RE: TOWN OF NEWBURY, VERMONT
TOWN PLAN REVIEW
CASE #16 - 2

BACKGROUND

Pursuant to 24 V.S.A., Section 4350, the Town of Newbury, Vermont Selectboard requested this Commission to review and approve the Newbury Town Plan adopted on August 19, 2015 by the Town. The Plan encompasses all lands in the Town of Newbury, and is referred to hereinafter as the Plan.

Section 4350 provides that prior to approving or disapproving a Plan, the Regional Commission find that the Plan meets four tests. These tests are that the Plan is:

A. Consistent with the planning goals in Section 4302 of Chapter 117;
B. Compatible with the Regional Plan;
C. Compatible with the approved plans of other municipalities within the Region; and
D. Inclusive of all elements required of a plan as set forth in 24 V.S.A., Section 4382.

Staff reviewed this Plan and offers the following information to the Board. The Regional Commission scheduled and held a Public Hearing on this review on September 23, 2015 in Woodstock, Vermont. This matter is now ready for decision.

FINDINGS

A. Is the Plan consistent with the planning goals?

NOTE: "Consistent with the goals" requires substantial progress toward attainment of the goals, unless the planning body determines that a particular goal is not relevant or attainable. If such a determination is made, the planning body shall identify the goal in the plan and describe the situation, explain why the goal is not relevant or attainable, and indicate what measures should be taken to mitigate any adverse effects of not making substantial progress toward that goal.

General Goals

1. Are municipal decisions guided by a coordinated, comprehensive planning process and policy framework?

The Plan is structured as a comprehensive planning document. As such, it is organized by subject in to 12 sections. The Plan’s format includes those elements required of a Plan (24 V.S.A. Section 4382). The Plan uses Goals, Policies and Recommendations to specifically address municipal decisions.

2. Is citizen participation encouraged at all levels of the planning process?
Development of the Plan was the work of the Planning Commission who provided several opportunities for public input. Residents’ desires and concerns are considered in all aspects of the Plan.

3. **Is consideration being given to the use of resources and the consequences of growth and development?**

Yes. Several goals, throughout the Plan consider development’s impact on natural, financial, and community resources. The Plan also notes that their population has increased significantly and is forecasted to continue in a growth pattern. With that in mind, they have outlined several policies to support growth and development in a manner in keeping with their resources and state policies (page 8).

4. **Is the municipality working creatively together with other municipalities to develop and implement plans?**

In the *Relationship to Other Plans* section (page 65), the Plan notes that while the primary focus is on development and policy within its own boundaries, they recognize that how a community grows and changes can be directly impacted by development that takes place outside of the community. The Planning Commission reviewed the Municipal Plans and, if available, the land use regulations from surrounding towns for consistency with this Plan. For the most part, no conflicts were noted; however, they are aware that “depending on the specifics of how Ryegate regulates land use along these roads, that conflicts between land uses where the communities border may arise.”

**Specific Goals**

A plan for a municipality may be consistent with the goals established in section 4302 of this title, which are:

1. **Planning for development needs to be conducted so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.**

   a. **Is intensive residential development being encouraged primarily in areas that are identified as community centers, and is strip development along highways being discouraged?**

   Yes, many of the Goals, Policies, and Recommendations support this, for example, the first goal in the Plan (page 5) specifically says, “Plan development so as to maintain the historic settlement pattern of Newbury’s town center, villages, hamlets and surrounding rural countryside.” They also specifically mention “Wells River supports the broadest mixture of single family, two family, and multiple family structures in the town, and these uses occur at higher densities than elsewhere.” (page 24.)
b. Is economic growth being encouraged in locally designated growth areas or being employed to revitalize existing urban or village centers, or both?

Yes, in fact one of the recommendations to the Selectboard and Village Trustees is that both Wells River and Newbury Villages should be state-designated Village Centers (page 10).

Under their land use goals, they specifically say, “First in importance in formulation of the proposed land use pattern for Newbury is consideration of the existing settlement patterns. The town has already been settled into areas of residential uses and other activities in the form of villages and hamlets surrounded by rural areas of lower densities. This existing settlement pattern has demonstrated itself to provide a system of centers both efficient and economical for the conduct of business enterprise and for the provision of social and community facilities and services. This pattern should, therefore, be protected and enhanced. The continued use of this existing pattern in guiding future development of the town should be adopted as policy.” (page 22). Several more of land use policies and recommendations go on to support this.

c. Are public investments, including the construction or expansion of infrastructure, being made so as to reinforce the general character and planned growth patterns of the area?

