

Inter Muni Work Group
October 16, 2013
Notes

Definitions:

NATURAL RESOURCE EXTRACTION: Any activity which removes or significantly (just below the DEC threshold) disturbs rock, gravel, sand, soil, oil, natural gas, timber, water, or other naturally occurring deposits.

COMMERCIAL NATURAL RESOURCE EXTRACTION: Removal of natural resources from their point of origin for private commerce. This does not include; clearing of vegetation, mass grading, or other site preparation completed as part of an approved subdivision or site plan for development; extraction of resources for personal use onsite by residents and; extraction of resources for use onsite in support of agricultural operations as defined in Town Code and New York State Agriculture and Markets Law. (This does not affect drilling for individual residences, or timber harvest for own use.)

Special Use Permit Language

WAIVERS

The (insert reviewing board) may waive one or more special use permit requirement(s) for commercial natural resource extraction operations, only after it has been demonstrated that local enforcement of the subject requirement has been pre-empted by State or Federal authority. Requests for waivers must be submitted in writing by the applicant. Justification for waivers shall be documented in findings and shall be made by separate resolution of the (insert reviewing board).

SPECIAL USE PERMIT STANDARDS

Natural resources may occur anywhere. The fact that a natural resource, no matter how abundant and valuable, occurs on a given site is not by itself justification for allowing a large scale operation to extract that resource. The intent of this special use permit process is to give the (insert reviewing board) standards and authority to (control the location) of Commercial Resource Extraction Operations and to ensure such operations are sited on property where practical options exist for full mitigation of negative impacts in a manner consistent with the Town's adopted plans and laws. The criteria in this section are separate and distinct from site plan requirements which address the more specific site layout and design needed to adequately mitigate negative impacts.

The (insert reviewing board) may approve a special use permit for a Commercial Natural Resource Extraction Operation in the (insert districts where it is to be allowed) District(s) provided that in addition to compliance with the general requirements in § (insert section for general criteria applicable to all specially permitted uses), the proposed use also complies with the following standards: My thoughts-A full SEQRA review would be required and this Special Use Permit should be kept separate from all other SUPs. Would this mean it would be a standalone law or resolution as opposed to being included with all other zoning regulations?

- 1) The following activities are prohibited:
 - a) Removal of topsoil from the site.
 - b) Secondary processing of natural resources on the site.
 - c) Importation to the site of natural resources for storage and/or processing. (My thought-This would apply to Honeoye Storage.)
- 2) Special use permit applications for a Natural Resource Extraction Operation shall:
 - a) Be reviewed as a Type I action pursuant to the implementing regulations of the NYS Environmental Quality Review Act (SEQRA); and
 - b) Include pertinent application materials and correspondence related to all state and federal permits required for the proposed use and contact information for specific agents of the agencies performing the review; and (My thought-provide who they are talking to at State and Federal levels)
 - c) Be accompanied by a site drawing and description of the proposed operation, as well as any additional information needed to address the criteria in this section.
- 3) Special use permit applications for a Natural Resource Extraction Operation shall be subject to site plan review by the Planning Board. (My thought -It will require a Site Plan.)
- 4) The application must describe options for full mitigation of potential impacts to the following:
 - a) Farm operations and access thereto on the proposed and adjoining sites;
 - b) Soils classified as prime or of statewide importance as farmland;
 - c) Highly erodible soils;
 - d) Steep slopes and other landforms determined to be sensitive and/or significant by the Town in its adopted plans and laws;
 - e) Natural surface water, wetlands, and other natural features determined to be sensitive and/or significant by the Town in its adopted plans and laws; (My thought this is to provide groundwater protection)
 - f) Sites and structures determined to be historically or culturally sensitive and/or significant by the Town in its adopted plans or laws;
 - g) Town roads, bridges and other infrastructure. Applications must include a routing plan for trucks and shall demonstrate that options exist for compliance with Town laws regulating use of public infrastructure. The application shall list potential improvements required to accommodate the use.
 - h) Emergency services. The application shall describe the potential for hazards and emergencies specific to the use, the necessary response, and the capacity of local emergency service responders and other agencies to provide that response. (This point was reiterated by Tim Jensen of County Planning**in all cases must be reasonable.)
- 5) Lot size setback and other bulk density requirements are described in table (insert reference)
- 6) The decision by the (insert reviewing agency) shall be accompanied by elaborative findings that answer the following questions:
 - a) Will the site be altered in a manner that is acceptable?

