



Woodstock, Vermont *The Shire Town of Windsor County*

TOWN - VILLAGE MANAGER GOVERNMENT

Town Hall • P.O. Box 488 • Woodstock, Vermont 05091 • 802/457-3456

WOODSTOCK PLANNING COMMISSION

Wednesday, October 7, 2020

7:30PM

CONFERENCE CALL

MEETING AGENDA

- I. CALL TO ORDER** 7:30 P.M.
 - II. APPROVAL OF MINUTES** September 2, 2020
 - III. OLD BUSINESS**
 - A. Accessory on Farm Business (AOFB)/ Integrated Agriculture discussion
 - IV. NEW BUSINESS**
 - A. Discussion of Town Plan – Education Chapter
 - a) WCUUSD Board Chair, Vice Chair & School Superintendent
 - B. Discussion of Proposed Rural Retreat Amendment
 - V. OTHER BUSINESS**
 - VI. ADJOURNMENT**
-

This Meeting will be held on Zoom

The link to join us is

<https://us02web.zoom.us/j/83700705861?pwd=OGRyL1ErV1dybVZUdWZsVUFSZDdMQT09>

or from zoom.us you can enter these details:

Meeting ID: 837-0070-5861

Password: 710370

You can also download the Zoom app on your smartphone.

For those without a computer or smartphone you may call in:

Phone number: 646 558 8656

Meeting ID: 837-0070-5861

Password: 710370

For Help on Joining Use this Link:

<https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>



Dear Neal,

Concerned that the Woodstock Education Chapter draft 1) contains a goal based on an inaccuracy and 2) contains other goals with recommended actions that appear to exceed the authority appropriate to a town committee or Selectboard; we solicited our legal counsel to evaluate this draft toward gaining clarity on the roles and authority of our respective organizations. Please share the attached opinion letter with the Planning Commission, to be added to our correspondence included in their packet for the 10/7 meeting. We hope to collaborate on education improvements with the Woodstock Planning Commission on facilities, safety, and services within an appropriate scope. Superintendent Sherry Sousa, Chair Bryce Sammel and myself (Vice Chair) will attend the 10/7 meeting to discuss our concerns about your Education Chapter, and hopes for a constructive working relationship going forward.

Thank you,

Pamela Fraser

Dear Town of Woodstock Selectboard and Planning Commission,

While discussing your Planning Commission's re-write of your Education Chapter at your September 15, 2020 Selectboard Meeting, interest was expressed in coordinating efforts between our boards on our shared goals of continuous improvements at the schools. Following up on that; Superintendent Sousa, Chair Bryce Sammel, and myself would like to arrange a meeting with you--the Planning Commission, and/or the Selectboard--in the near future toward that coordination. We'd like to share with you information about our schools that some of your members expressed they were looking to learn about, and discuss the relationship between our two entities.

As I expressed at your meeting, the inclusion of the incorrect characterization of the June 10, 2019 WCUUSD resolution in your chapter is concerning to us. While this is certainly up to your board if they wish to stick with that even after the mistake has been pointed out, its impact on our board as we carefully continue our deliberations on that potential goal has less likelihood of effective advocacy when based on a misunderstanding of our process. On another topic, we are concerned with your Planning Commission's idea of hiring an independent consultant to evaluate our employees. This is an idea that we feel creates the need to discuss the role of a town committee in relation to a public school.

Below are links to the WCUUSD Strategic Plan and Portrait of a Graduate, a community-developed, student-centered document we recently created to use as a guidepost for decision making. We have many other documents that we can share to inform you about the ongoing work and status of the schools, and hope to meet in the near future. If interested, please let us know what format makes sense to you.

Thank you,

Pamela Fraser, Vice Chair, WCUUSD

STITZEL PAGE & FLETCHER PC

ATTORNEYS AT LAW

Joseph S. McLean – jmclean@firm SPF.com – (802) 660-2555

September 28, 2020

VIA FIRST-CLASS MAIL & ELECTRONIC MAIL

Sherry Sousa, Interim Superintendent of Schools
Windsor Central Supervisory Union
70 Amsden Way
Woodstock, VT 05091
ssousa@wcsu.net

Re: Scope of Municipal Planning Authority Over Education Issues

Dear Sherry:

I am writing in response to your request relative to the above-referenced matter. Specifically, you have asked whether the Woodstock Planning Commission (the “Planning Commission”), in adopting and approving the “Final Draft Education Chapter” of the Comprehensive Plan for the Town and Village of Woodstock and, particularly, the so-called “Education Chapter Action Plan,” exceeded its statutory authority under Chapter 117 of Title 24. It is our opinion that the Planning Commission, in adopting certain language in the Education Chapter Action Plan, did exceed the scope of its statutory authority under Chapter 117.

