Conservation Overlay Zoning
Webinar Transcript
March 23, 2022

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00:00:03.803 --> 00:00:17.153
Good afternoon, everyone. My name is Ingrid Haeckel. I'm a Conservation
and Land Use Specialist with the Hudson River Estuary Program, through a
partnership with Cornell University. Welcome to the conservation and land
use webinar series.

2
00:00:17.423 --> 00:00:31.283
Today's speakers will be discussing conservation overlay zoning and
presenting a new guide. They Co-authored for our program to assist
municipalities interested in creating conservation overlay zoning to
conserve priority land

3
00:00:31.283 --> 00:00:33.863
And water resources in the estuary watershed.

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00:00:35.820 --> 00:00:50.579
before we start, let me just review a few webinar details. If you're
having difficulty with your audio connection, you can choose to switch
audio by clicking the 3 dots next to the red exit button at the bottom of
the screen.

5
00:00:50.579 --> 00:00:55.380
There you'll find the options to request a callback or to call in by
phone.

6
00:00:58.494 --> 00:01:10.825
If you need help, please reach out to us via the chat icon, which is in
the bottom, right? Corner of the screen. If you have questions for the
speakers once they begin please use the Q and a function.

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00:01:11.094 --> 00:01:20.784
And if that's not already open, um, in your Webex browser, you can access
Q. and a, by clicking the 3 dots next to chat in the bottom right Corner.

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00:01:21.090 --> 00:01:29.670
Note that your phone lines have been muted. We are recording today's
webinar and we'll notify you when the recording is available.

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00:01:29.965 --> 00:01:44.844
At the end of the webinar, we kindly request your feedback in a short
survey that will pop up and last of all, for those of you who are seeking

municipal training credit, you will receive an automatic email confirmation of attendance from Webex. At the end of the program.

10
00:01:47.159 --> 00:02:00.805
For those of you who may be new to the series the Hudson River program is a unique program at the New York State Department of Environmental Conservation established to help people enjoy, protect and revitalize the Hudson River and its Valley.

11
00:02:01.194 --> 00:02:07.644
We work throughout the 10 counties, bordering the title Hudson from upper New York harbor to the federal dam in Troy.

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00:02:07.980 --> 00:02:18.030
Shown here on the map to achieve many key benefits, including the vital estuary ecosystem and its fish wildlife and habitats, clean water.

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00:02:18.030 --> 00:02:28.919
Healthy tributaries climate, adaptive communities, conserved, natural areas in the watershed, an informed and engaged public and access for all to the Hudson.

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00:02:32.099 --> 00:02:46.979
our conservation and land use team works with municipalities and regional conservation partners to incorporate important habitats and natural areas into local land use planning and decision making.

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00:02:46.979 --> 00:02:54.990
Our program Web site is a clearing house for guidance and resources on these topics and we'll share the link to this through the chat box.

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00:02:57.655 --> 00:02:58.134
So,

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00:02:58.615 --> 00:03:10.645
just a quick preview of some upcoming webinars our next conservation of land use webinar will be on April 28th and will profile a project that we funded through our estuary grant program

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00:03:10.974 --> 00:03:11.185
uh,

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00:03:11.185 --> 00:03:15.745

which conducted an urban forest inventory and analysis for Westchester County.

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00:03:17.490 --> 00:03:28.199
Dr, Andrew Reinmann will discuss why we should care about the urban tree canopy and share results urban for us trends and applications from that project.

21
00:03:28.199 --> 00:03:39.960
And Millie Magraw will discuss how the county plans to use the results to inform the planting Westchester initiative to help target future tree planting and engage municipalities.

22
00:03:41.514 --> 00:03:42.264
In addition,

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00:03:42.264 --> 00:03:44.844
we'll be hosting a webinar on May 5th,

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00:03:44.844 --> 00:03:46.014
with Maureen Leddy

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00:03:46.014 --> 00:03:48.925
the director of DEC's office of climate change,

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00:03:48.925 --> 00:03:54.474
who will discuss the draft scoping plan for the climate leadership and community Protection Act,

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00:03:54.474 --> 00:04:07.735
the draft scoping plan recommends policies and actions to help New York meet the ambitious climate goals articulated in the climate act and represents an important milestone in New York efforts to reduce greenhouse gas emissions.

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00:04:08.699 --> 00:04:18.629
Maureen will especially highlight recommendations related to land use and adaptation. The scoping plan is open for public comment until June 10th.

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00:04:19.649 --> 00:04:29.668
So, for some context for today's, today's webinar, since 2001, our conservation and land use team has been encouraging municipalities.

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00:04:29.668 --> 00:04:32.874
To follow this basic conservation planning framework,

31
00:04:32.903 --> 00:04:36.264
beginning with identifying and inventorying

32
00:04:36.624 --> 00:04:36.983
local,

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00:04:36.983 --> 00:04:41.543
natural resources as a foundation for setting conservation priorities,

34
00:04:41.694 --> 00:04:47.394
and establishing plans and policies to protect and manage these important
resources into the future.

35
00:04:48.264 --> 00:05:03.204
In late 2014, we published the guide to creating a natural resources
inventory and, uh, over 2 dozen NRIs later with many more in the works,
Many communities are ready to take next steps toward developing local
policy to better protect critical resources.

36
00:05:05.488 --> 00:05:19.709
Hearing the need for better guidance about how to develop conservation
overlay, zoning, we partnered with experts Ted Fink and Emily Svenson who
are our guest speakers today, to write the creating conservation overlay
zoning guidebook.

37
00:05:19.709 --> 00:05:32.848
The new guide is designed to assist municipalities in the use of overlay
zoning to advance conservation of important, natural areas in the
watershed, including forests, stream corridors, wetlands and wildlife
habitats.

38
00:05:34.343 --> 00:05:48.144
In conjunction with release of the overlay zoning guide and this webinar
we're also very excited to announce a request for applications for 2
special technical assistance opportunities for municipalities in the
watershed.

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00:05:48.684 --> 00:05:55.074
We will select 1 community to receive professional assistance with
developing conservation overlay

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00:05:55.103 --> 00:06:04.853
zoning based on the guidance presented today and a 2nd community to receive professional assistance with development of a critical environmental area proposal.

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00:06:05.129 --> 00:06:17.728
Municipalities that have completed a natural resources inventory or open space plan, or similar project, identifying conservation priorities are eligible to apply for both of these opportunities.

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00:06:18.204 --> 00:06:18.564
Um,

43
00:06:18.684 --> 00:06:21.653
these opportunities advance the estuary program's

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00:06:21.653 --> 00:06:31.254
2025 goal to support the creation and adoption of at least 25 new practices plans and policies by government agencies and land use decision makers in the estuary watershed,

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00:06:31.254 --> 00:06:31.673
um,

46
00:06:31.673 --> 00:06:33.742
for areas recognized as regional conservation priorities.

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00:06:34.043 --> 00:06:40.944
the deadlines to apply for these is April 17th. And if you have any questions, please contact me.

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00:06:46.463 --> 00:06:55.463
Right with that I'm very pleased to introduce our guest speakers for today's webinar Ted Fink and Emily Svenson. Ted Fink is the founder of GREENPLAN,

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00:06:55.733 --> 00:07:01.973
a professional planning firm that provides general community planning services throughout the Hudson Valley and upstate New York.

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00:07:02.278 --> 00:07:13.019
Ted has over 4 decades of experience in planning and land use controls and helps communities develop their unique vision for conservation and development.

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00:07:13.019 --> 00:07:22.319
He is also an adjunct professor with Marist College's school of science,
teaching environmental science and policy courses.

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00:07:22.319 --> 00:07:33.358
And Emily Svenson is a partner in the Poughkeepsie law firm Gordon and
Svenson. Her clients include municipal boards as well as nonprofits and
citizen groups.

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00:07:33.358 --> 00:07:42.509
She represents clients on environmental and land use matters. Emily began
her career in state government managing water pollution prevention
programs.

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00:07:42.509 --> 00:07:47.668
And she has served as an elected town board member and deputy town
supervisor.

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00:07:48.353 --> 00:07:56.994
Before they start just a quick note to participants again to please enter
your questions as we go along, using the Q and a box in the bottom right
corner of the screen.

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00:07:57.413 --> 00:08:11.843
We will hold those questions until the end of the presentation, and we'll
try to respond to as many of them as we can in the last 15 minutes of the
webinar. So I'm going to turn it over to you. Now, Emily and Ted and
thank you.

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00:08:12.173 --> 00:08:19.254
So much for joining us today, and for your really excellent work on the
conservation overlay zoning guidebook.

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00:08:23.338 --> 00:08:28.649
Thank you so much Ingrid. So, let's see. Do you have the full screen up
now?

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00:08:29.274 --> 00:08:40.734
That looks good. Okay great. Well, thanks for that. Nice introduction and
thanks to everyone. That's that's joined the webinar today. It's, it's
exciting to see so much interest in this.

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00:08:41.364 --> 00:08:54.714

It's really been a pleasure to work on this project with Cornell and the program and with Ted, I've learned a lot and I'm, I'm happy to be able to bring this information to all of you. Um.

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00:08:56.124 --> 00:09:02.754
I'll go through the agenda for the session and then I'm going to turn it over to Ted to cover the 1st section.

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00:09:03.053 --> 00:09:16.403
So our agenda today tracks, the chapters of the guide, the creating conservation overlay zoning guide is available online.

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00:09:16.433 --> 00:09:29.153
I think you have a link to it with your registration information. So you can go ahead and look at that and everything we're going to cover today is going to go through the, um, the chapters of the guide. So you don't need to write anything down.

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00:09:29.153 --> 00:09:29.484
It's all,

65
00:09:29.693 --> 00:09:30.594
it's all in there,

66
00:09:31.014 --> 00:09:31.703
um,

67
00:09:32.183 --> 00:09:38.754
we're gonna talk about why conservation zoning is useful and specifically overlay zoning,

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00:09:39.413 --> 00:09:54.264
talk about some alternatives to overlay zoning to make sure that's really the right tool for the job that you need to do the planning that goes into choosing what to protect and how to protect it and then specifically how to

69
00:09:54.264 --> 00:10:02.244
design an overlay a little bit about the adoption process for turning the overlay into law a few words,

70
00:10:02.244 --> 00:10:06.653
about balancing conservation and development to make sure that we're not.

71
00:10:07.043 --> 00:10:20.754
We're not reducing the availability of housing by protecting the
environment. Both things can be done simultaneously, finishing up with a
few innovative approaches and some resources and then we'll have time for
Q and A, at the end.

72
00:10:22.109 --> 00:10:36.568
Ted, do you want to take? All right well, thank you. Welcome everyone.
I'm delighted to be here and to help walk you through our new guide,
creating conservation overlay zoning, and a big

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00:10:36.774 --> 00:10:47.274
Thank you to Cornell and to the Hudson River restaurant program for
sponsoring this webinar as well as for the guide itself. I think it's a
great tool.

74
00:10:47.274 --> 00:10:59.183
That communities will be able to use in devising ways to be able to
conserve the natural resources. So, what I'd like to do is tell you a
little bit about the guide 1st, and what some of the goals were.

75
00:10:59.933 --> 00:11:12.984
So, 1st, we wanted to work with the program to develop a way that
supported communities that are interested in conserving natural
resources.

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00:11:13.403 --> 00:11:17.514
So, we set out with a whole research methodology.

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00:11:17.514 --> 00:11:19.104
We looked at communities,

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00:11:19.374 --> 00:11:20.874
not only here in the Hudson Valley,

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00:11:20.874 --> 00:11:23.094
but also across New York state,

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00:11:23.124 --> 00:11:26.813
that had used some new and innovative tools that are in

81
00:11:26.813 --> 00:11:33.053
use for creating new ways to be able to control land

82
00:11:33.053 --> 00:11:33.443
use.

