

Comprehensive Planning: Tackling the Tough Issues



NEW YORK PLANNING FEDERATION

Tuesday April 14th, 2015, 9.00-10.15

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Agenda



- Comprehensive Planning 101
- Linking the Comprehensive Plan and Zoning
 - ❖ Case Studies
- Implementing Comprehensive Plan recommendations in zoning
 - ❖ Case Study #1: Sand Lake, NY
 - ❖ Case Study #2: Southport, NY
- Questions and comments



Comprehensive Planning 101

What is a comprehensive plan?



... the materials, written and /or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the town located outside the limits of any incorporated village or city.

Town Law § 272-a

Village Law § 7-722

City Law § 28-a

Comprehensive Planning 101: the process



- What is happening in your community?
- How do you anticipate what is coming?
- What would you like the community to be, and how should it look?
- How do you accomplish and sustain that vision?



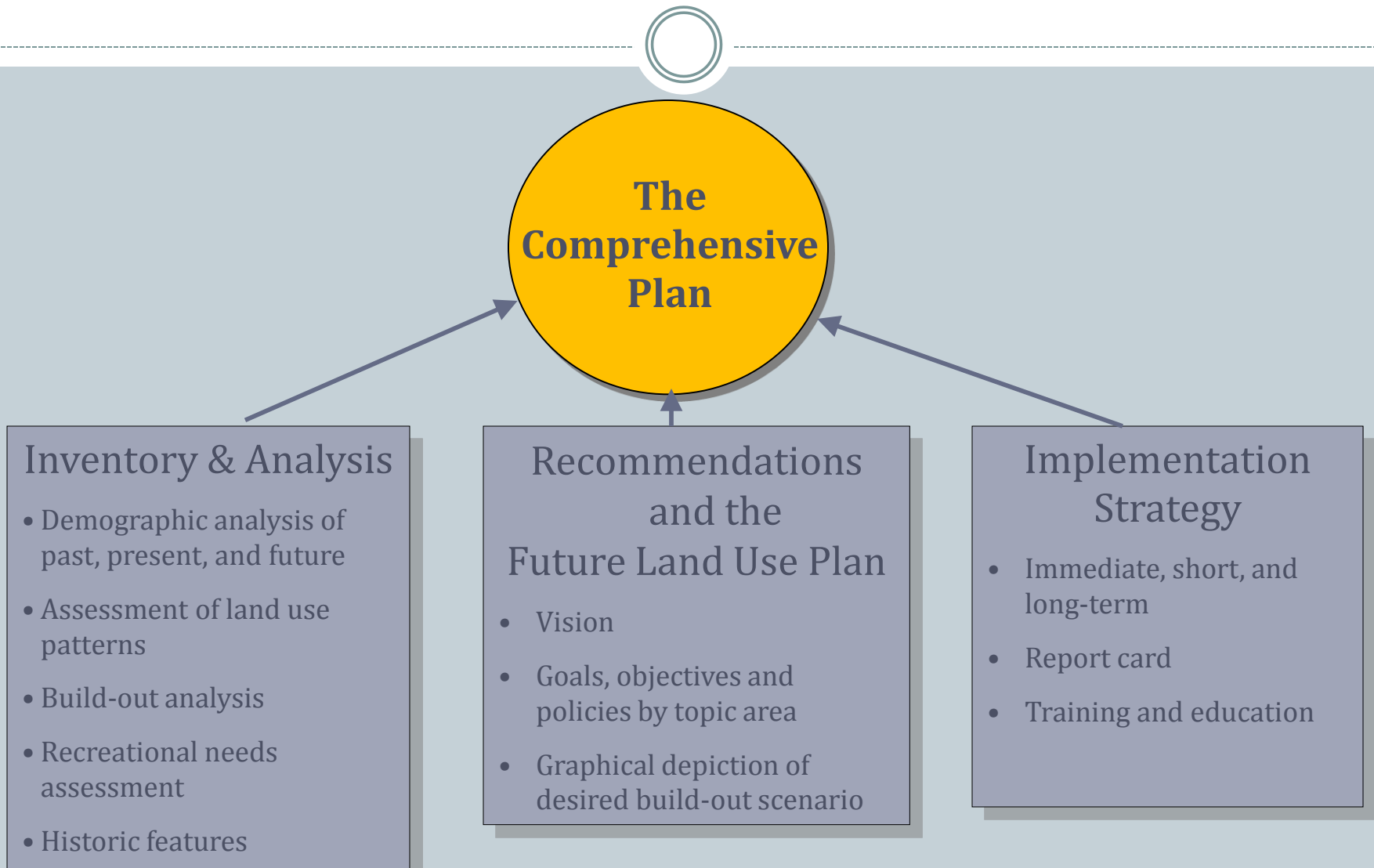
Comprehensive Planning 101: key components



- Build on previous planning efforts.
- Engage the public to help determine assets, opportunities and needs.
- Produce a shared vision for the future.
- Develop recommendations to implement policies and objectives.
- Create a future land use plan that exhibits a sustainable approach for growth.
- Outline a specific implementation plan to achieve the vision.