As a preliminary matter, we note that Vermont is a so-called “Dillon’s Rule” state. Under Dillon’s Rule, a municipality generally has only those powers and functions specifically authorized by the legislature, and such additional functions as may be incident, subordinate and necessary to the exercise thereof. *Hinesburg Sand & Gravel Co. v. Town of Hinesburg*, 135 Vt. 484, 485-86 (1977). Therefore, the Planning Commission’s actions in adopting municipal plan language is subject to the limitations of Dillon’s Rule.

Chapter 117 of Title 24, the Vermont Planning and Development Act, defines the scope of and process for municipal plan adoption. Thus, under 24 V.S.A. § 4382(a):

[a] plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

(6) An educational facilities plan consisting of a map and statement of present and projected uses and the local public school system

Among the goals of Chapter 117, as listed in § 4302, is “[t]o broaden access to educational and vocational training opportunities sufficient to ensure the full realization of the abilities of all Vermonters.” 24 V.S.A. § 4302(c)(3). In addition, subsection (12) of § 4302 provides that an additional goal is to “[t]o plan for, finance and provide an efficient system of public facilities and services to meet future needs,” which facilities include schools. 24 V.S.A. § 4302(c)(12).

The 2020 Regional Plan adopted by the Two Rivers-Ottawaquechee Regional Commission (“TRORC”), primarily addresses educational facilities and services under Chapter 9 of the Regional Plan, entitled “Utilities, Facilities and Services.” The goals, policies and recommendations regarding educational facilities and services listed in the Regional Plan include:

Goals, Policies, and Recommendations: Educational Facilities and Services
Goals
<ol style="list-style-type: none">1. Accessible and affordable educational facilities and services are available throughout the Region that meet or exceed statewide standards, including life-long learning opportunities.2. Students have access to quality vocational and workforce training opportunities to prepare them for future careers.
Policies
<ol style="list-style-type: none">1. The construction of primary educational facilities should occur in or within close proximity to existing or planned Regional Growth and Mixed-Use Areas, so as to maximize their accessibility to people and infrastructure, as well as contribute to the vitality of communities.2. Expansion of continuing education and vocational education opportunities is encouraged.3. Adaptive reuse of vacant school facilities that occurs in a manner that enhances villages and downtowns and stimulates the local economy is supported.

Goals, Policies, and Recommendations: Educational Facilities and Services
Recommendations
<ol style="list-style-type: none">1. Town and school authorities should create and maintain safe pedestrian access and transit opportunities to educational facilities, in line with Safe Routes to School efforts.2. Towns must assess and incorporate the needs of disabled children and staff into educational facility and budgetary planning efforts to ensure the provision of free and appropriate education for all children.

The foregoing text is consistent that the guidance contained in *The Municipal Plan, State Planning Manual, Module 1* (April 2017), published by the Vermont Agency of Commerce and Community Development (“ACCD”), which addresses educational facilities in the context of describing mandatory provisions related to “Utilities, Facilities and Services” (pp.31, 56). See 24 V.S.A. § 4304 (discussing

planning and land use manual). State-wide goals for utilities, facilities and services, as set forth in the ACCD Planning Manual (p.56) include:

To plan for, finance, and provide an efficient system of public facilities and services to meet future needs. Public facilities and services should include fire and police protection, emergency medical services, schools, water supply, and sewage and solid waste disposal. The rate of growth should not exceed the ability of the community and the area to provide facilities and services.

To broaden access to educational and vocational training opportunities sufficient to ensure the full realization of the abilities of all Vermonters.

Taken together, the foregoing provisions of Chapter 117, the Regional Plan and the State Planning Manual, all indicate that the focus of municipal planning authority, as it relates to schools, is on *educational facilities*, with a further goal of broadening educational and vocational training opportunities. Notably, nothing in Chapter 117, or the other planning resources referenced above, suggests that a municipal plan should contain language regarding educational curriculum development, the quality of education, enhancing the academic performance of students, teaching practices by staff, or academic, behavioral or health issues in schools.¹ While a municipal planning commission may have authority, in the context of discussing goals and policies regarding educational facilities and services or educational or vocation training opportunities, to touch upon other issues relevant to these topics, its authority does not extend to defining curriculum or educational policy or practice in the context of a municipal plan. Instead, this is the exclusive domain of a supervisory union or school district board under Title 16.

