suggested breaking into a few groups. He said the group needs to figure out what can be achievable in a few months -- protect prime agricultural land and restrict out-of-town businesses, economic analysis included. He thinks short term goals should be working on design guidelines, see a smaller square footprint before Site Plan is triggered, and incorporating an Economic Impact Analysis.

5. Agenda item discussed above.
6. Tim recommended the Task Force is ready to break into groups

Kathryn suggested the groups to be Economic Impact Analysis/Review, Design Standards, and Formula Business Restrictions.

Ellen agreed, and wanted to add that the group for Formula Business Restrictions to research the types of standards for these types of businesses.

Michele asked about the need for a consultant in an Economic Impact Analysis; Tim said that one of the requirements for example could be to hire an outside consultant.

The following working groups were established:

Economic Impact Analysis: Barbara Lynch; Yusmin; Ken; Rebecca

Design Guidelines/Standards: Ellen Harrison; Michele; Barbara Knuth

Formula Business Restrictions: Kathryn; Jonathan; Tim

Greg Reynolds, a farm owner in the Town, asked for privilege of the floor; he asked that the separate group meetings be available to the public. Ellen and Ken asked if posting the recordings on the website would be okay and Greg agreed this was fine.

Meeting adjourned at 9:00 PM

Meeting notes prepared by Greg Colucci