83
00:11:33.474 --> 00:11:40.464
And especially the types of controls that would be useful for protecting
natural resources. So.

84
00:11:41.724 --> 00:11:44.094
Specifically on the overlay zoning,

85
00:11:44.153 --> 00:11:44.604
uh,

86
00:11:44.634 --> 00:11:45.234
tool,

87
00:11:45.263 --> 00:11:59.813
and I've had quite a lot of experience with this in a number of different
municipalities that I've worked for. I've worked for dozens of
municipalities throughout the state and have developed some of these
actual models that we use

88
00:12:00.083 --> 00:12:14.813
within the guide and so there are many different ways that an overlay
district can work and I'll be getting into that in a little while to give
you a little bit more on how it can be used both for conservation as well
as for

89
00:12:14.813 --> 00:12:16.014
development purposes.

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00:12:16.583 --> 00:12:17.453
And, um.

91
00:12:18.239 --> 00:12:30.443
So some of the examples of of things that we look at were ways that water
resources could be protected by overlay zoning districts, habitats,

92
00:12:30.984 --> 00:12:33.024
but also other things like cultural resources,

93

00:12:33.024 --> 00:12:33.234
like,

94
00:12:33.234 --> 00:12:36.833
scenic viewsheds and agricultural areas.

95
00:12:36.864 --> 00:12:44.004
Um, so there's a variety of different approaches that overlay zoning, um,
can be used in a community.

96
00:12:44.004 --> 00:12:46.823
And so we tried to find the best examples,

97
00:12:47.484 --> 00:12:56.693
and we've provided within the guide a whole list of some of the source
materials that we drew from,

98
00:12:57.293 --> 00:12:57.563
from,

99
00:12:57.563 --> 00:13:10.043
throughout the area to give you examples of the kinds of things that have
been used for effectively conserving natural resources. we reached out to
municipal officials and these communities.

100
00:13:10.073 --> 00:13:15.114
We talked about the pros and cons; what worked, what didn't work.

101
00:13:15.144 --> 00:13:29.244
And so we, we tried to find the best of the best and to use them as, you
know, by looking at the, different techniques that were embodied within
the overlay districts.

102
00:13:29.874 --> 00:13:31.313
Um, so.

103
00:13:32.788 --> 00:13:43.918
Yeah, okay then I guess we're, we're done with a guide itself so we can
get right into conservation zoning. And I think, um, you know.

104
00:13:44.153 --> 00:13:55.374
Living here in the Hudson Valley, and I know there's probably people from
outside of the Hudson Valley. That are joining us but we're really

fortunate in the Hudson Valley that we have an abundance of natural resources.

105
00:13:55.374 --> 00:14:03.474
We have scenic beauty and we have fertile farmland and we have lots of things that are important to protect.

106
00:14:04.043 --> 00:14:11.394
And, of course, we live in an area that where America's love of the landscape was born with the Hudson River school paintings.

107
00:14:11.394 --> 00:14:21.833
And so, um, we do have an environment here that, um, I think there's broad support for protecting what we have.

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00:14:22.528 --> 00:14:34.793
A lot of these tools that have been developed came about really in the last 30 years. New York state in the 90s, and into the 2000s revamped all of its planning and zoning enabling laws.

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00:14:34.793 --> 00:14:39.293
And, um, 1 of the things that we were able to.

110
00:14:41.663 --> 00:14:53.004
To do with all of these new tools that the state legislature provided was defined innovative approaches, creative approaches to how to go about balancing conservation and development.

111
00:14:53.244 --> 00:15:00.953
Um, and so from that standpoint, you know, we have a lot of work ahead of us.

112
00:15:01.589 --> 00:15:14.754
Populations expanding the changes that happen on the land with land uses those are cumulative kinds of changes and we see them today.

113
00:15:14.783 --> 00:15:24.234
They have a lot of global implications, um, because of land use, and because of population growth. And yet we, we need habitats.

114
00:15:24.264 --> 00:15:35.333
Just like wildlife needs to habitats and so, 1 of the things which we, we really want to emphasize in this webinar is the importance of planning as a tool for.

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00:15:35.609 --> 00:15:48.328
Moving forward with, with residents visions for what they want to achieve
within their own community. And so essentially just a little background
on zoning.

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00:15:48.328 --> 00:15:58.553
Um, essentially, zoning divides a community into, uh, into different
areas, um, residential areas, commercial areas, industrial areas.

117
00:15:58.793 --> 00:16:09.744
Uh, it sets density limitations on those sorts of things. And that's the
traditional role is only displayed for almost 100 years now in the United
States.

118
00:16:09.744 --> 00:16:10.224
Um,

119
00:16:10.583 --> 00:16:15.894
but with the advent of different new approaches to zoning,

120
00:16:15.923 --> 00:16:30.413
we've been able to come up with ways to be able to identify important
natural resources and cultural resources and to integrate them into the
land use control schemes for municipalities.

121
00:16:30.443 --> 00:16:37.464
If you look at traditional zoning and the kinds of land uses that are
controlled by zoning regulations.

122
00:16:38.994 --> 00:16:39.563
Essentially,

123
00:16:39.563 --> 00:16:47.364
the focus is really on human habitats and so in using the overlay zoning
technique,

124
00:16:47.364 --> 00:16:47.634
it's,

125
00:16:47.663 --> 00:16:54.504
it's tailor made for busting out of those confines that exist within
different zoning districts,

126
00:16:54.504 --> 00:17:09.443
the residential and commercial industrial and so basically an overly
zoning district does not change the underlying zoning district
regulations that are in place and 1 of the benefits of it is that you
don't

127
00:17:09.443 --> 00:17:24.054
have to disrupt the expectations of landowners within the community
because the zoning for how many units you can have per acre and what
types of land uses are permissible within those different districts

128
00:17:24.054 --> 00:17:25.074
remains the same.

129
00:17:25.374 --> 00:17:37.374
So what an overlay does, it creates a whole new set of regulations that
are superimposed on all the existing zoning regulations that occur in the
community. So, for instance, if you wanted to

130
00:17:37.888 --> 00:17:42.358
Protect the stream corridor that winds its way through your community

131
00:17:42.953 --> 00:17:47.394
You could adapt a stream corridor overlay zoning district. You'd have to
define that.

132
00:17:47.604 --> 00:18:00.173
You have to establish various regulations that would apply to the stream
into a stream buffer area, for instance, the riparian areas, or the
upland areas around the stream.

133
00:18:01.013 --> 00:18:06.564
That would be designed to protect the stream and the water quality and so
forth of that stream area.

134
00:18:06.743 --> 00:18:18.534
And so just like this overlay illustration shows, you have the stream,
you have the land use districts that are superimposed on top of that,
which are your basic zoning districts.

135
00:18:18.713 --> 00:18:25.074
But then above that, you have another set of regulations that apply to
the stream area.

136
00:18:25.409 --> 00:18:31.709
Emily, I think it popped out of the [presentation mode].

137
00:18:31.709 --> 00:18:37.618
There you go if you can just get that back to the play. Yeah, there it
is.

138
00:18:37.618 --> 00:18:44.429
Okay, sorry about that. Do you see it now?

139
00:18:44.429 --> 00:18:47.519
Okay, there we go.

140
00:18:47.519 --> 00:18:51.719
Okay, yep so now we see it. So essentially, um.

141
00:18:51.719 --> 00:19:06.358
By using this example, the stream corridor overlay district, the 1st,
step in the process would be to identify the area that is a special area
within the community that you want to protect it in this case, the
stream. And so streams can be.

142
00:19:06.443 --> 00:19:20.874
Narrow, they can be wide, you know, to take in a large flood plain area.
And so that's the 1st step in the process. And, of course, the stream is
relatively easy to do you have FEMA floodplain maps that identify the
areas that are subject to flooding

143
00:19:21.114 --> 00:19:25.584
Um, but it gets a little bit more difficult when you, uh, when you.

144
00:19:26.003 --> 00:19:32.153
Get involved in some of the other ways to be able to identify natural
resources that would be subject to,

