

## COPING WITH GROWTH IN RURAL AREAS: RECENT ZONING CHANGES IN SHAWANGUNK MOUNTAIN MUNICIPALITIES

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**ABSTRACT** Over the past two decades, regions of greatest population growth in the United States have shifted, to some extent, from metropolitan areas to small towns and rural areas. Before this rural and nonmetropolitan resurgence, environmentally sensitive lands and open spaces were often protected by simple lack of demand for such land for nonagricultural uses. Many rural towns (townships) are now experiencing substantial growth and development, and, for the first time in their history, must actively protect sensitive vacant lands or risk losing them to development.

Environmental concerns have spread through the citizenry sufficiently to encourage candidates to run for local office on no-growth platforms and, when elected, to modify local laws to preserve land by reducing residential densities and generally limiting industrial/commercial uses. Even agriculture has been affected as farmers encounter growing public as well as official opposition to land sale or subdivision for residential and other nonagricultural uses of lands presently used for field crops, orchard, or pasture.

This study analyzes the response to development in a rapidly growing rural area by gauging the existence of environmental protection, and its intent and dimensions in a number of sparsely inhabited, contiguous towns (townships) with land along the Shawangunk Mountains. The civil divisions in these mountains--which extend across southeastern New York State from Rosendale in the northeast to the New Jersey line in the southwest--provide an appropriate case study, since the Shawangunk Mountains have attractive potential home sites, include sensitive ecosystems, and are less than a hundred miles from midtown Manhattan. Thus, this attractive rural area easily accessible from New York City and its environs is a prime location for residential development and associated activities. Moreover, the site is propitious for such study because of the checkerboard pattern of public and private land, with some parcels already preserved and others developed, being developed, or under consideration for development.

Zoning ordinances and associated local laws in municipalities with land on the Shawangunk Mountains are examined. In reviewing local laws, master planning efforts, and their recent modification, attention is focused on the local jurisdictions' identification and preservation of environmentally sensitive areas. The results of interviews conducted with county planners in Orange, Sullivan, and Ulster counties and with local officials, both elected and appointed, are analyzed to ascertain the realities and perceptions of land use, planning, and general development and of environmental protection in particular.

This study analyzes the response to development in a rapidly growing rural area by gauging the existence of environmental protection, and its intent and dimensions, in a number of sparsely inhabited, contiguous towns (townships) whose jurisdictions embrace the Shawangunk Mountains. The civil divisions in these mountains--which extend from Rosendale in the northeast to the New Jersey line in the southwest (see Figure 1)--provide an appropriate case study, since the Shawangunk Mountains have lands that contain sensitive ecosystems, are attractive for home sites, and are less than a hundred miles from

midtown Manhattan. Thus, this easily accessible rural area is a prime location for residential development and associated activities.

The increasing development pressures in the region require creative responses by local governments if growth is to be properly managed. Yet, it may be difficult for local government to undertake the necessary innovations. As Victor Thompson points out in *Bureaucracy and Innovation*, any creative action on the part of an organization involves risk (Thompson, 1969, pp. 6-7). This is true in local land use planning, since new zoning ordinances or local laws can result in lawsuits from neighbors environmental groups, and others.

Moreover, according to Thompson, an organization is more willing to take on risks associated with innovation if it has sufficient "slack," that is "[uncommitted] and unspecified resources of appropriate personnel, finance, material and motivation" (Thompson, 1969, p. 42). Thompson goes on: "In saying that an organization having a goodly amount of slack can afford to back risky and long-term innovative projects, it is important to emphasize that we are dealing with psychological facts" (Thompson, 1969, p. 43). Thus, if members of the organization do not feel that sufficient "slack" exists, there is a tendency to ignore the need for innovation and concentrate on the routines



Figure 1. Towns with lands on the Shawangunk Mountains

associated with production (Thompson, 1969, p. 10).

This relationship between "slack" and innovation is useful in describing the behavior of local planning boards in response to development pressures. When development pressures increase, the boards often see themselves as under siege, working long hours under an enormous backlog of applications. In such situations, there is little incentive to employ innovative solutions and every reason to revert to established routines (that is, simply process applications). In a study of rapidly growing rural areas in New York and Vermont, which praised the performance of local planning boards, King and Harris nonetheless indicate that those planning boards used only a limited number of the growth management techniques available to them (King and Harris, 1989, p. 188). King and Harris also make the point that planning in the towns studied had little to do with the master plans and laws of each town. "[The] real goals and concerns of rural planning are not written into plans and laws; rather, they are implicit in the actions and decisions of the planning boards themselves." (King and Harris, 1989, p. 187). Apparently, the planning boards adopt informal rules for operating and, in times of stress, the operating rules rather than the existing plans serve as guides for action. Following Thompson's theories of innovation, therefore, we would expect overworked boards to become reactive and ever more willing to allow the applicants to take the initiative while the boards simply process the applications. In reviewing local laws, master planning efforts, and their recent modification in towns with land on the Shawangunk Mountains, attention is focused on the local jurisdictions' identification and preservation of this environmentally sensitive feature. The results of interviews conducted with county planners in Orange, Sullivan, and Ulster counties and with local officials, both supervisors and planning board chairs in all eleven towns, are analyzed to reveal real and perceived issues of land use, planning, and development generally, and of environmental protection in particular.

