

MEETING SUMMARY
TOWN OF DENNING PUBLIC OUTREACH MEETING
Saturday, April 12, 2008
PROJECT TO UPDATE DENNING'S LAND USE CODES

This document is a meeting summary developed by the Committee to Update Denning's Land Use Codes. The meeting objective was to explain concepts and obtain input on approaches the Committee is considering to update of the Town's subdivision code. There were 50 people at the meeting. The meeting went from 9:15 to 11:50 a.m.

The summary of the meeting has the following format:

1. There is a statement on the topic
2. There is a question proposed in order to evoke audience response.
3. The responses (questions and comments are in italics. If the committee members or planning consultant had comments, these follow the italics.

Supervisor Bruning provided a welcome and introduction to the meeting. A grant from the New York Department of State is paying for this process. A good offense is the best defense – we are considering how to achieve a land use laws update that will promote management of the existing community character. Mr. Bruning introduced David Gilmour, AICP, consulting community planner for this project.

Mr. Gilmour explained that comprehensive plan was adopted in October 2007. Its vision is to protect the rural and open space character of Denning. We are now setting about revising the various land use laws to make them consistent with the Plan. He explained the Steering Committee structure and process, including the codes diagnosis, and the intent to obtain input on approaches we are considering in an update of the subdivision code.

He explained the format – we will go through questions covering three main topics related to subdivision control. Subdivision is the process of creating new building lots and providing access to them. The subdivision code is 30 years old. That law specifically is our focus today.

The Plan and meeting summaries of the Committee are available for review at Town Hall. The Comprehensive Plan is a guide and long-range strategy. He encourages the community to consult the plan. We will take on zoning as the next phase of the project. People will have future opportunities to comment on all of the topics that are addressed today. On the tables there are three discussion documents that elaborate on the individual topics we will take up today along with the nine questions that we will go through today.

DRIVEWAY PLANNING QUESTIONS

1. **STATEMENT:** The Committee aims to emphasize the careful design and construction of new driveways to achieve a good fit of new development with Denning's rural, open space character. Rather than formally present driveway standards in the subdivision code, we propose using guidelines that can inform more optimal driveway layouts. This will cover topics like working with natural contours when possible, keeping driveways out of view, explaining when gravel surfaces are appropriate, and by retaining natural cover including soils and trees.

A. QUESTION: How do you feel about this approach?

1. *Q/C: What are the parameters of driveway guidelines?* Gilmour indicated that guidelines can promote consideration of context on a site-specific basis. While subjective to a certain extent, there could be guidelines that explain how to assess context. Design guidelines could explain cases and aspects of design to avoid plus desired approaches. An example of a case to avoid was provided. If there is a waterfall viewable from the road – that may be a case where it would be desirable for the driveway to be designed so that its placement and layout avoids the view of the waterfall. *(Note: based on the reaction of the questioner; they appeared to not feel that their question was answered. Apparently they wanted to know what types of standards could be included in driveway guidelines like: positioning of the driveway – meaning its siting or placement; consideration on defining desired width; curvature; materials of construction, such as whether it is paved or gravel surface; shoulder and sideslopes; etc.)*
2. *Q/C: What about existing driveways.* The focus of the planning codes is new development.
3. *Q/C: What are the present codes – what do these say about driveways?* The subdivision code was circa mid-1970s. It is generic. Quite quiet on the topic of driveways; likewise with roads--so there is not a lot of guidance.
 - i. *Follow-up question -- So how do we know what does and doesn't fit with the plan?* The plan discusses goals and characteristics of Denning that we seek to preserve: rural character and natural open space. We can look at case examples of development that we do or don't like. The Committee has been diagnosing and examining how to assess things like fit.
4. *Q/C. What areas are looking to be developed; what areas are going to be developed?* The different existing and proposed zoning districts were identified per the comprehensive plan. Areas where there is existing settlement like the hamlets, including Sundown, and Red Hill Road are places with higher densities; places like the end of Bear Pen Road were proposed for a lower density zoning.