Creating a Strategy-Based Planning Document



Creating a Road Map



Recommendation	Project Champion	Potential Partners/Funding	Immediate*	Short-Term	Medium-Term	Long-Term	Ongoing
Goal 1: To gain town wide recognition and support of agricultural resources							
1.1 Establish and maintain an Ag & Farm Committee	Town Board	Town Board, Town Attorney	H				
1.2 Ensure implementation of the town policy of having farmer representation on the Planning Board, Zoning Board of Appeals, and any formal committee of the Town	Ag & Farm Committee	Town Board, Planning Board, Zoning Board of Appeals	H				
1.3 Add a part-time professional planner to advance ag/farmland protection	Town Board	Town Board	H				
1.4 Support zoning changes recommended in the farm-friendly audit	Town Board	Zoning Board of Appeals	H				
1.5 Develop Agriculture Protection Guidelines	Ag & Farm Committee	Town Board	H				v
Goal 2: To protect and enhance the Town of Ballston's agricultural resources							
2.1 Provide information to farmers and farmland owners	Ag & Farm Committee	Cornell Cooperative Extension of Saratoga, American Farmland Trust, NYS Ag and Markets, FSA in Washington County, Farm Bureau	H				
2.2 Explore feasibility of Purchase or Lease of Development Rights program	Ag & Farm Committee	Ballston Town Attorney, Saratoga County, USDA Farmland Protection Grants, NYS Farmland Protection Grants, Ag Stewardship Association, Cornell Cooperative Extension of Saratoga County, Saratoga Plan	H				
2.3 Explore various zoning techniques to protect farmland	Ag & Farm Committee	American Farmland Trust		M			
2.4 Develop and implement a program for prospective/young farmers	Ag & Farm Committee	USDA Beginning Farmer and Rancher Development Program (BFRDP), ATTRA, National Young Farmers Coalition, The Greenhorns, NY Farmnet		M			



Relationship Between the Comprehensive Plan and Zoning

How does a comprehensive plan relate to zoning?



The comprehensive plan is insurance that the ordinance bears a “reasonable relation between the end sought to be achieved by the regulation and the means used to achieve that end.”

*James A. Coon Local Government Technical Series
Zoning and the Comprehensive Plan*

Zoning



- **Town Law** § 263 reads: "Such regulations shall be made in accordance with a comprehensive plan." Section 263 applies to legislative, as opposed to administrative, actions. Planning Boards are administrative bodies and Zoning Boards are quasi-judicial neither has the authority to enact regulations. (emphasis added)
- Similarly, General **City Law** Section § 20(25) provides that "[s]uch regulations shall be designed to promote the public health, safety and general welfare . . . , in accord with a well considered plan" (emphasis added).
- Finally, **Village Law** § 7-704 also states "[s]uch regulations shall be made in accordance with a comprehensive plan" (emphasis added).

Case Law Overview



- Udell v. Haas, 21 N.Y.2d 463, 288 N.Y.S.2d 888 (1968).
 - "In exercising their zoning powers, the local authorities must act for the benefit of the community as a whole following a calm and deliberate consideration of the alternatives, and not because of the whims of either an articulate minority or even majority of the community" (Udell v Haas, 21 NY2d 463, 469)

Case Law Overview



- Town of Bedford v. Village of Mt. Kisco, 33 N.Y.2d 178, 351 N.Y.S.2d 129 (1973).
 - "A heavy burden falls on one challenging the determination of a local government board."
 - We have held that zoning changes must indeed be consonant with a total planning strategy, reflecting consideration of the needs of the community (Udell v. Haas, 21 N.Y.2d 463). What is mandated is that there be comprehensiveness of planning, rather than special interest, irrational ad hocery. The obligation is support of comprehensive planning, not slavish servitude to any particular comprehensive plan. Indeed sound planning inherently calls for recognition of the dynamics of change.

Case Law Overview



- Asian Americans for Equality v. Koch, 72 N.Y.2d 121, 131 (1988).
 - A well-considered plan need not be contained in a single document; indeed, it need not be written at all. The court may satisfy itself that the municipality has a well-considered plan and that authorities are acting in the public interest to further it by examining all available and relevant evidence of the municipality's land use policies... .

Case Law Overview



- **Osiecki v. Town of Huntington, 170 A.D.2d 490 (2d Dep't 1991).**

- The Town maintained that it was not obliged follow the master plan and that it was free to decide that the master plan should not be followed with regard to a particular rezoning.
- “However, the Town makes no attempt to justify its "determination" that disregarding the Town's specific master plan is not inconsistent with a comprehensive zoning plan for the area rather than an entirely ad hoc decision (cf., Town of Bedford v Village of Mount Kisco, supra). To accept the Town's contention that it is free to determine that the master plan should no longer be followed, without articulating a reason for that determination, would invite the kind of ad hoc and arbitrary application of zoning power that the comprehensive planning requirement was designed to avoid (see, Matter of Town of Bedford v Village of Mount Kisco, supra, at 187, 188).”

Case Law Overview



- Francis Development & Management Co. v. Town of Clarence, 306 A.D.2d 880 (4th Dep't 2003).
 - Town Board properly denied a special exception use permit for a mini-storage facility due to conflicts with the Town's Master Plan.
 - Zoning ordinance conditioned approval of a special exception use permit on the condition that the use does not conflict with the Master Plan.

Case Law Overview



- Infinity Consulting Group v. Town of Huntington, 49 A.D.3d 813 (2d Dep' t 2008).
 - “. . . , when a plaintiff fails to establish a clear conflict with the comprehensive plan, the zoning classification must be upheld” (49 AD3d 813, 814)
 - “. . . , the determination to rezone the subject property was in compliance with the overall policies outlined in the Master Plan, and it does not constitute impermissible spot zoning”

Case Law Overview



- Troy Sand & Gravel Co. v. Town of Nassau, 82 A.D.3d 1377 (3d Dep' t 2011).
 - Town Board failed to make proposed comprehensive plan public for ten (10) days prior to the public hearing.
 - Special Board failed to adopt a resolution recommending the proposed plan to the Town Board.
 - Town of Nassau incorrectly argued that the applicable Section 272-a provisions are “advisory” and not mandatory.

