

**RE: TOWN OF FAIRLEE, VERMONT  
TOWN PLAN REVIEW  
CASE # 15-2**

**BACKGROUND**

Pursuant to 24 V.S.A., Section 4350, the Town of Fairlee, Vermont Selectboard requested this Commission to review and approve the Fairlee Town Plan adopted on September 30, 2014 by the Town. The Plan encompasses land use for the Town of Fairlee, and is referred to hereinafter as the Plan.

Section 4350 provides that prior to approving 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 24, 2014 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?**

Yes. The Town Plan is a comprehensive planning document that has been broken out into fifteen distinct elements, as is required under 24 VSA § 4382.

**2. Is citizen participation encouraged at all levels of the planning process?**

Yes. Citizen participation is encouraged within the revised Plan, as is evidenced by the following statement: "The Planning Commission is seeking to encourage a greater sense

of community through this Plan by fostering community involvement in the planning process and by encouraging a revitalization of the community's core" (p. 7).

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

Yes. According to the Plan, Fairlee seeks to "provide a location for thoughtful residential and commercial development at a size and scale that does not negatively impact Fairlee's ability to provide services or the rural and natural character of the area" (p. 27).

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

Yes. The Plan seeks to "work with neighboring towns and the region to encourage sustainable land use and environmental policies that benefit the citizens of Fairlee" (p. 80).

## **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. In an effort to "provide for a density and distribution of housing throughout the Town that is sustainable and affordable," the Plan directs intensive residential development toward its Village Area (p. 12). The Plan has specifically stated that there is not to be strip development located in the Interchange and Mixed Use Areas in the identified in the "Future Land Use Areas" section of the "Land Use" element (p. 28-9). Indeed, "[c]ommercial development that is consistent with 'strip development' or 'sprawl' is not consistent with the character of the community" (p. 22).

**b. Is economic growth being encouraged in locally designated growth areas or being employed to revitalize existing urban or village centers, or both?**

Yes. Economic growth is being encouraged in the Village Center and surrounding areas by encouraging "mixed-use commercial development within the Village Center, and stating that "[n]ew commercial development (excluding primary retail) should be

encouraged in appropriate locations outside of the Village Center where services such as roads, fire protection and power supply are available or planned” (p. 24).

- 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?**

Yes. The Town’s policy is that “all development within the village areas must be consistent with the existing character of the neighborhood” (p. 27).

- 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?**

Yes. The Plan notes that the Fairlee community is “seeking to add diversity and vitality to the local economy,” which “provides satisfying and rewarding employment opportunities for residents while maintaining the community’s rural character” (pp. 7, 24). Key to doing this is “attract[ing] diverse and sustainable businesses” that will “contribute to the local year-round economy” (p. 24).

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

Yes. The Plan does discuss broadening access to education and vocational training opportunities within the “Education” element. The Plan’s goals, policies, and recommendation statements do not adequately reflect the need for educational and vocational opportunities beyond provisions related to childcare and K-12 educational opportunities, and could do more to outline the Town’s support for such opportunities, particularly in light of the Town’s aging population and need for elder daycare and educational opportunities.

- 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 “Other Modes of Travel” section within the “Transportation” element discusses public transportation options. It is the Town’s policy to “support efforts to sustain, expand, or enhance existing public transportation” (p. 70).

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

Yes, as stated above in response to question 4(a). The Town seeks to “provide and maintain a safe, energy-efficient and well-maintained transportation network..., integrating all modes of travel (auto, pedestrian, bicycle, and mass transit)...” (p. 69).

**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 “Natural, Scenic and Cultural Resources” element identifies water resources, wetlands, flood plains, flora, fauna, natural communities, invasive species, mineral resources, and significant natural and historic areas, each within its own subsection (pp. 39-49).

**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 Town aims to “maintain the quality of [its] landscape for the future, to protect the natural world they value, while allowing the land to be worked safely and harmoniously” (p. 39). With specific respect to mineral extraction and processing facilities, they “shall be planned, constructed, and managed so as to not adversely impact existing or planned uses within the vicinity of the project site” (p. 48).

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

Yes. The Plan extensively reviews energy efficiency measures and renewables, all while encouraging the use and development of renewable energy resources within the “Energy” element (pp. 71-78). The Town seeks to “ensure the long-term availability of safe, reliable and affordable energy supplies, to increase energy efficiency, and to promote the development of renewable energy resources and facilities” (p. 77).

**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. The Town seeks to “enhance and maintain [its] outdoor environment for both active and passive recreational uses,” and will do this, in part, by “conserving the natural environment” and “protect[ing] the character of rural areas and their natural resources by avoiding scattered development and incompatible land uses” (pp. 59, 81).

