



PLANNING FOR VERMONT'S FUTURE:
BUILDING A SYSTEM THAT WORKS

A REPORT FROM THE

**2004 SUMMIT ON THE STRUCTURE OF
THE PLANNING SYSTEM IN
VERMONT**

PRODUCED BY
THE VERMONT COUNCIL ON RURAL DEVELOPMENT
SEPTEMBER 2004

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Introduction

On August 11, 2004, the Vermont Council on Rural Development (VCRD) held a Summit on Planning at the Vermont Statehouse in Montpelier. Designed to evaluate the challenges before the planning system in Vermont and to propose potential solutions, the Summit featured facilitated roundtable discussions of key issues in the Vermont system of town, regional, and state planning. This Summit report documents the analysis and recommendations of 180 attendees representing members of the public, leaders in the Douglas Administration, Vermont planners, and customers of the planning system.

Participants pre-registered for Summit Work Teams to analyze challenges with the system and to build recommendations toward addressing these challenges in eight categories:

1. The Planning Structure in Statute
2. Vermont Goals and Vision for the Planning System
3. Not in My Backyard! Public Engagement and Commitment to Plans
4. Municipal Planning
5. Regional Planning
6. State Cross Agency Planning
7. State, Regional, and Municipal Development and Infrastructure Planning
8. The Implementation of Plans

Their transcribed testimony, brainstormed solutions, and priority recommendations make up the bulk of this report and will serve as starting points for the deliberations of the **Vermont Council on Planning**.

VCRD will institute the Vermont Council on Planning in September 2004 with a one-year mission. Based on inputs received at the Summit, and subsequent research, testimony and analysis, the Vermont Council on Planning will develop a set of structural recommendations to present to the Governor's Office, Legislature, and all concerned parties. VCRD will serve as the neutral manager, producer, and facilitator of this strategic planning process.

Most reasonable Vermonters recognize the need for planning to protect the State's remarkable assets—our environment, quality of life, heritage, working landscape, and social and cultural life.

Today we are also challenged by the global marketplace to also plan for economic opportunity and the development of assets.

How do and how should these two forms of planning work together?

There's also planning to ensure that the human and financial resources of government are coordinated effectively to meet the most pressing needs of the diverse municipalities and

regions of the state. How can that be done most efficiently? There may be no single final answer to this question—but can we do better?

Fifteen years ago, the designers of Vermont’s Act 200 sought to build something of a T—a vertical line of up and down communications and planning within and from municipalities, to the regions, and to the state, and a horizontal line between state agencies so that their services directly connected with the aspirations, visions, and democratic decisions made locally and regionally. There have been successes at all levels—have we achieved what we hoped?

What does the history tell us we should be working to accomplish now?

Today, planning is a core element of democracy in a complex and rapidly changing world. We are challenged to make democracy real, and as local as possible, and must work to build the future that we believe, by the best consensus we can manage, to be our common goal.

Our age of rapid change, environmental challenges, technological paradigm shifts, and economic and social disparities, makes planning for the efficient use of resources and the wise provision for future needs imperative—not a question of whether, but of how to do it best.

This Summit Report represents a compendium of perspectives and recommended actions put forward by participants at the 2004 Summit, and does not represent either the opinions or agenda of the Vermont Council on Rural Development. VCRD is a non-profit membership organization dedicated to the support of the locally-defined progress of Vermont’s rural communities. The Council is a dynamic partnership of federal, state, local, non-profit, and private leadership. Actively non-partisan with an established reputation for community-based facilitation, VCRD is uniquely positioned to sponsor and coordinate collaborative efforts across governmental and organizational categories concerned with policy questions of rural import.

The reader will find a diverse mixture of ideas, challenges, and recommendations “on the table” in this report—some duplicated between Work Teams, some in contradiction with each other, and many that may prove impossible to answer. This report does not pretend to be a strategic plan. This review of the structure of the planning system is not done; it is a starting point for consideration of critical issues around planning for Vermont’s future, and in particular for the work of the **Vermont Council on Planning**. That group will be charged to systematically develop a set of strategies to address the challenges articulated by the Work Teams by testing these ideas, consolidating them, and focusing on realistic structural change.

With all their variety of perspectives, all Summit participants seemed to agree that Vermont could improve the structure and outcomes of its planning system; VCRD and the Vermont Council on Planning deeply appreciate the partnerships represented at the Summit and will look to you for additional input, advice and support through the next year.

Summary of Recommendations

General

- Vermont should create a positive planning process that is long-term, has models of, and incentives for, good practices, and connects land use planning with economic development and infrastructure planning.
- The State needs to commit significant resources, human, financial, political, leadership, educational, and administrative, to fully realize the benefits of planning for the long-term quality of life of Vermonters.
- Vermont has built goals into Act 200 based on assumptions about the current consensus vision of compact village centers surrounded by countryside and forest. It is time to evaluate those assumptions, to consider alternatives, and to fully recognize the costs, benefits, and consequences of planning to maintain that vision if indeed Vermonters choose to do so.

Act 200

- Vermont needs to revisit, revise, and activate the goals and provisions of Act 200. The three coordinative structures in statute, the Council of Regional Commissions, the Development Cabinet, and the Office of State Planning, should be re-evaluated to rejuvenate state agency planning and statewide planning and coordination.
- Vermont should reinvigorate Act 200 incentives that link planning (meaning communities with regionally-approved plans) to state permitting and funding decisions.
- In addition to the 13 planning goals set by Act 200, municipal and regional plans should evaluate the positive and negative economic impacts of growth proposals, the interactions between all the planning elements, and emerging technologies and future opportunities.

