

Tonawanda Draft Zoning Law Amendment Review

DATE:

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TO:

Bridge Rauch
Environmental Justice Organizer
Clean Air Coalition of Western New York

FROM:

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RE: Town of Tonawanda Comprehensive Zoning Law Amendment Review and Recommendations

Background and Purpose of this Technical Assistance

[Smart Growth America](#) (SGA) is a national non-profit organization that envisions a country where no matter where you live or who you are, you can enjoy living in a place that is healthy, prosperous, and resilient. We empower communities through technical assistance, advocacy, and thought leadership to realize our vision of livable places, healthy people, and shared prosperity.

As a part of its [Climate & Land Use Technical Assistance](#) program of work, SGA is supporting communities impacted by racist land use, housing, and lending policies to effectively advocate for housing, zoning, and infrastructure planning policies that are more prepared for the impacts of climate change. This program of work is especially relevant with climate change and climate-related disasters amplifying the magnitude of these aforementioned critical issues, low-income and minority communities will continue to face the brunt of the fallout.

Through this technical assistance, SGA seeks to support the Clean Air Coalition of Western New York (CAC) and the Town of Tonawanda's community members with a review of the comprehensive zoning law amendment that was published on the Town's website for consistency with the climate resilient policies, programs, and initiatives detailed in the 2014 [Comprehensive Plan Update](#) and 2017 [Town of Tonawanda Economic Action Plan](#). After reviewing these visioning documents, SGA compiled several findings and recommendations for the Town of Tonawanda to consider so that equitable and climate forward land use policies and programs are included in the Town's regulatory and planning frameworks. SGA's comments aim to embed climate forward land use policies into the Town's regulatory framework to increase the Town's climate resilience and create a healthy community.

Draft Zoning Ordinance Review Findings

The Town of Tonawanda's recently adopted Comprehensive Plan outlines key goals, policies, and programs that will help the Town become more resilient to climate-related hazards and the effects of climate change. However, the draft zoning ordinance, which is the regulatory framework through which these initiatives are enforced, is inconsistent with many of the stated goals, and in some cases directly mandates development that will expose future development to climate threats. The zoning ordinance continues to advance an autocratic, low-density development pattern that will contribute to the climate crisis through carbon emissions and will further expose the Town to climate threats due to development in flood-prone locations.

SGA's findings and comments regarding the existing draft zoning ordinance are compiled below:

- The zoning documents appear to direct future development to areas that are currently flood-prone or areas that are likely to face greater exposure to flooding in the future due to climate change. Additionally, there are not any flood resilience approaches, such as increased building elevations, increased height requirements for utilities, or increased required use of green infrastructure for flood preparedness included in the draft zoning text, nor are there any approaches which might address other climate hazards such as extreme heat.
- The number of parcels zoned for mixed-use development or higher density housing is limited. Instead, the majority of the Town is zoned as single family residential. This advancement of low-density residential development further contributes to climate change for the Town since carbon emissions from households in low-density communities [tend to be higher](#) than those of households in denser areas.
- Car-oriented uses are listed as by-right uses, while climate forward policies and practices are listed as special uses, thus requiring them to go through a discretionary review process or prohibiting them entirely. This further advances car-centric development which contributes to greenhouse gas emissions from both a point and nonpoint emissions basis.

Recommendations for Climate Goal Alignment

In order to realize the Town's climate-related goals, the Town's regulatory documents (beyond explicit sustainability policies) must be aligned with these goals. These include the Comprehensive Plan, Zoning Ordinance, and Subdivision Regulation. As it stands, the Comprehensive Plan and the draft zoning ordinance are misaligned; additionally, the Subdivision Regulations should comply with the Comprehensive Plan and incorporate regulatory frameworks that advance climate resilience. These frameworks, among other adjustments, should include language to redirect development away from flood-prone areas and instead promote redevelopment of existing buildings and denser infill development in areas less vulnerable to inland flooding. SGA's specific recommendations are compiled below:

- Review the Subdivision Regulations with a climate and environmental justice lens for consistency with the Comprehensive Plan and Zoning Ordinance. ¹

¹ SGA's review only focused on the Comprehensive Plan and the Zoning Ordinance as the Comprehensive Plan was comprehensively updated in January 2015 and the Zoning Ordinance is currently undergoing an update, with the Draft Zoning Ordinance available for public comment from June 5 through August 31, 2023. Since Subdivision Regulations govern the development of large parcels of land and tend to be the vehicle by which large parcels of land are governed; these documents outline rules for the creation of lots, blocks and streets, and provide for the establishment of easements, parks, and public rights-of-way (if these items are explicitly outlined in the Subdivision Regulations).

