

Planning Commission  
Martin Memorial Hall  
5459 Rte 5 Ascutney, VT  
Planning Commission Meeting  
Monday, September 26, 2022 6:30 PM

Planning Commission Members Present:

Paul Tillman  
Michael Todd  
Howard Beach  
Joseph Bublat  
Tyler Harwell

Ryan Gumbart, Land Use Administrator

Attendees: Brian Bosenberg, Beth Hunton, Beth Gorton, Ken Blum, Dave Gulbranson, Rika Henderson,

Online Attendees: Julie Levy, Hank Ainley

1. Call to Order made by Paul Tillman, Chair at 6:30 pm.
2. Agenda Review

Michael Todd did not have anything to change, however, he did suggest that they date items that are on the agenda for themselves and for the attendees so they know what is being covered at which meetings as the same items seem to be on each week, but they are not able to cover each item.

3. Comments from the Chair and Land Use Administrator

Paul Tillman said he would work with Ryan to narrow down the agenda topics and more date specific.

4. Comments from Citizens regarding items not on the agenda.

None

5. Approval of Meeting Minutes – August 22, 2022 & September 12, 2022

Michael Todd made a motion to approve the minutes from 8-22-22 with corrections.

Joseph Bublat – 2<sup>nd</sup>

Paul Tillman noted that there were some spelling corrections and that Joseph Bublat was listed as online, however, he was in person. On the signature page, Tyler Harwell is listed as the Clerk, He will go and update those and get those back out to the Commission.

Vote – unanimous

Joseph Bublat made a motion to approve the minutes from 9-12-22 with corrections as needed.

Howard Beach– 2<sup>nd</sup>

No discussion

Vote – unanimous

6. Sketch Plan Review – Fairbrother

Michael Todd made a motion to continue the Sketch Plan Review for Fairbrother to October 10, 2022 Planning Commission Meeting.

Joseph Bublat – 2<sup>nd</sup>

Discussion: As of today, Ryan Gumbart, Land Use Administrator has not received an update regarding the Sketch Plan. If he has not heard anything by the next meeting on 10-10-22, he will reach out to the applicant for an update.

Vote – unanimous

7. Scenic Resources Discussion – Brian Bosenberg

Brian Bosenberg was present at the meeting to discuss Scenic Resources.

## Protecting Scenic Views

The Town of Somer's scenic resource selection process is clearly explained in the municipal code. Scenic resources in each of the seven categories are designated according to specific criteria. Below are the standards for four categories—roadways, ridgelines, open fields and meadows, and cultural places:

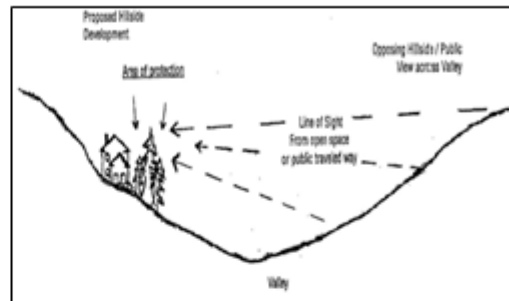
### §138-8. Designation Criteria

A. General characteristics. A scenic resource shall be found to possess one or more of the following general characteristics:

- (1) Illustrative of a natural landscape feature, geologic feature or improvement representing the natural character and history of the town.
- (2) Possessing a unique overall quality of scenic beauty, scale, texture and form.

B. Specific characteristics. A scenic resource shall be found to have one or more of the following specific characteristics:

- (1) Roadways.
  - (a) The natural landscape on the edge of the roadway consists of dense forest edge with extensive, healthy or unusual variety of major rock outcroppings.
  - (b) The roadway provides a scenic vista or a panoramic view over one or more of the other types of scenic resources identified in §138-5.
  - (c) The road has a narrow, winding quality linking it with the town's rural past.
  - (d) The road has a special character defined in the Town Development Plan.
  - (e) The road is bordered by a stone wall.
- (3) Ridgelines.
  - (a) The crest of hills that are the focal points of vistas or are elements of a panoramic view.
  - (b) Linear elements that define the horizon or define progressions of significant elevation.



*The zoning ordinance of the Town of Washington, New Jersey illustrates how a proposed new development must be screened from view in designated viewshed protection areas.*

- (4) Open fields and meadows.
  - (a) A large open area where the predominant vegetation consists of herbaceous growth and shrubs that provide a unique and distinct landscape scenery significantly different from the predominant wooded landscape of the town.
  - (b) The open field or meadow provides a visual link to the agricultural history of the town.
  - (c) The open field provides an important visual focus for stands of trees, stone walls or fences.
- (6) Cultural places.
  - (a) Settings and locations, including buildings, walls, fences, cemeteries, markers, monuments, statues, other structures and the surrounding areas which provide a visual link to the culture and history of the town.
  - (b) Any historically unique or significant area, including the Business Historic Preservation District identified in Chapter 170, Zoning.
  - (c) Any property designated or eligible for designation on an official list of historic places.