Municipal Planning

- When their plans meet the defined criteria for high quality plans, regions and towns should be given increased decision-making authority.
- The structure and expectations for municipal plans needs to be decided, modeled, and understood so Vermonters have a common vision of where to go in the development of plans. This structure should provide the context for permit decisions. Good planning will make permit reform work.

Regional Planning

- The State of Vermont should provide the Regional Planning Commissions with a better ability to evaluate and coordinate planning efforts by strengthening their

authority to make decisions. The lack of real authority by RPCs, and the general distrust of regional efforts (and reliance on local control), needs to be systematically evaluated and addressed.

- Vermont should build coordination between local and Regional Planning Commissions.
- Vermont should systematically improve coordination between the Regional Planning Commissions and state agencies.

Coordinated Agency Planning

- Vermont should recreate a centralized planning office (Office of Planning) under the Governor's office and develop a unified vision to coordinate planning in Vermont. This office should provide research and analysis, support best practices, and coordinate, facilitate, and inform the Executive and Legislative branches
- Before agency plans are finalized they should be circulated for review and comment across all agencies. Someone at the staff level in each agency should be made responsible for the coordination of plans with other agencies. The Development Cabinet should be used when more aggressive coordination is needed or for dispute resolution.
- Agencies should assign staff to review local/regional plans and send staff to meet with local/regional boards on a regular basis.
- Vermont should evaluate the benefits of a 4-year Gubernatorial term.

Education and Training

- Vermont should develop training and education at all levels for outreach, communication, and negotiation skill development including mediation, conflict avoidance, and listening skills. A partnership to support community capacity would unite state, private, and non-profit educational resources to provide training to all levels.
- A statewide information campaign led by the Vermont Council on Planning should emphasize that planning is a good thing and, when done properly, encompasses economic development, environmental, and social planning.
- Vermont should determine a best practices model of "high quality" local & regional plans and provide local, regional and state planning with hand-on assistance, professional development, and training in research and the use of planning tools.

Team 1; The Planning Structure in Statute
What is the relationship between the system of planning in Vermont today and the intent of Act 200 legislation?

A. Challenges between Statute and Practice

- **Council of Regional Commissions (CRC):** The Council of Regional Commissions (CRC) is critical to the Act 200 process; however, it has not met for several years due to lack of funding. It should be re-instituted, and could work with participation from state agencies and by having two staff members dedicated to it. Volunteers should not be saddled with this work because they don't have the time or resources to do the job. It may be necessary to restructure the CRC so that it becomes more effective and functional.
- **Confirmation Process:** The confirmation process as currently exists doesn't always work. Its difficulties include: 1) conformance with regional plan...how do you do it? 2) conformance with other local plans...why use communities that aren't adjacent to the community under review? 3) "enforcement" doesn't encourage planning, it creates broad plans because communities are afraid the plan will be used against them.
- **Coordination Of Planning Efforts:** Leadership from the Governor and Legislature is needed for effective coordination between state and municipal planning. State agencies lack adequate resources to plan effectively, and a disconnect exists between the state and municipal levels, especially related to state policy and municipal impacts. State planning currently happens outside of Act 200.
- **State Agency Planning:** Is the state carrying out its planning efforts and support role as defined in Act 200? Planning by state agencies is happening, but it isn't coordinated and it lacks the local conformance piece set up by statute. There is no *comprehensive* planning among state agencies. Part of the reason is lack of resources. Act 200 promised that state agencies would pay attention to regionally-approved municipal plans, but this does not appear to be happening. Leadership and vision by the Governor and Legislature is needed for effective state planning. Resources follow leadership.
- **State Leadership of the Regional Planning Process:** The state needs to provide planning leadership to assist regional and local planners with technical issues, such as housing; to provide direction on local plan issues, such as conformance; and to provide locals with data so they have adequate support to build municipal plans. It was strongly recommended that the state provide planning leadership even if an office of state planning is not feasible. Who prioritizes what is important across the state? Act 200 does not consider local/regional differences. Who determines "commensurate with its impacts" – the state agency doing the planning or the local community impacted by the policies and programs? Also, concepts like growth centers were defined at a state level, but the definition wasn't accepted so the concept isn't being implemented effectively.

- Regional Plans and Planning:** Regional commissions are an important bridge between state agencies and municipalities. How those commissions should operate, the level of authority they have, and whether to strengthen that authority are important questions. Regional commissioners might be disconnected from the local planning process if they are not on local planning commissions, and some commissions might need to develop and implement conflict of interest policies to balance the interests on their boards. Regional Planning Commissions, being creatures of the municipalities, sometimes have trouble really thinking regionally. Their role may need to change given the breadth of work they take on, from simply helping communities with municipal plans and zoning to planning for transportation, emergency management, hazard mitigation, brownfields, watershed and natural resources, and so forth. Creating a stronger link between local and regional plans would provide more authority for RPCs.
- Incentives:** Incentives are weak for master planning at the regional level, growth centers, and downtown projects. Should regional commissions have Capital Improvement Programs that help to prioritize state investments and incentives as a way to prioritize projects among communities and encourage participation in the regional planning process? Should RPCs be given a say in how funds are spent to encourage local citizens and communities to participate regionally? It was envisioned that regions could set up committees like the Transportation Advisory Committees (TAC) for other areas of planning at a regional level, such as natural resources. Should there be regional coordination of infrastructure, public safety, etc. through an enforcement mechanism? It was noted that a Council of Government structure was under discussion in Chittenden County, which might provide a model for changing RPCs.
- Local Plans And Planning:** Making local planning effective is a major challenge. Getting citizen buy-in for municipal plans can be difficult; zoning bylaws are often copied from other towns or not updated on a regular basis (Chapter 117 changes should help with this); a disconnect exists between those involved in the built and natural environments; and local plans are not always implemented. Vermont's small scale means that cumulative impacts are the biggest threat. The Molgano decision threw Act 200 into a tailspin because it determined that if a municipal plan was too vague, bylaws should be looked at to determine the community's desires. However, the plan is a policy document while the bylaws are regulations for implementing those policies. It would be helpful if there were town-level sustainability studies that could be translated into local plans. A model plan could be created for municipalities with no plans, or municipalities could adopt the regional plan as the local plan. People need to understand the importance of participation at the local planning stage. It would be helpful to have communities learn how to implement plans through tools other than regulation. Should the 5-year requirement of plan revision/adoption be changed for longer term? Does it create plans/planning that is *too* malleable? There are various levels of planning, with "can dos" and "must dos."
- Statute Changes:** Future statute changes could effect three main areas: addressing state goals, insuring a connection between Act 200 and Act 250, and public and private incentives.