145
00:19:32.334 --> 00:19:32.574
uh,

146
00:19:32.604 --> 00:19:33.923
to regulations such as a,

147

```
00:19:33.983 --> 00:19:34.193
um,

148
00:19:34.223 --> 00:19:35.243
an ecosystem,

149
00:19:35.513 --> 00:19:36.084
um,

150
00:19:36.114 --> 00:19:36.564
and,

151
00:19:36.594 --> 00:19:37.253
um,

152
00:19:37.433 --> 00:19:42.804
habitats and aquifers or water supply watersheds and so forth.

153
00:19:42.834 --> 00:19:57.503
So there's a lot of careful work that needs to be done in order to
identify the area but essentially what you're doing and the goal here is
to create regulations that applies specifically to the resource that's
been identified as a priority for

154
00:19:57.503 --> 00:19:59.153
protection within the community.

155
00:19:59.723 --> 00:20:03.953
You map that area and that map can become.

156
00:20:04.439 --> 00:20:06.203
Another zoning map that,

157
00:20:06.233 --> 00:20:06.594
um,

158
00:20:06.624 --> 00:20:09.834
then references the areas underneath it,

159
00:20:09.923 --> 00:20:13.163
regardless of whether or not it's a residential district,
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160
00:20:13.163 --> 00:20:14.933
an office district commercial district,

161
00:20:14.933 --> 00:20:16.344
or whatever um,

162
00:20:16.403 --> 00:20:22.284
the regulations that would apply to protection of that stream or water
supply watershed.

163
00:20:22.433 --> 00:20:31.344
A biodiversity area would all be the same regardless of the uses and the
density that's permitted in the underlying zoning districts.

164
00:20:31.588 --> 00:20:34.949
Okay. So here's one example of a town in Ulster County, the Town of
Gardiner, and you can see by looking at this map they've identified both
their land use districts - they have special land use districts for the
Shawangunk Ridge - and they have overlay districts. And they've shown it
very clearly with parcel boundaries on the map. They've shown the
different zoning districts by color and they've shown the overlay
districts by cross-hatching. And so it's very clear by looking at this
map exactly what areas are controlling. You have the underlying zones
such as commercial and light industry, highway commercial, and so forth.
And then you have the overlay districts. And in this case the two that
are most pertinent to the guide is the floodplain district and the scenic
overlay district

165
00:22:21.473 --> 00:22:36.023
Okay, so yeah, the town of Gardiner has got 2 primary streams within it
the Wallkill river at that point And then that's the Shawangunk kill,
which is a New York state, Wild scenic and recreational river system
river Within the community.

166
00:22:36.263 --> 00:22:38.243
So that gives you some idea of.

167
00:22:38.669 --> 00:22:46.499
Just 1 example, and we have other examples that we get into when we move
further along in the in the session.

168
00:22:46.499 --> 00:22:57.838
Yeah, just while we have this up, so the scenic protection districts are
these orange cross hatches along some of the main roadways where they
want to protect the scenic views. Um.

169
00:22:57.838 --> 00:23:02.338
And then the blue is the, the flood plain overlay.

170
00:23:02.338 --> 00:23:05.519
Yes.

171
00:23:05.519 --> 00:23:08.638
Exactly. Okay.

172
00:23:08.638 --> 00:23:12.749
All right and I think, um.

173
00:23:12.749 --> 00:23:20.608
This is exactly what I mentioned. What you just for a 2nd, and see if I can switch my Internet, because I'm having a little Internet.

174
00:23:20.608 --> 00:23:23.788
Trouble.

175
00:23:33.598 --> 00:23:37.558
Okay all right.

176
00:23:41.278 --> 00:23:56.009
So, it should work better so, just so everyone knows while I have this in full screen, I can't see any of the, um, the chat. So I think as as Ingrid said, we'll hold the questions until the end. And then we'll be able to get to some of them then.

177
00:23:57.294 --> 00:24:08.814
So the next section is about selecting the right tool, this guide is focused on overlay districts, but that's not always the right tool for what your municipality might need.

178
00:24:08.814 --> 00:24:20.213
So we wanted to run through some of the other options within your zoning and your municipal codes that can be used to protect natural resources.

179
00:24:20.213 --> 00:24:26.723
So that you can see whether overlay zoning is the best option for you or whether something else you might work better.

180

00:24:27.298 --> 00:24:33.058
So, this chapter of the guide goes through some alternatives to overlay zoning.

181
00:24:33.834 --> 00:24:34.253
1st,

182
00:24:34.253 --> 00:24:45.384
let's say what overlay zoning is good for. Overlay zoning as well suited to protect a sensitive resource that appears in multiple places throughout the municipality or 1,

183
00:24:45.413 --> 00:24:45.653
uh,

184
00:24:45.683 --> 00:24:50.993
in 1 area that spans multiple zoning districts like the stream example that Ted gave,

185
00:24:51.233 --> 00:24:54.384
if streams span multiple zoning districts,

186
00:24:54.413 --> 00:24:59.273
an overlay can be used to add regulations to protect that stream.

187
00:25:00.114 --> 00:25:04.554
They can be used for all different kinds of resources. Forests, significant

188
00:25:04.554 --> 00:25:16.763
Natural communities, they can be used to protect scenic resources, water resources, aquifer protection overlay districts are very commonly used in coastal areas.

189
00:25:16.794 --> 00:25:24.503
All different kinds of resources and overlays can add those substantive restrictions like,

190
00:25:25.193 --> 00:25:28.884
changing what uses are allowed or changing the dimensional requirements,

191
00:25:28.913 --> 00:25:30.743
or they can add processes like,

192
00:25:30.743 --> 00:25:31.973
special permits

193
00:25:32.034 --> 00:25:37.074
That are needed to protect those resources. We're gonna talk about that in a minute. But these are all

194
00:25:37.614 --> 00:25:43.284
Good uses for overlay zoning. What an overlay district can't do

195
00:25:43.314 --> 00:25:57.894
Um, it, it doesn't avoid the need for a formal zoning change through a local law. An overlay district is part of the zoning code and in order to adopt it, you have to go through a local law process to adopt a zoning change.

196
00:25:58.074 --> 00:26:07.523
So, if that's not something that your municipality wants to do, then an overlay isn't the tool for you. Um, it's not typically used for a single parcel.

197
00:26:08.213 --> 00:26:21.384
You wouldn't just choose 1 parcel and use an overlay for that parcel. And it's not generally optional. There is another tool called a floating zone that may be used.

198
00:26:21.384 --> 00:26:27.324
When you want when the municipality wants to define a certain type of use or type of development,

199
00:26:27.354 --> 00:26:30.773
and isn't sure where it would be most appropriate,

200
00:26:30.773 --> 00:26:39.713
you can create a floating zone that then lands on a certain parcel upon request or when the situation arises.

201
00:26:39.983 --> 00:26:47.213
That's a different tool that's different than an overlay. An overlay is mapped from the beginning and it applies to a certain land area.

202
00:26:49.528 --> 00:26:53.999

So, to get into some alternatives to overlay zoning...

203
00:26:54.653 --> 00:26:58.493
The 1st alternative we wanted to talk about is a conservation district,

204
00:26:58.523 --> 00:26:59.034
which,

205
00:26:59.094 --> 00:27:00.233
unlike an overlay,

206
00:27:00.233 --> 00:27:07.854
which adds an extra layer of regulation you can just create a basic
primary district,

207
00:27:08.364 --> 00:27:13.104
a primary zoning district that is designed for conservation.

208
00:27:13.344 --> 00:27:23.243
So, it would set the allowed uses and the dimensional requirements for
that land area. Just as a conservation district.

209
00:27:23.304 --> 00:27:33.834
This is most commonly used when you have a large sensitive area with
limited development, and where you don't want much development to happen
in the future.

210
00:27:34.134 --> 00:27:34.703
So,

211
00:27:34.703 --> 00:27:37.104
some examples would be a floodplain,

212
00:27:37.314 --> 00:27:37.794
um,

213
00:27:37.824 --> 00:27:39.023
the town of New Paltz,

214
00:27:39.023 --> 00:27:40.344
the picture here shows,

215
00:27:40.344 --> 00:27:41.423
the town of New Paltz

216
00:27:41.423 --> 00:27:46.794
they established a flood way and floods fringe zoning districts along the Wallkill

217
00:27:46.794 --> 00:27:49.824
river in areas where there isn't

218
00:27:49.854 --> 00:28:03.114
And shouldn't be too much development. Because it's in a flood zone, and that is a primary zoning district that defines the uses and the dimensions that are allowed there.

219
00:28:03.354 --> 00:28:07.134
Um, it's not an overlay on top of a different zoning district.

220
00:28:07.439 --> 00:28:12.749
As another example, the town of Gardner has those shrunk gunk ridge. Um.

221
00:28:12.749 --> 00:28:14.034
Protection districts,

222
00:28:14.034 --> 00:28:15.564
which are primary districts,

223
00:28:15.953 --> 00:28:25.374
the town of Rhinebeck established a historic preservation district along the Hudson River that has special requirements to reduce the,

224
00:28:25.403 --> 00:28:28.913
the visual impact and other impacts along the Hudson River.

225
00:28:29.278 --> 00:28:33.118
So that's 1 option that you might consider.

226
00:28:33.864 --> 00:28:45.294
Another alternative to overlay zoning is a resource protection regulation. This is actually pretty similar to overlay zoning, but these are things like wetlands laws, steep slope laws.

227
00:28:45.653 --> 00:29:00.294
Um, and these are especially useful for things that are difficult to map. So, an overlay district, as we're going to talk about in a minute, um, you create a map showing which areas are regulated some resources.

228
00:29:00.294 --> 00:29:03.203
Don't really lend themselves to that. Like, um.

229
00:29:03.568 --> 00:29:18.269
Prime soils can be hard to map at a fine scale. Um, without going on site and doing, uh, field testing steep slopes can be difficult to map at a find scale. So some of these things may be easier to regulate.

230
00:29:18.294 --> 00:29:25.163
Through creating standards in your zoning and subdivision codes where each individual project,

231
00:29:25.253 --> 00:29:25.854
um,

232
00:29:25.973 --> 00:29:30.144
these resources are mapped on the site and regulated in that way,

233
00:29:30.413 --> 00:29:34.344
rather than trying to create an overlay district with a map.

234
00:29:36.419 --> 00:29:46.828
But generally, if they're mappable an overlay district may be a, a preferable tool because it is it more clearly integrates these protections into the zoning.

235
00:29:48.868 --> 00:29:59.064
Another alternative that it's not a zoning code provision, but a critical environmental area or something that can be established by communities.

236
00:29:59.334 --> 00:30:12.384
Um, they're basically a lighter level of protection and a lighter lift to put in place. Um, so a critical environmental area can be established simply by a resolution of the governing board.

237
00:30:13.433 --> 00:30:21.263
And what it does is, it defines an area and documents what the sensitive resources are in that area.

238
00:30:21.263 --> 00:30:33.233
So that when a project is considered in that area, the seeker review,
we'll consider will be required to consider the, the criteria of the
critical environmental area.

239
00:30:33.894 --> 00:30:34.403
So,

240
00:30:34.794 --> 00:30:39.413
once you create map and register a critical environmental area,

241
00:30:40.644 --> 00:30:41.124
when,

242
00:30:41.153 --> 00:30:46.193
when an applicant creates a environmental assessment form through the
state system,

243
00:30:46.493 --> 00:30:48.263
it'll automatically pop up that,

244
00:30:48.294 --> 00:30:50.513
that it's in a critical environmental area.

245
00:30:50.874 --> 00:30:57.443
And the reasons behind that critical environmental area will be become
part of the SEQR review.

246
00:30:58.644 --> 00:30:58.943
So,

247
00:30:58.943 --> 00:31:00.864
it can be simpler to establish,

248
00:31:00.894 --> 00:31:02.963
because it doesn't require a local law,

249
00:31:03.864 --> 00:31:05.873
and it can be a baby step where,

250

```
00:31:05.903 --> 00:31:08.874
if you create a critical environmental area,

251
00:31:08.874 --> 00:31:16.013
we have found examples where towns then went on to convert that area to
an overlay in the future.

252
00:31:16.314 --> 00:31:24.023
So 1 example is in the town of shrunk, they created a critical
environmental area to protect their aquifer recharge.

253
00:31:24.269 --> 00:31:29.909
And then in years later, they turned that into an aquifer overlay
district.

254
00:31:32.963 --> 00:31:43.013
Another alternative is, what are we doing on time? We're doing. Okay
another alternative is, um, conservation design or cluster development.

255
00:31:43.044 --> 00:31:53.213
If your main concern is subdivisions spreading out across the land 1
thing that you can build into your subdivision code and your zoning code
is,

256
00:31:53.243 --> 00:31:53.663
um,

257
00:31:53.693 --> 00:31:55.703
cluster development,

258
00:31:55.703 --> 00:32:00.834
which allows a subdivision to have the same number of houses that would
otherwise have.

259
00:32:00.834 --> 00:32:02.993
But in a in a more condensed area,

260
00:32:03.173 --> 00:32:08.364
so if you're zoning allows 1 house per 5 acres,

