

Norwich Planning Commission Special Meeting – July 25, 2023 6:30pm

To be Held in person in the Tracy Hall Multipurpose Room and via Zoom
Zoom Information:

Topic: Planning Commission

Time: July 25, 2023 6:30 PM Eastern Time (US and Canada)

<https://us02web.zoom.us/j/81307504748>

Meeting ID: 813 0750 4748

888 475 4499 US Toll-free

1. Approve Agenda
2. Public comment for items not on agenda
3. Correspondence
4. Planning Commission work plan – Priorities and process
 - Overview of plan and regs
 - Energy plan & solar siting [[packet => Act 174 overview](#)]
 - TRORC interaction [[packet => TRORC proposal for zoning assistance](#)]
 - Committees – current status and use of committees going forward
 - Selectboard & other town groups interaction
5. Planning Commission staff – Job description and hiring process
6. Planning & zoning files
7. Approve minutes of June 27, 2023 & July 11, 2023
8. Public comment
9. Adjourn

Introduction to the Act 174 Regional and Municipal Energy Planning Standards

What is Act 174?

Vermont has a long history of both land use and energy planning. As Vermont has experienced the growth in renewable energy generation as one of the state's largest new land uses, the need for integration of energy planning with land use planning has grown. Both the Governor's [Energy Generation Siting Policy Commission](#) (2013) and the [Solar Siting Task Force](#) (2015) recommended establishing a paradigm of enhanced energy planning integrated with land use planning. Informed by those recommendations, [Act 174 of 2016](#) establishes a new set of municipal and regional energy planning standards, which if met allow those plans to carry greater weight in the siting process for energy generation.

Integrated Land Use & Energy Planning

Towns and regions have experience with, and see the direct local impacts of, land use planning. This includes planning for shared and beneficial infrastructure of many kinds, such as roads and industrial and commercial developments. Energy infrastructure, including generators, similarly serves a public purpose, while also creating both costs and benefits that are not distributed evenly.

Energy planning is not just about electricity generation, however. Over half of Vermont's energy use is for heat and transportation, and local and regional decisions regarding buildings, roads, and other built infrastructure also have significant energy implications. For example, building a home or commercial building in a particular location will have implications for the energy required to travel to and from that building for decades. Given the pressing economic and environmental challenges associated with the use of fossil fuels, all aspects of planning must be undertaken with energy implications in mind.

Municipal and regional planning that addresses all of these factors will improve Vermonters' quality of life. Act 174 provides an opportunity for regions and municipalities – from the planning commissions and selectboards to energy committees and citizens – to shape and inform their own energy future, as well as the energy future of the entire state.

Voluntary Process

Act 174 expands the basic requirements for regional energy planning, but its primary thrust is voluntary: municipalities and regions which plan to the enhanced standard envisioned by the Act will receive substantial deference before the Public Service Board with respect to both land conservation measures and specific policies included in their plans, when the Board looks at the orderly development criterion. Municipalities and regions that do not have enhanced plans continue to receive due consideration for those plans.

In order to demonstrate that enhanced energy plans meet the bar for receiving substantial deference, the plans must be judged against a set of published standards. These standards are designed to allow municipalities and regions to show that their plans have taken a close look at energy in their community, have considered energy used for buildings and transportation, analyzed their current and future energy

use, and planned carefully in alignment with state energy policy for the land use needs of energy generation.

As is the case for all elements of regional plans, municipalities may adopt all or a portion of their regional plan as part of their municipal plan. However, because the roles of municipal and regional plans are different, there are distinct standards for regional and municipal plans that must still be met if this approach is adopted. It is anticipated that even if this approach is not taken, regions and municipalities will work hand-in-hand to develop complementary plans, and that regions will provide technical assistance (including analyses and maps that meet the standards) to their municipalities.

Substantial Deference

Substantial deference as defined by Act 174, and used in the Section 248 process, provides towns and regions a strong voice in determining where energy projects should, and should not, be sited. The Act defines substantial deference as: “a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy.” Note that this definition is more specific than that used in Section 248a proceedings regarding communication facilities (such as cellular telephone towers), which allows plans’ land conservation measures to be overcome by “good cause to find otherwise.” Substantial deference in the Section 248 process does not, however, mean that the municipal or regional plan carries the weight of zoning or permitting; zoning bylaws may not regulate projects regulated under Section 248.