#### THE PROBLEM

The Shawangunk Mountains are widely recognized as environmentally sensitive. In *Ecological Significance of the Northern Shawangunks*, Kiviak documented the physical features and the plant and animal habitats that make the mountains unusually sensitive to development (Kiviak, 1985). Fairweather and Schnell identified elevation, slope, soils, and plant and animal habitats as factors contributing to the sensitivity of the mountains (Fairweather and Schnell, 1988). Other studies involving the Shawangunks cited the issues of early ecological succession and water supply (Palisades Interstate Park Commission, n.d.; Drew, 1984). These works establish the Shawangunk Mountains as a physical feature requiring extraordinary care in management. In New York State, home rule places primary responsibility for managing all lands on the towns, administered through their local zoning ordinances and subdivision regulations.

#### THE RESPONSE

In this section, we examine the policy response by local governments as current local laws are assessed in terms of their protection of the mountains. Also, planning boards are evaluated in terms of their ability to respond to existing problems and plan in anticipation of future problems. Specifically, how well do the eleven towns meet the challenge of development pressures, rising property taxes, and environmental concerns on the Shawangunks?

## Local Zoning

Table 1 lists the principal zones and the permitted residential densities on the mountain in each town. Single-family residences are permitted by right on the Shawangunks in all the towns, and agriculture is allowed in all but one. Four towns permit two-family residences, and one also allows multifamily residences with additional standards and conditions. Mobile homes are permitted by right in three towns. Beyond residential uses, several towns permit public parks and playgrounds and government buildings, and a few allow places of worship. The number of uses permitted by right varies from just two in one town to eleven or more in three.

TABLE 1. PRINCIPAL ZONING DISTRICTS ON THE SHAWANGUNKS, BY TOWN

Town	Symbol	Name	Minimum Lot Area
Deerpark	RR	Rural Residence	40,000 ft. <sup>2</sup>
Gardiner	ARR-200	Agricultura-Recreational-Residential	200,000 ft. <sup>2</sup>
Greenville	RP	Ridge Preservation	*
Mamakating	R-Ag-2	Agricultural-Rural Residence District 2	2 acres
Marbletown	A-4	Residence	4 acres
Mount Hope	RP	Resource Preservation	*
New Paltz	A-3	Agriculture	3 acres
Rochester	A	Residence	1 acre
Rosendale	A	Residence	1.5 acres
Shawangunk	R-AG-3	Residential Agricultural	2 acres
Wawarsing	R/C-40	Resource Conservation District	40,000 ft. <sup>2</sup>
	R/R-40	Resource Resort District	40,000 ft. <sup>2</sup>

Source: Compiled by authors from each town's local law.

\*Greenville and Mount Hope use formulas to determine residential lot size and New Paltz has such a proposal in its draft master plan. Greenville employs "environmental control zoning" in its Ridge Preservation district by assigning scores in square feet and summing physical site characteristics (soil limitations, elevation, slope, erosion, storm water drainage), services (sewage treatment, water supply utilities, road access internal streets, access to fire protection), and architectural design; multiplying the sum of points by slope; and dividing the quantity by 43,560 to derive acreage per dwelling unit.

A review of all allowed uses of land on the Shawangunks reveal that few are permitted by right and accessory to principal uses. However, by including uses allowed with special permits and/or site review, the total increases to fifty or more in some towns--and all municipalities have the potential to permit misuse of the land.

### Planning and Zoning Changes

Ideally, the planning board defines the characteristics of a town's desired future and shapes its physical development accordingly. The results of our interviews with local officials indicate that, despite exemplary commitment and interest on the part of these officials, planning boards may be, at best, a cumbersome means to carry out these tasks and at worst incapable of doing so.

The interviews with local officials suggest that the planning boards concentrate on routine work--processing applications--and usually delegate actual planning to a separate committee or a consultant. For example, when asked how environmental problems surface in their towns, almost all supervisors and planning board chairs replied that problems were identified in the course of processing applications. Few respondents revealed systematic efforts to identify problems *before* they became manifest in an application for develop or subdivision. Where planning did exist, it was almost never carried out by the planning board, but by an outside consultant, a master plan committee, or a separate zoning review committee. This separation of the planning function has an important implication. As King's and harris's work suggests, overworked boards often rely upon their own informal operating rules at the expense of the towns' planning documents and laws (King and Harris 1989). Apparently, the principles embodies in a town's master plan are not always central to the application-review process. The separation of the planning function from the planning board can only further reduce the possibility of integrating master plan principles with the application-review process.