- Current statute is missing a goal related to economic development. This is implied through other goals and some communities address it anyway, but it needs to be articulated outright.
 - Social equity is also missing. It was noted that the goals are difficult to address, especially by small communities. One example is energy, which may be a regional rather than local issue.
 - In addition, the goals ask communities to address many things, and some of these things are starting to get technical. Local and regional planners don't have the expertise or resources to address all the issues, such as forest fragmentation. "Address the goal" was meant to help the "one size fits all" nature of the statute, which puts regional commissions in a tough position on conformance. Do we need something new? There is no assessment process to identify mistakes, such as the creation of transition zones.
- **A state office of planning** could help to address the Act 200 and Act 250 disconnect. Act 200 is disconnected from the developer/private sector, which knows Act 250 but not Act 200. There is a need to broaden the process to fix this disconnect. It was noted that locals don't always invite developers/private sector to participate because of the inherently adversarial nature of the planning process, which includes checks and balances. Commitment and trust are missing, although they could be created with inclusion and leadership. A connection is needed between the plan (the framework) and permits (the rules). Planning is linked to commerce through permitting and regulations, but a stronger link should be developed between plans and implementation. Act 200 needs reaffirmation so folks know what is in it and why it is there. The authority (at an RPC level) for coordinating for consistency and compatibility should be increased. Several people wondered if good planning could be accomplished with a two-year Governor and Legislature.
 - The **incentive program** offered to municipalities by Act 200 is a promise unfulfilled. Under Act 200, a confirmed municipal plan meant that state agencies had to pay attention to the plan. Because a carrot denied is a stick perceived, this incentive is no longer implemented. It needs to be either changed or implemented. Act 200 requires state agency plans; the statute should be changed so that state plans are required to address specific elements and are provided with the resources to do it. It was noted that lowering the cost of permitting in areas you want developed is an incentive. It was observed that funding incentives come from the state to municipalities and the private sector, and asked if towns actually initiate development. Public investment in public facilities can encourage development in certain areas. Should the statute be changed to link state infrastructure money with planning and plan implementation?
 - **Education:** A statewide educational process is needed to help people understand the connection between land, water, and public health, and that planners recognize that regulations interfere with commerce. The job of a planner is to consider the impacts vs. the public benefit. Planning usually describes what a community doesn't want done; it should also describe what a community *does* want done.

- Formal educational opportunities for planning are needed, and it would be helpful to encourage educational institutions to have planning curriculums, especially for municipal planners. It was noted that we don't celebrate planning and we should; the job is difficult locally, and planning is important.

B. Priority Recommendations

- 1.** Reinvigorate Act 200 incentives that link planning (meaning communities with regionally-approved plans) to state permitting and funding decisions.
- 2.** Provide leadership from the Governor's office to re-evaluate the three structures (Council on Regional Commissions, Development Cabinet, and Office of State Planning) already in statute and rejuvenate state agency planning and statewide planning and coordination.
- 3.** Provide the Regional Planning Commissions with a better ability to evaluate and coordinate planning efforts by strengthening their authority to make decisions.
- 4.** Facilitate municipal planning curriculums in higher education, such as creating an institute for municipal and regional planning.

Team 2: Vermont Vision & Goals
**Who and what are we planning for? Rural or Urban? Do we
have a clearly articulated state vision?**

A. Challenges to Vermont Visions and Goals

- Many Vermont communities lack zoning.
- The State is faced with steady population growth.
- It is difficult to build meaningful and consistent public involvement in planning.
- Land use planning does not take into consideration viable agricultural businesses (meaning farm business profitability may not relate to an open working landscape goal).
- Vermont has concentrated on preserving the view and not the business.
- Planning has focused on preservation, not public facilities, infrastructure, or meeting the needs of dynamic communities.
- Vermont needs to balance protecting rural communities and planning concentrated growth.
- Vermont has relied on “one size fits all” planning which ignores the realities of the State’s growth and the scale questions that Vermont needs to face.
- Regulatory controls are frustrating barriers for some.
- State decisions in regulatory matters sometimes contradict the local decisions supported by the current planning structure.
- On the other hand, planning sometimes reacts to the market place instead of the informed decisions of the community.
- It is difficult to know how to say yes, without sacrificing plans.
- The missions of state agencies, particularly the Agencies of Commerce and Natural Resources, can be contradictory and lead to complexity in the implementation of projects.
- Vermonters need to develop a vision that includes everyone in the process and builds commitment.

- Plans need to be realistic so that Vermont keeps up with the pace of change.
- Land use planning processes are currently disconnected from economic development discussions or plans.