Plan Review

The Department of Public Service is required to evaluate regional plans submitted for a determination of energy compliance against the standards published here. In regions in which the regional plan has received an affirmative determination, the regional planning commission is then expected to evaluate municipal plans. Municipal plans must have been approved by their regional planning commission in order to be eligible for an affirmative determination. Until July 1, 2018, municipalities located in regions that have not received an affirmative determination may submit their plans directly to the Department of Public Service for a determination. In the event of an appeal of the Department’s decision to deny a determination to a region (or, until July 1, 2018, a municipality), the Natural Resources Board will hear the appeal.

What are “Determination Standards for Energy Compliance?”

The attached regional and municipal determination standards are constructed as a checklist-based application form. It is the Department’s hope that by structuring the standards in this way, municipalities and regions will be able to clearly make the case for a determination on the same structure that the Department and regions will use to evaluate them. The standards measure whether the submitted plan meets the statutory requirements for enhanced energy planning and demonstrates local commitment toward meeting the state’s energy goals.

When submitting a plan for determination, a municipality or region will address each item on the checklist in turn, marking it as Yes, No, or (when available) Not Applicable. If Not Applicable is not available as an option, the standard must be marked “Yes” in order for the plan to receive an affirmative determination of energy compliance (unless the instructions under the standard itself indicate

otherwise). If Not Applicable is checked (when available), the region or municipality should provide a reasonable justification in the Notes column. The checklist provides an opportunity to identify the specific location(s) within the plan that the Department or region should refer to when verifying that the plan meets the standards. There is also an opportunity for the submitting town or region to provide additional explanatory notes.

Energy Element in the Context of the Whole Plan

Given the pervasive nature and impact of energy on other land uses and resources, and their impact on energy, the determination standards are generally considered to apply to the entirety of the submitted plan, not only to the energy element. For example, land use planning that guides future development has an impact on transportation energy use, so the determination standards need to review those land use elements. In practice, regional plans and municipal plans that have been approved by their RPC are likely to have many of the components outside of the energy element already in place, and most (if not all) amendments to meet the standards are likely to be made in the energy element. The review in the standards context will focus on consistency (demonstrated through cross-referencing) between the enhanced energy element and the remainder of the plan, which should also be of importance to planners in the context of how the plan will be used in the Section 248 process (which references “land conservation measures and specific policies”).

Standards Structure

The standards are divided into three parts: Analysis & Targets, Pathways, and Mapping. Analysis & Targets standards are meant to demonstrate the town’s or region’s understanding of the magnitude of the changes in the energy sector that will be required to meet the state’s energy and climate goals, and to create waypoints between the present and the planned-for future. Pathways, or Implementation Actions, provide an opportunity for the identification of specific strategies and actions to meet targets that are appropriate for regions or towns and consistent with the actions required to meet statewide goals. Mapping turns the attention to the overlap of energy infrastructure planning with land use planning in the context of the targets, including the generation potential for electricity and other useful energy from various sources. Plans are required to identify potential areas for the development and siting of renewable energy resources and are also expected to identify any unsuitable areas. This geographic analysis will enable the comparison of the energy that can be generated on potential and preferred sites with the energy required to meet energy goals over time. Given that siting decisions depend on the independent actions of developers and landowners, plans are expected to show that potential sites significantly exceed the required area to meet state goals.

Regional Energy Planning Underway

Each of the expected planning evaluation components is reflected in planning work already underway by the regions under contract to the Department. This work provides a foundation and a head start both for the finalization of regional plans and for municipalities as they begin their enhanced planning activity. The Department hopes that municipalities will work closely with their regions in order to increase consistency and compatibility and to reduce total planning effort.

As discussed below, the Department expects to publish guidance to accompany these standards shortly after final publication. In the meantime, text in *italics* in the standards provides context that will eventually move into the separate guidance document.

Importance of Plans in Net Metering

There is the possibility of a useful nexus between the municipal planning required for a determination of energy compliance and the [Public Service Board's proposed net metering rule](#) (PSB Rule 5.100), which will become effective at the start of 2017. That rule establishes a financial incentive for 15-500 kW generators to be located on preferred sites, and one of the ways a site may be identified as preferred is if it is identified in the town plan. Town-designated preferred sites may be one of the few pathways to develop projects larger than 150 kW. The combination of the updated Rule 5.100 and the mapping that towns will do as part of enhanced energy planning could give towns a significant ability to shape where net metering development happens. On a more general level, towns and regions that identify preferred, potential, and unsuitable sites will provide a green/yellow/red signal to developers regarding the challenges of developing on particular sites.