Case Law Overview



- Matter of Rossi v Town Bd. of Town of Ballston, 49 AD3d 1138, 1144 [2008]
 - Zoning To satisfy the statutory requirement that zoning legislation be in accord with a comprehensive plan, respondents need only show that the zoning amendment was adopted for "a legitimate governmental purpose" and is unreasonable if "arbitrary, that is, if there is no reasonable relation between the end sought to be achieved by the regulation and the means used to achieve that end"

Case Law Overview

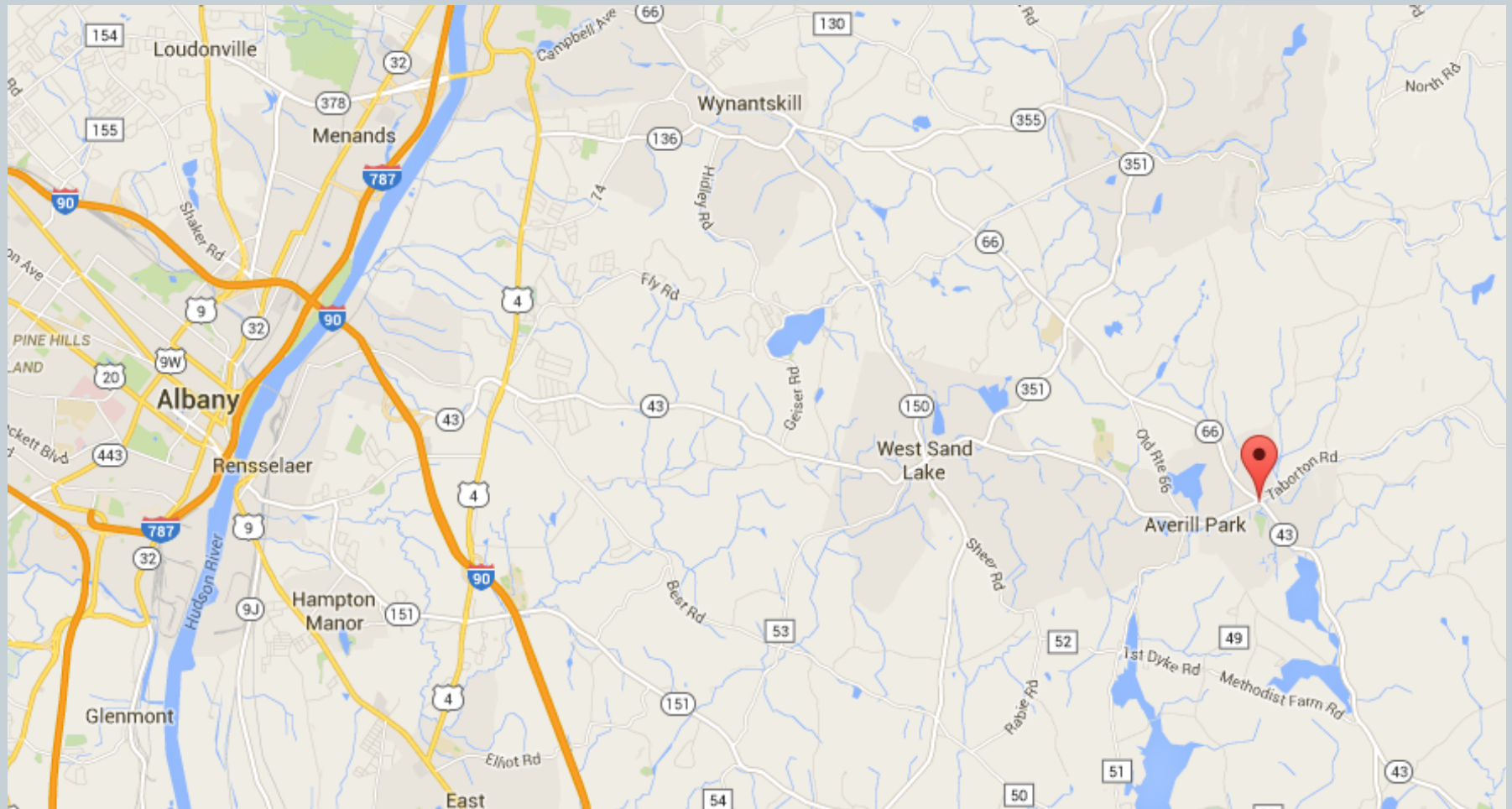


- Pickerell V. Town of Huntington, 13-18087 (10-15-2014)
2014 NY Slip OP 51497(U)
 - Part III of the EAF stated that the proposed project conflicts with the Town's Horizons 2020 Comprehensive Plan, and has "the potential to pose substantial adverse affects by establishing a precedent for future applications adversely affecting the Town's overall intent in land use planning."
 - In Response "[T]own's master plan is an evolving process, and that the proposed project is consistent with the master plan."
 - The court found this response inadequate.



Case Study #1: Sand Lake, NY

Case Study #1: Town of Sand Lake, NY



Case Study #1: Town of Sand Lake, NY



- Completed Comprehensive Plan 2006
- Prepared Generic Environmental Impact Statement (GEIS)
- Completed Zoning revisions 2010
- Selected Examples:
 - Future Land Use Map to Zoning Map
 - Economic Development Recommendations to Zoning Uses, Districts, and Density
 - Mining Recommendations to Zoning Locations Uses
- 2015 Update
 - Modifications based on lawsuit