More specifically, 16 V.S.A. §§ 261a, 563, 572 and 706q, define the powers and duties of a supervisory union, town school district and joint/union school district boards, respectively. The powers and duties of a supervisory union board include, without limitation, establishing and following curriculum, establishing and implementing a plan for receiving and disbursing federal and state funds, providing special education services, and providing services for the benefit of member districts. 16 V.S.A. § 261(a). Similarly, a town school district board is statutorily authorized, among other things, to “determine educational policy for the school district” and to “take any action that is required for the sound administration of the school district.” 16 V.S.A. § 563(1), (2). Likewise, joint and union school district boards, by law, have (respectively) “full authority to act on all matters pertaining to the finance, location, construction, maintenance, and operation of schools ... including the selection and hiring of teachers” and the same “powers, duties and liabilities ... [as] the board of school directors ... of a town school district.” 16 V.S.A. §§ 572(b), 706q.

Given the foregoing, it is our opinion that the Woodstock Planning Commission exceeded its statutory authority when it adopted Goals 2 and 3 of the Education Chapter Action Plan. Those provisions provide:

¹ Additionally, pursuant to federal and state law, the obligation to serve students with disabilities is the sole responsibility of the Local Education Agency.

Goal 2 - Improve the Academic Performance and Ranking of Woodstock Schools

A. The Planning Commission recommends that an independent education expert be engaged to help identify the issues that need to be addressed, and provide options for dealing with academic and behavioral issues. Specifically this person would provide the following:

- 1. An assessment and recommendation in regard to the School Board's Strategic Plan for improving student performance. This would include an evaluation of the resources requested, the costs to be incurred, the implementation timeframes, and the metrics for evaluating success against the strategy.*
- 2. An assessment of each school's administrative staff (WES) and WUHSMS), including an assessment of their policies and practices for evaluating and managing their classroom teachers and specialists.*
- 3. An assessment of teaching staff and their classroom practices. This will require the consultant to spend time in each classroom.*

B. The consultant would work closely with the school board, superintendent, the principal and teachers. However, to assure independence, it is important that the consultant report directly to the Select Board.

C. The successful implementation of the recommendations laid out in this chapter requires finding and retaining the best leadership possible.

Goal 3 - Reduce Substance Abuse Issues in the School

A. The Select Board should recommend that the District hire an independent consultant to interview students, teachers, and administration and assess current uses of illegal and dangerous substances, including tobacco, alcohol, vaping products, and illegal drugs. The consultant should compare our district's use rates with state and national averages, and identify causes of problematic levels of use and abuse.

B. The Select Board should recommend that the District dedicate funds for Substance Abuse and Drug Counseling training for all behavioral counselors at the middle and high schools.

C. The Select Board should convene a Community Substance Abuse Task Force to address the substance abuse problem that exists in our schools. The Task Force should include parents, teachers, a substance abuse specialist, a representative of the Police Department, and a representative from the Ottawa-Quebec Health Center.

By their terms, Goals 2 and 3 of the Action Plan address issues well beyond the scope of educational facilities and services or educational/vocational opportunities. In Goal 2, for example, the Planning Commission “recommends” that the Woodstock Selectboard take steps that would clearly encroach upon the authority of the WCUUSD Board by, among other things, retaining an expert to go into the schools to identify and assess academic and behavioral issues involving both students and staff, with the expert reporting back to the Selectboard. The “granular” nature of these recommendations, and the idea that one municipality, through the exercise of its planning authority, would suggest retaining experts to assess the policies, practice and operations of another municipality located within its boundaries, are, in our experience, highly unusual.² These recommendations are unenforceable in a regulatory context (e.g., Act 250 or 30 V.S.A. § 248) because of the inherent authority issues addressed herein and the absence of mandatory language in the text of Goals 2 and 3. However, they nonetheless raise concerns since municipal planning often drives the development of land use regulations, recommends the selection of various bylaw implementation tools that are consistent

² Goal 2 also contravenes the obligations and responsibilities of both Title 16 and 21 relating to the “labor-management” relationship. Goals 2(A)(2) and 3 would potentially be grounds for an unfair labor practice claim on the basis that they interfere with the rights of the staff (both professional and support) and their authorized representatives for bargaining (i.e., the NEA). Additionally, Goal 3(A)(3) may violate the Family Educational Privacy Act (FERPA) since the consultant may not qualify as a “school official with a legitimate educational interest” and conformance with this goal may also violate the confidentiality provisions of the IDEA.

Sherry Sousa, Interim Superintendent of Schools
September 28, 2020
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with the municipal plan, and the fact that plan conformance is often a factor in federal, state and local funding programs and municipal budgeting decisions. *See* Vermont Land Use Education & Training Collaborative, Bulletin #2 (Nov. 2004) (copy attached).