B. Summary of Challenges

- There is no process for creating a consistent vision between local communities, regions, and the state. Education, communication, and involvement are needed in the process.
- The planning process is not an integrated one. There is no balance, today, between land use and economic development.
- A review of questions around the appropriate scale of planning is needed. One size does not fit all. Rural and urban values and needs are different, and appropriate planning instruments and outcomes should be differentiated.

C. Potential Solutions

- Vermont should commit resources of money and staffing to improve the capacity of the planning system and to develop community leadership.
- Vermonters should work together to create a “positive” planning process. Values need to be represented. Models that work need to be shared and replicated. Outreach is needed to encourage the inclusion of under-represented populations.
- Vermont should create a planning “Tool Box” for communities to use.
- The State should test the value of compact centers surrounded by open countryside. Is there long-term social and economic value?
- We need to define the issues in the structure of the planning process and then decide at what level they should be addressed--local, regional or state.
- Vermont should create incentives for people to live in compact centers.
- The State should integrate planning so that town, regional, and state agency plans work effectively together.

- An entity should be developed to work on recommendations and develop an implementation plan.

D. Priority Recommendations

1. Commit significant resources, human, financial, political, leadership, educational (all levels), and administrative to improve the planning process.
2. Create a positive planning process that is long- term, has incentives for good practices, and connects land use with economic development.
3. Create a means to test assumptions about the current vision of compact village centers surrounded by countryside and forest. Look at what the alternatives, cost, benefits, and consequences are as a way to focus resources.

Team 3: Not In My Backyard! Public Engagement and Commitment to Plans

How can Vermont ensure that the planning process gives real power to the public and elevates planning in advance of projects?

A. The Challenges of NIMBYism

- Public participation in planning process is often limited, and public reaction may not come until particular projects hit the table that will have a direct impact on individuals.
- Some people feel powerless to make change, at the same time they fear the loss of local control of development. Communities lack outreach and training programs to encourage public participation. This can lead to a lack of participation and buy-in at all levels – state/regional/local.
- There is no consequence for not participating in town planning.
- Sometimes, pre-determined issues preclude real public voice in decisions.
- Due to the nature of long-term projects, the relationship of incremental progress of the issues is not fully understood, and their impacts are not easily seen.
- NIMBYism shows failure of the planning process and communicating the plan. Maybe the plans are not specific enough.
- Some planning is soft; there's a lack of clear definition, "wishy-washy language", and the use of 'may' rather than 'will'.
- There's a lack of information and the tools to make proper planning decisions (training is needed for RPC and local planning commission staff).
- There's a need for statewide planning that frames and responds to local decisions—right now there's a lack of coordinated statewide planning.
- Many plans lack specificity, partly because of the complex issues and diverse levels of community expertise, partly because planners lack comfort with opposition and avoiding specifics is easier politically. In effect, this is conflict deferral: getting to yes in the community, for fear of getting real in ways that would say no to neighbors.
- The planning that is done is often accomplished by very few people in the community (1% or 2% of population).

- Planners and zoning administrators do not always connect in advance of plan development and local planners may not be trained in the process of building community dialogue in advance of setting plans.
- Lacking a positive presentation of planning, people view concrete vs. abstract issues differently.
- Because of Vermont's 2-year gubernatorial term, long term planning with the Governor's support is very difficult.
- Planning lacks "power". If the Governor identified planning issues as among his priorities in the State of the State Address, then they would have more clout.
- Currently, planning lacks a framework to guide municipalities (the state does not consistently communicate what the local level can or cannot do).
- State planning policies are established without inviting Regional Planning Commission and local planning board members into the process, and the business community is not participating in the planning process up front.
- The changing demographics of Vermont communities, from primarily native-born to primarily immigrant, set new expectations and new potentials for conflicts.
- Regional planning has to be more independent from local municipalities for RPCs to make decisions.
- Regional Planning Commissions have enhanced roles but not increased resources.

B. Summary of The Challenges

- Planning is done in generalities; townspeople engage less in planning and more in resistance to particular projects proposed.
- The State needs to establish a framework of planning – laws and regulations defined by the State to build consistency.
- Many people feel powerless when it comes to planning.
- The current endless appeals process discourages public involvement.
- Civic engagement and community itself is diminishing (town meetings are fading in attendance; people are avoiding conflicts and using Australian ballots to vote on issues).
- We've built an overemphasis on local planning at the expense of state planning.

- The two-year gubernatorial term discourages long term planning commitments at the state level.
- There has been a lack of leadership at state level to drive planning.
- There is a perceived lack of consequences in the planning process that has led to a lack of public participation.
- Regional Planning Commissions do not play a strong enough role in connecting a state framework to local plans.
- Regional Planning Commissions lack resources; their responsibilities have become too broad.
- The business community needs to participate more in the planning process.
- State and local officials lack training in how to engage the public.
- People need to get involved in the town planning process.
- There's a lack of consensus about the value of planning.
- There's a lack of resources - human & financial capital - at all levels of planning
- The lack of outreach and communication limits public engagement (people don't just pick up on a notice the first time, they may need to hear about it 10 different ways or 10 times).
- There's a fear about decisions made at the state level—a perception of top-down control.
- There's also a fear about making tough decisions at the local level—neighbor won't like me..
- Planning language needs to be clear and offer real examples.
- There's a lack of coordinated state leadership/vision to implement a system of planning

C. Potential Solutions

- The Governor should raise the importance of planning at next State of the State address to show he is behind the process.
- Vermont should create a centralized planning office (Office of Planning) under the Governor's office and develop a unified vision to coordinate planning in Vermont.

