

To: Norwich Planning Commission, via e-mail enclosure  
Norwich Select Board, via e-mail enclosure  
Executive Director, Two Rivers-Ottawaquechee Regional Planning Commission  
Vermont Department of Housing and Community Affairs

From: Marcia and Colin Calloway, 17 Hopson Road, Norwich, Vermont

Date: July 24, 2017

Re: Comments on Draft Norwich Town Plan dated May 25, 2017

The following are comments submitted in response to the Norwich Planning Commission's Draft Town Plan.

With regard to the need for a town plan.

- **State law:** A municipality may have a town plan but it is not required. 24 VSA 4384(a)
- **Comment:** We do not disagree with the need for or importance of a town plan. We do disagree with the method by which the Draft Town Plan has been prepared.

With regard to "re-adoption" of the town plan which expired in 2016.

- **State law and Agency guidance:** Town plans automatically expire within a statutory time frame. "... Before the plan expires, the planning commission must review and update the information on which the plan is based. Using this information, the planning commission must then decide whether the plan is still applicable and relevant or whether a major change is needed. If the plan is still relevant, the municipality may wish to readopt it rather than develop a new one. The readopted plan must incorporate updated data and report on any changes in the status of implementation strategies. It also must any add any new required elements. The readoption process is the same as the procedure for adopting a new plan (24 V.S.A. section 4387). See Vermont Agency of Commerce & Community Development Dept of Housing & Community Development, THE MUNICIPAL PLAN: STATE PLANNING MANUAL, Module I, page 105, dated April 2017.
- **Norwich Planning Commission:** Decided to "re-adopt" the expired town plan.
- **Comment:** The statutes do not provide a mechanism for "re-adopting" an expired plan. A new plan must be created.

With regard to how a town plan should be created versus how the Draft Town Plan was created.

- **State law:** "...At the outset of the planning process and throughout the process, planning commissions shall solicit the participation of local citizens and organizations by holding informal working sessions that suit the needs of local people..." 24 VSA 4384(a), emphasis added.
- **Norwich Planning Commission:**
  - "Re-adopted" the town plan in the course of their business meetings between February and June of 2017.
  - State that "The Norwich Town Plan expresses a vision by the residents of Norwich for the future of their town." Page 1-5 of the Draft Town Plan.
- **Comments:**
  - "Participation of local citizens and organizations" in the creation of this Draft Town Plan was not sought. "Public comment" was limited to two minute comments at the start and end of each of their meetings.
  - The old town plan may have expressed the vision of Norwich residents prior to its adoption in 2011 but the Draft Town Plan cannot honestly make that claim in 2017.

- The intent of the statute is to allow public input at the outset of the process, not just after a town plan has been drafted and submitted for consideration.
- The purpose of law is to protect all people and ensure due process, which is notice and hearing.
- Statutes are not optional guidelines to be selectively followed when it is convenient to do so.

With regard to the expired 2011 town plan which the Draft Town Plan which purports to ‘re-adopt’