This opinion does not address other issues with the Planning Commission's adoption of the Education Chapter Act Plan, including the inaccuracy of certain language contained therein. Those issues are addressed in a letter from the WCUUSD Board Chair and Vice-Chair to the Town Planner and Selectboard, dated September 13, 2020. Solely from the perspective of Planning Commission authority, however, we believe that the Planning Commission has overreached in its articulation of Goals 2 and 3 of the Action Plan.

I hope that this letter is responsive to your request. Please let us know if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to be 'J. McLean', with a long horizontal stroke extending to the right.

Joseph S. McLean, Esq.

JSM/gc

cc: *via e-mail* –
Bryce Sammel, WCSU Board Chair
Pamela Fraser, WCSU Board Vice-Chair
Dina L. Atwood, Esq.



VERMONT LAND USE

Education & Training Collaborative

Conformance with the Municipal Plan

Background - the Consistency Doctrine

Under state statutes, municipal bylaws, including zoning and subdivision regulations, have long been one tool to implement the municipal plan. The plan provides the basis in public policy for enacting local land use regulations, therefore regulations should be consistent with the municipal plan. This is often referred to as the "consistency doctrine." As originally enacted, Chapter 117 provided that:

Any municipality which has adopted and has in effect a plan...may implement the plan by adopting, amending and enforcing any or all of the bylaws or the capital budget and program provided

What is the Consistency Doctrine?

The relationship of a bylaw, and individual development review decisions, to a local plan has been the subject of much analysis, debate and case law nationwide. Under the "consistency doctrine" actions must be directly linked to stated intentions - as such, the plan is intended to serve as more than a rhetorical document by describing those public policies that a local government intends to implement, through its regulations, review processes, and other actions.

Some states have enacted explicit consistency requirements that mandate bylaw amendments following plan adoption or amendment. This type of mandate was rejected for use in Vermont.

for in this chapter. All such bylaws and the capital budget and program shall have the purpose of implementing the plan, and shall be in accord with the policies set forth therein. [former §4401]

In practice, local zoning and subdivision regulations are often inconsistent with - and at times may directly contradict - plan policies and recommendations. For example, a plan may include recommendations for more affordable housing or higher densities of development in certain areas of town, but these recommendations are not reflected in zoning district designations or related zoning requirements. Inconsistencies between local plans and bylaws are often most apparent in Act 250 proceedings. Under Act 250 criteria, proposed development must be consistent with the municipal plan, but at the local level, the same project must meet local subdivision and zoning requirements which may differ markedly from plan policies.

When faced with such inconsistencies, the Vermont Supreme Court interpreted this former Chapter 117 language to mean that bylaws must reflect the municipal plan, but need not be "controlled" by it and that only plan policies specifically incorporated in a bylaw were legally enforceable. The court also determined that if plan policies were not stated clearly enough to be applied in Act 250, district commissions could refer instead to local land use regulations - as intended to implement the plan - to determine project conformance. (*Kalakowski v. John A. Russell Corp.*, 137

Conformance with the Plan

Definition [§4303(6)]

"Conformance with the Plan" means that a plan implementation tool, including a bylaw or bylaw amendment, is in accord with the municipal plan in effect at the time of adoption, if it:

- (A) Makes progress toward attaining, or at least does not interfere with, the goals and policies contained in the municipal plan.
- (B) Provides for proposed future land uses, densities and intensities of development contained in the municipal plan.
- (C) Carries out, as applicable, any specific proposals for community facilities, or other proposed actions, contained in the municipal plan.

Vt. 219, 225 (1979) and *In re Molgano*, 163 Vt.25, 30 (1994).)

The fact that many plan recommendations have not been implemented through local bylaws was identified by the Vermont Legislature as a major impediment to sound growth management, and to certain types of development - in particular affordable housing development (see also Bulletin #6 Equal Treatment of Housing). As a result, recent changes to Chapter 117 under Act 115 were specifically intended to strengthen the long-standing statutory relationship between municipal plans and bylaws - and other methods of implementing the plan - while maintaining the status of the plan as a policy, rather than regulatory, document.

Bylaw Adoption

The reasons for inconsistencies between plans and bylaws are many. Beyond the difficulties inherent in enacting controversial land use regulations, inconsistencies also may arise from differences in the statutory requirements for adopting and amending plans and bylaws. Plans must be updated and readopted every five years or they expire. Bylaws, once adopted, remain in effect until amended or repealed. As a result bylaws often predate the current municipal plan, in some instances by years or even decades.

Prior to Act 115, the statutory adoption process for bylaws was more lengthy and difficult than for plans, especially in "rural" towns. Plans are typically, though not always, adopted by the Legislative Body. Bylaws, until recently, had to be adopted by Australian ballot in rural towns and, by petition, could be subject to adoption by an "extraordinary" (two-thirds majority) vote, making it sometimes difficult to get even minor amendments passed.