Town of Sand Lake Comprehensive Plan



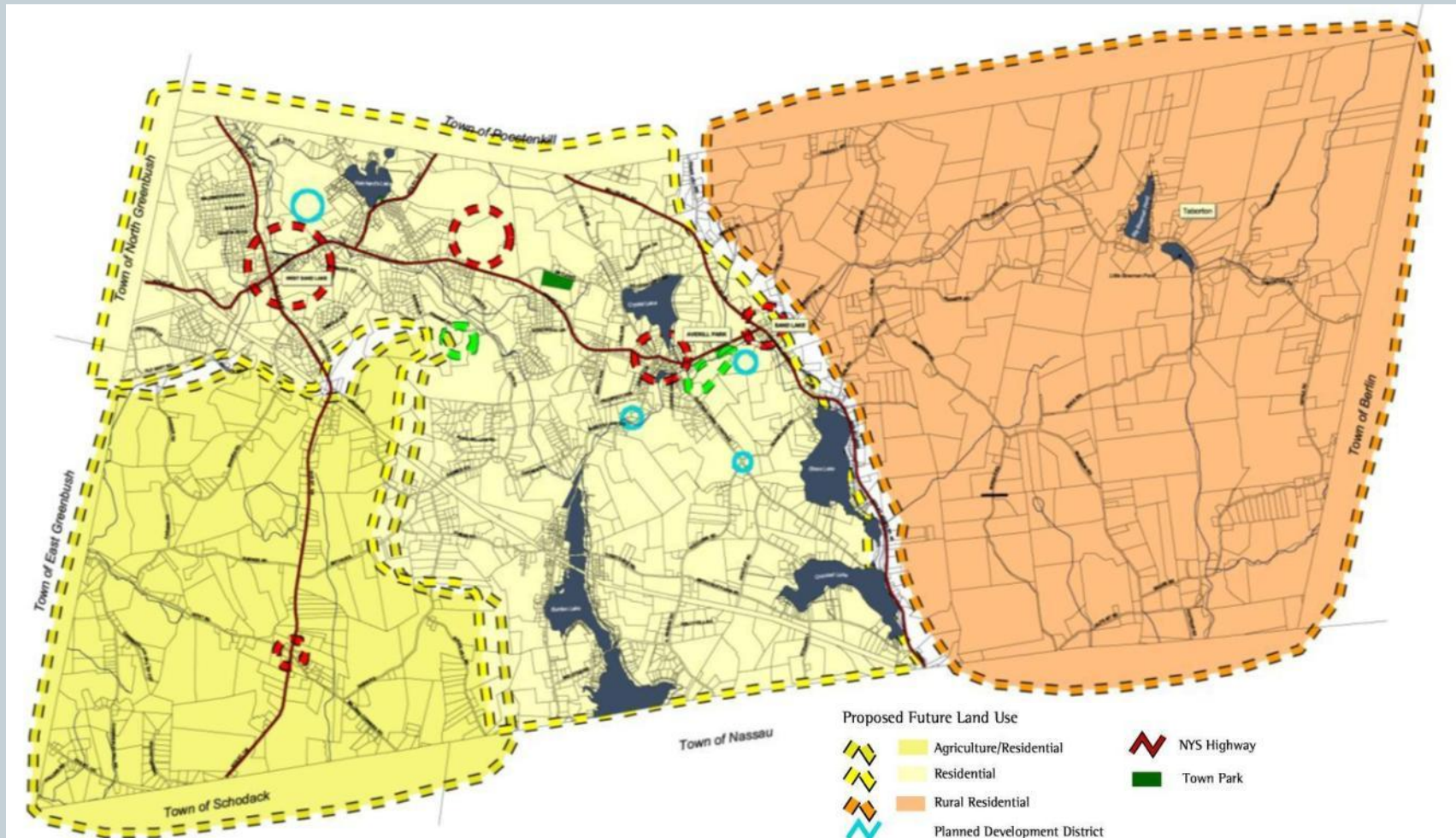
Submitted Date: June 14, 2006

Prepared By:

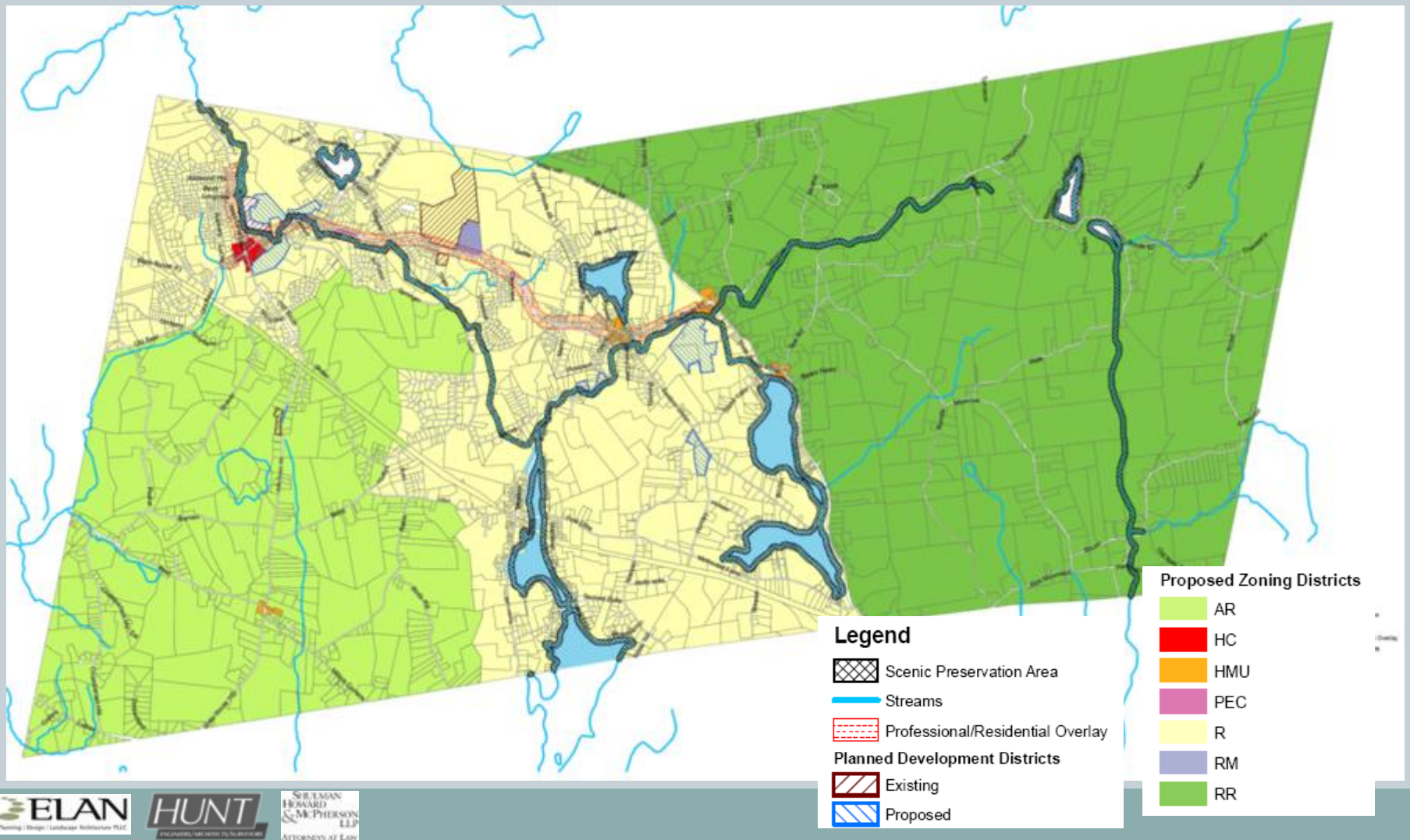


112 Spring Street
Saratoga Springs, NY 12866

Future Land Use Map



Zoning Map



Economic Development



- Non-zoning methods are available to communities to encourage economic development
 - ❖ Economic Development committee
- Zoning is limited in how much it can “encourage” economic development
- But, it can...
 - ❖ Establish regulations for location, dimensions, appearance of uses within the Town
 - ❖ Establish review processes
 - ❖ Create certainty

Economic Development



Comprehensive Plan:

GOAL: Establish/expand the mix of commercial uses in hamlets, while balancing the need for flexibility and compliance with Comp Plan.

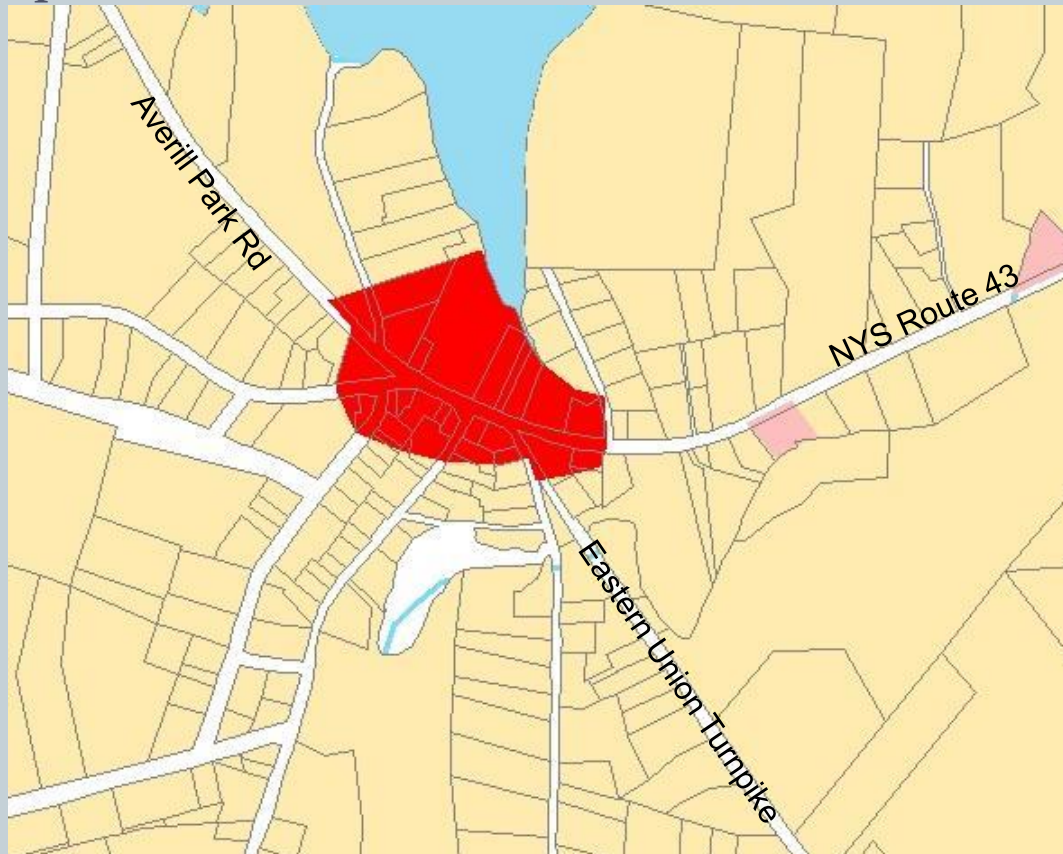
Zoning approach:

- Drastically expanded allowable uses in Use Table
- Updated definitions to make it easier to know what is allowed and what is not
- Expanded size of commercial districts in hamlets
- Updated off-street parking to add flexibility