- **The Regional Planning Commission:** by comments made in 2013, the Regional Commission expressed concerns about the 2011 town plan. [See TRORC Enhanced Consultation: Town of Norwich 2013 – this is found on the Planning Commission website.] Their concerns included:
  - **Regional Commission concern:** There is a lack of specification of the types of commercial uses allowed in each Land Use Area.
  - **Norwich Planning Commission’s response:** Norwich will rely on “Site Plan Review Criteria and performance standards.” See ID.
  - **Comment:** The Norwich Planning Commission ignores the Regional Commission recommendation and instead proposes the use of a subjective criteria for each development project. This puts the onus on residents to remain constantly alert to the activities in the Norwich Planning Office, Planning Commission, Development Review Board, etc. The residents of Norwich deserve the peace of mind that specification of commercial uses would provide.
  - **Regional Commission concern:** The plan’s action items do not identify the specific municipal panel or group that would implement those items.
  - **Norwich Planning Commission’s response:** “A list will be in the Appendix at the end of document.”
  - **Comment:** There is no such list in the appendix of the Draft Plan.
  - **Regional Commission concern:** The Land Use Area designated as Village Center/Route 5 encourages sprawl. “Many of the land use patterns proposed appear designed to concentrate dense mixed-use development within the village center. But, the size of the area designated as Village Center/Route 5 is a concern because it appears to encourage village-scale commercial (including retail) development beyond the natural edges of the Village. The language regarding types of commercial land uses allowed in Land Use areas is fairly vague.” See ID., Page 3, Land Use.
  - **Norwich Planning Commission’s response:**
    - “The land use section of the Regional Plan and this plan are compatible.” See page 1-5 of the Draft Plan.
    - Norwich will rely on “Site Plan Review Criteria and performance standards.”
    - “This plan envisions the Route 5 corridor in Norwich as a suitable location for higher-density or –intensity uses, including commercial activities. ...” See Draft Plan page 1-6
    - Growth Centers should be designated:
      - “...such as the existing village and potential outlying hamlets, as locations where higher-density growth will be encouraged to occur.” See Draft Plan page 4-11
      - “Adopt zoning regulations that support development of mixed-use growth centers containing daily services to residences, thereby reducing transportation needs.” See Draft Plan page 10-8, and see Map 11 (enclosed) of the Draft Plan expanding the Village Center to include Route 5 South.
  - **Comment:** The Norwich Planning Commission
    - continues to recommend vague and subjective criteria for each development
    - incorrectly states that the Regional Plan and the Draft Plan are compatible, and
    - **continues to focus on “the Route 5 corridor” for high-density development, on growth centers or hamlets, and on mixed-use in those growth centers.**

