

**RE: TOWN OF FAIRLEE, VERMONT
PLAN REVIEW
CASE # FY 20-7**

BACKGROUND

Pursuant to 24 V.S.A., Section 4350, the Town of Fairlee, Vermont requested TRORC to review and approve the Fairlee Town Plan adopted on January 21, 2020. The Plan encompasses all land in 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. TRORC scheduled and held a Public Hearing on this review on February 26, 2020 in Woodstock. This matter is now ready for decision.

This review is based upon the Town Plan as adopted. Plans stand on their own and this review is based on the Plan as adopted.

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 2020 Fairlee Town Plan is a comprehensive planning document to guide municipal decision making that has been divided into 13 distinct chapters that are required under V.S.A. Title 24, Ch. 117, §4382. Required goals of the Plan are under V.S.A. Title 24, Ch. 117. §4302.

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

Yes, on page 3 of the Plan, it states: "the planning commission is seeking to encourage a greater sense of community through this Plan, not only with its goals, but also by fostering community involvement in the planning process itself."

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

Yes. In the Land Use chapter of the Plan, it is stated that "the primary goal of the Fairlee Town Plan is to allow for sustainable growth and the creation of jobs while protecting the rural character, recreational assets and vitality of the Village" (p. 55).

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

Yes, as stated in the Relationship to Other Plans chapter, policy one is "to encourage continuous communication and cooperation between Fairlee and its neighboring Towns" (p. 61).

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. Fairlee has parsed the town into eleven different future land uses to instill that intensive development will be focused in the Village on the U.S. Route 5 corridor. Strip development is discouraged in all land use areas.

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

Yes. The Town of Fairlee has a State Designated Village Area, whose purpose is to "provide a location for a dense mix of commercial, civic and residential uses...that sustain and improve the vitality of the community's core" (p. 56).

- 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. As stated in the Utilities and Facilities chapter, their capital budget and planning have created a reserve fund for water and wastewater infrastructure upgrades for the village. These upgrades will allow for more intensive development in this area.

- d. **Is development being undertaken in accordance with smart growth principles?**

While not explicitly stated in the Plan, the Land Use chapter does allude to implementing smart growth principles in the community.

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 Economic Development chapter starts off with a list of assets in the community for residents and tourists alike, as well as ways to improve these economic assets, particularly through tourism related to recreation.

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

Yes, a goal in the Plan states: "to connect residents of all ages to vocational opportunities" (p. 8) with several preceding policies on how to implement the goal.

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.**

The Plan states this in the Energy and Transportation chapters on ways to increase our energy efficiency, reduce our reliance on fossil fuels, and to make the Fairlee village more friendly to pedestrians and bicyclers.

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

Yes, the Plan adequately addresses this in the Transportation chapter (p. 23-27).

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, all of these, and more, are addressed in the Natural, Scenic, and Cultural Resources chapter of the Plan (p. 38).

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?

In part. Water, wildlife, mineral and land resources are discussed and planned for in the Natural, Scenic, and Cultural Resources chapter of the Plan. However, there is no distinct discussion on air resources in the Plan. It is mentioned briefly throughout the Plan, but the Plan would benefit from a specific section.

b. Is water quality being maintained and improved on according to the policies and actions set forth in the basin plans?

Yes. Water quality in Fairlee is being maintained and improved upon according to the Basin 14 Tactical Basin Plan.

c. Are forestlands managed so as to maintain and improve forest blocks and habitat connectors?

Yes. A new section addressing this can be found in the Agriculture and Forestry chapter of the Plan.

7. Planning needs to make efficient use of energy, provide for the development of renewable energy resources, and reduce emissions of greenhouse gases.

a. Are general strategies included for achieving these goals to include increasing energy efficiency of new and existing buildings; identifying areas suitable for renewable energy generation; encouraging the use and development of renewable or lower emission energy sources for electricity, heat, and transportation; and reducing transportation energy demand and single occupancy vehicle use?

Yes, this is adequately discussed in the Energy chapter.

b. Are specific strategies and recommendations for achieving these goals identified in the State energy plan included in the Plan?

Yes. Fairlee has incorporated an Enhanced Energy Plan into the Town Plan, mainly in the

Energy Chapter, that speaks to the State energy plan and how to meet its goals.

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. Recreation has its own distinct chapter, as recreation is one of the main tourist attractions in Fairlee. It is stated often in the Plan on how to enhance recreational opportunities.

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

Yes, it is mentioned frequently throughout the Plan on how to protect the Lake Morey recreational area and how to improve it.

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. Several goals and policies in the Agriculture and Forestry chapter speak to this.

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

Yes, this is a policy of the Plan (p. 51).

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

Yes, this is a policy of the Plan (p. 51).

d. Are sound forest and agricultural management practices encouraged?

Yes, this is a policy of the Plan (p. 50).

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

Yes. The Land Use and Agriculture and Forestry chapters speak to implementation strategies on how to protect these areas from development pressures.

10. Does the plan 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?

While Fairlee does not have their own earth/mineral resources, there is a distinct section in the Plan that discusses the appropriate extraction and proper restoration and preservation of the aesthetics (p. 43).

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, several policies speak to this (p. 11).

b. 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. Specifically, the Plan encourages the rehabilitation of existing housing stock rather than building new housing stock.