Economic Development



- Existing Commercial becomes Hamlet Mixed Use District (HMU) and is expanded

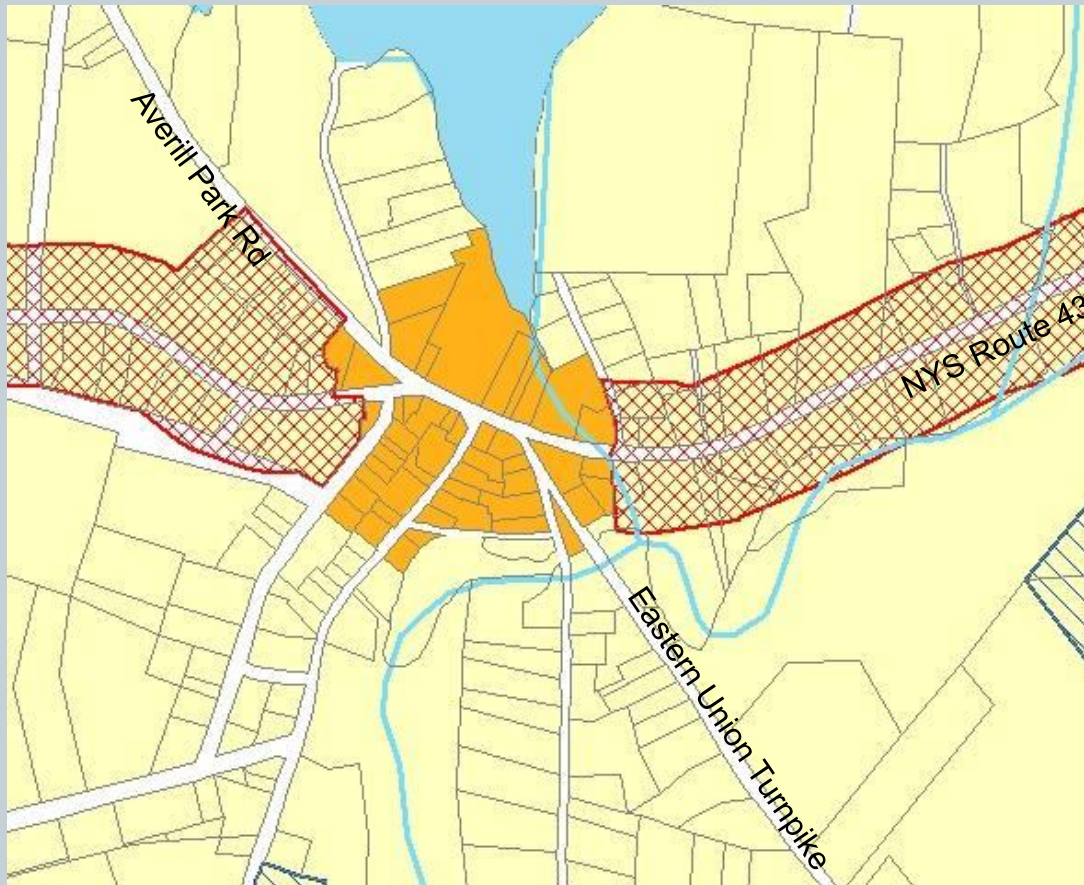


Before: 12.11 acres

Economic Development



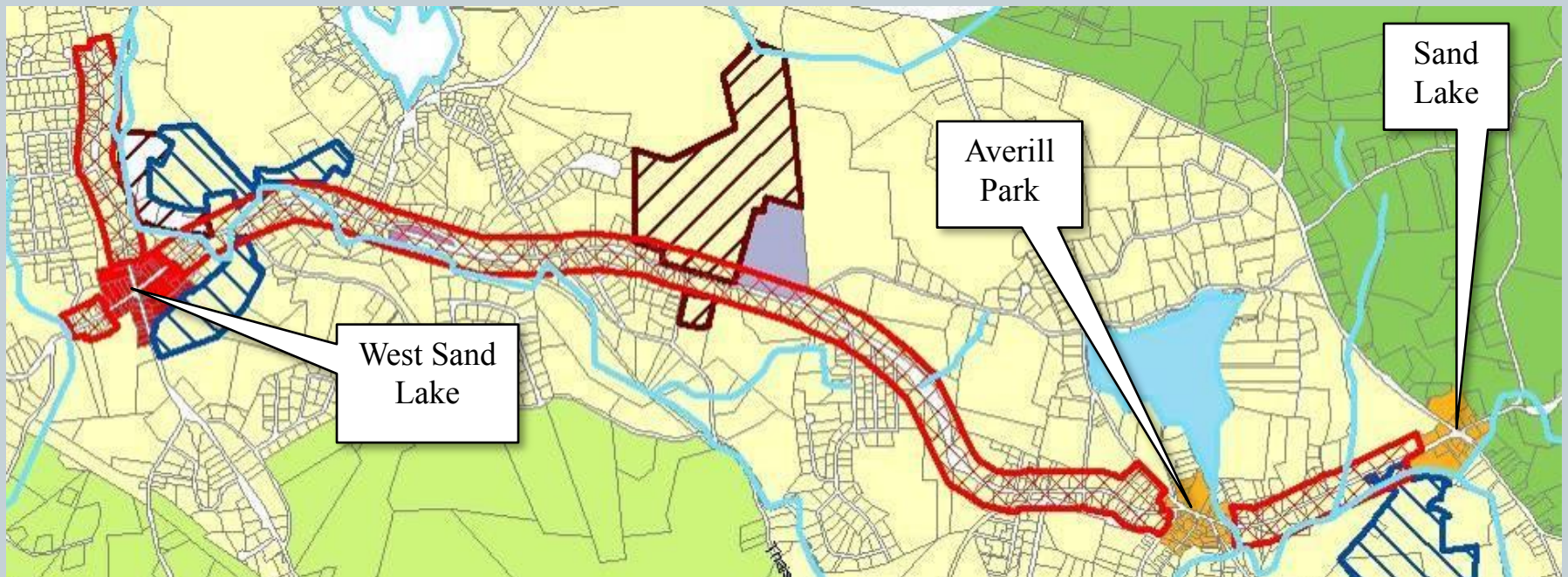
- New Hamlet Mixed Use District (HMU) and is expanded



**After: 14.44 acres
(19% increase)**

Economic Development

- Professional/Residential Overlay added along Routes 43 and 150 (about 250 acres)
- Allow commercial uses along State Highways, but limit “strip” development
- Allowed uses focused on professional businesses, which can take advantage of re-use of existing structures: offices, medical, restaurants, etc.