- Vermont should develop training and education at all levels for outreach and communication/negotiation skill development/mediation/conflict avoidance/listening. Vermont should use statewide private and public educational resources to provide training to all levels (state/regional/local) of planners, i.e. experienced RPC staff, Center for Rural Studies, Snelling Center, VT League of Cities & Towns, and the “Land Use Education & Training Collaborative.”
- At all levels, Vermont needs to systematically encourage public engagement earlier in the planning process.
- Towns/communities should hold regular public forums on specific local topics (wind towers, housing, solid waste management). These can be taken right out of the current town plan language.
- The language in town plans needs to be made more specific.
- Vermont should establish a web-based clearinghouse with examples of by-laws, findings of fact, case studies, and samples of actual plans that planning boards and Regional Planning Commissions can refer to and use.

D. Priority Recommendations

1. The Governor should raise the issue/system and importance of planning at next State of the State address to show he is behind the process of systematically improving the structure of planning in Vermont.
2. Vermont should create a planning office (Office of Planning) under the Governor’s office and develop a unified vision to coordinate planning in Vermont.
3. Vermont should develop training and education at all levels for outreach and communication/negotiation skill development/mediation/conflict avoidance/listening. Use private and public educational resources to provide training to all levels: state/regional/local planners, with leadership from experienced RPC staff, the Center for Rural Studies, the Snelling Center, VT League of Cities & Towns, and the “Land Use Education & Training Collaborative.”

Group 4: Municipal Planning

What would make town plans decisive and actionable?

A. Challenges to Effective Municipal Planning

- Currently, town plans must be updated every five years.
- There's no zoning in town plans--Act 250 points to Town plans as too ambiguous. Residents often consider plans too specific.
- The life of a town plan needs extension; it should be 10-years, perhaps offset by an easier amendment process.
- The town plan is supposed to be a vision – but with enough specifics to meet the needs of regulators – it should be used for contingency; what would be the trigger?
- There are too many requirements of town plans for them to really be implemented.
- Zoning regulations – interim regulations plus the town plan creates inconsistencies, plus the chicken and egg question of what came first.
- Who can we hire to develop good plans? Better question is census – who and what is out there to help us?
- Town plans need to be more actionable.
- Towns need more professionally trained planners.
- When the drafting of plans and bylaws is done with paid technical assistance it still leaves the implementation to unsophisticated laypeople.
- One size does not fit all. The town plan of an urban community is radically different from that of a rural town. Urban values are sometimes applied to rural communities by the “professionals.”
- There can be a tension between what the community wants and how that fits with regional and state desires.
- Reviews of town plans by Regional Planning Commissions and the Department of Housing and Community Affairs don't really provide much feedback.
- Every town struggles with how to make the town plan a consensus-building tool.

- In the 1970's, SCS had a handbook for lay people – and did an inventory of actual resources.
- Overall, since Act 200 Vermont has a better level of planning and the 13 elements require a comprehensive focus, but it's a burden for poorer towns.
- Support to municipalities from the RPCs is inconsistent in Vermont.
- Why do some towns use their town plans and others leave them on the shelf?
- It takes a serious effort to get people out to meetings; when planning discussions seem too vague, no one comes.
- Plans should entail specific action – that gets people's attention.
- Development Review Boards have an important role to play – zoning laws written by Planning Commission don't always work – their Chairs are sometimes overwhelmed.
- On the other hand, communications with the DRB can be complex.
 - In Jericho – DRB, Planning Commission, and Selectboard meet twice a year.
 - Colchester now has a DRB – this frees up the Planning Commission to plan.
- Reasonable standards for plans are needed.
- Municipal plans don't always look at the zoning changes needed to make them work—there's a disconnect.
- Technical assistance could help towns build realistic goals.
- Good plans with good zoning could exempt certain activities.
- Towns need more and better technical assistance for zoning.
- Town plans are often seen as static – people get disenchanted and Planning Commissions don't revisit plans on a regular basis. Plans need to be living and need to be able to take elements in phases.
- Conditional uses complicate plans and processes.
- Some see zoning as nothing more than a redistribution of wealth – giving away something to someone who hasn't earned it.

- On the other hand, municipal planning is critical in the preservation of town assets.
- The State Supreme Court plays a role in interpreting state law, while the Environmental Court is making case law.
- While one size may not fit all, there needs to be consistent language definition, i.e. a conservation district means agriculture in another area.
- Should we eliminate the need for Regional Planning Commission approval for local plans?

B. Summary of Challenges

The team recognizes the value of what we already have accomplished in Vermont:

- The key elements identified as goals in Act 200 are still valid.
- The coordination of state agency plans is valuable and needed.
- The coordination of state and regional plans with local plans will be extremely useful to municipal planning if done correctly.

With consistency from one to the next, with carefully defined vocabulary, and with stability through time, this coordination will give each Vermont town control over what it wants to become.

C. Priority Recommendations

1. A statewide campaign led by the Vermont Council on Planning should emphasize that planning is a good thing and, when done properly, encompasses economic development, and environmental and social planning. Comprehensive planning is a great tool to bring people together, involve them in developing common goals, and is an opportunity to inform and build citizenry.
2. Phase 2 permit review is planned: good planning will make permit reform work. Comprehensive planning provides a context for permit reform. Municipal planning needs coordination at local, regional and state levels so we have a vision of where to go—it provides, then, the context for permit decisions.
3. Vermont needs to revisit, revise, and reinvigorate Act 200, and reinstate the Office of Policy Review.

Group 5; Regional Planning

What is the purpose and authority of the regional plan?