5. *Q/C: I live on Red Hill Road and the YMCA owns a lot of land up there. Do they plan on developing?* The planning consultant has no knowledge of specific plans. One technique the plan promotes and the Committee has been considering is a conservation analysis based approach. You could use this technique to assess any site proposed for development. You could identify areas more suitable for development versus ones preferably conserved.

6. *Q/C: The discussion document posted on the Town web site alludes to a requirement to maintain driveways all season -- so you're asking seasonal people to pay for snow plowing?* The Committee to Update Denning's Land use Codes has already said they don't want to require snow plowing year round if it is a seasonal residence. The Committee has discussed standards/ requirements for maintenance of driveways so that these do not fall in disrepair and become impassable. Regarding snow plowing, that is an error, thanks for pointing it out.

7. *Q/C: During MP development there was public comment regarding the proposed hamlets layout. It was indicated that there was a clerical error on the map; but there is still discussion of extending the hamlets in the plan.* The process to develop the Plan lasted over a year. We are here today to talk about the approach to updating the subdivision regulations. Zoning will come next. The change in the Plan removed the clerical error on the map. The intent was to take away the specific map reference, but indicate that this topic may need to be considered in the future.

- i. *Follow up comment: At the last MP meeting there were three things to be removed and they still appeared in the final MP.* You can use public process to request a change to the comprehensive plan.

8. *Q/C: The Comprehensive Plan discusses the notion of identifying and attempting to preserve special areas around the Town. Have those areas and places been identified?* Yes & no. The plan discusses proposed zoning treatments for different areas. It discusses areas like Red Hill, Sundown, by Frost Valley. It also discusses some of the other distinguishing features of the community. But there is not a discrete/detailed list (an inventory) of the special features of the Town. You could augment the Comprehensive Plan by developing a list that identifies those places that are preferably conserved. You could then promote directing growth away from these places/sub-areas. Basically, during the development review process the Planning Board could consult that list with someone desiring to create a subdivision. Identifying the special features on a parcel-specific basis would highlight features desired for conservation. There could then be an attempt to direct the new roads, housing or other building development that is proposed away from these features to the parts of the site that are considered more suitable for development.

- i. *Follow-up: An audience member asked what are the detailed standards for driveway development? --Today we are discussing themes. Proposed code comes later. **Town Supervisor:** The Town is under pressure from Sullivan & Ulster Counties Fire Chiefs to use guidelines to enable fire trucks to get up driveways. Would you like a presentation by the Ulster County Fire Chiefs on why driveway design is important? It is acknowledged that many people own property in the community that is sitting high. There is a need for ways to reach maximum grades. The grades of driveways may make a difference in the ability to purchase insurance as well. We are here to ask whether you prefer to use 15% or 12%.*
- ii. *The bottom line is that the fire departments are here to make sure the whole mountain doesn't go up. It let a building 3 houses down burn. If there is no obvious way to reach max grade allowed by what we set into law, is there going to be a way for people in our community to get variances? **Supervisor:** Absolutely, that's what this group is working on/ considering.*

2. STATEMENT: We think that, given Denning's high incidence of steep slopes, driveway grades up to 15% (outside of the initial intersection) should be allowed without more formal review (rather than 12%). Likewise, in order to retain the special features of sites and disturb less earth through cutting and filling during construction, it is proposed to allow driveways that meander, so they can follow the land form. Providing flexibility could also mean allowing steeper driveways for short sections in order to avoid places that are considered sensitive.

A. QUESTION: Do these trade-offs make sense?

1. *Q/C: What are the detailed standards for driveway? Today we are attempting to explore more of the overarching principles and guiding themes. Technical standards are usually complicated. The Committee to Update Denning's Land Use Codes will consider the input we get today, and then set about drafting detailed subdivision standards. (The questioner indicated that their question was not understood/ not listening to their question)*

- i. *Follow-up: The questioner wants to know the width requirement for driveways now. The existing codes are vague. The only standards there are now are for the required width of the curb cut. It is explained that the curb cut is where the driveway meets the street. A Committee to Update Denning's Land Use Codes member reads Subdivision Codes Section 443 and states that that topic will be dealt with at a later date. The Committee has people's concerns in mind while providing guidelines for safe operation.*