261
00:32:08.723 --> 00:32:11.394
and you have 50 acres,
```

262
00:32:11.394 --> 00:32:12.683
you could do 10 houses,

263
00:32:12.683 --> 00:32:21.144
rather than spread them out 1 house for every 5 acres you put all of them in 1 area designed to preserve the most,

264
00:32:21.834 --> 00:32:23.784
the environmentally sensitive land.

265
00:32:26.608 --> 00:32:35.124
Another alternative approach is a community preservation fund. We wanted to mention this tool that's getting more popular in the Hudson Valley.

266
00:32:35.513 --> 00:32:47.874
Um, it allows municipalities to permanently preserve important resources by acquiring the land or the development rights to the land. So, permanently protecting specific, um, land areas.

267
00:32:48.084 --> 00:32:56.334
And it requires the community to go through preparing a community preservation plan. Um, and then a community preservation fund by referendum.

268
00:32:56.663 --> 00:33:06.443
Um, and it's only authorized in in certain places, but it can be a great tool for permanently protecting, um, really critical land in the community.

269
00:33:08.848 --> 00:33:14.993
So, in the guide, you'll see this it's a lot to absorb right now on the screen. But this table is in the guide.

270
00:33:15.233 --> 00:33:24.804
We, we built this table to consider some of the different tools and try to identify when they're most useful.

271
00:33:25.013 --> 00:33:25.523
So,

272
00:33:25.554 --> 00:33:29.183
you ask yourself whether the research you're trying to protect,

273
00:33:29.213 --> 00:33:32.243
is it in a consolidated area,

274
00:33:32.423 --> 00:33:33.683
a mappable area,

275
00:33:33.683 --> 00:33:37.463
or dispersed throughout the community and you ask yourself,

276
00:33:37.493 --> 00:33:38.064
um,

277
00:33:38.364 --> 00:33:44.963
what level of political will your community has and then you can use this table to figure out what,

278
00:33:45.173 --> 00:33:45.713
um.

279
00:33:46.019 --> 00:33:49.138
What type of protection might be a good tool for you?

280
00:33:50.848 --> 00:33:56.038
All right, I'm going to pass it back to Ted.

281
00:33:57.443 --> 00:34:04.614
Okay, so we've devoted a whole chapter to laying the groundwork for overlay zoning districts.

282
00:34:04.644 --> 00:34:16.494
And the most important part of this is, is the understanding that planning is necessary before moving forward with an overlay district. Emily can you advance the slide? Please.

283
00:34:17.784 --> 00:34:18.143
Yeah,

284
00:34:18.233 --> 00:34:18.833
there we go,

285
00:34:19.164 --> 00:34:24.143

so with only a handful of exceptions around the country,

286
00:34:24.143 --> 00:34:36.653
actually essentially local government is primarily responsible for land use controls within local communities and it's done through state.

287
00:34:36.653 --> 00:34:47.994
What are called state enabling laws? These are laws there's ones for cities for towns for villages in the state and then there's also general, municipal law.

288
00:34:48.713 --> 00:34:51.503
That applies to all units of government,

289
00:34:51.773 --> 00:35:03.864
and these are laws that allow local governments to be able to enact Sony regulations in subdivision regulations and local laws for site plan approval,

290
00:35:03.864 --> 00:35:08.753
and a whole variety of other local types of regulations.

291
00:35:08.753 --> 00:35:10.914
That would apply to land use.

292
00:35:10.914 --> 00:35:11.844
And development,

293
00:35:12.713 --> 00:35:19.043
and so the whole process of creating an overlay district,

294
00:35:19.344 --> 00:35:20.273
it's well,

295
00:35:20.273 --> 00:35:32.753
founded within the implied authority that local governments have through this delegation of power from the enabling laws to enact and create zoning districts.

296
00:35:32.753 --> 00:35:45.653
And that includes the overlay zoning district tool. But the most important, I think rule that really applies here is that in New York state zoning must be in accordance with a comprehensive plan.

297
00:35:45.923 --> 00:35:55.403
Um, it's, it's a new concept, relatively new concept for anybody that
remembers the way that the state's comprehensive planning process used to
happen.

298
00:35:55.614 --> 00:36:07.523
It was a master plan that was adopted by the planning boards, and a lot
of those master plans, the old master plans ended up on shelves,
gathering dust and not a whole lot happened.

299
00:36:07.914 --> 00:36:22.494
And when a lot of the reform was happening in the 990 s, in 2000 s, that
authority to prepare plans was transferred from the planning boards to
the legislative boards and with that transfer of jurisdiction over
comprehensive plans.

300
00:36:22.494 --> 00:36:32.273
It is now become a much more effective tool. And if you look at a plan as
a blueprint for the community's future.

301
00:36:34.708 --> 00:36:44.159
Zoning is it just 1 of many tools that can be used to implement, um,
that, um, uh, that plan for the community?

302
00:36:44.159 --> 00:36:48.028
So, do you wanna advance to the next one Emily?

303
00:36:48.864 --> 00:36:51.384
That's the next one. okay.

304
00:36:51.804 --> 00:36:54.833
So I think when you,

305
00:36:54.864 --> 00:36:58.673
when you look at New York state town city and village law,

306
00:36:59.514 --> 00:37:04.224
the provisions that are within those enabling laws for comprehensive
planning,

307
00:37:04.434 --> 00:37:11.393

all recognize the importance and the unique role at local governments play in protecting,

308
00:37:11.393 --> 00:37:16.943
and enhancing a community through comprehensive planning process and,

309
00:37:16.974 --> 00:37:17.543
in fact,

310
00:37:17.574 --> 00:37:21.083
in 1 of the key decisions that was made decades ago,

311
00:37:22.043 --> 00:37:23.094
the court of appeals,

312
00:37:23.094 --> 00:37:34.704
the States highest court said that the comprehensive plan is actually the essence of zone it zoning and without it there can be no rational allocation of land use and so.

313
00:37:35.664 --> 00:37:45.083
Many planners and others they look at a comprehensive plan almost as the constitution for a local government. We have a state constitution.

314
00:37:45.083 --> 00:37:56.934
We have a federal constitution, but the plan is really, it's, it's the assembly of what it is that makes up the community, the natural resources, the socio economic conditions.

315
00:37:57.143 --> 00:38:09.233
All of the different interplay of resources features and needs and desires within a community are all expressed within the comprehensive plan.

316
00:38:09.713 --> 00:38:16.764
And 1 thing that I'd like to point out here is that the comprehensive plan does not need to be a voluminous document.

317
00:38:17.393 --> 00:38:27.594
I have seen actually, I was involved in a project with a community, very rural community in New York that had a 1 and a half page comprehensive plan.

318

00:38:27.869 --> 00:38:28.525
That was it,

319
00:38:28.914 --> 00:38:38.844
it was a statement of a series of goals and a vision that the community had for the way that it wanted to see its future and,

320
00:38:38.905 --> 00:38:39.414
um,

321
00:38:39.445 --> 00:38:46.735
that little 1 and a half page comprehensive plan became the basis for a zoning change.

322
00:38:46.764 --> 00:38:51.414
That was enacted by the town board and that was challenged.

323
00:38:51.719 --> 00:39:06.684
And it went to the New York state court of appeals, and actually it established a landmark ruling that effects communities throughout New York state. And it was a, it was a pretty big decision. And you can trace it all the way back to that little 1.

324
00:39:06.684 --> 00:39:17.905
and a half page comprehensive plan that said things, like we want to have clean water and we want clean air and we want a clean environment and we don't want a lot of traffic.

325
00:39:17.965 --> 00:39:25.164
And it was very simple statements like that, that became the basis for the findings that the town board had on it.

326
00:39:25.195 --> 00:39:36.355
So I can't express enough the importance of comprehensive planning and about getting down on paper what a community wants to see for its future.

327
00:39:36.659 --> 00:39:45.360
And so this is a, this is a foregone conclusion. I think it always has to proceed. Comprehensive planning has to proceed.

328
00:39:45.360 --> 00:39:58.289
Any sort of consideration of adoption of zoning, or an amendment of zoning and an overlay district. Just like any other aspect of zoning, whether it's the text, whether it's a map change.

329
00:39:58.289 --> 00:40:07.559
It's a change that's subject to the rules that are established for amendment and zoning within the New York state, enabling laws and it's.

330
00:40:49.739 --> 00:40:58.224
It's a policy that's a decision that the community makes that it wants to pursue a particular avenue for restricting land uses.

331
00:40:58.224 --> 00:41:06.625
And at the end of the day zoning is a restriction on land use and whether or not, it's done in the basic land use.

332
00:41:06.929 --> 00:41:20.184
Uh, rules that are established for the different types of land use and densities and so forth or whether or not it's establishing new rules for protecting a a natural resource, like a forest or a stream or a wetland.

333
00:41:20.784 --> 00:41:25.585
These are all the kinds of things that have to be addressed 1st, within a comprehensive plan.

334
00:41:26.695 --> 00:41:35.304
So, as far as identifying, if you could just go back 1 more, I just want to add 1 more point I wanted to make. That's okay.

335
00:41:35.844 --> 00:41:46.224
So I think it's important that you look to to science for identification of natural resources and,

336
00:41:46.375 --> 00:41:57.715
and what are the best ways to do that as a natural resource inventory and just like Ingrid had talked about the beginning of this webinar about creating the natural resource inventory for your community,

337
00:41:57.894 --> 00:41:58.494
um,

338
00:41:58.525 --> 00:42:03.594
the program has great guidance on how to go about doing that process,

339
00:42:04.164 --> 00:42:06.565
how to be able to prioritize your resources.

340
00:42:07.014 --> 00:42:21.054
But it's not the only 1 that exists. There's other ways to be able to
identify important natural areas within your community. Habitat studies
can be done by a diversity assessments, watershed plans, open space plans
many communities have those.

341
00:42:21.054 --> 00:42:31.164
If they've established an environmental conservation commissioner or a
conservation advisory board, or or commission or committee.

342
00:42:32.034 --> 00:42:45.684
And as Emily had said earlier in the community preservation plans, these
are something that are now a new tool that are being made more widely
available within the Hudson Valley. Um, and we have the Hudson Valley
community preservation act.

343
00:42:45.684 --> 00:42:49.885
That is another way to be able to identify important natural areas
within.

344
00:42:50.190 --> 00:42:53.429
Community okay now you can advance it.

345
00:42:54.445 --> 00:43:08.875
So, in conducting a planning process, number 1 thing, you want to get
residents involved and I think it's, it's critically important to make
sure that whatever plan is developed.

346
00:43:08.905 --> 00:43:11.755
Um, you have to look at a comprehensive plan.

347
00:44:47.579 --> 00:44:50.639
Would be in place for, uh.

348
00:44:50.639 --> 00:44:58.289
And the new rules that would be subjected within the overlay district
area, um.

349
00:44:58.554 --> 00:45:00.864
And from from that standpoint,

350
00:45:00.925 --> 00:45:01.224

you know,

351
00:45:01.224 --> 00:45:08.994
if you can take advantage of municipal staff of volunteers in the community that have some expertise in this area,

352
00:45:10.074 --> 00:45:17.545
that can go a long way towards helping to develop those regulations that would apply to the conservation overlay area.

353
00:45:18.054 --> 00:45:18.385
Um,

354
00:45:18.414 --> 00:45:22.344
and so some of the things that you want to do is to make sure that you have,

355
00:45:22.644 --> 00:45:23.304
um,

356
00:45:23.364 --> 00:45:25.255
not only the time and the people,

357
00:45:25.255 --> 00:45:27.385
but also you have the,

358
00:45:27.625 --> 00:45:27.985
um,

359
00:45:28.014 --> 00:45:39.054
the resources necessary to be able to drive the process because anytime you call into question changes in zoning things can take longer,

360
00:45:39.085 --> 00:45:40.644
much longer than expected.

361
00:45:41.244 --> 00:45:53.605
So if you expected something that can happen in a matter of a few months, that would be great. But the reality is that zoning can take time on that can take years to get through the process.

362
00:45:53.849 --> 00:46:03.539

So, patience is certainly in order in order to, uh, to be able to develop