A. Challenges to Regional Planning

- There needs to be better cooperation between local planning and regional planning. Local planning is often at cross-purposes with Regional Planning Commissions (RPCs) and with neighboring towns. RPCs often spend more of their energies helping towns that don't have paid planning staff.
- The RPCs have been ineffective at regional land use planning; they do a decent job of helping towns with specific projects, but regional land use plans are usually just a compilation of all the town plans. Towns have not wanted another level of regional government, so there is essentially no regional land use planning.
- It can be hard for town members to break out of thinking about local issues and focus on more regional issues. RPCs don't want to impose their will on towns. Has regional land use outlived its usefulness? Who is balancing all the needs of the diverse towns?
- Perhaps RPC board members should also be members of their local planning commissions.
- In many towns, it's hard to find anybody to be on the local or regional planning commissions. For example, in some towns without Development Review Boards, the Planning Commission meetings are very time-consuming, and asking people to participate on RPCs and with Environmental Board decisions makes it even more so.
- There is a political tradition of strong local control in Vermont. Currently we have an equilibrium we're living with between local control and some regional/state help. Act 200 moved planning a little more toward RPC governance, but there was a backlash. RPCs don't have any authority, and there is not much county government either, leaving authority to the towns and state.
- It's hard to form cohesive regional plans when the towns in each region are so different (e.g., poor/rich towns, ski towns, growth towns, etc.)
- The change in the statewide property tax has relieved some pressures on what type of growth to encourage in South Burlington. If South Burlington could work more with Milton and others in the region, there could be better site establishment for certain land uses, e.g. industrial ones.

- State funding of RPCs has not grown for many years, so the RPCs have taken outside funding that must be used for special projects. As a result less time is being spent on policy and planning – their previous core work.
- There is inadequate communication between RPCs and state government.
- There also is not enough input from local communities and RPCs on Environmental Board decisions. Some RPCs have hosted seminars on how communities can get involved in Act 250, with little attendance. The RPCs have criteria about when they will get involved in an Act 250 case, and they will assist a community if they need it. There is a time or intimidation problem with getting involved in the process for some towns. If the Environmental Board gets no input from communities or RPCs on criterion 10 regarding compliance with the town or regional plans, the EB makes their own determination. Sometimes local Selectboards are not in agreement with Planning Commission decisions, which can also make participation difficult.
- There is a schism between Acts 200 and 250. Other than criterion 10 in Act 250, we are building plans under one set of rules and making decisions about land use under another set of rules.
- Town plans and bylaws are often inconsistent with each other. Plans must be reviewed every five years, but changes to bylaws require approval from the voters. Many bylaws have not been changed since the 1970s.
- Does Vermont have an agreed-on vision for land use? Some felt that many see the vision as traditional cities and towns surrounded by countryside, but there is no specific vision regarding items such as cell towers and wind turbines. There is pretty universal acceptance now of the Act 200 goals, which wasn't the case when Act 200 started.
- Does the potential for changing the Governor and administration every two years hamper regional planning work? Some felt if you have a vision that comes from the grassroots, similar to what Act 200 was striving for, the change of administration is not as important. Others felt that issues of public good (e.g., cell tower siting, preservation of regional resources) need guidance from the state that doesn't currently exist.
- The Agency of Transportation has coordinators that work with the RPCs on each specific transportation project. This is a good model of interaction between the RPCs and a state agency. The Agency of Natural Resources is starting to move toward that type of model, and the Department of Housing and Community Affairs does not currently have enough staff.
- Solid waste may grow to be a bigger problem in the future.

- Perhaps regional plans should be the place where all the other types of plans (e.g., emergency plans, energy plans, etc.) are combined.
- Universal broadband access is a concern of the RPCs, but funding to make progress on the issue is a problem. The next step is to take the discussion to the local boards. Most RPCs don't yet have a plan for cell towers. The private sector won't share its needs with the RPCs, so the RPCs need help from the state to get that information. RPCs need information about what the industry needs early on, but currently it comes too late in the planning process. Also cell towers and wind turbines are new technologies that RPCs don't always have the capacity to fully understand. There is a need for on-going training within the RPCs on these issues and others, such as new septic systems, knowledge of soils, and energy options.

B. Summary of the Challenges

- The challenge of coordination between local and regional commissions.
- The lack of RPCs' real authority, combined with distrust of regional efforts (and reliance on local control).
- The challenge of effectively coordinating regional planning with state agencies.

C. Priority Recommendations

1. Build systematic coordination between local and Regional Planning Commissions.

- RPC members should also be on their local planning commission, and should carry information from the regional level back to the town, and from the town level to the region. Local planning commission members could rotate serving as the RPC member.
- Regular meetings between neighboring communities could be facilitated by the RPCs, and adjacent RPCs should meet regularly as well. Sub-regional groups make sense in some locations, like the Mad River Valley Planning District. RPCs must confirm twice every five years that towns are involved in planning; this could be done more often.
- Towns should meet with neighboring towns regarding their town plans. RPCs review town plans for consistency with other town plans, but will only highlight glaring conflicts. There should be cross-town talks on topics, and more people should be educated about planning. There should be an ethic in which people are more aware of regional issues, and RPCs could encourage this.

- In summary, a set of RPC best practices could be used to address this challenge.