- The Town should convene a climate change-oriented steering committee for the draft zoning ordinance to oversee the inclusion of climate resilient land use policies. This steering committee should review the draft zoning ordinance’s climate-relevant policies and provide recommendations for specific language that should be incorporated into the zoning code update. The steering committee should pull from the Town’s planning department staff, but should have a clear term limit (when the updated zoning ordinance is adopted). Tonawanda might also consider specifically promoting knowledge of flood resilience as a desired qualification for a seat on the Planning Board.
- All residential zoning designations in the draft zoning ordinance should explicitly allow a variety of housing types, with up to 10 dwelling units per acre (or even higher maximums). This density could be tiered, with lower DUA along the coastal areas and increasing density as development moves away from the waterfront and towards the more established community core.
- Denser infill development has the potential to advance Tonawanda residents’ quality of life by supporting retail and mixed uses, introducing a wider variety of housing typologies for households of different incomes, and increasing accessibility to transit and other amenities. It can also reduce greenhouse gas emissions, vehicle miles traveled, sprawling surfaces and materials that retain heat and create pollution, and exposure to inland flooding. Reducing density controls such as setbacks, rear yard requirements, and floor area ratios in residential zones—while also including landscaping requirements as conditions of use and allowing by-right permits for the redevelopment and reuse of existing building stock—will provide stronger regulatory support for the Comprehensive Plan’s goals and aspirations to make the Town more climate resilient.
- In order to advance the Town’s goals for development that is adapted to extreme heat and flooding, the draft zoning ordinance should include language to allow the creation and/or preservation of green space geographically distributed throughout the town. Many of the Town’s identified open spaces and community facilities are located along the riverfront and/or the edge of town. Locating natural spaces throughout the community, especially in residential zoned areas, will decrease the Town’s ambient temperatures and help manage stormwater and water quality. Incorporating green spaces on the riverfront can be a best practice for flood preparedness, and it is also critical to strive for distributed park access within close proximity to all residents.
- Incorporating the following zoning and land use regulation updates could also help the Town deal with higher temperatures and a more severe heat island effect:
 - Residential zoning designations should include language to require the installation of shade amenities, including a street tree canopy, porches, awnings, porticos, etc. These amenities should be allowed with little regulatory burden; either by-right or via an “over the counter” permit. Additionally, approaches such as a Green Area Ratio can provide discretion to property owners about what combination of green and stormwater interventions they choose to incorporate on site.
 - Landlords should be incentivized to install green or cool roofs via the inclusion of these amenities in the zoning text as a by-right use in all residential zones along with opportunities to support reflective surfaces. Currently, the omission of these elements serves as an additional administrative burden for those who might be interested in including these amenities. Incorporation of green design elements could be paired with an incentive such as a density bonus.
 - Native vegetation should be incorporated into public facilities and street/sidewalk infrastructure; this should be allowed or required by-right in all residential zones.

- Recommendations aimed at helping the Town deal with increased precipitation and more severe flooding events include:
 - Locate new public facilities inland to reduce their susceptibility to flooding.
 - Issue permits for the installation of greywater systems for water reuse by-right or over the counter.
 - Use permeable materials for streets, parking lots, and sidewalks in flood-prone areas to reduce runoff, promote groundwater recharge, and mitigate the impacts of droughts.
 - Reference the [ASCE 24 guidelines](#) on Flood Resistant Design and Construction for areas prone to flooding.
 - Incentivize new development, and higher density development, in areas which are less flood-prone through by-right zoning or by introducing incentives such as density bonuses.

Resources

[Smart Growth America - Anti Displacement Fact sheets](#)

[Environmental and Energy Study Institute - Buildings & Built Infrastructure](#)

[New York State Bar Association - Eliminating Single-Family Zoning](#)

[Why Green Banks Should be able to Finance Upgrades to old Buildings](#)

[National Oceanic and Atmospheric Administration - Record Shattering Heat](#)

[American Planning Association - Urban Canopies as Key Climate Infrastructure](#)