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

Yes. The Plan acknowledges that “[r]ecreation is an essential part of Fairlee’s culture as a community” (p. 35). Consequently, the “Recreation” element sets a goal to “maintain, enhance and expand recreational opportunities in Fairlee,” and further supports this with a policy that encourages “patterns of land use that maintains and enhances the opportunity for outdoor recreation” (p. 37).

**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?**

Yes. The Plan “[e]ncourage[s] the conservation, wise use and management of the Town’s agricultural and forestry resources, to maintain its environmental integrity, and to protect its unique and fragile natural features” (p. 54). It will do this, in part, by avoiding fragmentation of high value farming and forestry lands and promoting clustered/peripheral development in lieu of sprawling settlement patterns (pp. 54-5).

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

Yes. The Plan actively “support[s] the development of value-added farm and forestry products” (p. 55).

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

Yes. As stated above, Fairlee supports value-added products, but the Plan also states that the Town “should consider ways to promote these industries” as well as better educate residents on agricultural and forest industries and their respective products, practices, etc. (p. 55).

**d. Are sound forest and agricultural management practices encouraged?**

Yes. The Town’s policy is that “[f]armers, loggers, and foresters should use Accepted Management Practices (AMP) and are encouraged to implement Best Management Practices (BMP) in their operations and to minimize point and non-point source pollution” (p. 55).

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

Yes. The Town especially encourages clustered and peripheral development to prevent fragmentation of agricultural and forest land. Additionally, the Plan states that “the construction of utilities, roads or other physical modification should skirt tracts of productive agricultural land rather than divide them” (p. 55).

- 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?**

Yes. The Town supports “extraction and processing of mineral resources only where such activities are appropriately sited ..., managed, and the public interest is clearly benefited,” where impacts are mitigated (noise, air, and other pollution, etc.), and that such facilities “shall be planned, constructed, and managed... to reclaim and re-vegetate sites following extraction” (p. 48).

- 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?**

Yes. The Town allows for “growth of housing for all income levels and at a rate consistent with the community’s ability to provide services,” and further states that the Fairlee Zoning Regulations shall be modified to “regulate two family homes identically to single family homes” and “to make multi-family housing a permitted use” (p. 16).

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

Yes, in part. The Plan does directly address multi-family housing by stating that it should be “located adjacent to existing Village Center Area in the Interchange Area where municipal services are available,” and that it should be a permitted use in the zoning regulations (p. 16). However, there is no specific mention of manufactured or mobile housing beyond stating that such housing does exist. Future iterations of the Plan must discuss their siting outright.

- 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. The Plan promotes “sufficient, safe and affordable housing...at a rate consistent with the community’s ability to provide services” while also prioritizing “the preservation and improvement of housing already in existence” (pp. 16). Residential development is largely directed toward the areas with primary retail and other commercial employment opportunities, namely the Village Area, the Interchange Area, Mixed Use Area, and Residential Area (pp. 27-31)

- 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?**

No. While the Plan does do a good job of addressing the need for affordable housing in Fairlee, it does not discuss accessory dwelling units in any amount of detail, specifically with respect to the provision of housing for the elderly and disabled in close proximity to town services and care facilities. This said, such a discussion can easily and must be worked into subsequent iterations of the 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. Both the “Utilities Facilities” and “Health and Emergency Services” elements provide solid discussions around Fairlee’s community buildings, public water, wastewater treatment, solid waste management, cemeteries, communication facilities, healthcare facilities, fire protection services, police protection services, and other emergency medical services (pp. 56-65).

- b. Does the rate of growth exceed the ability of the town and the area to provide facilities and services?**

No. The Plan repeatedly reinforces that growth shall not exceed the Town’s ability to provide facilities and services for Fairlee’s residents.

- 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 work force development.**

Yes. The Plan encourages “the creation of affordable childcare facilities that meet the established needs of residents in Fairlee,” and also supports “the private development of additional facilities to meet the childcare needs of its residents and may assist with

seeking funding to develop these facilities” (p. 19). Further, the town “should support private sector efforts to seek funding to assist with the development of childcare infrastructure” (p. 19).

## **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 Fairlee 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 Fairlee Town Plan, the following municipalities have Plans approved by the Two Rivers-Ottawaquechee Regional Commission that are in effect:

Barnard, Bradford, Braintree, Bridgewater, Brookfield, Granville, Hancock, Hartford, Hartland, Norwich, Pittsfield, Plymouth, Randolph, Rochester, Royalton, Sharon, Stockbridge, Strafford, Topsham, Tunbridge, Vershire, West Fairlee, and Woodstock.

These approval decisions and Plans have been reviewed in the context of the above question. Based on this, we find the Fairlee 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; and
- (j) a housing plan.
- (k) an economic development plan
- (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.**

The Plan's "Introduction" includes 10 goals that serve as overarching objectives for the Plan in meeting state statutory requirements and fulfilling the Town's present and future needs (p. 9). Each individual element within the Plan includes the necessary goals, policies, and recommendations that will guide Fairlee's future growth and development while ensuring that the environment is protected.