The extraordinary voting provision, originally intended to protect the minority rights of property owners, was deemed inherently undemocratic and repealed in 2001. Subsequent Act 115 amendments provided that rural towns adopt and amend bylaws by a majority vote of the Selectboard, rather than by Australian ballot, making it easier to regularly amend bylaws to conform with updated plans. Rural towns, however, retain the option under Chapter 117 to adopt bylaws by Australian ballot. ("Rural" towns, as defined in Chapter 117, include towns having a U.S. Census population of less than 2,500 persons, or a town having less than 5,000 persons that has voted by Australian ballot to be considered a rural town. See *Bulletin #4 Bylaw Preparation & Adoption*).

Addressing "Conformance with the Plan"

Any municipality that has adopted and has in effect a plan and has created a planning commission under this chapter may implement that plan by adopting, amending and enforcing any or all of the regulatory and nonregulatory tools provided for in this chapter. All such regulatory and nonregulatory tools shall be in conformance with the plan, shall be adopted for the purposes set forth in section 4302 of this title, and shall be in accord with the policies set forth therein. [§4401]

Under Act 115, a number of other provisions were incorporated throughout Chapter 117 to address conformance with the municipal plan.

Now all implementation tools, not just bylaws and capital improvement programs, must conform with the municipal plan [§4401]. As defined in statute, these include local land use regulations, official maps, impact fee ordinances, capital improvement programs, tax increment financing districts, tax stabilization contracts, the local purchase or acceptance of development rights, supporting plans, and the creation of advisory commissions. For some implementation measures - including the adoption of flood hazard bylaws

Miscellaneous Conformity Requirements

It is now specified in Chapter 117 that certain development review procedures, and related decisions, must conform with the municipal plan. For example:

- No bylaw shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of the municipal plan [§4412(1)(A)].
- The "character of the area affected" under conditional use review must now be defined by the purpose or purposes of the zoning district within which a project is located, and specifically stated policies and standards of the municipal plan [§4414(3)(A)(ii)].
- Standards of review under zoning and subdivision regulations regarding access to renewable energy structures must be established in conformance with provisions of the energy element of the municipal plan [§4414(6)].
- Inclusionary zoning requirements must be in conformance with specific policies of the housing element of the municipal plan [§4414(7)(A)].
- Specific bylaw standards for granting "waivers" must be in conformance with plan goals and policies [§4414(8)(A)].
- Bylaws should provide for planned unit developments to permit flexibility in the application of land development regulations in conformance with the municipal plan [§4417(a)]. In addition, the approval of a proposed planned unit development shall be based on findings that it is in conformance with the municipal plan [§4417(f)].
- Subdivision bylaws must include standards for the design and layout of streets and other necessary improvements, [§4418(1)(B)], as well as standards for the design and configuration of parcel boundaries and the location of improvements necessary to implement the municipal plan and achieve desired settlement patterns [§4418(1)(C)].
- Under local Act 250 review, a Development Review Board is required to determine an Act 250 project's conformance with the municipal plan (in relation to plan conformance requirements under Act 250) [§4420].
- Freestanding bylaws for flood hazard, shoreland, and other "hazard areas" must now be in conformance with the municipal plan. [§4424]. "Hazard area" is defined as "land subject to landslides, soil erosion, earthquakes, water supply contamination or other natural or human-made hazards as identified within a "local mitigation plan" pursuant to federal requirements under 44 CFR Section 201.6 [§4303(8)(C)].

or many of the non-regulatory tools - this represents a major change.

"Conformance with the Plan" is now specifically defined in statute. This definition in effect serves as a test to help determine if a program, bylaw, or decision based on the bylaw, is in conformance with the plan.

The Planning Commission must determine whether a proposed bylaw or bylaw amendment is in conformance with the municipal plan, as documented in a written report. It is now the responsibility of the Planning Commission to determine whether a proposed bylaw or amendment conforms to the municipal plan [§4441(c)]. Prior to holding a warned public hearing, the Commission is required to prepare a report for public warning and review that states how a proposed bylaw or amendment (in relation to the statutory definition):

- (1) Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.
- (2) Is compatible with the proposed future land uses and densities of the municipal plan.
- (3) Carries out, as applicable, any specific proposals for any planned community facilities.

Guidance on report preparation, including a reporting form, is available from the Vermont Department of Housing & Community Affairs.

