The Land Use System: Setting the Stage
Dedicated to fostering the development of sustainable communities through the promotion of innovative land use strategies and collaborative decision-making techniques.
6:00 – 6:15  Welcome and Introductions
6:15 – 6:30  The Land Use System
6:30 – 7:00  Exercise: The Sharon Hill Development
7:00 – 7:20  Policy Development & Comprehensive Planning
7:20 – 8:00  Participation in Planning: Setting the Stage
Your Presenters Today

Jessica Bacher & Tiffany Zezula
Land Use Law Center
Pace Law School
(914) 422-4262
Who’s in the room?

A. Land Use Board member
B. Municipal Planning/Building Department staff
C. Elected officials
D. County government
E. Developers
F. Planners, Attorneys or other professional
G. Community members
H. Other
THE LAND USE LEGAL FRAMEWORK

The New York State land use enabling act delegates authority to LOCALITIES to:

- Adopt comprehensive plans
- Zone
- Approve subdivision and site plans
- Issue special use permits
- Award variances
The New York State laws delegate authority to **STATE AND COUNTY AGENCIES** to regulate land development, such as:

- Wetland regulations
- Access to state and county roads
- Development of water and sewer systems
Federal and New York State laws to **PREEMPT** or limit local land use authority regarding issues, such as:

- Utility siting
- Cellular facilities
- Religious uses
- Group homes
THE EVOLUTION OF NEW YORK LAND USE LAW

1913 | New York City Zoning Commission Formed
1916 | New York City Comprehensive Zoning Law Passed
1922 | Standard Zoning Enabling Act
1926 | Zoning Declared Constitutional \((Euclid v. Amber Realty)\)
1928 | Standard City Planning Enabling Act
1930’s | The Great Depression
1940’s | World War II
The Evolution of New York Land Use Law

- **1950’s**: Postwar Boom
- **1960’s**: Basic Framework of Zoning in Place
- **1970’s**: Post Euclidian Period begins in Response to Sprawl
- **1990’s**: Advent of Local Environmental Law
- **2000’s**: Smart Growth
- **2010’s**: Climate Change
THE DELEGATION OF LEGISLATIVE AUTHORITY

The State Legislature

Town/ Village Board

Local Boards
1,550+ local jurisdictions in NY
With land use authority

Source: NREL
NEW YORK MUNICIPALITIES . . .

Have **SPECIFIC AUTHORITY** under Town, Village, and General City Law to adopt:

- Comprehensive plans
- Zoning laws
- Subdivision regulations
- Site plan regulations
Delegation of Authority

Legislature
- Adopt Land Use Laws and Plans
- Site Plan Approval
- Subdivision Approvals
- Special Permits

Building Inspector/Zoning Enforcement Office
- Building permits
- Zoning Determination

Zoning Board of Appeals
- Variances
- Interpretation
- Special Permits

Planning Board
- Advises on Zoning Adoption
- Site Plan Approval
- Subdivision Approvals
- Special Permits
“Among our most important powers of local government is the responsibility to undertake comprehensive planning and to regulate land use to protect the public health, safety and general welfare.”

N.Y. Town, Village, General City Law
Zoning Must Be in Accordance with Comprehensive Plan
Adopt a Resolution that:

- Lists purpose (benefits and findings)
- States intention to plan and regulate
- Adopts a task force/committee
- Authorizes research and studies
- Seeks state and federal funding and assistance
- Develop a community engagement process
Appoint a Task Force/Committee

- Charge an existing task force/committee or conservation advisory council
- Work with the County
- Create a new Task Force/Committee
Who sits on the Task Force?

- Municipal Officials
- Chamber of Commerce
- HOAs
- Environmental/Non-profit Community
- Historic Preservation Representative
- Developers
- Landowners & Farmers
- Planning Board Member (required for Comp. Plan)
What is the Task Force’s Role?

- Conducting studies & performing research
- Partnering with adjacent communities
- Leveraging state and federal technical assistance grants
- Developing a community engagement process
- Amending the comprehensive plan
- Considering regulatory changes
Task Force/Committee

• Who has a Task Force/Committee?

• Who sits on your Task Force/Committee?

• What is the role of your Task Force/Committee?
Plan Making

Communitywide Comprehensive Plan

- Neighborhood Plans
- Corridor Plans
- Special District Plans
- Green Infrastructure Plans
- Energy Plan
- Climate Action Plan
Town of New Castle

2016 Comprehensive Plan
1989 Town Development Plan

- Introduction
- Basic Studies
- Town Development Plan
  - Planning Goals and Policies
  - Residential Development
  - Commercial Development
  - Open Space and Recreation
  - Transportation
  - Community Facilities and Services
- Plan Implementation
Sustainability and the Comprehensive Plan

- APA CP Standards and Best Practices
- LEED ND Rating System
- NYS Climate Smart Communities Certification Program
- STAR Communities Rating System
- Mid-Hudson Regional Sustainability Plan
- Mid-Hudson Economic Development Plan
2016 Comprehensive Plan