This image of overworked planning boards suggests that little "slack" exists in local government. Therefore, according to Thompson's theories, the boards should employ few innovative responses to the problems they face. Among the eleven towns, the common remedy for environmental ills, it seems, is to revise the zoning ordinance to reduce residential density by increasing lot size. The towns do this by establishing a fixed minimum lot size by zone for any development (five towns passed such revisions recently), or by applying a formula using environmental characteristics and others to establish a minimum lot size for each applicant's parcel. Such "performance zoning" is actually practiced in two towns (Table 1). More innovative methods of open space preservation (clustering, public acquisition of lands or easements, and capital facilities planning) were not mentioned by any of the local officials.

### The State Environmental Quality Review Act (SEQR)

The New York State Environmental Quality Review Act (SEQR) requires the completion of an environmental impact statement (EIS) for any proposed action that is determined to have a significant effect on the environment. The source of SEQR's strength is its procedural specificity, as it encourages project sponsors, proponents, and opponents to raise environmental concerns during the project planning process. SEQR does not provide substantive guidance for preserving critical environmental features at particular sites. The law presumes that each municipality will develop substantive criteria for project reviews that clearly and consistently delimit the environmentally sensitive areas within its

jurisdiction. Indeed, one town has designated a portion of the mountains as a Critical Environmental Area (CEA) under SEQR, requiring more thorough and focused project reviews in that area. However, according to interviews with staff members of the three county planning departments encompassing the Shawangunks (Orange, Sullivan, and Ulster), SEQR has yet to be used this way by most local planning boards. As one county planner put it: "Most communities in our county abide by the process but they don't really use it as a planning tool." A planner from another of the counties described how environmental impact reviews are typically conducted on the town level: "The local governments wait for fatal flaws [in the EIS] to show up during public hearings. If no fatal flaws emerge, the board generally lets [the project] go as it is." As a third county planner put it: "EIS's fulfill legal requirements but don't result in improved projects."

The image of SEQR as underused at the local level is reinforced by the fact that only five of the eleven towns along the Shawangunks have the environmental conservation commissions (ECC's) recommended in the SEQR regulations. Moreover, the interviews with the county planning department members suggest that, even with ECC's, the quality of local project reviews may not be improved. According to the county planners, local governments often treat ECCs as convenient dumps for the towns' environmental activists. The ECC's thus give the "environmentalists" a public platform, while enabling the planning boards to continue to process applications without getting embroiled in environmental concerns.

#### RESULTS OF THE INTERVIEWS: PERCEPTIONS OF LOCAL OFFICIALS

All towns in the study have one or more problems or issues stemming from the presence of the Shawangunk Mountains and pressure for residential development on its share of the mountain. Environmental concerns represent a reality that may not be addressed in local zoning ordinances. Further, even if these problems are addressed in the zoning law, they may not be recognized by local elected and appointed officials as they deal with applicants seeking to subdivide land or develop it.

All but one local official acknowledged the existence of environmental problems in their jurisdictions in response to the question, "in your community, what problems exist which involve environmental problems or related issues?" Four supervisors, who routinely must deal with infrastructure, mentioned solid waste management in response, but not one planning board chair did so. Water/sewerage was mentioned by both groups--not surprising, since both deal with them, planners in zoning and development applications and supervisors in capital projects and zoning changes. Planners mentioned growth problems more than supervisors, and, as a group, the planners' greatest concern was for a variety of resource management issues--ranging over such topics as clear-cutting and mining to protection of a variety of physical features.

Only one supervisor and one planning board chair felt that their ordinances did not respond well to environmental concerns. However, our analysis of the eleven zoning ordinances demonstrated that problems do exist with the local laws, and the interviews with local officials contradict the general confidence in their ordinances.

In response to the question, "how does your local law on zoning address environmental concerns?" planning board chairs mentioned SEQR most frequently. However, as discussed above, SEQR is merely a project review process, which can provide environmental protection only if the planning boards have clearly defined the issues to be reviewed. The interviews with the county planning officials indicated that most towns were not able to use SEQR effectively. The only other method of environmental protection

mentioned was density control--and that by only three planning board chairs. While the planning board chairs generally perceive the local law as responding to environmental concerns, it appears that density regulation is the only means available in the law to protect environmentally sensitive features.

Among supervisors, density control and "no answer" tied with three responses each. Among other answers, only SEQR was mentioned by more than one supervisor as a device in the local law to protect the environment, again showing a lack of understanding. Despite all indications to the contrary, both the planning board chair and supervisor in one town registered what could be construed as complete satisfaction with the local law.