Plan Considerations

In the revised Chapter 117, the requirement that bylaws and other plan implementation measures clearly conform to the municipal plan has been identified as one of the constant themes, and greater challenges facing communities. Municipalities, and planning commissions in particular, must now make sure that the plan provides sufficient basis and justifica-

tion for the adoption, amendment and application of bylaws. This may mean strengthening plan policy language, developing more deliberate and detailed land use district designations, more clearly defining housing and infrastructure needs, and identifying specific types of implementation techniques to be considered for local adoption.

Strengthening the plan as a policy document, without turning it into regulatory document, presents a real challenge. Plans are intended to represent the long-term vision for the community, as expressed in broadly stated community goals or vision statements; but they must also, as policy documents, outline specific objectives and strategies for meeting these goals.

These are not new planning requirements under Chapter 117 - but more detailed attention to certain plan elements, and more specificity, may be in order. The degree of analysis required, and the acceptable degree of specificity, will necessarily vary among communities in relation to local conditions, local concerns and available resources.

As a result of Chapter 117 bylaw amendments, the development of a municipal plan will likely be more time consuming. However, in the end, clear plan policies should make bylaw development more straight forward, if not easier, and also better support the use of the plan in local development review and Act 250 proceedings.

Sometimes it may be necessary to amend the municipal plan to support a proposed bylaw amendment. Plan and bylaw amendment processes can occur concurrently, as long as the adoption procedures for each are met. A "multipurpose hearing" - a public hearing to be held for more than one purpose - is now specifically allowed under Chapter 117 for these types of situations [§4442(e)].

How Specific is Specific?

Under Criterion 10 of Act 250 - project conformance with a municipal plan - a determination must be made whether municipal plan provisions at issue are "specific" or "ambiguous." If provisions are ambiguous, the zoning bylaw may be examined to resolve the ambiguity - since zoning bylaws "are more than strong indications of legislative intent in determining the meaning of an ambiguous town plan; they are the specific implementation of a plan" [*In re Molgano*, 163 Vt. 25, 30 (1994)].

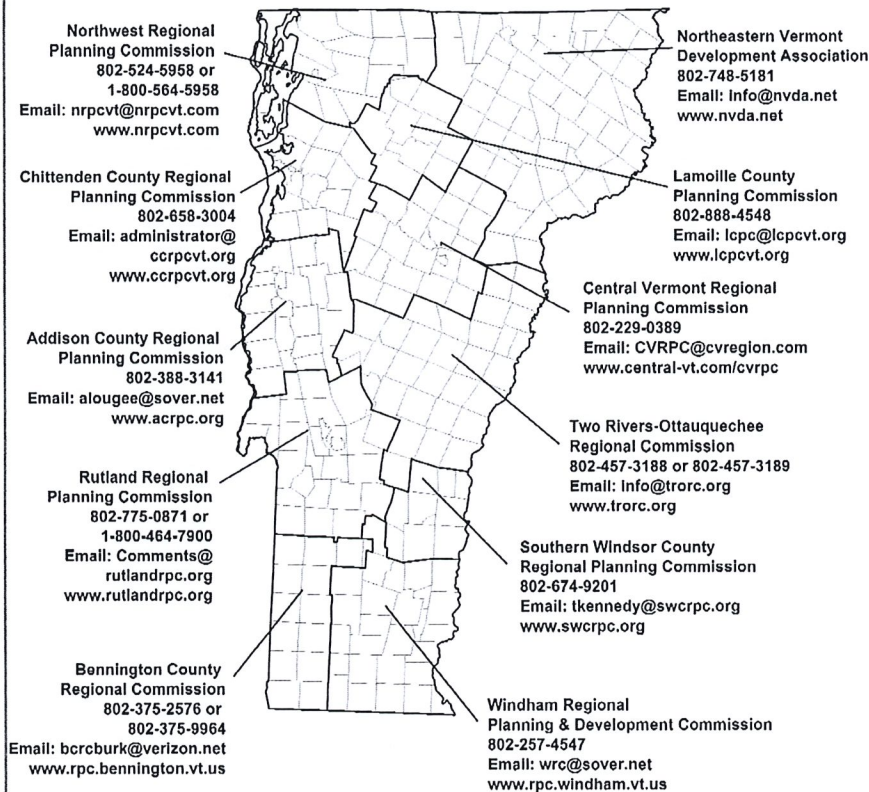
For purposes of Act 250, a municipal plan provision plainly shows a specific policy provision if it:

- pertains to the area or district in which the project is located;
- is intended to guide or proscribe conduct or land use within the area or district in which the project is located; and
- is sufficiently clear to guide the conduct of an average person, using common sense and understanding.

Moreover:

- A plan is not ambiguous where a town's prior actions with respect to a project - which represent the local community's interpretation and response to the plan's broad language - are clear.
- The use of the word "should" in a plan is not, by itself, an indication of ambiguity.