- Introduction
- Livable Built Environment
- Harmony with Nature
- Resilient Economy
- Healthy Community
- Responsible Regionalism
- Implementation Table
- Appendices
Major Themes

- **Livable Built Environment**
  - Preserve the bucolic residential character in low-density areas
  - Provide alternative housing to meet the housing needs of seniors, young professionals, and small and low income families
  - Enhance access, mobility and circulation

- **Harmony with Nature**
  - Protect and maintain the Town’s natural resources
  - Mitigate and adapt to the effects of climate change

- **Resilient Economy**
  - Plan and zone for vibrancy and mixed-use land patterns in hamlets
  - Improve and strengthen the Town’s fiscal health

- **Healthy Community**
  - Create a safe and healthy community

- **Responsible Regionalism**
  - Solidify New Castle’s regional role as a cooperative partner and vital stakeholder
## Policies

<table>
<thead>
<tr>
<th>Goal</th>
<th>Livable Built Environment</th>
<th>Harmony with Nature</th>
<th>Resilient Economy</th>
<th>Healthy Community</th>
<th>Responsible Regionalism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Range of housing options in/around hamlets</td>
<td>Protect and maintain the Town’s environmental resources</td>
<td>Preserve and enhance the unique assets of the hamlet areas</td>
<td>Improve off-road linkages</td>
<td>Continue and improve cross-jurisdictional planning</td>
<td></td>
</tr>
<tr>
<td>Update zoning code</td>
<td>Amend wetland statutory requirement</td>
<td>Analyze the feasibility of a Business Improvement District</td>
<td>Encourage the use of the North County Trailway in Millwood</td>
<td>Identify cross-boundary open space corridors</td>
<td></td>
</tr>
<tr>
<td>GOAL</td>
<td>ACTIONS</td>
<td>ACTION TYPE</td>
<td>IMPLEMENTATION TIMEFRAME</td>
<td>RESPONSIBLE PARTY</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------</td>
<td>--------------------------</td>
<td>-------------------</td>
<td></td>
</tr>
<tr>
<td>Create a sustainable mix of commercial and residential uses within the hamlets</td>
<td>Undertake an analysis of development/infill opportunities in the hamlets consistent with community needs, public vision, and environmental and infrastructural constraints.</td>
<td>Study and Analysis</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Review and revise existing zoning regulations or develop alternative zoning (i.e. form based zoning) to better allow mixed-use development in the hamlets (e.g. regulations regarding driveway width, building height, front yard setbacks, parking requirements).</td>
<td>Zoning Study</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Revise zoning and design standards to include appropriate smart growth principles (e.g. LEED-ND) to encourage sustainable development in hamlet areas.</td>
<td>Zoning Study</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Examine existing industrial zoned property to determine the best use of property consistent with the surrounding area in the case that properties become available for future development.</td>
<td>Study and Analysis</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Locate a range of housing options (single and multi-family units) in or in proximity to the hamlets</td>
<td>Update zoning code to include provisions for mixed-use, multi-family, condominiums, townhouses, apartments, senior and workforce housing, and accessory dwelling units in or in proximity to the hamlets. Consider revising minimum lot size, parking regulations, setbacks and other regulations to allow for a range of housing types.</td>
<td>Zoning Study</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Create vibrant and walkable mixed-use areas in the hamlets that are well connected to public transit</td>
<td>Include smart growth principles in the development of hamlet design guidelines to create an active pedestrian environment.</td>
<td>Study and Analysis</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Review and revise existing zoning regulations or develop alternative zoning (i.e. form based zoning) around the Chappaqua train station to encourage a higher level of transit-oriented development, which in turn will promote transit use, intermodal connectivity, walkability, and intensification of land use.</td>
<td>Zoning Study</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Welcome to the official website of the Town of New Castle's 2016 Comprehensive Plan!

The Comprehensive Plan establishes a vision for the Town based on the community's expressed needs and desires. It is a living, breathing document - it will be used to guide decision making for the next fifteen to twenty years, shaping a strong, sustainable New Castle well into the future. Community feedback on the Plan will continue to impact the policy objectives found within it. Take a look around. We welcome any questions or comments you might have!
Collaborative Decision-Making and Community Engagement
Objectives of the Session

• To describe the basic requirements of the land use decision making process

• To illustrate why the land use decision making process is not suited for collaboration

• To demonstrate how effective public engagement can be used to build community

• And to introduce participants to the principals of community engagement
NIMBY

KISS MY ASS YOU COMMIES!

WE HAVE TO COME OUT!

I'M SO ANGRY
I MADE A SIGN

HERE COMES HIGH SPEED RAIL
There goes the neighborhood.

www.highspeedboondoggle.com
Join us on facebook.
Imagine…
Minimum or Maximize?
Stages of Decision-Making

1. Application/Plan Submitted
2. Application/Plan Reviewed
3. Public Hearing
4. Decision Announced
Minimum Requirements of the Process

• An impartial tribunal
• A fair and orderly process
• The decision made is based on facts on the record
The Required Decision Making Process . . .