**Ranking.** Once scenic resources are identified, they should be ranked according to the criteria

## Protecting Scenic Views

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using a point scale. This will help prioritize views for preservation. The subjective impulse in a picturesque area like the Genesee-Finger Lakes region may be to identify every view as scenic; however, it's usually feasible to save only significant views that preserve community character. A grading system, according to established criteria, provides an objective, legitimate, and legally defensible assessment for designating particular views for protection.

**Mapping.** After data are compiled and ranked, a scenic resources map or maps should be prepared.

Some communities begin the process of designating scenic resources by preparing a

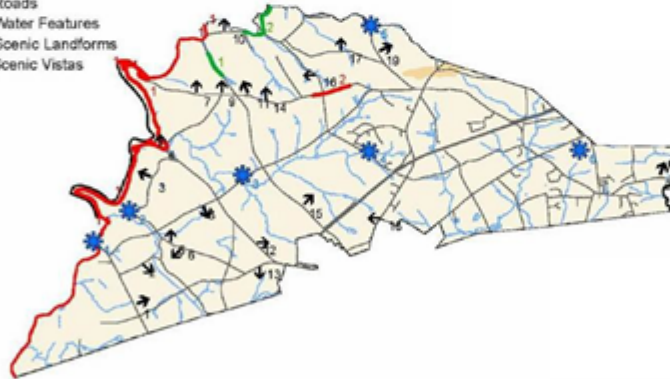
map, followed by site visits, and ranking. A map with multiple layers (ortho, topo, property lines, prime agricultural lands, wetlands, etc.) can provide an initial understanding of issues, constraints, and opportunities in a particular area. Other communities begin with a public meeting to establish site selection criteria.

You know what works best for your community and where to start the scenic resource designation process.

If the process is done at the municipal level, consider sharing your work with neighboring cities, towns, villages, and counties because views do not stop at municipal boundaries.

**Map Features**

- Scenic Feature
- Scenic Corridor
- Scenic Road
- Municipal Border
- Roads
- Water Features
- Scenic Landforms
- Scenic Vistas



| Scenic Vistas |           |              |
|---------------|-----------|--------------|
| ID            | Direction | Feature      |
| 1             | ENE       | Ag/Woods     |
| 2             | SE        | Agriculture  |
| 3             | WNW       | Ag/Woodlands |
| 4             | N         | Pond/Creek   |
| 5             | N         | Ag/Creek     |
| 6             | SW        | Ag/Creek     |
| 7             | N         | Ag/Woods     |
| 8             | SSE       | Ag/Creek     |
| 9             | N         | Agriculture  |
| 10            | N         | Ag/Woods     |
| 11            | NNW       | Agriculture  |
| 12            | E         | Agriculture  |
| 13            | S         | Ag/Creek     |
| 14            | N         | Ag/Woods     |
| 15            | NE        | Ag/Woodlands |
| 16            | W         | Agriculture  |
| 17            | N         | Pond         |
| 18            | W         | Agriculture  |
| 19            | ENE       | Agriculture  |
| 20            | NNE       | Ag/Woods     |

| Scenic Road |                |
|-------------|----------------|
| ID          | Feature        |
| 1           | Canopy Covered |
| 2           | Canopy Covered |

| Scenic Landform |                    |
|-----------------|--------------------|
| ID              | Feature            |
| 1               | Route 10 Ridgeline |

| Scenic Corridor |                |
|-----------------|----------------|
| ID              | Feature        |
| 1               | Octoraro Creek |
| 2               | Natural        |

| Scenic Features |                           |
|-----------------|---------------------------|
| ID              | Feature                   |
| 1               | Pine Grove Covered Bridge |
| 2               | Camp Tweedale             |
| 3               | Stone Arch Bridge         |
| 4               | Stone Arch Bridge         |
| 5               | Stone Arch Bridge         |
| 6               | Lincoln University        |

*The Town of Lower Oxford, Pennsylvania maps scenic resources designated for preservation in its Open Space Plan. A photographic inventory of scenic resources is also prepared.*

## GENESEE TRANSPORTATION COUNCIL

### Protecting Scenic Views

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#### REGULATIONS

Section 10(1)(ii)(a)(11) of New York's Municipal Home Rule Law states that a municipality may adopt local laws for the "protection and enhancement of its physical and visual environment." Ultimately, the integrity of scenic resources must be protected by law. Generally, this involves the following three elements:

1. Maintain an up-to-date list of scenic resources.
2. Recognize the importance of scenic resources within municipal ordinances.