While the Capital Budget & Program section (page 36) does not specifically address the construction or expansion of infrastructure, several policies and recommendations do address maintaining infrastructure that the town can realistically support. For example:

- “Provide for concentrated development only in areas where adequate public services and facilities are available or planned to adequately support such development.” (page 23).
- “In town centers, intense growth is encouraged when adequate public services such as water, sewer, and highways are available. Continued maintenance or expansion of such facilities must be encouraged in relation to available tax revenues and reasonable levels of public and private capital investment.” (page 24).

It should be noted here, that the Planning Commission has recommended that “The Town of Newbury should begin work on a Capital Budget Program...” (page 39).

2. Does the Plan provide for a strong and diverse economy; provide satisfying and rewarding job opportunities that maintain high environmental standards; and expand economic opportunities in areas with high unemployment or low per capita incomes?

The Plan does not speak directly to “high unemployment or low per capita income” areas (however, they should directly address this in the next iteration of their Plan since areas within Newbury are federally recognized as having high unemployment and/or a low per
capita income which may make them eligible for some federal funding to improve these areas). They have noted that due to their size and topography, there are few parcels conducive to new business of retail or industrial type. However, they are aware of an uptick in interests of people wanting to start new businesses and strive to support this in their policies and recommendations. The Plan also offers continued encouragement in the realm of value-added agriculture and silviculture. Also noted, is that “until recently their industrial park was built out and no space was available for new enterprise.” (page 8). There is also interest and recommendation in starting an economic development committee that would work with TRORC, the economic development corporation and the Cohase Chamber of Commerce to identify the needs of current and future businesses. As mentioned earlier, the Plan suggests that Wells River and Newbury both become state-designated village centers so that businesses may be eligible to take advantage of the benefits offered from this designation.

3. **Does the Plan broaden access to education and vocational training opportunities for residents identified in the Plan?**

   The Plan makes no specific mention of broadening access to education and vocational training; however, they include a comprehensive list of those opportunities that are currently available. The next iteration of the Plan should address this.

4. **Planning needs to provide for safe, convenient, economic and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers.**

   a. **Has the need for public transit been addressed?**

      Yes. The Plan specifically says that they are “fortunate to have access to a small regional transportation system, Stagecoach, Inc.” (page 34). They do acknowledge, however, that as the population continues to age, the need to maintain an affordable source of public transportation is important.

   b. **Does the Plan provide that highways, air, rail, and other means of transportation be mutually supportive, balanced and integrated?**

      Yes, so far as these different types of transportation systems are available to them. They support both road maintenance with regard to those roads they currently maintain and the Plan supports the implementation of complete street standards.

5. **Planning needs to identify, protect, and preserve important natural and historic features of the community’s landscape.**

   a. **Have special areas been identified, including significant natural and fragile areas; outstanding water resources, including lakes, rivers, aquifers, shorelands and wetlands; significant scenic roads, waterways, and views; and important historic**
structures, sites, or districts, archaeological sites and archaeologically sensitive areas?

Yes. The Plan identifies and includes several specific recommendations with regard to significant natural and fragile resources, as well as important historic features.

6. Planning needs to maintain and improve the quality of air, water, wildlife and land resources.

a. Are air, water, wildlife, mineral and land resources being planned for development and use under the principles set forth in Act 250?

Yes, the first goal in the Natural, Cultural, Scenic and Historic Resources section speaks directly to the 10 criteria of Act 250 and that the Planning Commission and Conservation Commission should actively participate in Act 250 hearings. (page 12).

7. Does the Plan encourage the efficient use of energy and the development of renewable energy resources?

The Plan offers a very good picture of where their energy use and efficiently currently stands. The Plan acknowledges the State’s goal of 90% renewables by 2050; and while they include a discussion about opportunities for renewables, the language included in their policies and recommendations restrict renewables from being constructed in a variety of areas.

8. Planning needs to maintain and enhance recreational opportunities for residents and visitors.

a. Is growth being planned so as not to significantly diminish the value and availability of outdoor recreational activities?