- ii. *There was a comment from the audience that there is a need for more powerful, smaller fire trucks that can get to more remote parts of Town.*
- iii. *Follow-up related comment from another member of the audience: My house burned down five years ago. I don't care what kind of driveway you have; the Fire Department will not save your house.*

2. *Q/C: I hear the phrase "to preserve rural character of community". I think that is good. Increasing the allowable driveway grades may enable access to more areas? Is that a contradiction? I am for eliminating excessive development.*

3. *Q/C: Are these suggestions or guidelines? When talking about driveway grades, that refers more to guidelines. When you discuss grade for a subdivision road, that's more a standard in law. For example, is the driveway above 12% grade? Are there other guidelines that have been met?*

- i. *Follow-up question: Laws, suggestions? (commentator implies confusing /not clear on intent) On driveways above 12% that would be a guideline. A question was can we go higher than 15%. Maybe -- case by case.*
- ii. *Follow-up question from a different person: Do you have to pay for variance? If a standard is in subdivision regulations, you can request a waiver from the subdivision regulations in writing. For relief from the zoning law you request a variance -- there may be a fee for a variance (zoning relief is specifically treated in state law under zoning, enabling law by the zoning board which is the local land use court). A waiver of the subdivision regulations is more flexible; the Planning Board can consider waivers on a case by case basis.*

4. *Q/C: When there is consideration of all these land use controls, is it possible to put a tighter restriction on say, apartment or condos? When we discuss land uses and their impacts, that strays from the topic subdivision control (which is more a design-oriented topic) into the topics covered by zoning (zoning covers use and impacts). But the answer is generally, yes, different land uses can be regulated differently. (The questioner indicated that they do not feel that apartments or condominiums are in keeping with Denning's rural character).*

3. STATEMENT: The Committee wants to allow common (shared) driveways as a way to minimize site disturbance and manage access onto public roads. For example, rather than two separate driveways for two adjoining house lots, it may be possible to have the houses share a driveway stem (trunk). In order to make sure that there is on-going cooperation between the property owners that share

driveways, it is proposed to have a formal review of the layout of the common drive, and binding legal agreements established between the adjacent properties.

A. QUESTION: What do you think about common driveways?

1. *Response:* Person indicates that they do not like them (common driveways).
2. *Response:* A lot of mortgage companies do not allow common driveways. The commenter describes a case where there was a common driveway with family property. The house was sold and the insurance and mortgage companies made them install a second driveway. The Committee will research that.

(Asked for a show of hands, between half and two thirds responding does not want to allow/encourage common driveways)

3. *Q/C:* Does it really matter what we say? Commenter implies not listening/ considering public comment.
4. *Q/C:* Are not common driveways intended to be a tool to ease the environmental impact of future development?

CONSERVATION / ENVIRONMENTAL PLANNING

4. **STATEMENT:** The Committee to Update Land Use Codes supports enhanced notification to Town residents about new proposed subdivisions. Currently, public comment usually occurs at a much later stage during the development review process. By promoting awareness of new subdivision applications early on, those that may have interest would have the opportunity to comment on the application prior to any extensive investment in engineering and design.

Methods used to achieve early notification could include:

- ✓ Posting signs on road frontage that highlight pending land use applications.
- ✓ Requiring early-stage formal notice to abutters about a possible subdivision.
- ✓ Early notification via notice published in newspapers.

QUESTION: Do you have comments and/or suggestions to add to this?

1. *Q/C: In Monticello, if someone owns a lot in village, if neighbor wants to build an addition adjoining owners are notified and told about a public meeting.*
2. *Q/C: In LI they do the same thing.*
3. *Q/C: Earlier the better.*

(There was support for undertaking all 3 techniques before permits are issued.)

5. **STATEMENT:** In the review process of a new proposed subdivision, the use of a "Conservation Design" approach, which we as a Committee support, would identify, on a site-by-site basis, those areas that are more suitable for development, versus others which should remain intact.