## With regard to the importance of a town plan

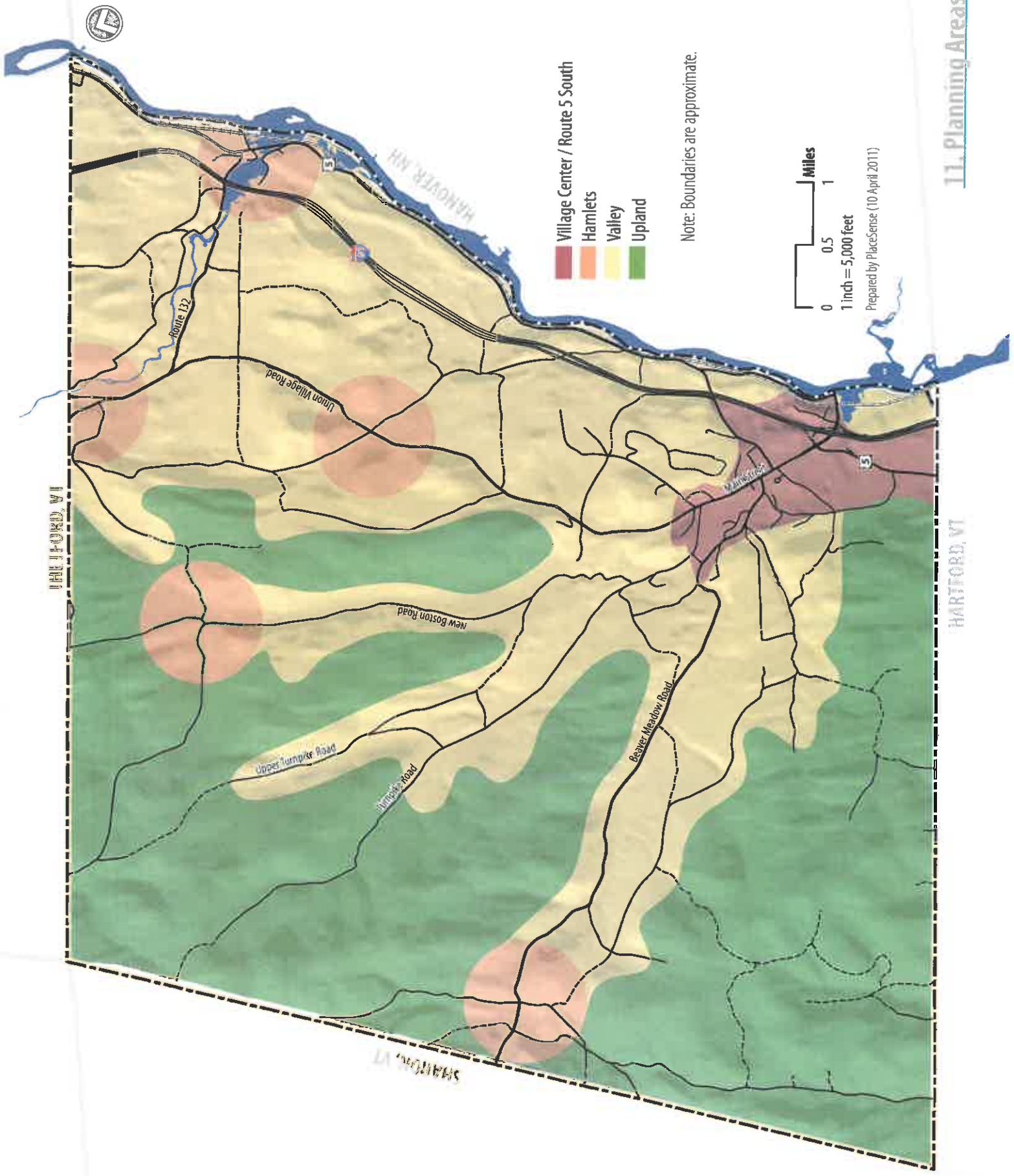
- **State law:**
  - Towns must have a current plan in order to adopt zoning regulations.
    - “Under the Planning and Development Act (24 V.S.A., Chapter 117), a municipality must have a current plan in order to adopt and update local zoning, subdivision and other bylaws.” Vermont Agency of Commerce & Community Development, Dept. of Housing & Community Development, The Municipal Plan: State Planning Manual – Module 1, Appendix 2, page 117, dated February 2017.
  - Town plans which are approved by Regional Commissions get certain benefits.
    - “Review for approval is NOT required, but there are certain benefits a municipality can receive if its plan has been approved. A municipality must have an approved plan to be confirmed. Confirmation is required for a municipality to receive state planning funds or levy impact fees on new development (24 V.S.A. section 4350). Id., page 103.
  - Town plans which are NOT approved by the Regional Commission lose planning grants.
    - “If a municipality’s plan is not approved [by the Regional Commission], the municipality is not allowed to levy impact fees on new development its borders under 24 V.S.A. chapter 131, and it is not eligible to receive municipal planning grants (except for grants to develop an approved plan) or grants from the Vermont community development program.” Id.
- **Norwich Planning Commission:** has repeatedly
  - warned about loss of benefits based on lack of a town plan,
  - stated that the Draft Plan would be required to bring the town in to compliance with statutes and Regional Planning Commission guidelines.
- **Comments:**
  - In fact, the expired town plan and the Draft Town Plan both recommend extending development from the Village to Route 5 South. This is in spite of the clear language from the Regional Commission that they could not approve the Norwich Town Plan:
    - “TRORC staff would be unable to recommend the Norwich Town Plan for board approval as it is written. In order to be harmonious with the Regional Plan, land uses outside of the natural village boundary would need to exclude principal or primary uses.” See TRORC Enhanced Consultation: Town of Norwich 2013, page 4.
    - “As it is written, the Norwich Town Plan and the Regional Plan conflict within parts of the Village Center/Route 5 Land Use Area. This conflict would manifest itself for any development proposed in this area that requires an Act 250 permit.” Id.
  - Although the Norwich Planning Commission has warned that failure to have a town plan will result in losses such as grants and tax benefits,
    - According to the Consultation report above, the old town plan did not have Regional Planning Commission approval and so would have limited the availability of grants.
    - No one has ever explained exactly what benefits have been lost since the plan expired in 2016.
    - However the explanation in the State Manual, above, would indicate losses would happen if development were to happen.

## Summary of Comments

- **The Town Plan being proposed by the Norwich Planning Commission puts Norwich at risk.**
  - The development of high-density mixed use “growth centers” outside the Village will change the character of Norwich. And, Act 250 protections might be lost – see State of Vermont information enclosed.
  - The Town Plan does not recommend a municipal septic system but does recommend ‘growth centers’ for high density mixed use. It suggests the possibility of agreements to connect to other towns’ wastewater systems. However liability cannot be contracted away. Norwich

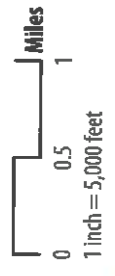
could be liable for the people who move to Norwich and rely on connections which subsequently fail e.g. due to lack of required gallons of waste, or non-renewal of municipal agreements, etc. See Hillerby v. Town of Colchester, 167 Vt. 270, 706 A.2d 446 (1997)