Recommendations

Along with the determination standards, the Department is also publishing a set of recommendations from the [2016 Comprehensive Energy Plan](#) (CEP), tailored to local and regional action. In order to receive a determination of energy compliance, a municipal or regional plan must be consistent with the "recommendations for regional and municipal energy planning pertaining to the efficient use of energy and the siting and development of renewable energy resources contained in the State energy plans adopted pursuant to 30 V.S.A. 14 §§ 202 and 202b." The "State energy plans" are contained in the 2016 CEP, but at the time of its drafting the CEP was not crafted with this use in mind. As a result, certain general recommendations that apply to all levels of government, and to the public as a whole, were not specifically identified as pertaining to regional or municipal energy planning. In order to address this mismatch, these standards are accompanied by this modified set of CEP recommendations, which are expected to be expanded upon in the guidance discussed below.

Future CEPs will have these recommendations integrated directly and identified specifically, at which point they will become more integrated with the standards. The state updates its Comprehensive Energy Plan every six years, while municipal and regional plans are updated every eight years. Town and regional planning conducted before the next CEP is developed (in 2021-2) will inform both the determination standards accompanying that plan and the recommendations of the plan itself.

Training & Technical Assistance; Guidance

Following the publication of the final standards and recommendations by November 1, 2016, the Department will produce guidance materials for municipalities and regions. This guidance will flesh out components of the standards, provide example strategies and actions, and include example plan text.

Act 174 provides funding for RPCs to provide technical assistance to municipalities which choose to pursue enhanced energy planning. This will include at least two training opportunities in each region. Regions will also be providing additional resources:

- Regions will provide town-specific analyses and maps that will enable municipalities to easily meet the Analysis & Targets and Mapping standards if used;
- Regions will be offering in-depth technical assistance to at least three towns apiece

- Regions will be compiling best practice language from those efforts, which will aid municipalities in meeting the Pathways standards.

Attachment A

Norwich Zoning Regulations Update

TRORC will assist the Norwich Planning Commission in revising the town zoning regulations and adoption process, including:

Kickoff Meeting

TRORC will facilitate a kickoff meeting with the Planning Commission to review the scope of work, develop a timeline, and answer questions.

Planning Commission Meetings

Eight Planning Commission meetings will be held to draft changes to the Norwich Zoning Regulations. At each meeting, potential changes to the regulations will be discussed and revisions made.

Desk-review of each bylaw

This will be a TRORC staff review and markup of the zoning regulations with suggested changes. This markup will be presented to the Planning Commission in a format that shows changes.

Revisions and Drafting (including maps)

Drafting will need to be undertaken throughout this process. Drafting may include, but is not limited to, adding additional provisions, revisions following meetings, adjustment of map boundaries, or the creation of new districts.

Public Forums

Four public engagement meetings will be facilitated to present draft changes developed with the Planning Commission. These meetings will provide an opportunity for members of the Selectboard and the public to comment on the process.

Notice materials preparation for public engagement meetings

TRORC will develop public outreach materials to be posted around town, in the local paper, and through other public communication mediums to notify residents of the public engagement meetings and the topics discussed at each meeting.

Final customized bylaw amendments and district maps

TRORC will prepare a map and text final draft for adoption.

Planning Commission prehearing run-through

A single virtual meeting will be held with the Planning Commission to review the hearing process and answer any questions they may have.

Planning Commission and Selectboard warnings and hearings

TRORC will prepare and place the hearing notice for the town, as well as attend each hearing. As part of the hearing outreach TRORC will prepare a 'cheat-sheet' synopsis of the changes for each town.

Hearing Notices and Mailings

TRORC will prepare the hearing notices, the bylaw draft, and the required reporting form, and will notice the hearings in the paper of record, as well as providing all notice documents to surrounding municipalities.

Public engagement notices

Covers associated costs with publicizing the public engagement meetings in the paper of record.

Print production/copying

TRORC will provide the town a single large 2'x3' format color map and small format color maps along with a master physical copy of regulation text. PDF versions of maps and text will also be provided.

The following table shows anticipated costs and hours per task. These are budget estimates and may change slightly during the project, but the tasks and overall budget will not.

