

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

Meeting 4

**October 5, 2020
7:00 PM**

Agenda

1. Privilege of the floor
2. Question and answer from Joan Jurkowich, Tompkins County Planner
3. Discussion
4. Break-out sessions of subgroups researching Design Guidelines, Economic Impact Review/Analysis, and Formula Business Restrictions

Attendance

Yusmin Allim; Michele Brown; Barbara Knuth; Rebecca Schillenback; Kathryn Seely; Barbara Lynch; Ken Miller; Bill Podulka (Planning Board representative); Tim Murray (Town Board representative); Greg Colucci (Planner); and one member of the public

Absent from the Task Force was Jonathan Bates.

Notes

1. Tim Murray opened the meeting with privilege of the floor and no member of the public spoke.
2. Tim introduced Joan Jurkowich, a planner for Tompkins County, and explained the charge of the Task Force to her. Tim asked that Joan give her perspective on what Caroline may do in relation to the charge.

Joan explained that there is broad authority at the local level to regulate land use; a town just needs to define well enough what they are trying to accomplish, and then define how to do it. The current law allows a fair amount of creativity as long as the town is not being discriminatory.

Tim said that the Task Force is researching potential tools outside of zoning and that there will be recommended tools to the Town Board.

Tim asked if there are precedents in Tompkins County for Caroline to consider, such as design guidelines and economic impact review.

Joan answered that design guidelines are typical in historic districts; but she emphasized that just because something has been done through zoning doesn't mean it can't be done without zoning. She said a town just can't distinguish between areas of town without zoning.

Bill Podulka asked if towns with design guidelines have been able to successfully change the plans of an applicant.

Joan answered yes, but it's usually because a planning staff person is able to guide the developer to those standards. She said that Dryden's Design Guidelines are a good example of design guidelines.

Ellen Harrison brought up design guidelines versus design standards and if a town can be stricter with the review standards.

Joan said that a town can hold a developer's feet to the fire whether they're guidelines or standards, but she acknowledged that if a town has standards, it is better.

Joan reminded the group that precedence becomes an issue; once a design element is allowed a certain way -- for example, parking in front of a building rather than behind it -- it is hard for the town to require it in any other way for a future development.

Bill asked whether a review board can say no to a project based on a design standard, such as an exterior building material.

Joan answered yes, that the town can say no if a development doesn't meet a certain standard and it would stand up. She asked if the reviewing board would be willing to have the same level of scrutiny for a project applicant whom they know in the community.

Ellen asked if the town can restrict commercial businesses by size.

Joan answered that the town could adopt a local law to restrict the size of commercial buildings under Municipal Home Rule. She said that the town could also make a zoning ordinance about commercial uses only and keep it very simple.

Kathryn asked about the definition of a zoning ordinance.

Joan answered that a zoning ordinance has two parts, text and a map. The map shows different districts and the text says what you can and can't do in those districts. She stated that a town can be creative with zoning; for example, many small, rural towns don't need standards about parking and signs. If Caroline wants to focus on commercial uses they can hypothetically have a zoning ordinance that defines 3 areas – one for smaller businesses that serve hamlets, another area that allows businesses on a highway, and a third area that doesn't allow any businesses.

Ken Miller asked if economic impact analysis needs to be a separate law or be put in site plan review.

Joan answered that it can be part of either.

Ken asked if the threshold for building size can be lowered.

Joan answered yes, and that something smaller than that wouldn't trigger an economic impact analysis.

Rebecca asked for the difference between a zoning law and an ordinance.

Joan suggested that an attorney may know how to answer that question as she uses them interchangeably.

Barbara Knuth asked if there is a downside to having zoning.

Joan answered that enforcement can be challenging; a town would need to set up board structures for administration; and the zoning law/ordinance could be too big for what the community needs, i.e., certain standards might not be needed.

Barbara Knuth asked about other approaches, such as requiring review standards.

Joan answered that it depends what the town is trying to accomplish; the town could have a zoning ordinance that isn't too complicated and just addresses what they need to address.

Ellen said she is concerned about farmland and that she is aware of preservation tools, such as Purchase of Development Rights, but asked about other ways to protect farmland.

Joan believes the best tool to preserve farmland is Transfer of Development Rights, but that it needs a staff person to manage the program.

Ellen asked whether clustering of development is possible on farmland to be developed.

Joan answered yes, that it could be in a law, but the challenge is with the property owner who likely wants to develop one lot time at a time. She said the town could work with farmers on a plan for their property (and pay for a planner or engineer to develop the plan). However, she said she hasn't seen this approach work – towns don't have the money and farmers usually don't want to work on these plans with the town.

Joan said the Purchase of Development Rights program in Tompkins County has only protected 2000 acres – this is good, but it's not making a difference.

3. Tim asked for feedback on Joan's question and answer session.

Greg Colucci said it was good to hear about how simple and tailored zoning can be; he referenced a publication by the NY Department of State recommending that rural towns adopt design standards as opposed to guidelines, which are more appropriate in cities or towns with staff planners; he also brought up another tax relief tool that Danby is looking into to reduce taxes on large properties.

Ellen said that Danby's proposal requires State approval.

Michele Brown brought up that New Hampshire has a good tax policy to preserve farmland.

Barbara Lynch asked for clarification if Joan said that Economic Impact Review should be separate from Site Plan.

Greg said that it could be separate or stand alone.

Tim asked each sub-group to take notes on their discussions and asked whether he should invite Guy Krogh, the Town Attorney, for the following week's meeting.