the kinds of overlay districts that are going to be, um.

363
00:46:03.539 --> 00:46:11.969
You know, subject to potential litigation if somebody feels that they
want to challenge, um, any sort of final decision that's made on that.

364
00:46:11.969 --> 00:46:18.025
So I think that's it on that and lane so I'll turn it back to you.
Thanks, TED.

365
00:46:18.295 --> 00:46:18.505
Yeah,

366
00:46:18.534 --> 00:46:19.434
just to add that,

367
00:46:19.434 --> 00:46:19.795
um,

368
00:46:20.155 --> 00:46:20.514
you know,

369
00:46:20.514 --> 00:46:23.184
in case this seems daunting we do include in the guide,

370
00:46:23.184 --> 00:46:23.545
some,

371
00:46:23.574 --> 00:46:23.875
um,

372
00:46:23.905 --> 00:46:24.625
resources,

373
00:46:24.625 --> 00:46:26.065
potential grant funding,

374
00:46:26.335 --> 00:46:26.755
um,

375

00:46:26.784 --> 00:46:31.554
in case you need to hire a planner or some other,

376
00:46:31.554 --> 00:46:32.065
um,

377
00:46:32.574 --> 00:46:34.434
professional to help you with the process.

378
00:46:35.335 --> 00:46:50.125
So moving right along. We have now talked about what alternatives there
are to overlays. We've talked about how to lay the groundwork. Now you've
decided you're ready to do an overlap. So, now this next chapter talks
about how to actually.

379
00:46:50.875 --> 00:47:04.735
Get through that process so there are really 2 main components to an
overlay district. 1 is choosing what area or resource the overlay should
cover and then what we'll need to map that area.

380
00:47:04.885 --> 00:47:13.764
That becomes the map of the overlay. And then the 2nd, component is
choosing. What regulations will achieve the resource protection goals for
that area?

381
00:47:15.534 --> 00:47:29.275
So 1st, we'll talk about the area typically an overlay protects the class
of natural features throughout the municipality. So we've looked at
examples, um, streams by a diversity areas, et cetera.

382
00:47:29.275 --> 00:47:40.494
We'll look at some examples of those, um, it may the overlay may include
just the resource themselves. It may include a buffer beyond the
resource, and we'll look at some different options. There.

383
00:47:41.815 --> 00:47:50.514
An overlay can also be used to protect a single consolidated area of
environmental sensitivity. So, let's look at what, I mean, by that.

384
00:47:51.474 --> 00:47:51.715
So,

385
00:47:51.715 --> 00:47:54.655
this example is from the town of Warwick,

386
00:47:54.775 --> 00:47:58.074
and they created a biodiversity zoning overlay,

387
00:47:59.724 --> 00:48:04.494
and this was based on a plan that was produced for the whole,

388
00:48:04.974 --> 00:48:05.875
the whole region,

389
00:48:05.875 --> 00:48:08.094
the southern wallkill biodiversity plan,

390
00:48:08.094 --> 00:48:11.755
which mapped out sensitive biodiversity areas.

391
00:48:12.025 --> 00:48:12.355
Um,

392
00:48:12.385 --> 00:48:14.635
in Warwick and neighboring communities,

393
00:48:15.054 --> 00:48:15.744
and so,

394
00:48:15.744 --> 00:48:17.994
what the town of Warwick did was,

395
00:48:18.025 --> 00:48:32.574
it took that map that was produced through the southern was killed by the
diversity plan and it used it that map to create an overlay for the town
of Warwick where they've all the all the light green areas on this

396
00:48:32.574 --> 00:48:38.844
map has been designated as sensitive biodiversity areas.

397
00:48:39.025 --> 00:48:49.735
You'll see some of them are broad swaths of forest and such. And then
others are narrower areas along a stream corridor. For instance.

398
00:48:51.119 --> 00:48:56.190

And so, uh, what the town of Warwick did was created this overlay.

399
00:48:56.190 --> 00:49:07.320
Based on that map, and so in in the, um, the green shaded areas that are
in the overlay special re, uh, resource protection restrictions apply.

400
00:49:10.230 --> 00:49:25.105
Another approach is represented by this. This is the town of Newcastle
they created an environmental protection overlay district, which is
represented by the, the base Tan, colored shading on the 2 sides of the
map.

401
00:49:25.494 --> 00:49:25.974
Um,

402
00:49:26.094 --> 00:49:32.034
what they did was rather than designate small,

403
00:49:32.394 --> 00:49:35.034
small pieces of land throughout the community,

404
00:49:35.034 --> 00:49:35.545
they found,

405
00:49:35.574 --> 00:49:42.505
they decided on 2 large parts of the community that were just generally
environmentally sensitive.

406
00:49:42.773 --> 00:49:46.914
They, both are areas that are less densely developed to begin with.

407
00:49:47.244 --> 00:50:01.014
And they also are areas that provide drinking water watersheds um, 1 is
the, the watershed for the reservoir that serves the town of the village
of and the other is a New York City watershed area.

408
00:50:01.375 --> 00:50:14.454
So they created these overlays. That are cover a broad land area. And
then within those overlays there are certain extra rules that apply,
like, for instance.

409
00:50:14.699 --> 00:50:20.940

For wetlands within those overlays, um, there are extra buffer
requirements and such.

410
00:50:20.940 --> 00:50:26.550
So those are a couple different ways of using an overlay. Um.

411
00:50:26.550 --> 00:50:29.670
Yeah.

412
00:50:31.344 --> 00:50:34.014
So to map your overlay,

413
00:50:34.045 --> 00:50:40.375
you're gonna start with some data based on the planning that you've done,

414
00:50:40.795 --> 00:50:47.034
and then take that data and make a map showing the overlay area,

415
00:50:47.065 --> 00:50:49.045
but also showing the,

416
00:50:49.074 --> 00:50:49.644
um,

417
00:50:49.735 --> 00:50:57.414
the parcel boundaries and other important landmarks That'll help people
find where their property is on the overlay map,

418
00:50:57.835 --> 00:51:00.925
so usually you include all the town tax parcels,

419
00:51:01.164 --> 00:51:01.824
roads,

420
00:51:01.824 --> 00:51:02.875
surface waters,

421
00:51:02.875 --> 00:51:06.925
et cetera and then map the overlay onto that um,

422
00:51:06.925 --> 00:51:08.724

we've seen a couple of different examples here.

423
00:51:08.724 --> 00:51:15.594
It's usually better to create a separate, like the town of Gardner just
mapped the overlays right onto their zoning map.

424
00:51:15.894 --> 00:51:28.735
But for most communities, it's better to create a separate map showing
just the overlay, because it ends up getting kind of busy when you try to
map it right on top of the zoning map. But both options can work.

425
00:51:30.414 --> 00:51:34.375
The guide provides some tips for when you go through the mapping process.

426
00:51:34.675 --> 00:51:45.835
Um, 1 is to provide public access to the map during the adoption process
to make sure that the public understands why you're choosing the areas
you are and what areas you're choosing.

427
00:51:46.014 --> 00:51:59.335
So that people have the opportunity to get involved in aren't surprised
later on in the process. Um, also, at the conclusion, make sure that your
overlay map is easy to find it should be put wherever your zoning code
is.

428
00:51:59.605 --> 00:52:13.614
The overlay map should be right there with it whether it's on the town
website or on E. code. You want people to easily be able to determine
that their property if so say a developer is looking to develop a
property. They, they go to all different towns.

429
00:52:13.614 --> 00:52:23.275
They don't necessarily know your town's rules. They're gonna go look for
your zoning code and you want them to also be able to find the overlay
math just as easily.

430
00:52:23.275 --> 00:52:29.394
So that they see both the primary zoning district that their site is in
as well as any overlays that apply.

431
00:52:31.889 --> 00:52:37.530
So, once you've created your map, um, oh, I'm sorry, 1 other piece to
that.

432

00:52:37.530 --> 00:52:41.909
The map, the regulated areas can be defined by a map.

433
00:52:42.085 --> 00:52:46.974
Or they can be defined by a definition so I don't want to spend too much
time on this.

434
00:52:46.974 --> 00:53:01.614
But this is something you can read more about in the guide, you can
create a map that is a binding determination of the overlay where that
map is the final word on what is in the overlay of what isn't but
sometimes communities create a map.

435
00:53:01.795 --> 00:53:16.614
That's a guide, but they specify on the map that the boundaries will be
delineated on a case by case basis. So an example might be a wetland
overlay where you create a guide based on the publicly available wetland
data.

436
00:53:16.974 --> 00:53:28.735
But, you know, that it may change based on field verification for an
individual project. So, that's something for a municipality to consider
when they're creating their map.

437
00:53:29.034 --> 00:53:35.574
Is this map binding or is it a guide and make sure you clarify that in in
your law?

438
00:53:35.784 --> 00:53:45.054
So that people know WH, which it is, if they need to do a field
verification that you spell out exactly how that's done.

439
00:53:48.989 --> 00:54:03.054
So once you have your, your map and your defined resource areas, the next
step is to figure out which regulations you're going to use to protect
the resource. Um, and really that should be driven by that planning that
Ted spoke about.

440
00:54:03.085 --> 00:54:16.675
So, when you've gone through the process of inventorying your natural
resource and deciding that, you want to create an overlay district
through that process, you probably have figured out what the threats are
to that resource.

441
00:54:16.704 --> 00:54:22.614

Um, and what types of actions are needed in order to protect that resource um.

442
00:54:23.815 --> 00:54:32.065
And there's lots of guidance out there for different types of resources for what type of land use controls would be most effective.

443
00:54:32.215 --> 00:54:40.585
So, for instance, in an app, if you want to protect an aquifer common things that people do are prohibit uses that present pollution risks.

444
00:54:40.585 --> 00:54:54.235
Like, for example, you might say that you can't have any junkyards even gas stations. Car washes things like that. They might be prohibited in the area that recharges the aquifer.

445
00:54:55.920 --> 00:54:56.639
For,

446
00:54:56.664 --> 00:54:57.054
uh,

447
00:54:57.085 --> 00:55:01.255
let's see what's another example for a biodiversity um,

448
00:55:01.375 --> 00:55:07.585
protection area you might want to require a habitat assessment process to determine what,

449
00:55:07.614 --> 00:55:08.034
um,

450
00:55:08.065 --> 00:55:13.764
habitats are present on the site and how development can be arranged to protect those habitats.

451
00:55:14.005 --> 00:55:18.175
So, depending on the resource that you're trying to protect, um.

452
00:55:18.539 --> 00:55:23.280
There are lots of different approaches and what you'll find in the guide is that.

453
00:55:24.144 --> 00:55:32.875
Okay, let's see so the approaches fall really into 2 categories,
substantive restrictions and process oriented requirements.

454
00:55:33.295 --> 00:55:35.335
And what we did in the guide is Ted,

455
00:55:35.335 --> 00:55:41.304
and I spent a bunch of time going through all different zoning codes and,

456
00:55:41.335 --> 00:55:41.695
um,

457
00:55:41.724 --> 00:55:54.175
and picking out some interesting examples of how different municipalities
we're protecting natural resources in their in their overlay districts
and so in that in that section of the guide that goes through the,

458
00:55:54.204 --> 00:55:54.414
um,

459
00:55:54.445 --> 00:55:56.003
the different regulation types,

460
00:55:56.275 --> 00:56:00.175
you'll find citations to all different municipalities' codes.

461
00:56:00.414 --> 00:56:11.394
So, and the thing to remember about local zoning codes is they're
completely open source. You can borrow, you can copy. There's no, there's
no copyright on them.

462
00:56:11.934 --> 00:56:20.125
If you find something that you think makes sense, you can learn from
other municipalities and work it into your code.

463
00:56:20.849 --> 00:56:24.750
So, let me just go through some examples. Um.

464
00:56:24.750 --> 00:56:30.809
As far as substantive restrictions, you can, you can put restrictions
that.

465
00:56:30.835 --> 00:56:36.204
Actually change what uses are allowed in the zoning district,

466
00:56:36.204 --> 00:56:36.355
like,

467
00:56:36.355 --> 00:56:36.864
I just said,

468
00:56:36.864 --> 00:56:38.844
before you could prohibit certain uses,

469
00:56:39.235 --> 00:56:39.925
um,

470
00:56:40.164 --> 00:56:41.065
you could,

471
00:56:41.094 --> 00:56:41.605
uh,

472
00:56:42.114 --> 00:56:44.934
limit new construction in a resource area and we,

473
00:56:44.965 --> 00:56:46.824