**Contact information:
Regional Planning Commissions**



VERMONT LAND USE
Education & Training Collaborative

Chapter 117 Bulletins

The following ten bulletins were published in November 2004 to provide information about the changes to 24 V.S.A. Chapter 117, the state statute governing local planning and regulation, enacted in 2004. These all are available through www.vpic.info and from the Education and Training Collaborative partners listed below.

1. **Chapter 117 Overview** (legislative intent and effective dates)
2. **Conformance with the Municipal Plan**
3. **Permissible Regulations**
4. **Bylaw Preparation & Adoption**
5. **Required Provisions & Limitations**
6. **Equal Treatment of Housing**
7. **Zoning Permits**
8. **Development Review Procedures**
9. **Appeals**
10. **Appropriate Municipal Panels**

Vermont Land Use Education and Training Collaborative

Working Together to Provide Improved Learning Opportunities for Vermont's Local Boards and Commissions

Questions about this bulletin and other chapter 117 materials produced by the Collaborative may be directed to the following members of the Vermont Land Use Education and Training Collaborative Steering Committee. For links to websites go to "About Us" at www.vpic.info.

Center for Rural Studies (CRS) at the University of Vermont
207 Morrill Hall
University of Vermont, Burlington, VT 05405
(802)656-3021

Department of Housing and Community Affairs (DHCA), Planning Division
National Life Building Dr. 20
Montpelier, VT 05620-0501
(802)828-5249

Vermont Association of Planning and Development Agencies (VAPDA)
Contact your Regional Planning Commission

Vermont League of Cities and Towns (VLCT)

89 Main Street, Suite 4
Montpelier, VT 05602
(802)229-9111

Vermont Secretary of State's Office

26 Terrace Street
Montpelier, Vermont 05609
(802) 828-2363

Vermont Planners Association (VPA)

c/o VLCT
89 Main Street, Suite 4
Montpelier, VT 05602

FOR MORE INFORMATION GO TO WWW.VPIC.INFO

A Proposal for Amending Town Zoning Regulations on Rural Retreats

We applaud the spirit and intent of the Town Zoning Regulations Amendment for Rural Retreats.

And, we respectfully request the Planning Commission **consider extending the benefits of the Rural Retreats Amendment to include officially-designated historic farms of Woodstock**. Such a minor change will have minimal impact on the newly-adopted rule (due to the small number of designated farms) yet can provide vital support for iconic farmscape attributes that are essential to the quality of life and the economic character of Woodstock.

Background:

My wife and I were fortunate enough to play a role in "Saving Gilbert's Hill" when we purchased the 112-acre historic farm — site of the first ski rope tow in the country — from the Vermont Land Trust in 2016. Since then we've been working hard to restore the farmstead structures and put the arable land back into agriculture. To date: we have received a steady stream of compliments on our efforts from neighbors and vacationers alike.

Gilbert's Hill is a Vermont State Historic Site and now also on the National Register of Historic Places. Additionally, the Preservation Trust of Vermont (PTV) holds an easement on four of the historic structures in perpetuity. This property is a winter sports mecca, has been attracting visitors to Woodstock for nearly 100 years, and is still in use by visitors and the local community to this day (we maintain the historic ski slope for skiing, hiking, etc.).

We realize that we'll never recoup our capital investment in Gilbert's Hill but we do need the property to generate enough income to defray annual maintenance costs. As such, we've begun selling cut flowers from our on-site farm stand, renting the historic ski lodge to seasonal visitors, and (considering the property's history as a community gathering spot) the final logical step is to host a limited number of small events.

(continued)

Proposal:

To extend the benefits and protection of the Rural Retreats Amendment to include historic farmscapes, we propose any one of three potential adjustments to the current language:

- 1) Combine General Requirements 2 and 3, and add a parenthetical exemption for historic farms.
 - This would add **3 properties** for potential consideration under the RRA: Gilbert's Hill (112 acres); Fletcher-Fullerton Farm (53 acres); Isaac M. Raymond Farm (83 acres).
 - The amendment could read: "The property shall be no less than one hundred-fifty (150) contiguous acres located in the Residential Five Acre or Forest Reserve Districts and the facility shall be located more than one thousand (1000) feet from the nearest residence **(with the exception of farms on the National Register of Historic Places).**"
- 2) Combine General Requirements 2 and 3, (as above) and add the requirement of protection by the Preservation Trust of Vermont.
 - This would only add **1 property** for potential consideration under the RRA (Gilbert's Hill).
 - The amendment could read: "The property shall be no less than one hundred-fifty (150) contiguous acres located in the Residential Five Acre or Forest Reserve Districts and the facility shall be located more than one thousand (1000) feet from the nearest residence **(with the exception of farms on the National Register of Historic Places and under protective easement with the Preservation Trust of Vermont).**"
- 3) Change General Requirements 2 and 3 to 100+ acres and 600' respectively.
 - This would add **~27 properties** for consideration under the RRA.
 - The amendment could read: "2. The property shall be no less than **one hundred (100)** contiguous acres located in the Residential Five Acre or Forest Reserve Districts. 3. The facility shall be located more than **six hundred (600)** feet from the nearest residence."