Yes, this is a recurring theme throughout the Plan. The Town strongly encourages the enhancement of existing recreational opportunities and goes so far as to recommend that “The Town should consider appropriate management plans for public lands.” (page 40).

b. Has public access to non-commercial outdoor recreational opportunities, such as lakes and hiking trails, been identified, provided, and protected wherever appropriate?

The Plan identifies public access, non-commercial outdoor recreational opportunities and recommends that the trail system be further developed (page 40).

9. Planning needs to encourage and strengthen agricultural and forest industries.
a. Have strategies to protect long-term viability of agriculture and forestlands been encouraged, including maintaining low overall density?

b. Has the manufacture and marketing of value added agricultural and forest products been encouraged?

Yes, this is discussed under the Economic Development section, as well as the Natural, Cultural, Scenic, and Historic Resources, and in the History section where the Plan acknowledges Newbury’s strong agricultural history.

d. Is the use of locally-grown food products encouraged?

Yes, through several of the Plan’s Goals, Policies, and Recommendations.

e. Are sound forest and agricultural management practices encouraged?

The Plan includes a Goal in the Agricultural and Farming Section that speaks to this: “Encourage farmers, loggers, and foresters to use the VT Agency of Agriculture’s Accepted Agricultural Practices (AAP) and to implement Best Management Practices (BMP) in their operations and to minimize point and non-point source pollution.” (page 21.)

f. Are public investments planned so as to minimize development pressure on agricultural and forest land?

While there are no planned public investments at this time, the Plan does include a recommendation that “Public investments should be planned so as to minimize pressure on agriculture and forest land.” (page 21). The Plan does suggest that “Newbury could become an active participant in land conservation through the creation of a conservation fund.” (page 20). The Plan also include several regulatory methods that could be utilized to protect agricultural and forest lands.

10. Planning needs to provide for the wise and efficient use of natural resources and to facilitate the appropriate extraction of earth resources and the proper restoration and preservation of the aesthetics of the area.

a. Have strategies to facilitate the appropriate extraction of earth resources and the proper restoration and preservation of the aesthetic qualities been addressed?

Not specifically. The Plan does acknowledge that “Prudent management and use of these resources is essential. Planning associated with these particular natural resources must include a land restoration and site rehabilitation component. Methods for reclamation should include plans for time and phasing for the restoration, soil replacement, regrading, landscaping and re-vegetation.” (page 11). However, no Goals, Policies, or
Recommendations address this specifically, therefore, this should be addressed in the next iteration of the plan.

11. Planning needs to ensure the availability of safe and affordable housing.

a. Is housing encouraged to meet the needs of a diversity of social and income groups, particularly for those citizens of low and moderate income?

The Plan does not address “low and moderate income” housing specifically. However, their first policy under the Housing section does say, “The Town should allow for growth of housing for all income levels and at a rate consistent with the community’s ability to provide services in a fiscally sound manner and consistent with the other goals and policies expressed in the Plan.” (page 51). There are also other policies and recommendations that encourage the maintenance and creation of affordable housing.

b. Are sites for multi-family and manufactured housing readily available in similar locations to those generally used for single-family conventional dwellings?

Yes, although “manufactured housing” is not specifically mentioned in the Plan and can be addressed in the next Plan.

c. Does the plan provide for new and rehabilitated housing to be safe, sanitary, located conveniently to employment and commercial centers, and coordinated with the provision of necessary public facilities and utilities?

Yes.

d. Does the plan provide for accessory apartments within or attached to single family residences allowing close proximity to cost-effective care and supervision for relatives or disabled or elderly persons?

The Plan does not specifically address accessory apartments and must do so during the next Plan.

12. Planning needs to plan for, finance, and provide an efficient system of public facilities and services to meet future needs.

a. Do public facilities and services address plans for such services as fire and police protection, emergency medical services, schools, water supply and sewage and solid waste disposal?

Yes, throughout the Plan.

b. Does the rate of growth exceed the ability of the town and the area to provide facilities and services?
No, not at this time.

13. Planning needs to ensure the availability of safe and affordable child care and integrate child care issues into the planning process, including childcare financing, infrastructure, business assistance for child care providers, and child care workforce development.

The Plan discusses childcare and encouraged the continued support for the encouragement of childcare, but there is no specific discussion of financing or business assistance. However, they do encourage the Town to support private investments in childcare.