we found some codes where they said,

474
00:56:47.063 --> 00:56:47.695
simply,

475
00:56:47.695 --> 00:56:47.965
you know,

476
00:56:47.994 --> 00:56:53.155
no new construction within so many feet of a of a stream.

477
00:56:53.699 --> 00:56:56.724
Um, you could change the density amount.

478

00:56:56.724 --> 00:57:08.965
So, for instance, if, um, if normally the density of an area in the primary zoning is, uh, 1 unit per acre, you could say that in the overlay it's half that.

479
00:57:08.965 --> 00:57:13.195
So you need 22 acres for 1, residential unit.

480
00:57:14.159 --> 00:57:28.289
You could limit impervious surfaces within the overlay preserve right Carters, anesthetic requirements. So there are examples of all these different kinds of substantive restrictions in the guide.

481
00:57:29.605 --> 00:57:33.085
Another approach is to put in process oriented requirements.

482
00:57:33.295 --> 00:57:33.594
So,

483
00:57:33.594 --> 00:57:34.195
in other words,

484
00:57:34.224 --> 00:57:36.565
you're not prohibiting certain things,

485
00:57:36.565 --> 00:57:42.355
but you're adding in a process so that for each individual site within the overlay,

486
00:57:42.474 --> 00:57:51.355
a certain assessment has to go on to determine what whether a project will be protective of the resource,

487
00:57:51.355 --> 00:57:53.454
or might be harmful to it.

488
00:57:53.574 --> 00:57:54.054
So,

489
00:57:54.085 --> 00:57:54.534
some,

490

00:57:54.985 --> 00:57:57.804
some examples of that are resource specific assessment,

491
00:57:57.804 --> 00:57:58.014
like,

492
00:57:58.014 --> 00:58:00.204
requiring a biodiversity assessment,

493
00:58:00.204 --> 00:58:02.215
and a biodiversity area,

494
00:58:02.215 --> 00:58:04.525
or for ridgeline protection,

495
00:58:04.525 --> 00:58:08.755
you might want to require a view set analysis,

496
00:58:08.755 --> 00:58:10.045
things like that.

497
00:58:10.554 --> 00:58:18.715
Some municipalities use the special permit process the special use
permit. That's already in their code and say that within.

498
00:58:19.344 --> 00:58:31.945
The overlay area, certain uses are only allowed by special use permit,
um, you could put special stormwater management requirements in that are
greater than the normal storm water management requirements.

499
00:58:32.545 --> 00:58:45.175
Um, 1, interesting concept is to harness the, the SEQR process by saying
that, uh, certain activities within the overlay are automatically seeker
type 1 and have that extra level of scrutiny.

500
00:58:45.925 --> 00:58:56.094
Uh, you can create a special environmental permit. Um, so there's lots of
different examples in the guide of, of different options, for, for
regulation.

501
00:58:56.454 --> 00:59:07.914

But, again, they should really be driven by the planning that you that
you put into the to begin the process to decide what's important to
regulate in your community for your resource.

502
00:59:10.710 --> 00:59:20.039
So, finally, the components of an overlay district law, there's no set
formula for how, how you write an overlay law. Um.

503
00:59:20.574 --> 00:59:33.804
For each community, because it's going to become part of your zoning code
you need to look at the rest of your zoning code and see what you need to
write into the overlay law to make it integrate into your zoning code. So
we list out.

504
00:59:33.804 --> 00:59:40.855
Some of the standard components of an overlay district law and really a
good way to approach.

505
00:59:40.855 --> 00:59:51.414
It is to look at your own zoning code and then look at other codes that
have an overlay similar to what you're trying to create and start with
what they've written.

506
00:59:51.594 --> 00:59:56.364
And modify it for your community and to fit into your zoning code.

507
00:59:58.105 --> 01:00:06.625
E, code 360 is a great resource. Most towns and villages have their, um,
their zoning on e-code 360. it's not very easy to search, um, from their
site.

508
01:00:06.625 --> 01:00:16.315
But if you just type in what I always do is type in the name of the town,
and then E code, and you'll, you'll find the, um, the code that you're
looking for.

509
01:00:21.690 --> 01:00:28.170
Okay, okay um, is I think this one's me too, isn't it?

510
01:00:28.170 --> 01:00:33.570
Yeah, I think that's you too. Emily Yep. Adopting or did you have
anything to add.

511
01:00:33.894 --> 01:00:45.715

No, that's okay. I think we're getting tight on time. So yeah, so the adoption process, zoning change needs to be adopted by local law.

512
01:00:45.985 --> 01:00:56.125
So you're going to use the local adoption regulations in state law and your municipal attorney will know what you need to do.

513
01:00:56.125 --> 01:01:10.675
But just so that you have a preview of what you can expect, 1st, you're going to develop a draft law, then initiate a SEQR review you do need to do it seems counterintuitive that you would do an environmental review of an environmental law.

514
01:01:10.704 --> 01:01:22.644
Obviously, it's helping the environment, but you do need to do a seeker review and it can actually be a helpful process because it lets you tease out any potential criticisms of your law and address them.

515
01:01:22.644 --> 01:01:37.643
So that's a piece of the process to consider. You'll also have to refer the law to the county planning board you have to inform adjoining municipalities of your zoning change, hold a public hearing.

516
01:01:37.764 --> 01:01:46.945
And then, after those steps have created some feedback for you, you'll most likely want to make amendments to the draft law.

517
01:01:46.974 --> 01:01:56.844
And start again at the beginning and, um, and this may be a process that takes a couple of tries before you get it the way you want once it's finally.

518
01:01:58.465 --> 01:02:10.074
Once it's finalized, it goes to the legislative board for a vote that's either your town board, village, board city council and then you publish and file the lot and it becomes official.

519
01:02:10.344 --> 01:02:17.304
And then you want to make sure that municipal officials know that the new law exists and how to use it.

520
01:02:17.789 --> 01:02:25.829
And I wanted to just spend a minute talking about some, um.

521

01:02:25.829 --> 01:02:38.034
Some considerations when you're when you're putting together your lots
and make sure that you design it in such a way that it will have the
effect that you want. So, make sure that the law is clear enough.

522
01:02:38.244 --> 01:02:41.664
So that regulated parties know what is regulated.

523
01:02:42.235 --> 01:02:53.635
This can be a source of contention 1 example that we cover in the guide
is in the town of New Paltz, they defined quality vernal pools and
regulated them.

524
01:02:54.894 --> 01:03:08.034
The, a group of landowners ended up suing over the law for a number of
different reasons. But the 1 I wanted to highlight is that they, uh, they
claimed that it wasn't clear enough what a quality vernal pool was.

525
01:03:08.034 --> 01:03:12.204
No one would know whether land on that they owned was regulated or not.

526
01:03:12.235 --> 01:03:25.525
And so, therefore, the law wasn't valid, but the, the town was able to
show that they had done the work of making sure that it was very clear
what constituted a quality vernal pool by defining it.

527
01:03:25.554 --> 01:03:33.144
And then also, they offered a free inspection from the town wetlands
inspector. If you had any question.

528
01:03:33.385 --> 01:03:41.815
So that those, those provisions together were enough to satisfy the court
that the law was clear and enforceable.

529
01:03:42.090 --> 01:03:48.929
So, putting that work in upfront, allowed their lots of survive legal
scrutiny.

530
01:03:48.929 --> 01:04:02.190
Also avoid ambiguity 1 way to do that is to cross check the things in
your overlay districts with the rest of your zoning code and make sure
there aren't conflicting provisions or, um.

531
01:04:02.190 --> 01:04:15.630

Ways that someone would find two different, uh, provisions in your code.
That don't make sense together. That's a surefire way to have your
overlay not enforced. If, if it creates some ambiguity.

532
01:04:15.630 --> 01:04:26.039
Um, what else? Oh, and then be mindful of how much discretion you're
allowing in your in your overlay code.

533
01:04:26.039 --> 01:04:27.684
If you use definitive words,

534
01:04:27.684 --> 01:04:27.864
like,

535
01:04:27.894 --> 01:04:35.664
shell and must those are things that will have to be enforced sometimes
people slip in words,

536
01:04:35.664 --> 01:04:36.175
like,

537
01:04:36.204 --> 01:04:43.074
may generally to the extent practical and depending on the situation that
may make sense.

538
01:04:43.315 --> 01:04:51.655
But just be aware that those things may lead to non to your law, not
really being enforced the way that you want it to.

539
01:04:51.925 --> 01:05:04.135
So an example that we put in the guide is a town where they had a, uh,
um, scenic overlay. And it said that buildings should be a certain width
to the extent practical.

540
01:05:04.465 --> 01:05:11.454
Well, the applicant wanted to build building bigger than that width and
said it wasn't practical to make it shorter.

541
01:05:11.699 --> 01:05:19.139
And the planning board was unable to enforce that law, because it wasn't
definitive enough.

542
01:05:23.815 --> 01:05:37.494

Okay, okay. All right. Um, yeah, so comprehensive planning, you know, it's, it's a balancing of interest um, and it's finding that sweet spot that, um, is going to be unique to every community.

543
01:05:37.824 --> 01:05:39.114
Um, and the important.

544
01:05:39.389 --> 01:05:40.164
Part of this,

545
01:05:40.195 --> 01:05:40.675
um,

546
01:05:40.704 --> 01:05:47.574
this whole idea of creating conservation overlay zones is to make sure that you look at it,

547
01:05:47.815 --> 01:05:48.505
um,

548
01:05:48.534 --> 01:05:54.505
hand in hand with creating areas where growth is acceptable.

549
01:05:55.885 --> 01:06:00.894
And so it's always a challenge to do that.

550
01:06:01.195 --> 01:06:12.264
And 1 way that you can look at this is, um, there have been smart growth principals that have been established in order to, um, to look at.

551
01:06:12.840 --> 01:06:21.355
The types of things that would be appropriate for counterbalancing, conservation of lands, which may have the effect of inhibiting development.

552
01:06:21.385 --> 01:06:33.684
And so, what you want to do is, you want to make sure that you have sufficient places within the community, your crossroads, your villages, your hamlets, your city centers, where development can occur.

553
01:06:33.744 --> 01:06:34.315
Um,

554
01:06:34.344 --> 01:06:48.864
and where the priority there is more on human habitat than it is on natural habitats and so smart growth principles are things like density in those areas that are designated for development,

555
01:06:49.434 --> 01:06:50.965
allow for higher density,

556
01:06:51.355 --> 01:06:51.864
uses,

557
01:06:51.864 --> 01:06:52.405
clustered,

558
01:06:52.405 --> 01:06:52.974
uses,

559
01:06:54.385 --> 01:06:57.985
allow for infill development areas,

560
01:06:58.014 --> 01:06:59.724
where you might have bacon,

561
01:06:59.724 --> 01:07:01.434
parcels mix land,

562
01:07:01.434 --> 01:07:05.335
uses create walkable neighborhoods.

563
01:07:06.534 --> 01:07:15.835
Provide for your public services in those centers, use human scales for small blocks and attention to detail.

564
01:07:15.835 --> 01:07:29.034
So that these are areas that are more favored by people than they are by cars, connect everything, make sure your street design provides for traffic comedy and a variety of different activities.

565
01:07:29.184 --> 01:07:40.344
These are all the kinds of things that you would do for those areas. That would counteract the areas where you're going to have more protective regulations in place and you want to make sure.

566
01:07:40.344 --> 01:07:48.295
Especially that if, in some way there's gonna be an inhibition on
development that occurs within the overlay districts or any conservation
districts.

567
01:07:48.295 --> 01:08:02.934
That might be form that you examine what the impact is going to be on
affordable housing because it's every community in New York state as well
as most states are going to have an obligation to provide for affordable

568
01:08:02.934 --> 01:08:03.445
housing.

569
01:08:03.445 --> 01:08:16.734
So that the needs of all of its citizens, including future citizens that
may want to locate in your community, are given an opportunity to be able
to find and stay within housing that they can afford.

570
01:08:17.005 --> 01:08:30.385
So you'll want to avoid things like green gentrification. These may be
areas where, you know, for instance, a former power plant that's going to