- b) Will the site have necessary access to roads and other public infrastructure intended for and/or suitable for the proposed use?
- c) If improvements to public infrastructure are required to accommodate the proposed use, how will those improvements impact ongoing land use and development in the vicinity of the proposed use?
- d) Will the use have access to adequate hazard and emergency response services? (My thought this needs to include specifics)
- e) Will the proposed use impact the use and development of the subject site and nearby sites in a manner that is acceptable?
- f) Does the application identify impact mitigation measures that are practical and have the potential to adequately mitigate potential negative impacts from the proposed use? (The group agreed it is wise to increase the size of Bonds and Surety to protect against long term costs to a municipality)

Floating Zone Language:

DISTRICT DEFINED

The Natural Resource Extraction (NRE) District is established as a floating zone that can be applied to a defined area upon approval by the Town Board. The Board can decline or decide if this complies with the Comprehensive Plan. Natural resources may occur anywhere. The fact that a natural resource, no matter how abundant and valuable, occurs on a given site is not by itself justification for allowing a large scale operation to extract that resource. The intent of this floating zone is to give the Town Board standards to control the location of Commercial Resource Extraction Operations and to ensure such operations are sited on property where practical options exist for full mitigation of negative impacts in a manner consistent with the Town’s adopted plans and laws. (The group agreed -This can be done on a parcel by parcel basis if complainant with zoning as opposed to “spot zoning” that does not comply with zoning.) The criteria in this section are separate and distinct from site plan requirements which address the more specific site layout and design needed to adequately mitigate negative impacts.

- 1) Uses:
 - a) Commercial Natural Resource Extraction operations
 - b) Prohibited Uses:
 - i. Removal of topsoil from the site.
 - ii. Secondary processing of natural resources on the site.
 - iii. Importation to the site of natural resources for storage and/or processing.
- 1) Lot size, setback and other bulk density requirements are described in table (insert reference)
- 2) An NRE District zoning amendment shall supersede all existing zoning for the subject area.

REVIEW PROCEDURES.

- 1) Review procedures for an NRE District zoning amendment shall comply with NYS Town Law, Article 16, §265.

- 2) The applicant shall first request that the Town Board formally consider the proposed zoning amendment.
(Tim Jensen of County Planning said- The Town Board is under no obligation to review or accept the application. We will try to confirm this before the next meeting by speaking with State Attorneys.)
 - a) This request shall include a brief narrative and a sketch map describing the site and proposed use.
- 3) Should the Town Board agree to formally consider the requested rezoning the applicant shall then submit a full application in compliance with parts 4 and 7 of this section?
- 4) Applications for a zoning amendment to allow a Commercial Natural Resource Extraction operation shall be made to the Town Board and shall also:
 - a) Be reviewed as a Type I action pursuant to the implementing regulations of the NYS Environmental Quality Review Act (SEQRA); (The point was made that each town can adopt their own type I and type II lists) and
 - b) include pertinent application materials and correspondence related to all state and federal permits required for the proposed use and contact information for specific agents of the agencies performing the review; and
 - c) be accompanied by a site drawing and description of the proposed operation, as well as any additional information needed to address the criteria in this section.
- 5) The application must describe options for full mitigation of potential impacts to the following:
 - a) Farm operations and access thereto on the proposed and adjoining sites;
 - b) soils classified as prime or of statewide importance as farmland;
 - c) highly erodible soils;
 - d) steep slopes and other landforms determined to be sensitive and/or significant by the Town in its adopted plans and laws;
 - e) natural surface water, wetlands, and other natural features determined to be sensitive and/or significant by the Town in its adopted plans and laws;
 - f) sites and structures determined to be historically or culturally sensitive and/or significant by the Town in its adopted plans or laws;
 - g) Town roads, bridges and other and other infrastructure. Applications must include a routing plan for trucks and shall demonstrate that options exist for compliance with Town laws regulating use of public infrastructure. The application shall list potential improvements required to accommodate the use.
 - h) Emergency services. The application shall describe the potential for hazards and emergencies specific to the use, the necessary response, and the capacity of local emergency service responders and other agencies to provide that response.
- 5) a-h mirrors the special use permit standards on the previous pages)
- 6) Lot size setback and other bulk density requirements are described in table (insert reference)for a full usage table}

- 7) The decision by the (insert reviewing agency) (should be the Town Board) shall be accompanied by elaborative findings that answer the following questions:
- a) Is use of the site for the proposed Commercial Natural Resource Extraction consistent with the adopted comprehensive plan?
 - b) Will the site be altered in a manner that is acceptable?
 - c) Will the site have necessary access to roads and other public infrastructure intended for and/or suitable for the proposed use?
 - d) If improvements to public infrastructure are required to accommodate the proposed use, how will those improvements impact ongoing land use and development in the vicinity of the proposed use?
 - e) Will the use have access to adequate hazard and emergency response services?
 - f) Will the proposed use impact the use and development of the subject site and nearby sites in a manner that is acceptable?
 - g) Does the application identify impact mitigation measures that are practical and have the potential to adequately mitigate potential negative impacts from the proposed use?
- 8) Commercial Natural Resource Extraction operations shall be subject to site plan review by the Planning Board. (It was agreed -The Town Board can direct the Planning Board to do the site plan review.)

My comments and thoughts: How would this affect Honeoye Storage? Would they need a SUP every time they have to refracture a well? The answer is NO; it could be made an exception under both a floating zone and special use permit.

Under Site Plan requirements the following should be included: reclaiming site, reforming of the land and grading to a suitable use of adjoining lands, impacts to infrastructure and surety bonds, we will talk about additional issues regarding site plans.

Tim Jensen will follow up with Don Young regarding the proposed road use law.

The next meeting is tentatively scheduled for November 20th.

Sandra Riker
Inter-municipal Work Group on Heavy Industry