2. Improve systematic coordination between Regional Planning Commissions and state agencies.

- The state system is not organized with respect to planning. Some agencies have planning divisions, and others don't; the latter are more difficult for the RPCs to connect with. The Vermont Agency of Transportation's coordination with RPCs is a good model, but that agency has a planning division. The leadership within the agencies must view cooperation with RPCs as a priority in order for it to work. The Department of Housing and Community Affairs has limited planning staff. Some state agencies have regional offices, and think they don't need RPCs. There are slots for state agencies on the council of regional commissions, but these slots are often un-filled.
- A state planning office would further deteriorate RPCs' authority, although it might improve state coordination (i.e., improve horizontal connections, but not vertical connections.)
- There should be cabinet meetings that are public and to which RPCs are invited, to help vertical integration. Dean's Development Cabinet often dealt with hot potato topics; the cabinet should be restarted, and should deal with other topics also.
- Information flow is needed in both directions between the state and RPCs. There has been an exclusion of stakeholders in many state planning efforts. Perhaps a state planning office that held no authority, but was a facilitator, would work; or a consortium of planners that met quarterly, with the RPCs invited, might serve as a state planning board.

3. Address the lack of real authority by RPCs and the general distrust of regional efforts (and reliance on local control).

- Who takes authority over the public good? Some issues need a higher level of control and planning than the local level (e.g., a mountain range or a circ. highway). Perhaps Vermonters need to revisit the larger issues that somebody (perhaps a regional group) needs to take authority for. To get fair share housing, there could be exchanges between towns. There could be regional compacts for telecommunications towers to support equitable distribution. Perhaps regional resources should be identified that are untouchable by the towns.
- Perhaps for towns that don't have zoning, the RPC should represent them at Act 250 hearings.
- Another possibility would be to eliminate town planning; let the RPCs do planning, and the towns do zoning. This would probably decrease public

involvement. Or, regional plans could be eliminated, and town plans could address their role in the region. Or, regional plans could deal only with the resources that are regional in nature.

Group 6; State Cross Agency Planning
How does the structure of planning across agencies in state government work?

A. Challenges to Effective Planning Between State Agencies.

- Here's an example: Transportation for senior citizens – there is no overall plan/approach for cooperation between different agencies.
- There are several system challenges:
 - Resources: both financial and in terms of leadership commitment
 - Time to facilitate the necessary interactions between planning staffs
 - The two-year gubernatorial term sets a short planning horizon.
- The organization structure within agencies doesn't allow for interagency planning. "Getting the job done" within a tightly constrained budget is the task of most employees.
- The State of Vermont really doesn't have an overall vision.
- When that is seen from the point of view of municipalities, different agencies can have conflicting programs and goals, and government acts inconsistently.
- Structural reforms are needed. The sub-development cabinet/development cabinet idea works – they do not meet but should start meeting regularly again.
- There is a lack of central coordination of planning and there are only a handful of people who do policy and planning in state agencies.
- The Agency of Human Services works with the Secretary of Administration to convene other agency secretaries to address cross agency planning issues when it is necessary.
- We need to acknowledge the need for planning coordination and build the leadership culture to make coordination real and effective.
- The two-year election cycle may be problematic for the executive branch, but there is a long-term perspective in the legislative leadership.
- There isn't and probably won't be additional funding to support additional staff or programs for planning purposes - we need to live within current means.
- One opportunity would be for the State to work with third-party NGOs who can often provide planning leadership on specific issues.

- Vermont needs to more clearly define the role of state government versus Regional Planning Commissions and municipalities.
- For agencies to optimize the efficiency of their planning, they need to give staff the specific assignment to coordinate with other agencies.
- One Example would be the public transportation 5310 program—the perceptions of agencies differ. Human Services has had issues with how the program works, and communication with VTrans has improved the situation.
- One issue is that different agencies have different clients and customers.
- Do we need dispute resolution between agency planners?
- Currently, the budget development process is not coordinated.
- We often end up by doing reactive planning pretty well, but not really doing proactive planning.
- One way to improve cross agency work would be to take particular processes like the HUD comprehensive plan (- \$13 million -); the focus of the plan for 10 years has been downtowns and village centers. This plan could be shared with other agencies which could also use downtowns and village centers as focus to help align overall vision.
- Vision is important, and, along with that, who implements the plans is the key question.
- It would be really useful to coordinate plans between agencies prior to public review, e.g. energy plan.
- Each agency tends to have three types of plans that are driven by federal funding requirements or internal concerns. These are rarely coordinated between agencies. (1) federally-required plans, (2) agency policy plans, and (3) agency strategic plans.
- “Planning to what end?” – planning qua planning is interesting but can be of limited utility. Rather than talk abstractly about planning in general we should identify the key points of intersection between agencies, and address the issues that arise at those points of intersection.
- The key need is for leadership, and that comes from the Governor’s office. Ultimately, planning is essential; without it we are inevitably caught up in a crisis-management approach.

- Every executive order seems to emerge as a new and urgent issue; currently there are too many visions competing with each other.
- We all spend too much time putting out fires.
- Let's face it, the "Crisis of the day" is typical of state government regardless of the particular administration. We need to "break the mold" and change the culture, a very difficult thing to do.
- What about land use planning, the ostensible topic of this conference? Does the Vermont Forum on Sprawl serve as a de-facto state planning office, and should it?
- No – due to accountability. NGOs inform the debate, but are not responsible for implementation.
- Performance measures need overall vision and objectives to be meaningful.
- Question: Should Vermont complete the state land use plan envisioned in 1972?
 - Answer: Yes, but using a new form of the plan, not statewide zoning.
 - A statewide plan should systematically identify infrastructure needs.

B. Summary of The Challenges

- Federal funding programs are rigid.
- We need the clear identification of who is the final decision maker.
- Leadership from the Governor and cabinet are essential to create and support a planning culture, with accountability and measurable outcomes.
- A clear overall vision is needed to integrate the various visions of the many agencies.
- How does planning outlive political changes (long-term perspective)?
- Budgeting coordination is currently limited.
- Various agency plans (some federally driven) are not coordinated with other agencies.
- Agencies don't see each other's plans. They have no opportunity to comment and so no ownership in plans of another agency.
- If we choose to plan strategically we need to identify the key points of intersection.
- The structure of government is not oriented toward interagency thinking and planning—it's a political and organizational culture issue.
- There is no provision for the central coordination of plans across agencies.