Conservation Design does not refer to cluster development or the grouping of houses close together for construction affordability. Rather, the Conservation Design approach is used to preserve rural characteristics, such as stands of trees, unique views, important habitat and other parts of the site landscape that are identified as special. This technique focuses development in areas considered less important to community character.

QUESTION: We would like your feedback on this.

1. *How and/or who decides what's special?* The community could develop lists/analysis of what's special. It could include special places, views, swimming holes, walking roads, animal habitats, etc. These could be given to the Planning Board to review when there are site-specific development applications.

2. *What do you mean when you say clusters would be exempt?* To clarify, the committee is not promoting cluster development techniques. If you have a site, it is not proposed at this point to allow or require cluster development-type approaches in order to develop the site. In other words, at this point it is not proposed to involve smaller lot sizes than the district base allows. It does want to recommend that there be flexibility in the bulk standards (possibly some easing of setback requirements).

i. *I lived on a farm that was subdivided. That's now a cluster. (speaker implies a denser settlement than when it was a farm) Does that mean they would be exempt? We had a swimming pond. What would stop a new cluster from developing? You appear to be saying that neighborhoods developed over time into smaller lots? You can try to point out special places and still have development that is a little more quality than cookie cutter development. There has to be buildable area available for any type of development.*

3. *Would this review be required on a single home?* A subdivision involves the development of 3 or more lots. The intent discussed by the Committee is to promote conservation analysis on 'major' subdivisions.

4. *Would you tell them where to site their house?*

5. *Others in the audience that apply to larger parcels support the establishment of guidelines.*

6. *Don't make it convenient for developers to put in roads/ site houses near each other.*

6. **STATEMENT:** There is consensus within our Committee in favor of allowing more flexible layouts of lots within new subdivisions, such as more irregularly shaped lots and/or diminished setbacks. This would achieve more open space and better layouts of the housing sites, roads and driveways in contrast with the areas that are preferably conserved on the site. The required minimum lot size for a respective zoning district would stand and there would not be any additional 'incentive' lots.

QUESTION: Are you comfortable with the Planning Board using a more flexible approach to lot layouts? If not, what are your concerns?

1. *Comment: FEMA has redrawn flood maps. Flood insurance can be costly. His mortgage company was going to charge a lot for coverage.*

2. *Some with children own acreage, when they get older, they're not going to be able to afford land; will want to put a home on there. If you make it outrageous to put a home there, where will they go?* This committee is charged with taking comments and considering

them. One option could be techniques to enable small scale development to be manageable which would help provide some affordable housing.

3. *Codes that guide development are a necessary evil to keep developers at bay.*

4. *Commenter would like progressive fees; more lots would have disproportionately higher fees.*

5. *If you have property and want to pass it on to children. How about law that if you have (own) property for a certain number of years you can develop it. Clarify: The lot size would stand on existing lots. There is 3, 5, 10 acre zoning proposed in the Plan (**Editing note: speaker misspoke: Plan provides for 1,5,10 acres**). If we allow flexible development, i.e. set back, irregularly shaped lots, we could still keep minimum zoning area requirements.*

6. *What I'm most concerned about is condos on non-profit land. So if someone wants to put up condos, whether they can do this will be dealt with under zoning? So it appears that similar to the way the Committee has interpreted it -- cluster housing is something that there is not a lot of support for. (**Commenter feels that Town committees and the elected Board are swayed by special interests.**)*

7. *Will a lawyer review proposed codes? There are plans for legal review. It's in the budget.*

7. STATEMENT: The committee recommends a standard whereby all utility electric lines in newly proposed subdivision/developments would be placed underground? There would be less damage to the lines from potential ice/wind storms and there could be allowances for waivers, where warranted.

QUESTION: Do you have comments or concerns?