Mining



Comprehensive Plan:

GOAL: Have appropriate zoning in place for mined areas once natural life of mine is extinguished.

Zoning approach:

- All existing mines “grandfathered” and allowed to continue as long as they are able
- Must consider proximity of existing mines to hamlet centers



Mining



➤ **Comprehensive Plan recommendations:**

- ❖ Eliminate the CE Zones & replace with Mixed-Use Hamlet or Residential Zoning
- ❖ Allow existing grandfathered activities to continue
- ❖ Overlay these areas with a new Planned Development District to encourage creative design that integrates the new development into adjacent neighborhoods or hamlets
- ❖ No partial redevelopment while mining or mining-related activities continue. For redevelopment, submit a master plan for site under Town's PDD legislation.
- ❖ Address mining in the A-1 Zone: could continue as a special exception use with performance criteria
- ❖ Prohibit mining in all other zones

Mining



➤ **Zoning approach:**

- ❖ CE Zone eliminated
- ❖ Active mines adjacent to West Sand Lake have PDD designation – future development (aside from mining) shall go through PDD process
- ❖ Remainder of previously CE areas zoned according to Future Land Use guidance
- ❖ Reduced mining zone created and allowed by Special Use Permit

Mining – 2015 Update



- Upon adoption Town was sued by Troy Sand & Gravel
- Lost suit because Findings statement was not included in documents submitted to the Judge
- 2015 Proposal – 2 of 6 ideas in plan
 - ❖ Allow existing grandfathered activities to continue
 - ❖ Map with Natural Extraction Overlay
 - ❖ Prohibit mining in all other zones
 - ❖ *Overlay these areas with a new Planned Development District to encourage creative design that integrates the new development into adjacent neighborhoods or hamlets*



Case Study #2: Southport, NY

Case Study #2: Town of Southport, NY



Case Study #2: Town of Southport, NY

2014 Comprehensive Plan goals:

1. Generate Economic Development Opportunities
2. Accommodate the Changing Population
3. Enhance the Community Character
4. Protect Natural and Historic Resources



**Town of Southport
Final Comprehensive Plan**
Town of Southport, New York
March 2014



Town of Southport, NY



Zoning Ordinance Update

1. Funded by Round 2 of NYSERDA's *Cleaner, Greener Communities* program
2. Goal is to update zoning to reflect specific "high-priority" actions stated in the Comprehensive Plan.
3. Form-based code for town centers.

Starting the zoning changes

1. Prepare Diagnostic Report
2. Purpose: reiterate vision and goals of the Comprehensive Plan

Town of Southport, NY



DIAGNOSTIC REPORT

Goal 1: Generate Economic Development Opportunities

Actions from Comprehensive Plan	Tasks
Examine zoning along important corridors to determine ideal development strategy	Examine areas designated for increased density in future land use map. Revise setbacks, lot coverage and heights; lower parking requirements.
Consider lower parking requirements for offices and commercial uses.	Parking per site plan review.
Modify zoning to establish small pockets of commercial in residential neighborhoods.	Examine zoning map for potential revisions.
...	...

Town of Southport, NY



DIAGNOSTIC REPORT

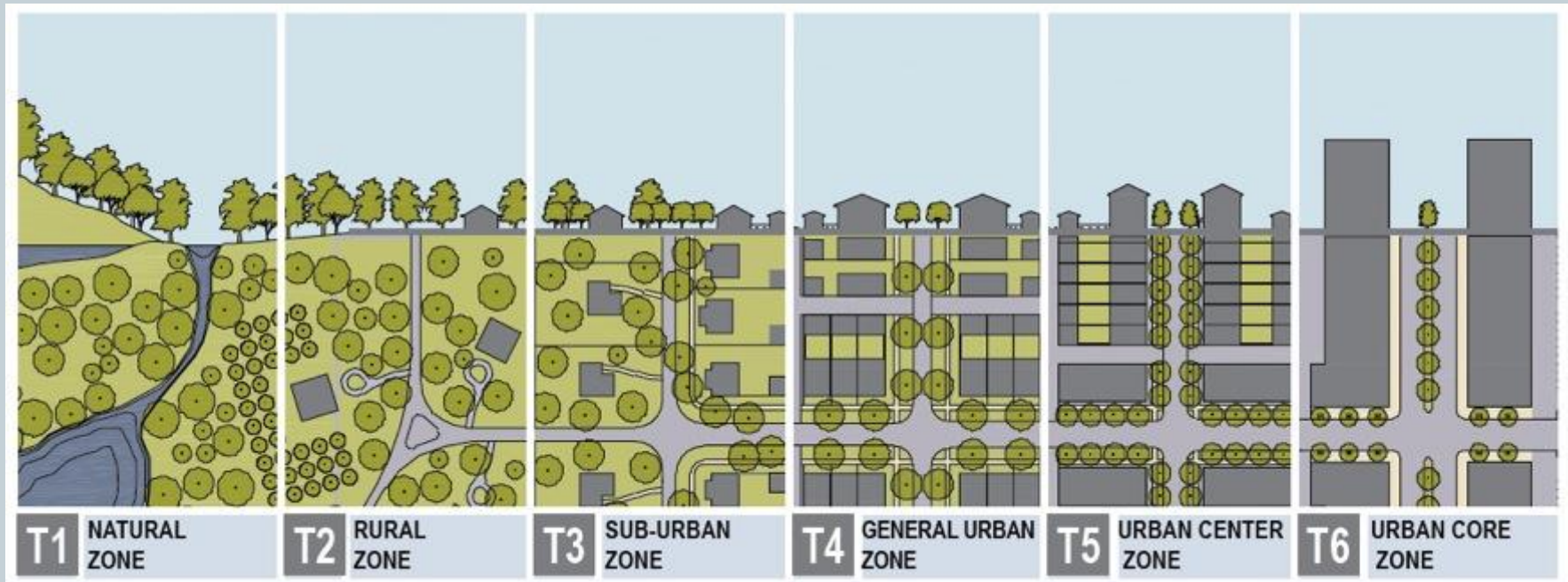
Goal 2: Accommodate the Changing Population