For example, the zoning ordinance of the Town of Day, NY expresses the following purpose:

#### Section 4.6 Town of Day Viewshed Protection Area

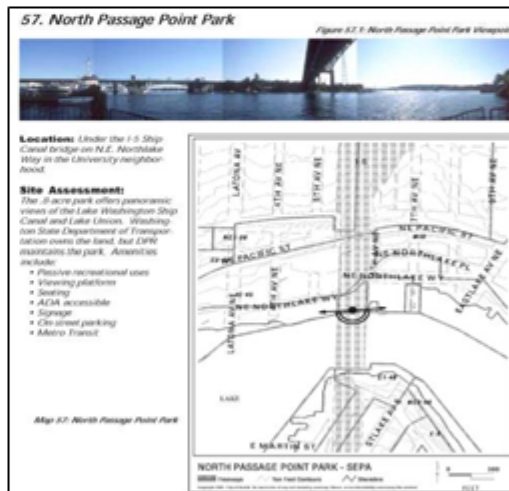
The Town Board of the Town of Day finds that many landscape features, geological features and other resources of the Town of Day and the Adirondack Park have special aesthetic, scenic or historical value. Many of these resources are located in the Town of Day Viewshed Protection Area. Great Sacandaga Lake is a significant resource of the Town, and many of the resources located in the Town of Day Viewshed Protection Area are visible from Great Sacandaga Lake, or from public roads. In order to protect and preserve those resources and to prevent or diminish the loss of those irreplaceable resources, the Town Board hereby declares it to be the public policy of the Town of Day to protect, perpetuate and enhance those resources.

3. Require within ordinances that any proposed subdivision, land development, or permit action near a designated scenic resource coordinate early and throughout project development with the municipality to avoid, minimize, and/or mitigate negative scenic impacts.

For example, development proposals submitted

for review by the Town of Day Planning Board must include line of sight profiles, which are subject to field verification, in addition to meeting area, height, and bulk requirements. The Planning Board also has the discretion to consider the avoidance, minimization, or mitigation techniques to lessen impacts on visibility.

Avoidance can be as simple as relocating a driveway or parking lot to a different portion of a property to avoid being in the line of a scenic view. Minimization can be a design element, such as the use of non-reflective building materials, that reduces the prominence of a new development in the public view of a scenic resource. Mitigation can be as basic as a landscaping plan that provides a buffer between a new or remodeled structure and an existing scenic feature.



*The code of the City of Seattle lists 86 public viewscapes that are protected. The Department of Planning and Development is responsible for conducting an environmental review of proposals and may conditionally approve or deny projects that adversely affect these views. Within designated viewsheds, developers are expected to balance height, setbacks, and other requirements to protect views.*

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### OTHER REGULATORY MEASURES

Sometimes a community's land use policies and regulations have the unintended effect of protecting irreplaceable views. The Town of Irondequoit, for example, strictly regulates development and landscaping above, on, and below the steep slopes lining Irondequoit Bay. The regulations, specified for Steep Slope Environmental Protection Overlay Districts, are intended to prevent erosion and slope failure, but also preserve vistas of the beautiful and fragile slopes. An increasing number of municipalities, such as Boulder, Colorado, explicitly use hillside protection regulations to protect views.

Many communities effectively preserve scenic resources by adopting ordinance language to:

- Encourage property owners to preserve such scenic resources as historic structures, bridges, stone walls, and fences, and to keep them in good repair.
- Diminish the impact of signs and billboards by specifying limits for number, height, size, illumination, materials, and placement.
- Regulate the location and design of cell towers, as well as require a maintenance plan for towers, the land around towers, and for tower removal.
- Specify parking design, including the location, layout, and type of parking; allowance for shared parking, as appropriate, to eliminate excess parking and impervious surfaces; and screening, buffering, and landscaping of parking lots.
- Require storm water management facilities to replicate natural systems, where possible.
- Promote underground utility installation for new development to maintain community character.
- Allow flexible building use and reuse so that abandoned buildings can be reoccupied more easily before they become unsightly.
- Prohibit the accumulation of cars, trash, and litter on any property, as well as unmowed grass.