Ellen suggested waiting another week to invite Guy and Tim agreed.

Ken brought up that fire districts assess property for the entire value of the property in New York, but that firemen of those districts can vote to reduce tax assessment on those properties; most don't as this would impact their district's budget. He believes that the NY law doesn't go far enough and said that Vermont has good tools to protect farmland.

4. Sub-groups for Design Guidelines, Economic Impact Review/Analysis, and Formula Business Restrictions met separately.

Design Guidelines

Charge to the group: read Caroline Site plan review law; mushy guidelines; Which are mushy? Do design guidelines in their current form support Comp Plan?

Danby and Dryden guidelines are long and detailed and include many very specific items versus Caroline Guidelines which are simply questions and as such they are not standards with requirements.

Could we convert the design guidelines to standards? The sub-group agreed to divide up the Caroline Design Guidelines and consider how they might be changed into standards. Barbara Knuth will look at the first 8; Ellen the second 8; and Michele will do the last 9.

They agreed to meet again on Monday at 4 to discuss this before the Task Force meeting at 7.

They will ask Bill Podulka to review current design guidelines to see consistency with the draft Comp Plan.

The sub-group also recognized that the Task Force might consider recommendations:

- Revising the Site Plan Review law to reduce the square footage that come under the law and triggers site plan review
- Establishing a law that bans commercial development that is a certain size or type
- Establishing a law that bans industrial development that is a certain size or type

Economic Impact Review/Analysis

Does an economic impact analysis need to relate to zoning? Why or why not?

Our conclusion from the previous conversation is that Economic Impact Analysis doesn't need to relate to zoning, but it can. We can use this tool without zoning.

But it brings us back to the question: what do we want to see in and for our town? What would be assessed in an economic impact review? What are we trying to determine?

Page 10 in the Comprehensive Plan gives us guidance: how do we support and encourage local businesses? Pages 12 and 13 also speak to how the goals of a comprehensive plan as outlined seem to directly support the establishment of an economic impact analysis clause, law, or ordinance.

There are other things that came forward in the rest of the literature that also seemed significant. If a business adds employees but those employees are not adequately compensated, that is a negative impact, for example.

Two issues that the readings raised:

1. What is the threshold that would trigger the economic impact review? What's the criteria/criterion that initiate(s) the analysis? The square footage threshold for Site Plan Review? Or a different criterion? i.e, the annual budget of a proposed enterprise? Scale of business? Number of employees?
2. What are the elements that ought to go into the economic impact assessment? What do we care about? i.e. living wage, competition with local enterprises, etc.

Pages 9-12 Essential Smart Growth Fixes for Rural Planning, Zoning, and Development Codes offer concrete guidance.

The purpose of an economic impact analysis is to determine whether the expected benefits of a proposed business venture outweigh the expected harms or detriments of the business. The following queries should/could guide our cost/benefit analysis.

1. What is the nature of the proposed enterprise? Selling same type of goods already for sale in the town? For more or less? Selling completely different items? Selling only a few of the same items? Year-round item sales?
2. What jobs will be added to the local economy? Gain in jobs vs loss of employment from local businesses? Full vs Part time? Local workers and materials for construction?
3. Does the enterprise pay a living wage? Prevailing wages (state mandated) vs higher to entice employees. Living Wage standards important for community.
4. Does the enterprise meet current community needs? Does it aim to meet future community needs? providing goods and services that underserved populations have no access too? A variety of different items and prices? Will the project contribute to revenue retention in the local economy?
Environmental Justice Statement may be warranted.
5. What tax revenue will the town expect to receive from the proposed enterprise? Property and school tax? Sales tax?
6. What municipal costs will be incurred by this proposed enterprise? road repair for municipality? Abandonment costs? Traffic safety? Costs of public and social services?
7. What are the ecological impacts of this proposed enterprise? Water runoff, trash collection, climate change? Lessen carbon footprints by shortening trips?
8. What effect will this enterprise have on Property values? increase or decrease in area around the proposed enterprise? what are the projections over time?

Outstanding questions:

Is there a difference between 'thresholds' and 'triggers'? What is the threshold that triggers the economic impact review?

Will an economic impact review analysis fall under the site plan review or be a separate law independent of it?

(If it can stand alone under home rule law, that's where Ken thinks it should be.)

If under the site plan review, that would mean the same threshold or trigger to initiate the analysis.

Would we restrict an economic impact review only to formula businesses?

Formula Business Restrictions

Formula Business Restriction ordinances are used to limit the quantity and location of certain retail and restaurant establishments that are characterized by (1) their national or regional distribution, (2) their standardization of goods and services provided, and (3) the standardization of the design of their stores. Formula Business Restriction ordinances have been successful in municipalities with zoning ordinances, well-defined districts (e.g. historic, waterfront, etc.), or both.

Given Caroline's lack of zoning and limited commercial development pressure, a Formula Business Restriction ordinance would be legally unprecedented. However, the majority of public input on the matter favors a proactive response to the potential development of formula businesses in the Town. Additionally, Caroline's revised Comprehensive Plan establishes the Town as a place with a unique rural and agricultural identity and the typical formulaic business model of national or regional businesses would be inconsistent with this identity. As such, the Formula Business Restriction sub-group recommends that the Task Force continue to develop enhanced design standards for commercial uses, not just for formula businesses, and to begin investigating basic zoning tools for Caroline.

Meeting adjourned at 9:00 PM

Meeting notes prepared by Greg Colucci; sub-group notes prepared by members of those groups with minor edits made by Greg for clarity.