- **The Regional Commission does not support sprawling development outside the village center, and there is no evidence that Norwich needs, can sustain, or will benefit by, high/higher density/growth centers.**
  - Although the Draft Town Plan says Norwich will “continue to experience local forces of change such as population growth...,” population in the region is actually declining.
    - Between 2010 and 2016 the population of Grafton County, New Hampshire (where the most jobs are) dropped by 237 people. Source: Population Division, U.S. Census Bureau.
      - The college is not expanding, and the hospital has suffered well-publicized losses.
      - There is no guarantee or current evidence that the population of this area will increase or that new housing stock is required.
  - There is no guarantee that new residents will have children in the school system, and thus bring down the school tax.
  - There has been insufficient public input in the development of this Draft Town Plan and insufficient current data included in it, and it is inconsistent with Regional Commission policy.
- **The Draft Town Plan should have no reference to Route 5 South or to any other targeted area, and should not conflate the Village Center with Route 5.**
  - **The Regional Planning Commission warned in 2013:** ... the potential for sprawl and strip development along Route 5 beyond the interchange is high. ... In order to ensure the health of villages and downtowns within our Region and to remain consistent with the goals of Section 4302 (which explicitly call for a pattern of compact village and urban centers surrounded by open countryside), the Regional Commission has established the policy that: *“Principal retail establishments must be located in Town Centers, Designated Downtowns, or Designated Growth Centers to minimize the blighting effects of sprawl and strip development along major highways and maintain rural character.”*
  - The Norwich Planning Commission cannot simply designate Route 5 South as a “growth center” and thus ignore the Regional Commission and Section 4302 of the Vermont Statutes and thus create a sprawl from the village to Route 5 South.
  - The Draft Town Plan should be cleansed of all references to “high(er)-density/intensity housing” and “mixed-use commercial” and “designated areas” and “designated growth centers.”
- **The Planning Commission should gather current data, involve the entire community in meaningful ways, and create a Town Plan which will**
  - do no harm to the town of Norwich
  - thoughtfully plan how development can happen in natural ways which will retain the rural character of the entire town and still encourage ‘affordable housing’ throughout the entire town, and
  - omit language which will target specific areas for unequal development treatment.



- Village Center / Route 5 South
- Hamlets
- Valley
- Upland

Note: Boundaries are approximate.



Prepared by PlaceSense (10 April 2011)

## Program Benefits

The Vermont village center designation program supports local revitalization efforts across the state by providing technical assistance and state funding to help designated municipalities build strong communities. Once designated, the community will be eligible for the following benefits:

### Downtown and Village Center Tax Credits

#### 10% Historic Tax Credits

- Available as an add-on to approved Federal Historic Tax Credit projects.
- Eligible costs include interior and exterior improvements, code compliance, plumbing and electrical upgrades.

#### 25% Historic Tax Credits

- Eligible facade work up to \$25,000.

#### 50% Code Improvement Tax Credits

- Available for up to \$50,000 each for elevators and sprinkler systems and \$12,000 for lifts.
- Eligible code work includes ADA modifications, electrical or plumbing up to \$25,000.

#### 50% Technology Tax Credits

- Available for up to \$30,000 for installation or improvements made to data and network installations, and HVAC (heating, cooling or ventilation systems) reasonably related to data or network improvements.

### Priority Consideration for State Grants

- Priority consideration for various ACCD, VTrans and ANR grants and incentives including, ACCD's Municipal Planning Grants, State Historic Preservation grants, Vermont Community Development Program (VCDP) grants, VTrans Bike/Ped and Transportation Alternatives grants, Northern Border Regional Commission Grants, ANR Water and Wastewater subsidies and loans, and various other state grants and resources.

### Priority Consideration by State Building And General Services (BGS)

- Priority site consideration by the State Building and General Services (BGS) when leasing or constructing buildings.

### Neighborhood Development Area (NDA) Eligibility

- Communities may also designate Neighborhood Development Areas within 1/4 mile from the designated village center. Qualified projects are:
  - Exempt from Act 250 regulations and the land gains tax.
  - Eligible for, once designated, reduced Agency of Natural Resources review fees.



For more information, please contact:

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