have the effect of depressing property values.

571
01:08:30.385 --> 01:08:42.685
And if that power plant is removed and those kind of depressing effects
could go away and daddy already may be subject to justification. And yet
it's home to people that couldn't afford to live anywhere else.

572
01:08:42.685 --> 01:08:56.244
So it's very important to make sure that you have that balance. And
there's a variety of different ways to do with some of the examples that
we provided in the guide for some of the communities Warwick Rhinebeck,
Red hook and so forth have found that sweet spot.

573
01:08:56.274 --> 01:09:05.994
And they have provided a variety of different, innovative ways to be able
to allow for the development of multifamily housing and accessory
apartments within.

574
01:09:06.715 --> 01:09:18.024
Houses as well as accessory buildings like garages and that sort of
thing. So there's a lot of, um, um, you know, very unique ways that a
community can do that.

575
01:09:18.295 --> 01:09:32.305
Um, and it's, I think it's essential in order to have a comprehensive
plan and a zoning regulation that takes those things into consideration
so that it's supportable. If it is going to record.

576
01:09:32.694 --> 01:09:47.125
So, I think that's it for me, Emily, and I think you've got innovative
approaches and I know we're, we're getting close to the 11th hour here.
So Yep. I'll be quick. Just gonna quickly go through a few innovative
approaches to whet your appetite.

577
01:09:47.125 --> 01:09:55.104
If you want to read more about them, you can go to the guide, and there's
more information there, and we do want to leave some time for questions.

578
01:09:55.104 --> 01:10:05.064
So, 1, innovative approach that we found in our research was the use of a
set of overlays for a streamlined process.

579
01:10:05.064 --> 01:10:05.755
So,

580
01:10:05.935 --> 01:10:06.625
for instance,

581
01:10:06.625 --> 01:10:08.484
some towns in Western,

582
01:10:08.545 --> 01:10:09.204
New York,

583
01:10:09.204 --> 01:10:13.255
the town of Mendon and the town of Irondequoit are two examples,

584
01:10:13.255 --> 01:10:17.694
where they created a set of overlays called EPODs,

585
01:10:17.755 --> 01:10:20.005
environmental protection overlay districts,

586
01:10:20.005 --> 01:10:25.375

and they created a streamlined process where any application that came in.

587
01:10:25.375 --> 01:10:39.715
That was in an iPod, goes through an iPad permit process and the, um, the zoning administrator there told me that over half of the applications that come in are in, in the town of London are in 1 or more EPODs.

588
01:10:39.715 --> 01:10:50.305
So that that process has created a really a, um, a normalized process for dealing with natural resources and the development process.

589
01:10:50.305 --> 01:11:05.154
Um, another example we wanted to highlight was the use of overlays as incentives. So, rather than simply putting restrictions on things, overlays can be used to, um, to create an incentive for landowners to preserve.

590
01:11:06.180 --> 01:11:17.125
Sources, so, in other words, if the landowner does X, they get a certain benefit to them, uh, 1 example in the town of anemia, they have a historic preservation overlay.

591
01:11:17.125 --> 01:11:24.715
They really wanted to see, um, landowners reuse historic buildings, rather than tear them down and build something else.

592
01:11:24.954 --> 01:11:38.515
So, they created an incentive where, if you, if you reuse the building, you gain access to additional uses that wouldn't otherwise be allowed in that area like, um, multi family, housing or lodging.

593
01:11:38.724 --> 01:11:43.885
And that's an incentivizing way of helping to protect those, uh, historic buildings.

594
01:11:44.670 --> 01:11:56.729
Another innovative approach is the use of as a, as a baby step, which I think I already covered earlier. So I won't dwell on that. Um.

595
01:11:56.784 --> 01:12:04.404
Let's see oh, another is the use of overlays as a form of inter, municipal coordination.

596

01:12:04.435 --> 01:12:12.654
I mentioned this earlier with the Newcastle example, this picture is an example from the town of Phillips town.

597
01:12:12.895 --> 01:12:27.295
So, one common issue that, in in our area is, um, how does a municipality to protect its water resource if it's drinking water resource, if that resource is outside the municipality.

598
01:12:27.595 --> 01:12:40.404
Um, so 1 example here in the town of Philipstown, they have a reservoir for cold spring, and through inter-municipal coordination. Um, the.

599
01:12:40.710 --> 01:12:51.774
Yeah, the reservoir is within the town of Philipstown, but it serves the village of cold spring and through coordination and cooperation. They created an overlay district.

600
01:12:52.375 --> 01:13:07.314
So that when applications come in, that are, that are within the watershed for the reservoir. They're actually forwarded to the village of cold spring for review, uh, by their water department for any, um, any red flags as far as water protection.

601
01:13:07.555 --> 01:13:19.465
So, uh, overlays can be a tool for inter, municipal coordination like that. And 1, final note is that some overlays that we found had special enforcement provisions.

602
01:13:19.465 --> 01:13:29.875
So normally the enforcement of the overlays just like the enforcement of the rest of the zoning law, but you can put special enforcement provisions. And, for example.

603
01:13:30.149 --> 01:13:43.590
There was 1 where they had special, it was a stream protection overlay and the, the town created special fines related to the damage to the stream. If you created any. Um.

604
01:13:43.590 --> 01:13:52.140
If you violated the rules of the overlay, and that resulted in stream damage. So, again, more information on all of those is in the guide.

605
01:13:56.215 --> 01:14:02.574

Yeah, I think just wrapping up here, um, we do provide a number of
examples within the guide.

606
01:14:02.784 --> 01:14:14.935
Uh, we also have footnoted, uh, any of the references to specific
municipalities and specific examples of the overlays. But another
resource that's really good.

607
01:14:14.965 --> 01:14:20.395
Um, is a State Department model, local laws to increase resilience

608
01:14:20.425 --> 01:14:31.645
Um, they provide a lot of great examples of innovative approaches to land
use control within New York state and you can get that at the Department
of state's website.

609
01:14:32.425 --> 01:14:45.114
So that, I think pretty much wraps it up for me, Emily. And, um, I think,
um, we will turn it back over to Ingrid and Laura, um, for the question
and answer session.

610
01:14:49.314 --> 01:15:00.475
Thank you so much, uh, Emily and Ted that was really excellent and we do
have quite a few questions. Um, so I'd like to jump right in um.

611
01:15:01.795 --> 01:15:13.585
Uh, there were 2 questions related to whether, um, property owners in,
um, a potential conservation overlay zone.

612
01:15:13.824 --> 01:15:26.845
Uh, that's designated could contest the process as a taking, um, uh, and,
uh, one framed it in particular around, you know, whether a municipality
creating an overlay zone.

613
01:15:26.845 --> 01:15:36.625
That would limit subdivision of agricultural land without compensation of
landowner of the lost value. Like, if that would result in

614
01:15:36.869 --> 01:15:39.869
A taking potentially, or if that would be legal.

615
01:15:42.505 --> 01:15:42.895
Yeah,

616
01:15:42.895 --> 01:15:54.685
so I'm going to punt that one a little bit and say definitely consult
your municipal lawyer on the individual restrictions that you're
considering because it does become an issue,

617
01:15:54.715 --> 01:15:57.954
particularly if you're if you're really like,

618
01:15:57.954 --> 01:16:00.564
completely eliminating the use of the land.

619
01:16:00.744 --> 01:16:11.305
So, um, that's why, you know, the, the idea is, there are some laws that
actually prohibit certain construction in in certain overlay areas.

620
01:16:11.305 --> 01:16:19.524
But that's typically when the area is very narrowly defined, like, just
the area right along a stream card are, for instance, you're not gonna
like.

621
01:16:20.010 --> 01:16:29.664
Uh, make an overlay that covers a 3rd of the town and say, you can't have
any construction there. That would be taking away people's right to build
on their land.

622
01:16:29.935 --> 01:16:35.484
So you want to have it really kind of tailored to the amount of land
that's being regulated.

623
01:16:35.484 --> 01:16:35.845
And,

624
01:16:35.875 --> 01:16:36.204
um,

625
01:16:36.234 --> 01:16:38.364
and what makes sense so more often,

626
01:16:38.364 --> 01:16:41.515
you'll see permitting regulations where,

627
01:16:41.515 --> 01:16:42.954

within the overlay,

628
01:16:43.074 --> 01:16:51.564
you have to go through a certain permitting process to determine whether
the arrangement of what you want to build will be protective of the
resource,

629
01:16:51.774 --> 01:16:53.484
rather than outright prohibit it.

630
01:16:55.140 --> 01:16:59.039
And I can add something to that to Emily.

631
01:16:59.039 --> 01:17:02.760
We do provide some examples in there of some of these.

632
01:17:02.845 --> 01:17:17.725
Overlay techniques that do provide a way for a land owner, to actually
petition whether or not the overlay and the resources that are designed
to be protected by the overlay district are actually present on their
particular property.

633
01:17:17.935 --> 01:17:31.975
And so you can find some examples in the guide of that kind of language
and how that does provide that opportunity for people to at least contest
whether or not, they're actually within an area that was designed to
protect the resource.

634
01:17:33.390 --> 01:17:39.720
Great yeah, um, there's, there's so much in this guide. I just have to
emphasize, you know,
635
01:17:39.720 --> 01:17:47.369
I've read it a few times and each time I'm picking up more details.

636
01:17:47.369 --> 01:17:47.939
Uh,

637
01:17:48.295 --> 01:17:49.704
another question,

638
01:17:49.885 --> 01:17:50.574
um,

639
01:17:50.845 --> 01:17:51.324
gets,

640
01:17:51.354 --> 01:17:51.744
uh,

641
01:17:51.774 --> 01:17:53.814
At the issue of enforcement,

642
01:17:53.845 --> 01:17:56.725
and whether you could describe a little bit,

643
01:17:56.755 --> 01:17:56.965
um,

644
01:17:56.965 --> 01:18:02.244
the differences between legal enforcement that might be available between
an overlay zone,

645
01:18:02.755 --> 01:18:06.145
versus some of the alternatives you talked about.

646
01:18:06.505 --> 01:18:08.935
Um, the other sorts of policies.

647
01:18:11.460 --> 01:18:24.869
Well, enforcement of an overlay zone is pretty much the same as
enforcement of the rest of your zoning code. Um, so, you know, your
zoning enforcement person, whether that's the building inspector or, um.

648
01:18:24.869 --> 01:18:32.369
Sorry, hang on thought I turned off everything that could bring, but I
did not.

649
01:18:34.465 --> 01:18:46.225
Okay, so, again, typically enforcement of the zoning regulations, or the
overlay regulations would go right along with the enforcement of the rest
of your zoning codes.

650
01:18:46.225 --> 01:18:57.265

So, the, the building inspector or zoning administrator, um, would issue a notice of violation and go through the same process as typically exists.

651
01:18:57.685 --> 01:19:04.194
Some of the other tools we mentioned were not zoning related and so they would have different mechanisms.

652
01:19:04.555 --> 01:19:05.125
Um,

653
01:19:05.244 --> 01:19:06.055
but typically,

654
01:19:06.055 --> 01:19:09.505
overlay zoning goes through that same process. We do in the guide list

655
01:19:09.505 --> 01:19:15.744
some different enforcement provisions that people have used specifically in their overlay district,

656
01:19:16.104 --> 01:19:16.314
like,

657
01:19:16.314 --> 01:19:26.635
requiring a performance bond or things like that to really ensure that the resource protection requirements are met during construction of a project.

658
01:19:28.645 --> 01:19:43.194
Thanks, um, well, related to enforcement there was one question from a person in a community that actually has a conservation overlay district already in place that was implemented almost 15 years ago.

659
01:19:43.194 --> 01:19:51.564
And where there was recently a housing project approved that they say, simply ignored the provisions of the overlay district.

660
01:19:51.625 --> 01:19:59.454
Um, how can that sort of situation be fixed or what can community members do in that situation.

661
01:20:01.104 --> 01:20:01.824

Yeah,

662
01:20:02.875 --> 01:20:07.675
that's a tougher one to get a handle on because that does involve the
political process,

663
01:20:07.675 --> 01:20:17.965
but New York State has within its whole planning and zoning process for