(continued)

Summary:

The Rural Retreats Amendment is an ideal vehicle for supporting Historic Woodstock farmscapes like Gilbert's Hill because:

- **Direct alignment with the Rural Retreat Amendment** — this proposal would help support farmscape attributes, which is the central purpose of Rural Retreats Amendment
- **Historic farmscapes benefit everyone** — the neighborhood, community and Town businesses (big benefit/ultra-low impact)
- **Designed to provide supplemental support** — clearly, the RRA does not enable full-time event businesses
- **Baked-in safeguards** — Conditional Use Permitting, Performance Standards, Site Plan Review, and yearly reviews thereafter
- **Highly selective criteria** — application to the National Register is arduous and a high bar; Only 1 property is protected by the PTV Easement Program in Woodstock
- **Broad support** — this proposal is supported by the Woodstock History Center, the Vermont Land Trust, and our neighbors

Related Links:

Fletcher-Fullerton Farm — https://en.wikipedia.org/wiki/Fletcher-Fullerton_Farm

Isaac M. Raymond Farm — https://en.wikipedia.org/wiki/Isaac_M._Raymond_Farm

Criteria for NPS National Register — https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf

PTV Easement Program — <https://ptvermont.org/our-work/easement-program/>

We appreciate your thoughtful consideration of our submission — if you have any questions, do not hesitate to contact us.

Howard Krum and Mary Margaret Sloan
Gilbert's Hill, 1362 Barnard Road, Woodstock, Vermont 05091

Extending the Benefits of Rural Retreats to Historic Farmscapes

Context | Long-Term Care | Proposal



**TOWN OF WOODSTOCK
SELECT BOARD
SEPTEMBER 17, 2020
12:00 PM
MEETING
CONFERENCE CALL
MINUTES**

Draft minutes subject to approval.

Present: Chair Mary Riley, Jill Davies, L.D. Sutherland, Keri Cole, William Kerbin, Nikki Nourse, Ray Bourgeois

I. CALL TO ORDER

A. Chair Mary Riley called to order the Select Board Meeting of September 17, 2020 to order at 12:00pm.

II. NEW BUSINESS

A. Error & Omissions to 2020 Grand List

1. Chair Riley stated that the Listers need to make this correction. It is for the property at 185 Riverbend Way. Melvin and Harlei Pierce had a permit to relocate a mobile home from Windsor last year. They were inadvertently put as the owners of the home. The woman's father, Todd Merriam is the owner. Mr. and Mrs. Pierce have been residing at 185 Riverbend Way but are not the owner. The correction was not made before the Grand List was launched. The tax bill is therefore in their name. They are unable to purchase a house because of this error.

Motion: by Ms. Cole to approve the correction to the 2020 Grand List to list Todd Merriam as the owner of 185 Riverbend Way.

Seconded: by Mr. Sutherland.

Discussion: Chair Riley stated that Ms. Nourse will have the document in the office that needs to be signed by all Select Board members. They need to get it done soon to produce a proper tax bill.

Vote: 4-0-0, passed.

B. Mr. Sutherland stated that the ramps have been removed at Town Hall. Additional brick work needs to be done. Mike Eramo will revise the estimate on this.

1. Ms. Davies stated that they should authorize Mr. Eramo to work with additional monies so he can get the work done before their next Select Board meeting.
2. Mr. Sutherland stated that he does not think the additional work needed will be more than \$1,000.
3. Ms. Davies suggested making the cap amount \$5,000 just in case it is needed.

Motion: by Mr. Sutherland to allow Mr. Kerbin to set up the additional work for a cap amount of \$5,000 for additional brickwork and to replace lentil at the door of the lower part of the theater.

Seconded: by Ms. Davies.

Discussion: none.

Vote: 4-0-0, passed.

III. CITIZENS COMMENTS – none.

IV. ADJOURNMENT

Motion: by Ms. Davies to adjourn the meeting at 12:09pm.

Seconded: by Ms. Cole.

Discussion: none.

Vote: 4-0-0, passed.

*Respectfully submitted,
Nikki Nourse*