Itemized Work Plan				
Task Description	Quantity (hours)	Material Cost	Labor Cost (hourly rate)	Total Cost
Kickoff Meeting	4		\$ 100	\$ 400
Bylaw Desk Review	20		\$ 100	\$ 2,000
Revisions and drafting (including maps)	50		\$ 100	\$ 5,000
Planning Commission Meetings (8 Meetings)	60		\$ 100	\$ 6,000
Public Engagement Meetings (4 Meetings)	24		\$ 100	\$ 2,400
Notice materials preparation for public engagement meetings	12		\$ 100	\$ 1,200
Planning Commission prehearing run-through	4		\$ 100	\$ 400
Planning Commission and Selectboard Hearings	12		\$ 100	\$ 1,200

Final bylaw amendment and district maps	12		\$ 100	\$ 1,200
Hearing Notices and Mailings	8		\$ 100	\$ 800
Hearing Notices and Mailings		\$200		\$ 200
Public engagement notices		\$400		\$ 400
Print production/copying		\$100		\$ 100
			Total	\$ 21,300

Norwich PC Minutes -7/11/23

Members Present: Ernie Ciccotelli, Vince Crow, Jeff Goodrich, Stuart Richards, Jaan Laaspere, Bob Pape, Kris Clement

Public: Mary Gorman, Joel Stettenheim, Troy McBride, John Cushman, Micheal Binder, Joy Kenseth, Linda Gray, Jenn Goulet, Signa Taylor,

Meeting Opened: 6:38 pm

1. Approve Agenda:

Goodrich moved, seconded by Ciccotelli to approve agenda

Motion passed 7-0

2. Public Comment:

John Cushman recommended that going forward the PC should include a climate impact statement with future siting decisions and urged the members of the PC to take their climate responsibility seriously.

Micheal Binder stated that the rules of the PUC have changed recently and that the current plan would not pass the current standards.

Joy Kenseth stated that she had submitted correspondence regarding the Upper Loveland solar project. She clarified that the plan iterations A, B, C, and D were shorthand labels and not assigned by NST. She also clarified that the final image included in the packet shows the changes from draft C to draft D.

3. Correspondence

a. Letter from Michael Hennesseyl

The Chair acknowledged that PC has received this letter and reminded the members of the PC that there is no action to be needed at this time and it is a pre-application letter.

4. Upper Loveland Solar Project – Question whether to reopen its designation of a preferred siting letters.

Laaspere stated he has met with town counsel, the RPC executive director and the chair of the SB to discuss the subject. He also stated that the permitting process for large solar projects like this is primarily the responsibility of the PUC

Laasper stated in his observations the PC can reopen the topic but it has to be for good reasons and specific reasons, as something must have changed since the application was completed and that new information needs to be reasonably likely to change the outcome, keeping in mind the purview of the PC as guided by the town plan.

Richards stated that, based on the information provided by the abutters of the project as well as NST, it would be in the best interest of the town to reopen discussion of the subject.

Richards moved, seconded by Ciccotelli, to reopen the discussion of the designation of the preferred siting of the Upper Loveland Solar Project so that the PC hear about the specifics of the project at a special meeting in two weeks.

Goodrich stated that when the original preferred siting letter was considered by the PC, the one criterion that governed the decision related to ridgeline considerations in regard to the town plan. He stated he abstained from the vote due to concerns of the development of the town plan. He stated he does not see substantive changes to the solar project and that it would be inappropriate for the town to reopen the discussion.

Clement stated that the PC is in a difficult position because the town plan and the Land Use Regulations are out of date, so they are difficult to practically implement. Because of this Our Town plan doesn't support a good method for a preferred site review

Goodrich stated that the town plan and the LUR are the rules and that the town plan will not allow us to reopen the discussions. He continued stating that the PC made a correct decision(noting that he abstained from the vote) regarding the letter based on the town plan.

Richards stated that the PC is here to make decisions that benefit the town and benefit the state and if we have a project that does or does not do that, then it needs to be evaluated from a rational point of view, regardless of the town plan.

Clement posed the question, under what basis could the PC approve or deny the siting letter, considering the fact that the town plan states that ridgeline would have protection, but the PUC said that it is not specific enough.

Laaspere stated that the town plan does not have the specificity to do the job it is intended to do, and that the law only gives the PC the power to take our town plan and compare it this project

Goodrich stated that the PC is obligated by law to adhere to the town plan and to use concerns moving forward to address the town plan and other regulatory considerations

Clement stated that there could be compromise on the plan and options to amend the plan that could be explored beyond discussion of rescinding the siting letter

Ciccotelli stated that forest blocks haven't been discuss regarding this process and stated that there is a sizable group of concerned citizens regarding this project and they should be shown that they are being heard.

Laaspere stated that the PUC discussed many of the details in great length and that information is available to review

Richards stated that the resident of Norwich may have a different take than the PUC and that the group of neighbors who have expressed their concern should not be ignored.

Crow asked for clarification of evidence of the PC's power to reopen the discussion.

Laaspere stated the in a letter from a PUC hearing officer there is a recommendation that a sitting letter can be changed if there is evidence that something substantial that has changed, that it has the reasonable likelihood of changing the outcome and that it is within the legal purview of the PC

Ciccotelli stated that as a legal principle there is always an appeal process. Even if the way to appeal is unclear there should be an avenue for appeal.