B. Is the Municipal Plan Compatible With the Regional Plan?

The Two Rivers-Ottawaquechee Regional Plan was adopted on June 25, 2014 and it will remain in effect until July 25, 2022.

The Newbury Town Plan is found to be compatible with the Two Rivers-Ottawaquechee Regional Plan. As used in this review, the term "compatible with" has been defined (in Section 4302) as meaning: that the Plan in question, as implemented, will not significantly reduce the desired effect of the implementation of the other plan (emphasis added). If a Plan, as implemented, will significantly reduce the desired effect of the other Plan (in this case, the Regional Plan), the Plan may be considered compatible if it includes the following:

(a) a statement that identifies the ways that it will significantly reduce the desired effect of the other Plan;
(b) an explanation of why any incompatible portion of the Plan in question is essential to the desired effect of the Plan as a whole;
(c) an explanation of why, with respect to any incompatible portion of the Plan in question, there is no reasonable alternative way to achieve the desired effect of the Plan; and
(d) an explanation of how any incompatible portion of the Plan in question has been structured to mitigate its detrimental effects on the implementation of the other Plan.

C. Is the Plan Compatible with Approved Plans of other Municipalities in the Region?

At the time of review of this Newbury Town Plan, the following municipalities have Plans approved by the Two Rivers-Ottawaquechee Regional Commission that are in effect:

These approval decisions and Plans have been reviewed in the context of the above question. Based on this, we find the Newbury Town Plan to be compatible with these Plans.

D. Municipal Plan Elements - Are They Included?

A plan for a municipality shall include the following required elements. These elements or components are, in summary:

(a) a statement of overall objectives and policies;
(b) a land use plan;
(c) a transportation plan;
(d) a utility and facility plan;
(e) a statement of policies for "special resources";
(f) an education plan;
(g) an implementation program;
(h) a statement on relationship of plan to trends and plans for adjacent towns and the region;
(i) an energy plan;
(j) a housing plan;
(k) an economic development plan; and
(l) a flood resiliency plan.

1. **A statement of objectives, policies and programs of the municipality, to guide the future growth and development of land, public services and facilities, and to protect the environment.**

   Yes. The Plan includes statements of purpose and planning philosophy. Most elements contained within the Plan include goals and planning principles that encourage the overall philosophy.

2. **A land use plan, consisting of a map and statement present and prospective land use, indicating those areas proposed for forests, recreation, agriculture, (using 6 VSA Section 8), residence, commerce, industry, public and semi-public uses and open spaces reserved for flood plain, wetland protection, or other conservation purposes; and setting forth the present and prospective location, amount, intensity and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services.**

   Yes. The *Current and Future Land Uses* section of the Plan sets forth current and future land use patterns for the community. The Plan identifies a preferred pattern of land use intent on attaining those goals of Section 4302.

3. **A transportation plan, consisting of a map and a statement of present and prospective transportation and circulation facilities showing existing and proposed highways and streets by type and character of improvement, and where pertinent,**
parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads and port facilities, and other similar facilities or uses, with indications of priority of need.

Yes. The Plan includes an inventory and a discussion of transportation’s probable impacts on land use and the community but does not discuss priority of need.

4. A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational and other public sites, buildings and facilities, including hospitals, libraries, power generating plants and transmission lines, water supply, sewage disposal, refuse disposal, storm drainage and other similar facilities and activities, and recommendations to meet future needs for community facilities and services, with indications of priority of need, costs and methods of financing.

The Plan provides a good description of utilities and facilities as they currently stand; however, the Plan does not adequately offer recommendations for future needs or how future needs will be financed and this needs to occur in the next Plan.

5. A statement of policies on the preservation of rare and irreplaceable natural areas, scenic and historic features and resources.

Yes, the Plan includes policies and recommendations for preservation of these areas in the Natural, Cultural, Scenic and Historic Resources section.

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

The Plan includes a list of the current available educational opportunities, but there is not a statement of projected uses.

7. A recommended program for the implementation of the objectives of the development plan.

There are several implementation recommendations throughout the Plan, but there is no list of specific implementation objectives. It would be useful, in the next iteration of the Plan, if strategies specific to implementation of the development plan were organized within the Implementation section.

8. A statement indicating how the plan relates to development trends and plans for adjacent municipalities, areas and the region developed under Title 24.