- **DOESN’T** prevent or avoid challenges from being made by the public
- **DOESN’T** help create conversation between local boards, developers and the affected public
- **DOESN’T** reduce the possibility of opposition
- **DOESN’T** get community support
Stages of the Required Decision Making Process

1. Application/Plan Submitted
2. Application/Plan Reviewed
3. Public Hearing
4. Decision Announced
What is Citizen Engagement?

- Citizens of a community are “engaged” when they play an effective role in decision-making.

- They are actively involved in defining the issues, identifying solutions, and developing priorities for action and resources.
What are the **DISADVANTAGES** of a Collaborative Process?

- Messy process
- Takes too long
- Expensive
- Hard to control
- Not focused
Advantages of Community Engagement

✓ Saves time
✓ Better ideas and shared problem solving
✓ Builds relationships
✓ Satisfactory result
✓ Creates buy-in
✓ Considers a range of interests
✓ Encourages future involvement
✓ Boosts confidence in government
✓ Increases compliance
# Community Engagement

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Supplemental</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Goal</strong></td>
<td>Technical viable plan that conforms to all laws, rules and regulations</td>
<td>Technical viable plan that integrates stakeholder interests</td>
</tr>
<tr>
<td><strong>Primary Audience for Plan</strong></td>
<td>Decision-makers</td>
<td>Decision-makers and stakeholders</td>
</tr>
<tr>
<td><strong>Purpose of Information</strong></td>
<td>Ensure the plan conforms to professional practice and passes technical review</td>
<td>Ensure the plan is feasible and addresses stakeholders’ issues and concerns</td>
</tr>
<tr>
<td><strong>Skills</strong></td>
<td>Technical (engineering, design, fiscal, legal)</td>
<td>Technical, legal, and facilitation/community engagement</td>
</tr>
<tr>
<td><strong>Role of Public</strong></td>
<td>Input and Advice at Public Hearing</td>
<td>Engage in discussion, join problem-solving</td>
</tr>
</tbody>
</table>
The 80/20 Rule

80% of land use decisions use 20% of board time

20% of land use decisions use 80% of board time

REQUIRED PROCESS

COLLABORATIVE PROCESS
Collaborative Process is Appropriate When . . .

- The solution is **NOT IMMEDIATELY CLEAR** to all the parties
- The parties **FUNDAMENTALLY DISAGREE** on the best solution
- The decision is likely to have **FAR REACHING IMPACTS**
- The decision is likely to be **CHALLENGED**
Community Engagement

Principles

- Engage Early
- Listen & Learn First
- Build on Interests, Not Positions
- Design an Effective Process
- Be Inclusive & Involve Many
- Be Transparent & Responsive
- Use a Skilled Facilitator
What are **POSITIONS**?

Parties’ assertions, wants, demands, offers, and solutions

What are **INTERESTS**?

A person’s needs and concerns
Incentives for Participation:

- To improve services / their community
- Opportunity to be a part of change
- To have a voice
- Build self-confidence
- Meet other people
- Refreshments (this is always a good idea when hosting an event)
- Coming to an event and the engagement being secondary (eg: a community event)
- Freebies / a goodie bag
- Cash
- Vouchers
- Entry into a prize drawing
Methods:

- Community Meetings
- Interviews, Polls & Surveys & Hotlines
- Websites, Email, Social Media & Texting
- Focus & Advisory Groups
- Neighborhood Walks
Choose creative locations that will attract diverse stakeholders and get mobile:

– Trains
– Parks
– Bars/Restaurants
– Schools
– Shopping Centers
– Homeowner Association Meetings
– Senior and Recreational Centers
– Business locations/restaurants
Designing a Community Meeting

Step 1: Define the Purpose of the Meeting

Step 2: Identify Who Should Participate

Step 3: Logistics

Step 4: Create a Positive Environment

Step 5: Maintain and Continue Open Lines of Communication
Host a general community meeting to define and clarify the issue:

- What are the benefits of higher density zoning?
- What are your concerns with higher density zoning?
- What are some strategies to overcome your concerns?
Step 2 - Identify Participants

- Land use board members
- Municipal staff and officials
- Historical Preservation members
- Local developers
- Religious leaders
- Local environmental activists and citizen groups
- Architects and engineers
- Large landowners
- Chamber of Commerce
- Homeowner Association members
- Schools
Step 3 - Logistics

- Hold Multiple Meetings
- Schedule Meetings to meet the needs of various stakeholders
  - Select convenient and accessible venues
  - Select varying dates and times
  - Publicize meetings
Step 4 - Create a Positive Environment

- Distribute Detailed Agendas
- Establish Ground Rules
- Offer Refreshments
- Distribute Meeting Summary
- Discuss interests instead of positions
Step 5 - Maintain Communication

- Post meeting notes and technical information
- Find ways to continue to receive input/feedback
- Continue to ask, “who else & update?”
- Schedule future meetings
- Give feedback
Thank You

Questions?