

**TOWN OF DAY PLANNING BOARD  
REGULAR MEETING  
DECEMBER 3, 2012**

**Members Present:**

**Chairman David Cox**

**Ted Mirczak**

**Dick Traeger**

**Eileen Brennan**

**Jack Vaillancourt**

**David Avigdor, Town Attorney**

**Members Absent: None**

**Motion** made by Chairman David Cox, seconded by Member Dick Traeger to approve the minutes of November 5, 2012 with no proposed changes.

**Ayes:** Chairman David Cox, Member Dick Traeger, Member Ted Mirczak, Member Eileen Brennan, and Member Jack Vaillancourt.

Carried 5 - 0.

Member Dick Traeger did not receive minutes; need to check on format for him to get these.

**New Business:** Chairman David Cox presented a letter from Fred Monroe, State of New York "Creating the Community You Want: Municipal Options for Land Use Control".

The Finch and Pryne lands are being taken over by the state and will be taken off the tax roll.

We can qualify to ask for development rights on property within the town. It would be transfer of development rights. This involves sending and receiving units for rights. Finch-Pryne is a sending unit and we would have to file for a receiving unit. We can ask the APA to transfer rights. This property has to be within the town. David feels that this is something the Town Board should look into. They could look into doing something else with this property. Survey says that most people do not like change. This doesn't affect rights on the lake. This would change a 3 acre parcel to an acre and a third in moderate density. This will be referred back to the Town Board.

**Motion** made to refer back to the Town Board by Member Jack Vaillancourt, seconded by Member Eileen Brennan.

**Ayes:** Chairman David Cox, Member Ted Mirczak, Member Dick Traeger, Member Eileen Brennan and Member Jack Vaillancourt.

Carried 5 - 0.

**Old Business:** In regards to the matter involving Harry & Eileen Brennan and John & Geraldine Golden (tax map #'s 16.-1-17.1 & 17.2). Eileen did receive the Mylar copy of the tax map. Map is to be signed. Carol is in the office Tuesday-Thursday, she has the stamp. Eileen will send copy of revised deed.

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In regards to the Hertzal property this will be discussed at the next meeting.

**Correspondence:** None

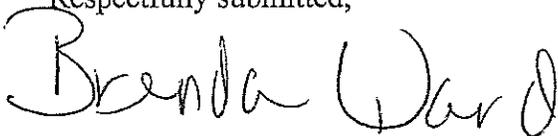
**Public Input:** None

**Motion**, made by Member Dick Traeger, seconded by Member Jack Vaillancourt, to **adjourn** this December 3, 2012 Regular Meeting of the Day Planning Board at 7:12 p.m.

Ayes: Chairman Dave Cox, Member Jack Vaillancourt, Member Eileen Brennan, Member Ted Mirczak and Member Dick Traeger.

Carried 5 - 0

Respectfully submitted,

A handwritten signature in cursive script that reads "Brenda Ward". The signature is written in black ink and is positioned below the typed name.

Brenda Ward

**Creating the Community You Want:  
Municipal Options For Land Use Control**

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JAMES A. COON LOCAL GOVERNMENT TECHNICAL SERIES

STATE OF NEW YORK  
Andrew M. Cuomo  
Governor

The rights to be transferred usually take the form of a number of units per acre, or gross square footage of floor space, or an increase in height. The rights are used to increase the density of development in the receiving district.

**TRANSFER OF  
DEVELOPMENT RIGHTS**

General City Law §20-f  
Town Law §261-a  
Village Law §7-701

Receiving districts are those areas which the municipality has determined are appropriate for increased density based upon a study of the effects of increased density in such areas. For example, a town may determine that it is appropriate to preserve prime agricultural land, which it designates as a sending district. The town may also determine that its unincorporated hamlet area may be developed at a higher density, and designate it as a receiving district, where development rights can be used to increase density above what is ordinarily allowed.

In this manner, owners of land in sending districts are able to realize a level of economic return while the municipal goal of preserving the land is achieved. The TDR system will be successful, however, only where there is a demand to increase development in the receiving districts, and where the municipality does not undermine the incentive to purchase development rights by rezoning receiving districts to higher densities--a move which of itself might satisfy market demand and thus defeat the incentive mechanism.

*How can municipalities be sure that sending districts are not developed in the future?*

The State zoning enabling statutes require that land from which development rights are transferred are subject to a conservation easement limiting the future development of the property. The statutes also require that the assessed valuation of properties be adjusted to reflect the change in development potential for real property tax purposes.