The Plan includes discussion of its relationship to adjacent municipalities in section 11.
9. An energy plan, including an analysis of energy resources, needs, scarcities, costs and problems within the municipality, a statement of policy on the conservation of energy, including programs, such as thermal integrity standards for buildings, to implement that policy, a statement of policy on the development of renewable energy resources, a statement of policy on patterns and densities of land use likely to result in conservation of energy.

The Energy section has been extensively reworked since the prior plan. This section includes an analysis of energy uses and energy sources. The final recommendations suggest that the Selectboard re-establish the Town Energy Committee (page 64). Several other recommendations that could help reduce energy use are also included.

10. A housing element that shall include a recommended program for addressing low and moderate income persons’ housing needs as identified by the regional planning commission pursuant to Section 4348a (a) (9) of Title 24.

The Housing section does not specifically address “low to moderate income persons” but the Plan does have several Goals, Policies and Recommendations that support affordable housing for a variety of income levels. In the next Plan update, specifically addressing low and moderate incomes would help in future planning efforts.

11. An economic development element that describes present economic conditions and the location, type and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

The Economic Development section does a good job of describing the present economic conditions and locations. It also utilizes policies and recommendations to further support economic development in keeping with the State and Town’s growth standards.

12. A flood resilience plan that identifies flood hazard and fluvial erosion hazard areas and designates those areas to be protected, including floodplains, river corridors, land adjacent to streams, wetlands, and upland forests, to reduce the risk of flood damage to infrastructure and improved property; and recommends policies and strategies to protect the areas identified and designated and to mitigate risks to public safety, critical infrastructure, historic structures, and municipal investments.

The Plan does include flood resilience components although they do reference the FEMA maps as opposed to the Agency of Natural Resources maps as required. The Plan does a good job of using the FEMA maps to show their most vulnerable areas on the included map. The Plan includes a recommendation to work with TRORC to get a Hazard Mitigation Plan in place and also include several policies that could enhance flood resilience of the Town. The next Plan update should reference the Agency of Natural Resources maps.
CONCLUSION

Based upon the above findings, it is the conclusion of the Regional Commission that the Newbury Town Plan be approved. This approval shall remain in effect until the date that the Plan expires, or until it is amended and reviewed pursuant to these provisions, whichever occurs first.

DISCUSSION

The Regional Commission appreciates the opportunity to formally evaluate the Newbury Town Plan. The Plan is all-inclusive, reflecting the community’s planning capabilities and the import that they assign to issues around development.

Prior to issuing a Permit under Act 250, the District Environmental Commission or Environmental Court must find that the project is in conformance with the duly adopted Town Plan. This Plan includes clear, unambiguous language regarding current and proposed land use that can be reviewed by these bodies as part of an Act 250 project application. It is important that future Town Plans maintain their currency as Plans that have been found to be vague, unclear, or ambiguous do not carry much weight in Act 250 permit proceedings.

The 2004 Vermont State Legislature passed Act 115 that made significant amendments to the Vermont Municipal and Regional Planning and Development Act. The most notable changes, in the context of this review, are that Town Plan and Zoning Bylaws are now held to a higher standard of consistency. From 24 V.S.A. §4303 Definitions:

“‘Conformance with the Plan’ means a proposed implementation tool, including a bylaw or bylaw amendment that is in accord with the municipal plan in effect at the time of adoption, when the bylaw or bylaw amendment includes all the following:
(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.”

This Newbury Plan makes it quite obvious that a lot of time and effort went into this update. Several of the Plan elements are much more robust and offer a much better picture of the Town than in the last Plan update. There are just a few issues that should be addressed in the next Plan update. The Plan should:

- Specifically identify, those areas that may have a high number of low to moderate income residents as well as develop recommendations that may help those residents.
- Include a statement that addresses whether or not the educational opportunities are sufficient and/or if there is further need.
• Specific recommendations on the proper restoration and preservation of land after the extraction of earth resources have occurred.
• Identify the types and price ranges of needed housing (this can be accomplished by working with TRORC and other State agencies).
• Include language that specifically encourages accessory dwelling units.
• Include a capital budget planning.
• Identify flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Agency Natural Resources or maps recommend by the Secretary.

Dated this 24th day of September, 2015 at Woodstock, Vermont.

By:  
Peter G. Gregory, AICP, Executive Director