### CONCLUSION

The behavior of local governments with regard to land use in the Shawangunks appears to be reactive and conservative at a time when aggressive, innovative local laws and initiatives are called for. This may be due to the extraordinary burdens placed on local governments in this region. There is a growing demand for services and a seemingly diminishing ability of local governments to deliver them. This is particularly true in the area of land use planning and regulation. The HUD 701 program, which provided federal funds for technical planning assistance (and supported local master planning carried out in the 1960s and early 1970s in the region), no longer exists. In addition, federal and state funds for local water and sewerage systems have been drastically curtailed during the 1980s. Development in town(ship) areas served by municipal water and sewerage is difficult because the systems are often at or beyond capacity. According to county planners, local governments seeking to expand tax bases are allowing commercial and industrial development in ill-suited, more rural parts of town(ship)s, heightening the environmental impact. This bleak fiscal climate requires local governments to try to do more with less. In Thompson's terminology, the local administrative systems do not appear to have sufficient "slack" in them to encourage the necessary creative, innovative responses.

Although interviews revealed little organized anti-development sentiment by environmentalists, nonetheless factions exist and many voices are raised over development projects in most, if not all, towns studied. Newcomers, whether young or old, are often relatively well-off financially and quite demanding of improved municipal services (Stevens, 1988). Often opposing this group of short-term residents who want to slow down or even halt growth are people at or near retirement whose concern is the property tax rate and the need for more industry and business to reduce the residential tax burden. Moreover, in the early days of zoning, the town's landowners, its "movers and shakers," often occupied elected and appointed offices, thereby creating an "old boy" system. Today, many such posts are held by relative newcomers whose real estate holdings extend little beyond their residences and who are more likely to be critical of growth. All of this combines to complicate the deliberations of planning boards and town boards and almost nothing is passed (or denied) without many endless meetings, much public wrangling, and threats of lawsuits.

One consequence of the stress on local planning boards was best summarized by a county planning official: "Planning boards have become compliance boards." Their primary function is to process applications. The actual planning, where it takes place, is often performed by a separate committee, increasing the likelihood that, as the planning board becomes overburdened, the approval process will stray from the principles and goals of the local master plan, where one exists. In almost all towns, the SEQR process is observed but rarely used as an effective planning tool.

In the face of this overload, the initiative falls to the individual. Personnel on boards vary widely in abilities, backgrounds, and interests in the towns surveyed much more so than the local laws, rendering the quality of the local laws less and less important. The sophistication and success of the local planning and zoning enterprise thus depends on the talent and energy of the individuals who happen to ascend to local offices. In one town, both supervisor and planning board chair extolled their ordinance which favored smaller, scatter-site subdivisions, believing such an approach would reduce the chances for large subdivisions with their many residents, political strength, and ability to "take over the town." Thus, in the environmentally sensitive rural areas along the Shawangunks, much-needed comprehensive, systematic planning and regulation of land use remain unrealized goals.

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#### REFERENCES

- Drew, Robert S. (1984 December 10). *In the Matter of the Applications by the Lake Minnewaska Joint Venture: Hearing Report and Supplemental Final Environmental Impact Statement* (Albany, N.Y.: New York State Department of Environmental Conservation).
- Fairweather, Peter, and George A. Schnell. (1988). *The Shawangunk Mountains: A Critical Environmental Region* (New York: The Open Space Institute).
- King, Leslie, and Glenn Harris. (1989). "Local Responses to Rapid Rural Growth: New York and Vermont Cases." *Journal of the American Planning Association* 55, no. 2 pp. 181-191.
- Kiviat, Erik. (1985). *Ecological Significance of the Northern Shawangunks* (New Paltz, N.Y.: Shawangunk Natural Area Preservation).
- Palisades Interstate Park Commission. (n.d.). *Minnewaska State Park/New York: Master Plan* (Bear Mountain, N.Y.).
- Stevens, W.K. (1988). "A Rural Landscape but an Urban Boom." *New York Times*, August 8, pp. A1 and B4, describes the work of Calvin Beale, a demographer at the U.S. Department of Agriculture, who worked with 1980 census data to identify 500 "retirement" or "gentrifying rural" counties in the United States. Growth of such counties is described as an amalgam of retirees and "refugees and pilgrims from city and suburb" seeking homes in "out-of-the-way rural counties a step or two beyond the farthest exurbs of major metropolitan areas." Although Sullivan is the only county in the Mid-Hudson mentioned by Beale, the growth patterns seem to apply to many of the more rural part of the Shawangunks.
- Thompson, Victor A. (1969). *Bureaucracy and Innovation* (Montgomery, Ala.: University of Alabama Press).