*Thoughtful land use strategies can help communities avoid poorly sited or designed development.*

### OTHER LAND MANAGEMENT TOOLS

Although not specifically designed to protect scenic views, other planning tools are available to help communities safeguard views and viewsheds.

**Agricultural Zoning.** Effective agricultural zoning encourages the preservation of



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farmland and can be used to discourage land uses that are incompatible, including scenically incompatible, with agricultural uses.

*Transfer of Development Rights.* TDRs are a voluntary, incentive-based, and market-driven approach to preserving open space by directing development away from agricultural, natural, historic, and recreational resources on a site.

*Conservation Easements.* A landowner donates or sells a conservation easement to a state or local government or a land trust in order to protect farmlands, wildlife habitats, historic sites, or other resources. Properties with conservation easements remain private and may not be open to the public; however, the public can benefit from scenic views of the property.

*SEQR.* New York State allows municipalities to "customize" mandatory State Environmental Quality Review to meet local needs. An example is the Town of Penfield's "PEQR" process. State environmental quality law gives municipalities the right to protect identified public views through the application of mitigation measures, such as setback and height restrictions. Forthcoming changes to SEQR require more scrutiny of a proposed project's effects on community character, including the impact on designated viewsheds.

#### Community Education

Residents who are aware of an area's cultural heritage and of the value of scenic resources are more likely to become stakeholders to protect them. Several communities in the region have informal or formal educational efforts, including walking tours of historic sites, nature hikes, heritage festivals, canal rides, presentations from area experts, and newsletter articles on local resources.

#### Resources

*Town of Somers, NY Zoning Code, Chapter 138, Scenic Resource Protection*  
<http://ecode360.com/11112531>

*Town of Day, New York*  
*Current Viewshed Protection Ordinance*  
<http://www.townofday.com/townhall.pdf/landuseamend1.pdf>

*2012 Proposed Revised Zoning Code*  
<http://www.saratoga-county.ny.gov/upload/day-proposed-zoning-regulations.pdf>

*Seattle, Washington*  
*Inventory of Protected Views,*  
[http://www.seattle.gov/dpd/Planning/View\\_Protection/Overview/default.asp](http://www.seattle.gov/dpd/Planning/View_Protection/Overview/default.asp)  
*Public View Protection, (municipal code, 25.05.675P)*  
<http://www.seattle.gov/leg/clerk/>

*Preservation Law Educational Materials: Approaches to Viewshed Protection Around the Country, National Trust for Historic Preservation, 2009*  
<http://www.preservationnation.org/information-center/law-and-policy/legal-resources/preservation-law-101/resources/Viewshed-Protection.pdf>

*Protecting Scenic Views: Community-Based Performance Standards, Maine State Planning Office, 2007*  
[http://www.maine.gov/doc/nrimc/mcp/downloads/scenic/protectinglocalscenicresources\\_dec07.pdf](http://www.maine.gov/doc/nrimc/mcp/downloads/scenic/protectinglocalscenicresources_dec07.pdf)

*Strategies for Protecting Scenic Views and Vistas, Scenic America*  
<http://www.scenic.org/issues/scenic-easements-a-view-protection/strategies-for-protecting-scenic-views-and-vistas>

- Genesee Transportation Council, July 2013

8. Town Plan – Energy Section – tabled for future meeting. The Planning Commission is still reviewing from Jason Rasmussen.
9. Town Plan – General – tabled for future meeting.
10. Bylaws – PUD Review Section – tabled for future meeting.
11. Discussion of Items for Future Agenda
  - a. Town Plan Energy
  - b. Town Plan General
  - c. Bylaws – PUD
  - d. Town Plan Land Use
  - e. Preferred site maps
12. Any other business that can be legally discussed
13. Executive Personal Executive Session 1 V.S.A. § 313 for Personnel

Michael Todd made a motion to go into Executive Session 1 V.S.A. § 313 for Personnel.

Joseph Bublat – 2<sup>nd</sup>

No Discussion

Vote - unanimous

The Planning Commission came out of Executive Session at 8:32 pm with no action.

14. Adjourn

Michael Todd made a motion to adjourn at 8:33 pm

Howard Beach – 2<sup>nd</sup>

No discussion

Vote - unanimous

Next Planning Commission Meeting is scheduled for Monday, October 10, 2022 at 6:30 pm at Martin Memorial Hall.

Respectfully,  
Chauncie Tillman  
Recording Secretary



**Planning Commission**

Howard Beach, Vice - Chair

Joseph Bublat, Clerk

Tyler Harwell, Chairperson

Paul Tillman, Chair

Michael Todd, Chairperson