TDR is a sophisticated land use management tool that requires a high degree of municipal staff experience and resources to initiate and maintain. It should be considered in that light, and only after a municipality has undertaken a thorough study of its implications.

**SITE PLAN REVIEW**

Site plan review is concerned with how a particular parcel is developed. A site plan shows the arrangement, layout and design of the proposed use of a single parcel of land. Site plan review can include both small and large-scale proposals, ranging from gas stations, drive-through facilities and office buildings, to complex ones such as shopping centers, apartment complexes, and industrial parks.

The authority to require site plan review is found in the State enabling statutes. Site plan review may be

**SITE PLAN REVIEW**  
General City Law §27-a  
Town Law §274-a  
Village Law §7-725-a

incorporated into a local zoning law or ordinance, or may instead be adopted as a separate local law or ordinance. The local legislative body has the power to retain site plan review authority itself, or to delegate review to the planning board, zoning board of appeals, or another board.

*What uses are subject to site plan review?*

Local regulations (either in the site plan review law or elsewhere) determine which uses require site plan approval. Uses subject to review may be (1) identified by the zoning district in which they are proposed, (2) identified by use, regardless of zoning district or location, or (3) located in areas identified as needing specialized design restrictions by way of an overlay zone approach, such as a flood zone or historic preservation district.

Site plan review can be a valuable tool for commercial, industrial, or multi-family projects, or for uses intended for environmentally-sensitive

map and zoning text, point systems require case-by-case review to determine if a specific project is permissible.

### THE FLOATING ZONE

Floating zones allow a municipality flexibility in the location of a particular type of use and allow for a use of land that may not currently be needed, but which is desired in the future. The floating zone is also a way of scrutinizing significant projects for municipal impacts, as floating zones must be approved by the local legislative body. The standards and allowable uses for a floating zone are set forth in the text of the municipality's zoning regulations, but the actual district is not mapped; rather, the district "floats" in the abstract until a development proposal is made for a specific parcel of land and the project is determined to be in accordance with all of the applicable floating zone standards. At that time the municipality maps the floating zone by attaching it to a particular parcel or parcels on the zoning map. The technique may be used by communities that wish to provide, say, for a future industrial park.

Because the floating zone is not part of the zoning map until a particular proposal is approved, the establishment of its boundaries on the zoning map constitutes a zoning amendment requiring the approval of the local legislative body.

### PLANNED UNIT DEVELOPMENTS (PUDs)

Planned unit developments, or PUDs as they are commonly called (sometimes the variant designation "PDD"—planned development district—is used instead), describe a zoning technique allowing development of a tract of land, usually a large one, in a comprehensive, unified manner and in which the development is planned to be built as a single project. PUDs are often a form of floating zone in that they are not made a part of the zoning map until a PUD project is approved. PUDs that are shown on a zoning map may require approval by special use permit.

The PUD concept allows a combination of land uses, such as single and multiple residential, industrial,

and commercial, on a single parcel of land. It also may allow a planned mix of building types and densities. For example, a single project might contain dwellings of several types, shopping facilities, office space, open areas, and recreation areas.

#### PLANNED UNIT DEVELOPMENT

General City Law §81-f

Town Law §261-c

Village Law §7-703-a

The State enabling statutes authorize municipalities to enact PUD procedures, stating that they are intended to provide either for particular land uses or a mix of uses to create "economies of scale, creative architectural or planning concepts and open space preservation".

### TRANSFER OF DEVELOPMENT RIGHTS (TDR)

Transfer of development rights (TDR) is an innovative and complex growth management technique. It is based on the concept that ownership of land gives the owner a "bundle of rights," each of which may be separated from the rest. For example, one of the "bundle of rights" is the right to develop land. With a TDR system, landowners are able to retain their land, but sell its development rights for use on other properties. TDR has been most often applied for preservation of farmland in New York. Under common TDR systems, farmers are able to keep their land as an agricultural use, by selling the property's development rights, which are then used on non-agricultural land.

#### *Where can development be transferred to?*

Under the State enabling statutes, areas of the municipality that have been identified through the planning process as in need of preservation (e.g., agricultural land) or in which development should be avoided (e.g., municipal drinking water supply protection areas) are established as "sending districts." Owners of land in these designated areas may sell the rights to develop their lands, and those development rights may be transferred to lands located in "receiving districts."