1. *Do you mean from road to lot, or from lot to house? The commenter felt to your house it would look good buried.*

2. *Underground burial is good for scenery, but heat is generated by cables underground. These fail as much as above ground, which could also impose a cost to the community.*

ROAD PLANNING & DEVELOPMENT

8. **STATEMENT:** During review process for new subdivisions, road planning can be technical. In addition to having specific formal street standards that detail the engineering and design principles for these newly proposed roads, guidelines can be a tool to foster understanding of the preferred planning and construction techniques. Guidelines can also highlight patterns and methods to avoid.

When updating the Subdivision Regulations we think it would be helpful to have a “Design Guidelines Manual” that is accessible to the public. It would cover, among other topics, aspects of road planning and design. The handbook would highlight the more subtle aspects of road design and construction through identification and exploration of the preferred practices and approaches.

QUESTION: What other topics do you think ought to be in the Manual?

1. *What are the consequences of not following guidelines?* Guidelines are not regulatory. Generally speaking, guidelines are not binding.
2. *What if I wanted to put a new driveway in?* Probably not guided by the subdivision rules. You’d need a curb cut permit from the Town or Ulster County.
3. *The roads are in horrible condition. I am a truck driver. I believe it is a federal law that trucks must follow weights limits. Logging trucks should check-in and state the names and the companies they are operating under. There is no way some of these trucks are legal.* Others indicated that management of trucks on local roads is a local law. It is a topic being worked on by the planning board under their review of local logging laws. It was observed that not every truck registers. The intent is to have applicants fill out a logging permit, say the amount of lumber they are removing, to identify the pathways taken, the timeframe. The local Highway Department is in charge.

(Consensus was for more info provided in the guidebook. People seek more specific background regarding what topics would be in the manual.)

9. **STATEMENT:** We believe that with proper controls in place, it may be acceptable in certain circumstances to allow for the development of private roads to serve new subdivision development. The establishment of private ways would be subject to certain minimum construction standards and legal covenants. For instance, owners would be required to provide for the perpetual private maintenance and upkeep of the infrastructure.

Private access routes may be allowed when the layout of a road would not serve a public purpose. For example, if a proposed road would be a cul-de-sac or dead end street that does not contribute to an existing or future connected public road grid, it may be appropriate for a subdivision applicant to apply to develop a

private road. Private ways can be advantageous in that they do not require public expenditure to maintain them over time. Future owners of the road, however, may appeal to the Town to take on its maintenance and upkeep.

QUESTION: The Town has a small public administration. Parties to a private road generally are required to sustain its maintenance in perpetuity. Does local government have the capacity to implement effective legal controls?

1. *Q/C: Private roads are fine but they have to be built to town specifications.*

i. Follow-up question to commenter -- Should there be private road specifications? Commenter felt no, then Town could never take them over.

QUESTION: It is proposed to allow slightly steeper grades (on the order of one percent) or slightly narrower pavement widths (one the order of one or two feet) on private roads compared with the minimum standard permissible on a public street. Is that acceptable?

2. *Now we require a fire truck turnaround at the end of private roads. Would we still require that? Yes, there would be required specifications for T turnarounds or cul de sac loop style turn arounds.*

3. *What is the required standard now for a turnaround? There are two types: Build to a T (in cases where the road could be extended in the future), or a bulbous end (see regulation 425). Cul-de-sac radius of 60 feet for turnarounds is the existing standard for the end of a new dead end street. The committee says it prefers that size rather than shorter/smaller radii.*

4. *How do you find public minutes on anything pertaining to roads? You can go to Town Hall or the Town website. Planning Board minutes are there too. The Comprehensive Plan is also available for review.*

5. *Question about old existing (public) roads that have been abandoned. What's the notification rule? Shouldn't the homeowner be notified? There is procedure outlined in State Law/possibly also local law.*

6. *The commentator asked about the status of an earlier version of questions which provided that a proposal to add a new bedroom onto an existing structure which is situated on a substandard road (such as one platted before the subdivision control law was adopted in the community would cause upgrade of private road. The Committee already disposed of that topic. There did not appear to be strong support for the concept presented in an earlier policy draft.*

People were encouraged to write, email or call-in questions or comments and stay abreast of the project.

End of meeting summary.