Actions from Comprehensive Plan	Tasks
Allow accessory apartments in designated zoning districts	Revise zoning to allow for greater variety of accessory dwelling units.
Investigate definitions of “family” to regulate the use of accessory apartments.	Revise definition of “family” and “home occupation”, locations where permitted, consider different levels of home occupation and review existing supplemental regulations.
Consider allowing “live-work” units by defining and allowing this use in zoning	See Goal 1, Action 1 above.
...	...

Form-Based Approach for Commercial Zones

Form-based codes address:

- Relationship between building facades and the public realm
- Form and mass of buildings in relation to one another
- Scale and types of streets and blocks



Town of Southport, NY

- **Moving from the plan to the specifics/laws presents challenges:**
 - ❖ A stakeholder walking tour found that increased density may not work in practice
 - ❖ The Steering Committee would not agree to a 2-story minimum because the market was unlikely to support it



Town of Southport, NY



Cedar Street: industrial character



Bulkhead: regional shopping



Building Orientation/Frontage

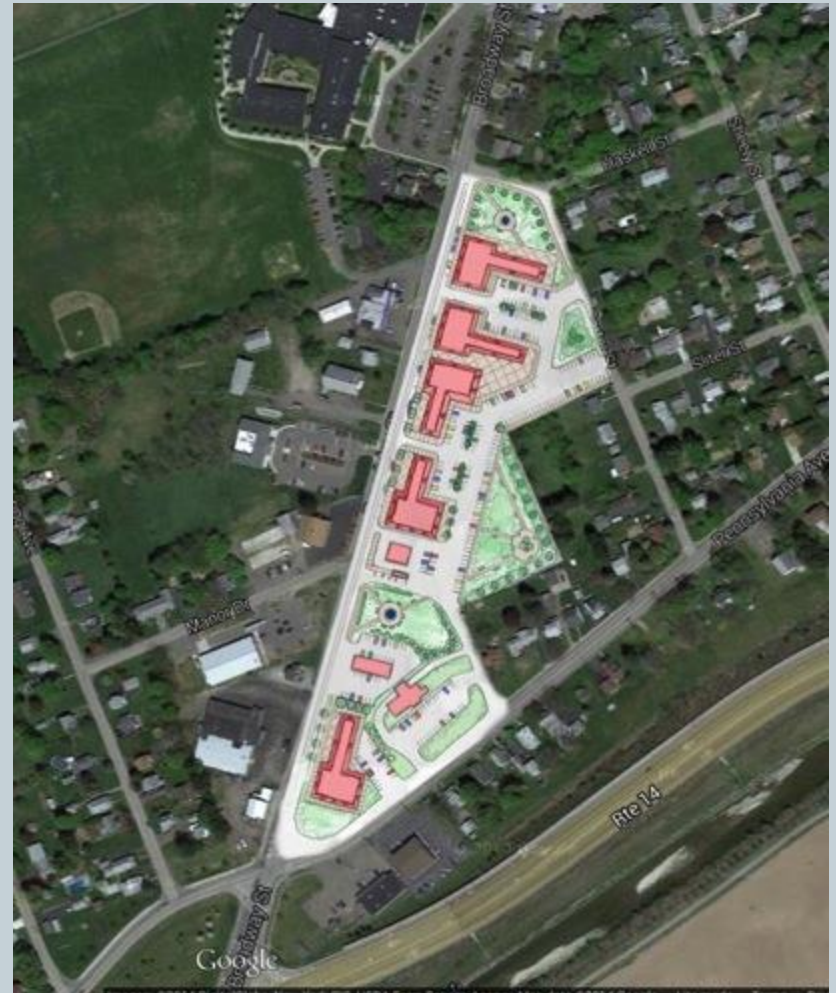


Bulkhead, Southport



Bridge Street, Corning

Form-Based Approach for Commercial Zones



Town of Southport, NY



Protecting natural resources

- **Residential Cluster Development (RCD) intent**

The RCD is intended to enable and encourage flexibility in the design and development of land in such a manner as to promote the most appropriate use of land, to facilitate adequate and economical provision of services, to preserve those areas in the Town that are suitable for agricultural use, to protect and conserve open space use and environmentally sensitive features, and to preserve scenic qualities.

- **Update site plan review, stormwater management regs to encourage Green Infrastructure; include references in zoning (site plan concept requirements etc)**

Lessons Learned



1. Establish a diverse Steering Committee – Keep some overlap for Zoning Update Committee
2. Incorporate broad public outreach and engage business owners
3. Review Comp Plan goals and understand what can be accomplished with zoning versus other means (i.e., policy change or other ordinance)
4. Complete diagnostic of zoning ordinance – provides roadmap
5. Involve community leaders
6. Be diligent in preparing comprehensive plan in preparation of updating zoning

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Thank you!