**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.**

The Plan's "Land Use" element serves as a land use plan (pp. 25-33). A Future Land Use map follows the "Land Use" element on page 34. Additionally, Future Land Use and Current Land Use maps can also be found at the end of the Plan on pages 96 and 97.

**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.**

The Plan's "Transportation" element serves as a transportation plan (pp. 66-70), and a transportation map is provided at the end of the Plan on page 99.

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's "Utilities and Facilities" element serves as a utility and facility plan (pp. 56-60), and a facilities map is provided at the end of the Plan on page 100.

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

The Plan's "Natural, Scenic and Cultural Resources" element serves as a statement on the preservation of rare and irreplaceable natural areas, scenic and historic features and resources in Fairlee (pp. 39-50), and a natural resources map is provided at the end of the Plan on page 98.

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's "Education" element contains an educational facilities plan (pp. 17-19), and educational facilities information is included within the facilities map provided at the end of the Plan on page 100.

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

The Plan's "Town Plan Implementation" element contains information on the regulatory and non-regulatory implementation methods that may be employed to further the Plan's objectives along with the parties responsible for implementation (pp. 81-5).

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's "Relationship to Other Plans" element contains information on how the current Plan relates to plans of adjacent municipalities within the TRORC region as well as with the Regional Plan (pp. 79-80).

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 Plan's "Energy" element includes a thorough analysis of energy issues within Fairlee, namely looking at energy demands, a discussion on renewable energy resources, regulatory considerations, residential energy efficiency measures, the role of the Town in energy efficiency, and the nexus between energy and transportation policy (pp. 71-8).

- 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 Plan's "Housing" element addresses the community's needs for low- to moderate-income housing (pp. 13-6).

- 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 Plan's "Economic Development" element describes Fairlee's current state of the Town's economy and the desired direction of economic development, along with policies and recommendations for economic growth (pp. 20-4).

- 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's "Natural, Scenic and Cultural Resources" contains a "Flood plains and Flood Resiliency" section that serves as a flood resilience plan (pp. 42-5).

## **CONCLUSION**

Based upon the above findings, it is the conclusion of the Regional Commission that the Fairlee 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 Fairlee 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 Fairlee 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.”

The 2014 Fairlee Town Plan is a substantial improvement on the Town’s previous Plan that was adopted in 2012. Enormous strides have clearly been made to ensure that the current Plan conforms to the Regional Plan, as is evidenced by the rectification of the deficiencies noted in the 2012 Enhanced Consultation. The current Plan is a monumental overhaul in both size and substance (with the current Plan being at least 50% larger), and it reflects the foresight of the Planning Commission in addressing the current and future needs of the Town.

Certain areas within the Plan would benefit from modifications and/or inclusion and must be present in future iterations of the Plan, as noted below:

- The “Utilities and Facilities” element would benefit from a prioritization of needs for Town facilities, along with their associated costs and/or funding sources and timeframes for upgrades, repairs, etc. Working the details of a yet-to-be-created Capital Budget and Program into the Plan may serve as one way to address this in the future.
- The “Transportation” element does not discuss air travel opportunities in the region, and outlining the linkages between air, rail, and other modes of public transit methods could help address this.
- Having a standalone “Education” element is an improvement on cursory discussion in the 2012 Plan. However, what the current Plan lacks are statements on the academic needs and desires of residents aged 18 and over, particularly the elderly. This could be improved with a discussion on the higher education opportunities and the continuing education and adult daycare facilities accessible to Fairlee’s residents.

- The lack of discussion in the “Housing” element on the subject of accessory dwelling units must be addressed, in conjunction with goal, policy, and action statements that support their provision throughout the Town. ADUs should be presented not only as a means of providing affordable housing to Town residents, but should specifically be presented as a means of providing housing for the elderly and disabled in close proximity to Town services and health and care sites. Also, related to affordable housing provisions, the Plan must include a discussion on mobile and manufactured homes as a form of affordable housing along with siting of such housing. This could require modifications to both the “Housing” and the “Land Use” elements.
- The Fairlee Town Plan should contain a standalone Flood Resiliency element in the future that is more thorough in scope and better satisfies state statute. Such an element would be more tailored to the Town in discussing the historical incidence of flood events in the Town and the areas most susceptible to flooding, namely the flood hazard area and the fluvial erosion hazard area. This should incorporate information and data collected within the Fairlee Hazard Mitigation Plan.

Dated this \_\_\_\_th day of \_\_\_\_\_ at Woodstock, Vermont.

By: \_\_\_\_\_  
Peter G. Gregory, AICP, Executive Director