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

The Plan does encourage these types of housing in the Village Center because of readily available water/wastewater systems. This chapter could use a more thorough discussion of these types of housing.

c. 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, there is no mention of accessory apartments in the Plan. This was mentioned as being a missing element in the review of the 2014 Town Plan. *The next iteration of the Plan must include discussion to become approvable.*

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. The Utilities and Facilities chapter speaks to the Fairlee Capital Budget and Program that sets up a financing plan for these services.

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

No. The rate of growth does not exceed the ability of the town and the area to provide facilities and services. It is mentioned several times throughout the Plan that growth must not exceed services currently provided in Fairlee.

13. Does the plan 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, in part. There is expansive discussion of childcare in the Plan that speaks to the need and the number of registered/licensed facilities in the Fairlee area. There is no discussion or policies related to childcare financing, infrastructure, or business assistance. The next iteration of the Fairlee Town Plan must include these items.

14. Planning needs to encourage flood resilient communities.

a. Is new development in identified flood hazard, fluvial erosion, and river corridor protection areas avoided? If new development is to be built in such areas, it should not exacerbate flooding and fluvial erosion.

Yes. Fairlee has a flood hazard and river corridor land use area that discourages new development in these areas.

b. Is the protection and restoration of floodplains and upland forested areas that attenuate and moderate flooding and fluvial erosion encouraged?

Yes. Upland areas are discussed as being vital to floodplains and wetlands throughout the Plan.

c. Are flood emergency preparedness and response planning encouraged?

Yes. There is a Floodplain and Resiliency section of the Plan that speaks to preparedness and response planning for flood emergencies, as well as a thorough discussion on past flood emergencies and how that has shaped Fairlee's response today.

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

The Two Rivers-Ottauquechee Regional Plan was adopted on July 26, 2017 and it will remain in effect until August 31, 2025.

The Fairlee Town Plan is found to be compatible with the Two Rivers-Ottauquechee 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-Ottauquechee Regional Commission that are in effect:

Barnard, Bradford, Bridgewater, Brookfield, Chelsea, Corinth, Granville, Hartford, Hartland, Newbury, Pittsfield, Plymouth, Pomfret, Randolph, Rochester, Royalton, Sharon, Stockbridge, Strafford, 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.**

This statement of objectives, policies and programs are found throughout the entire Plan, but more specifically in the Land Use chapter.

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; set 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; and indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests.**

The Fairlee Town Plan has a land use plan and two maps. The Current Land Use depicts the current land uses of Fairlee to show different land covers, conserved lands, the designated village, and surface waters. The Future Land Use map adequately shows areas where development is desired, and where it is not.

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 Transportation chapter and related map partly cover this. The map should indicate where the Park and Ride facility is located, as it is discussed in the text of the chapter.

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 Utilities and Facilities chapter, along with the Town Facilities map, address current town owned facilities. There is adequate discussion on the Capital Budget and Program. The Existing Energy Generation map shows transmission lines in the community.

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

The Natural, Scenic, and Cultural Resources chapter of the Plan addresses this through its goals, policies, and implementation actions. There is also a Natural Resources map that shows these areas.

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

The Education section of Chapter 2 addresses this. The public school system is mapped on the Town Facilities map of the Plan.

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

The Fairlee Town Plan has added a new implementation matrix as a way to identify action items and to assign them to responsible parties to implement over the life of the Plan.

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

This is addressed in the Relationship to Other Plans chapter.

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 chapter of the Plan was a great improvement, as it now includes the standards set forth through the Enhanced Energy Planning process. All of these elements are adequately addressed in the text and maps of the Plan.

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 chapter minimally addresses this. It is recommended that in future iterations of the Plan, expanded discussion and goals should be included to more adequately address the housing needs of current and prospective Fairlee residents.

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 chapter addresses this.

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.

There is a flood resilience element located in the Land Use chapter of the plan that addresses all of these concerns. There are also land use areas in the Future Land Use map of the Plan that points out flood hazard and river corridor areas.

CONCLUSION

Based upon the above findings, it is the conclusion of TRORC 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 or readopted and reviewed pursuant to these provisions, whichever occurs first.

DISCUSSION

TRORC 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 2020 Fairlee Town Plan is a remarkable improvement from the 2014 Town Plan. The new Plan is now concise and to the point on many issues. An implementation matrix, enhanced energy plan, flood resilience, and forest block and habitat connector discussion was added to the Plan in appropriate locations.

However, the Fairlee Town Plan could do with some minor improvements in the next iteration to further comply with state planning statute:

- The Transportation map should show where the new Park & Ride facility is located.
- The Housing chapter should expand its discussion on addressing low- and moderate-income housing needs. There is minimal discussion on modular and multi-family housing, and no mention of accessory dwelling units as an affordable housing option to residents.
- To fully comply with state planning statute, the childcare section of the Plan should be expanded to include financing and other prospective locations for childcare services to meet the area's needs.
- There is no section or adequate discussion on air resources in the Plan. While it is loosely mentioned in some sections, to fully comply with statute there should be a small section discussing air quality in Fairlee.
- While current Land Use policies in the Plan comply with smart growth principles, the name should be explicitly referred to, as well as the official principles in state planning statute.

Dated this 26th day of February at Woodstock, Vermont.

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