planning boards to go through a mandatory set of hours.

664
01:20:17.965 --> 01:20:31.104
Each year in a training program. That's been approved. For use by those
planning board members, and I think that's one of the most important
aspects of this is simply education.

665
01:20:31.435 --> 01:20:39.835
What are the responsibilities of planning board? And if a planning board
is not following the code, they're simply an administrator of the code.

666
01:20:39.925 --> 01:20:46.645
And so it's their responsibility to ensure that that code is being
administered properly.

667
01:20:46.734 --> 01:21:00.324
And so that really takes the focus back onto the legislative board to
ensure that it's planning board members are sufficiently equipped to be
able to do the kinds of administrative tasks that they're assigned.

668
01:21:01.375 --> 01:21:15.654
I don't know, Emily do you have anything you want to add to? That? No, I
mean, it really it does always come down to the planning board believing,
in the regulations understanding why they're important and then having
the will to impose them on projects.

669
01:21:15.954 --> 01:21:27.505
Um, you know, we do sometimes represent people that want to challenge
residents that live nearby and are unhappy with what the planning board
has approved and want to challenge it in court.

670
01:21:27.534 --> 01:21:34.675
It's tough, because the, the municipality gets kinda gets the benefit of
the doubt if they've gone through the right process.

671
01:21:34.675 --> 01:21:46.135

So, sometimes a neighbor can challenge it in court, but really the solution is just for the, for the planning board to be informed and committed to applying zoning.

672
01:21:46.829 --> 01:21:50.399
Thanks. Um, so there are.

673
01:21:50.725 --> 01:21:59.454
Um, a couple of questions related to the types of resources or areas that could be designated as overlays and regulations in those areas.

674
01:21:59.694 --> 01:22:13.284
Um, so the 1st is, um, whether you can have an overlay zone to primarily preserve open space, like woods, or does the land have to have specific sensitive environmental resources outlined in.

675
01:22:13.560 --> 01:22:19.109
In the zone.

676
01:22:19.494 --> 01:22:26.305
Yeah, I mean, the, the authority of the municipality to preserve the environment is pretty broad.

677
01:22:26.335 --> 01:22:26.784
Um,

678
01:22:26.814 --> 01:22:28.164
so if you're planning,

679
01:22:28.194 --> 01:22:33.385
if you go through a planning process and determine what's important to be your municipality,

680
01:22:33.385 --> 01:22:34.104
whether it's,

681
01:22:34.435 --> 01:22:35.095
um,

682
01:22:35.515 --> 01:22:35.904
you know,

683

01:22:35.935 --> 01:22:36.204
the,

684
01:22:36.234 --> 01:22:37.164
the views,

685
01:22:37.164 --> 01:22:38.574
the rural character,

686
01:22:38.935 --> 01:22:42.204
whatever is important to the municipality.

687
01:22:42.444 --> 01:22:47.784
Um, you can design an overlay to protect it. It doesn't have to be a
certain type of natural resource.

688
01:22:48.420 --> 01:22:52.260
Yeah, and you know, I think that.

689
01:22:52.260 --> 01:23:02.069
Leads to some questions about, you know, the appropriateness of different
techniques and, you know, for example, in the town of Rhinebeck Emily had
mentioned.

690
01:23:02.069 --> 01:23:06.210
Historic Preservation district, the town board, uh, determine.

691
01:23:06.564 --> 01:23:13.645
From an area where they wanted to have extremely low density and so
within that historic preservation district,

692
01:23:13.645 --> 01:23:20.154
in order to preserve the essential characteristics of the landscape as
well as the historic resources that are there,

693
01:23:20.484 --> 01:23:21.175
they said,

694
01:23:21.204 --> 01:23:26.185
we don't want to have any more than 1 house on a 20 acre parcel of land,

695
01:23:26.185 --> 01:23:26.845

and it wasn't,

696
01:23:27.085 --> 01:23:27.534
you know,

697
01:23:27.984 --> 01:23:29.064
20 acre lots,

698
01:23:29.064 --> 01:23:30.805
but a density of 20 acres.

699
01:23:30.805 --> 01:23:37.704
And so they wanted to restrict that density to a very low scale. So that
it would be consistent with a rural character.

700
01:23:37.704 --> 01:23:38.335
The community,

701
01:23:38.875 --> 01:23:53.694
the town of Shawangunk and another one I'm showing the town of GARDINER
for the Shawangunk Ridge is another 1 where the density is much more
tightly constricted in those scenic protection regulations that were
established for

702
01:23:53.904 --> 01:23:56.604
the Shawangunk Ridge protection districts.

703
01:23:56.604 --> 01:24:04.824
And I think it's 10 and 20 acres there for those different levels of
protection that were applied in the town of Gardiner.

704
01:24:05.064 --> 01:24:18.385
So, I know some communities have adopted land conservation, zoning
districts with very, very low density of development, agricultural
protection areas. It's fairly common practice.

705
01:24:18.385 --> 01:24:31.225
If you go to Pennsylvania and a lot of their farming areas to have 20,
40, 60 acre density to try and protect the resource, the, the farming
resource and so forth.

706
01:24:31.225 --> 01:24:45.864

So, these are the kinds of things that have been done by other municipalities. I don't know about New York state if anybody has gone to that extent. I know, between those 2 examples run back in Gardiner 20 acres is pretty big lot size.

707
01:24:45.864 --> 01:24:57.954
I don't know if you're familiar with anything else, Emily, that in the state where the, you know, the design here is to protect that role character to have a very low density of development where open spaces favor.

708
01:24:58.260 --> 01:25:01.649
Yeah, I.

709
01:25:01.914 --> 01:25:14.305
I think, you know, examples like the Shawangunk Ridge would be, uh, you know, where they really wanted to reduce development to preserve. Well, that's not just so much for open space. That's for a variety of natural resource reasons.

710
01:25:14.335 --> 01:25:17.274
I mean, there's I, I, yeah, I think you covered it to.

711
01:25:17.904 --> 01:25:21.234
Thanks so there's a question,

712
01:25:21.295 --> 01:25:21.654
uh,

713
01:25:21.654 --> 01:25:22.045
you know,

714
01:25:22.074 --> 01:25:31.524
noting that many natural resources are not wholly within one town is there a role for county regulations or county planners to guide protections,

715
01:25:31.524 --> 01:25:33.145
using some of these techniques.

716
01:25:36.234 --> 01:25:50.994
Well, there's a lot of good examples of inter-municipal cooperation. The Wappingers Creek watershed councilgroup has worked together to try and find some commonality some ways to be able to protect the Wappingers.

717
01:25:50.994 --> 01:26:01.375
creek watershed in Dutchess county. I know. There's examples and well,
you know, for the wallkill river as well, um, in Ulster county. Inter-
municipal cooperation

718
01:26:01.680 --> 01:26:16.560
Is actually encouraged by new York's enabling laws there are ways for
there to be cooperation with planning boards, uh, where you can have
inter-municipal planning boards where you have one

719
01:26:16.560 --> 01:26:28.494
You know, one board, that's responsible for, uh, broad areas that span
municipal boundaries. Um, so it's, it's a tool that hasn't been used
broadly in New York state for land use.

720
01:26:28.494 --> 01:26:39.145
It's been used in many other cases for sharing emergency hospital
services, you know, transportation and so forth, uh, in order to have
greater economies of scale.

721
01:26:39.145 --> 01:26:46.435
But I don't know whether or not, that is something that certainly can be
looked at on a broader basis.

722
01:26:46.435 --> 01:26:55.675
And I think counties can definitely play a role, not in regulation, but
in coordinating municipalities to do that.

723
01:26:55.675 --> 01:27:05.935
For instance, the natural resource inventories have been done in Dutchess
County, Ulster county is ready to get started on a natural resource
inventory for the entire county.

724
01:27:05.935 --> 01:27:12.295
So that they help to jumpstart that process of identifying resources that
have inter-municipal significance.

725
01:27:13.614 --> 01:27:27.085
Yeah, it's going to say the same I mean, land use is really regulated at
the at the, the town level, the municipal level. And so you'd be looking
more at an inter-municipal situation, rather than the county in most
cases.

726

01:27:27.085 --> 01:27:41.755
But there is the, um, the referral to the county individual projects are referred to the county under 2009, am for review of a broader scale impacts. So, I've often wondered if that was a place where some of those things could be better integrated.

727
01:27:45.925 --> 01:27:46.135
Yeah,

728
01:27:46.135 --> 01:27:47.154
that's a that's a great point,

729
01:27:47.154 --> 01:27:48.055
Emily because I think,

730
01:27:48.354 --> 01:27:48.625
you know,

731
01:27:48.625 --> 01:27:57.024
the counties can create their own specific referral mechanisms that apply to certain communities within the county,

732
01:27:57.085 --> 01:27:58.704
and that might be one way to,

733
01:27:58.734 --> 01:28:02.904
to be able to have that coordinated review process for shared resource.

734
01:28:04.920 --> 01:28:18.750
Thanks um, there's a question, Emily maybe this is a good one for you, based on your background about whether municipalities have had good results with stormwater management by using some of these tools. Um, and maybe overlay zoning in particular.

735
01:28:20.395 --> 01:28:32.875
That's a great question. And I don't, I'm afraid, I don't really know the answer. I mean, I have seen overlay zoning where it's more intensive. Stormwater management restrictions are added in.

736
01:28:32.875 --> 01:28:42.715
So, for example, rather than only requiring a SWPPP for an acre of disturbance, you could require it for a much smaller area of disturbance in a sensitive area.

737
01:28:42.984 --> 01:28:57.984
So, that's the type of, um, you'd be using the same rules for a SWPPP, but you'd be applying them to more projects that disturb smaller areas in an effort to reduce, um, run off.

738
01:28:58.015 --> 01:29:02.484
So, yeah, I'd love to know more about that. I, I can't exactly answer it.

739
01:29:04.680 --> 01:29:12.625
Seeing that more in the process, um, sort of approaches, where you have stormwater regulations that would apply, um, throughout the municipality.

740
01:29:12.864 --> 01:29:22.524
Um, and there are different gradations, you know, depending upon the size, and the scale of the development that's proposed that, um, could trigger different types of review.

741
01:29:22.555 --> 01:29:36.385
Um, but I haven't seen it so much in the overlay example, other than for things like flood plains, where there's a, you know, a common feature, uh, that would involve control of, of new land uses.

742
01:29:37.164 --> 01:29:51.925
To make sure there's no impacts, you know, based on the floodplain areas. Um, yeah, we're heading up on 2:30. One quick question was the name of the municipality with that had the 1 and a half page comprehensive plan.

743
01:29:53.369 --> 01:29:58.229
You can share that. Oh, yeah that's the town of Middlefield in Otsego County.

744
01:29:58.229 --> 01:30:04.260
Um, it's really fun to read it over. It's short and sweet. Um.

745
01:30:04.260 --> 01:30:16.409
It is 230 and there are a lot more questions that we haven't gotten to yet. Um.

746
01:30:16.409 --> 01:30:20.520
So, I don't want to hold, um.

747
01:30:20.520 --> 01:30:26.010

You on the line longer though and I know many people have to jump off.
Um.

748
01:30:26.010 --> 01:30:40.074
So, uh, I just want to thank you again for the excellent presentation,
and really wonderful guide that you've put together. Um, we will be
sharing the contact information for Emily and Ted.

749
01:30:40.074 --> 01:30:51.595
So, if we didn't get to answer your question, please feel free to follow
up. Um, and as you leave the webinar, please answer the short survey
that's going to pop up. It's just 3 questions.

750
01:30:51.774 --> 01:31:00.984
Um, you should be getting an email from Webex shortly confirming
attendance for anybody who needs a municipal training credit and, uh.

751
01:31:01.289 --> 01:31:06.060
Yeah, thank you so much. And I hope you have a great rest of the
afternoon.

752
01:31:06.835 --> 01:31:21.085
Thank you. Okay, thank you. And written. Thank you. Emily had Laura.
Okay. And thanks to everyone who joined us this afternoon. Feel free to
follow up with me as well

753
01:31:21.085 --> 01:31:22.675
If you had questions about the

754
01:31:22.949 --> 01:31:26.130
request for applications that we announced.

755
01:31:26.130 --> 01:31:29.430
Great day. Thanks. Bye. Bye.

756
01:31:29.430 --> 01:31:31.079
Bye bye.