Brooke Dingleline, an attorney from Randolph representing the neighbors, stated that the facts of the project have changed significantly since the approval of the PC preferred site letter. The project expanded over the ridgeline and now covers a different site. She also stated that the law has changed and that the town plan is relevant to the decision and has clear protections. She questioned whether all of the information was submitted to the PC for consideration in a timely manner.

Mary Gorman stated that the plan has changed dramatically, moving down the slope, over the ridgeline, and closer to the abutter's houses. She also stated that the neighbors were not provided with all the information and that it was redacted.

Micheal Binder stated that the PC should consider that there are Jefferson salamanders living the area and the vernal pools on the proposed project site and that if the project moves forward it could potentially cause this colony to go extinct.

Joel Stettenheim, the president of NST and Norwich resident, stated that the PC and the SB was kept up to date on the information regarding the project and made its decision based on that information and that the PC had an opportunity to change its decisions and did not. He stated that there is a formal process and that NST followed it with the PC, SB and the PUC and reopening the siting letter now will upend the process. He also stated that no information has changed in over a year and half and that this has been reviewed thoroughly and that everyone has had a chance to be heard.

Aaron Lamperti, an abutter of the site, stated that every part of the project has followed the process and that any changes are normal for a project like this. He also stated that it an excellent use of the landct

Joy Kenseth, an abutter of the site, stated that there have been substantial changes to the project and that there are records that were not submitted to and reviewed by the PC. The initial plan showed that the panels were hidden by trees and above the treeline and the final plan moved over the ridgeline and towards the houses nearby.

Linda Gray, of Norwich, stated that she is a supporter of the solar project and that she has been in touch with the RPC and they did not intend to revoke their preferred sitting letter.

Jenn Goulet, an abutter of the site, stated that the project has changed from 2-3 acres to covering 8.3 acres and has moved significantly closer to the house and resulting in cutting down more trees. She

stated that she was in favor of the original site plan when it was under the power lines but now it worried about safety impacts of the residences.

Signa Taylor, of Norwich, stated that she supports the project and climate change is evident in Norwich and that solar projects should be a focus moving forward

Goodrich stated that town plan is clear that the issue facing the PC is whether you can reach a conclusion that the visual impact has been minimized from the certain vantage points. He agreed with the impacts on the abutters but stated that PC's power to act on those concerns are not in the town plan. He also stated that the current information does not show that there's been any material change that is going to affect the visual impact from public State highways, interstate or town highways, even though changes have been made.

Laaspere stated that state law that gives us certain abilities to influence what goes on in our town and that the tool the PC has to do that is the town plan, and because of current own plan is a very weak and vague tool it is difficult to use it to be specific and control what happens in the town. If the discussion is reopened there may not be much the PC can do to change the decision. He stated that the PC has had an amount of chances to reopen based on new information and chose not to.

Clement stated that reopening may allow amending the project to promote a compromise. She also questioned how the PC signed off on the letter if they were not presented with accurate information.

Ciccotelli expressed concern that this project could look bad for solar projects and negatively affect future projects. He stated that he supported the original plan as it was small area in a brownfield. He also stated that he understands the neighbors concerns and would like for them to be heard.t

Joy Kenseth expressed concerns that the changes of the project moving closer the houses and cutting down more trees will increase the chance of damage to the neighboring houses and create unsafe conditions.

Crow acknowledged that there were changes made from the original proposal but did not see how the PC could come to a different decision based on using the town plan.

Ciccotell stated that a post mortem of this issue should be included as a future agenda item

Richards stated that it makes good sense to have a second look to address the landowners concerns and that the town plan can address them.

Laaspere stated focus should be on making a town plan more specific and that can be more useful for the PC in the future

Laaspere called to question Richards motion

Motion failed 4-3 (No – Goodrich, Pape, Crow, Laaspere; Yes – Richards, Ciccotelli, Clement)

Laaspere stated that the PC will place a high priority on updating specifically the siting process the preferred solar projects and the energy chapter of the Town Plan. He also stated that fixing the town plan is the right mechanism for the PC to hear everybody

Goodrich proposed moving the remainder of the agenda to the next meeting. He also stated that he in touch with members of the RPC and they have offered to help the PC in the future regarding amending the town plan and LUR.

Clement stated the PUC has already made suggestions on changes to the town plan, specifically related to the Queechee test and language that is lacking specificity.

Goodrich moved, seconded by Ciccotelli, to adjourn the meeting at 8:51PM

Motion passed 7-0