These Challenges Fall into Three Categories:

1. Vision / Leadership
2. Structure / Process
3. The Culture of Planning

C. Proposed Solutions

- What should be the goal? A statewide plan?
- A bottom-up process as well as top-down system.
- (Challenge) Is planning a process or an end/goal? Project management is what is important. Break topic into manageable pieces. Identify points/areas of intersection. Define a preferred future.
- What is the relationship between land use planning issues and state agency planning tasks?
- All state agencies should have to have plans reviewed by other state agencies before public review. This is all about wise allocation of public funding.
- Regular planning forums with representatives of each agency should meet to discuss issues.

D. Priority Recommendations

Challenge: Agencies are not coordinating their various plans/projects with each other.

Recommendation 1:

1. Before plans are finalized they need to be circulated for review and comment across all agencies.
2. Someone at the staff level in each agency should be made responsible for coordination of plans with other agencies.
3. The Development Cabinet should be used when more aggressive coordination is needed or for dispute resolution.

Challenge: Planning is more effective when there is an agreed-upon vision between the legislative and executive branch.

Recommendation 2: The Governor and leadership from both parties should meet annually before the legislative session to communicate, negotiate and try to come up with an articulated common vision and set clear priorities.

Challenge: Planning is a way to influence the future.

Recommendation 3: Establish a Vermont Planning Office that will do research, analysis, support best practices, coordinate, facilitate, and inform the Executive and Legislative branches.

Group 7: State, Regional, and Municipal Development and Infrastructure Planning

What is the relationship between local, regional and state planning and development?

A. The Challenges to Effective State, Regional and Municipal Planning for Infrastructure and Development

- There are too many inconsistent levels of review. (13)*
 - There is a lack of early coordination between different levels of review.
 - There are inconsistent goals between local and state criteria.
 - And, overall, there's a lack of trust or belief that planning will be consistent across levels of government.
- There is not a clear pathway between levels of the planning system. (1)
- Not enough provision is made for the many impacts of projects crossing boundaries/regions. (4)
- Currently, economic impacts aren't integrated or fully represented in municipal and regional plans. (9)
- There's a lack of connection/alignment when Federal dollars are involved. (2)
- There is a lack of sufficient funding for the development of strong plans. (8)
- There's a lack in some places and inconsistency overall in technical expertise in planning. (4)
- There's been a lack of consistency and focus on the consequences of infrastructure development with long-term goals. (4)
- There has been a lack of will to draw lines to guide development in the State. (3)
- As it is, there's a lack of consequences for good planning and/or for bad planning. (5)
- The differing time-scales of different planning levels affect public involvement. (3)
- Each individual decision in the planning process is a trade-off against options not fully understood at the time. (2)
- Town plans are too vague. (3)

- Towns and regions want to retain independence and autonomy. (3)
- The planning process is currently too focused on regulation and not on opportunities. (8)
- There's a real cost in terms of lost opportunities in the current system. (2)
- There's a current lack of awareness of the interactions of the elements of planning. (8)
- For example, the state goal for broadband access is not really part of local or regional planning processes (2)

B. Summary of The Challenges

- There can be a real lack of coordination between planning levels (local, regional, state, and agencies).
- Economic impacts, both positive and negative are not integrated or fully represented through the planning structure.
- There is a challenging lack of funding for the planning process.
- There's a lack of awareness of the interaction of elements of planning.
- Vermont's planning process is often too focused on "regulation" versus "emerging opportunities."

C. Proposed Solutions

- Invest in building the capacity of local, regional, and state planners by providing *hands on* assistance—professional development, research, training in the use of tools/technology, and planning skill development.
- There should be a consistent state-level review of regional plans for consistency with state level objectives.
- Increase the standards that define a town plan and delegate the approval process to the municipality.
- State agencies should be held more accountable, by a higher authority, for their role in a coordinated planning process with regions and municipalities.

- The State of Vermont should reward communities for efforts in good planning by allowing them more authority in decision-making and giving them priority in public investments.
- Vermont should increase agency use of the Regional Planning Commissions for increased consistency of planning and regular regional input.

D. Priority Recommendations

1. At the State level: We should determine the characteristics of “high quality” local & regional plans and use this model of best practices to improve those plans by investing in local, regional and state planning with hand-on assistance and through professional development and training in research skills and the use of planning tools.
2. In addition to the 13 planning goals, plans should evaluate:
 - i. the positive and negative economic impact of growth proposals
 - ii. the interactions between all the planning elements
 - iii. emerging technologies and future opportunities
3. When their plans meet the defined criteria, give regions and towns with high quality plans increased decision-making authority.
4. State agencies should be held more accountable by a higher authority for their collaboration with other agencies.
5. Agencies should assign staff to review local/regional plans and send staff to meet with local/regional boards on a regular basis.

* Participants in this team were requested to first define the challenges, then review and consolidate or refine where necessary. Each participant had five votes to cast to determine priorities among the challenges; the number listed represents the total votes for that item.

Team 8; The Implementation of Plans
How can plans at all levels be tied to rewards, incentives and budgeting decisions?

A. The Challenges to the Effective Implementation of Plans

- The regulatory aspects of plans can be inconsistent with their role as guiding visions.
- The plethora of planning organizations and the lack of coordination between/among groups and levels, regional and municipal, can make for undue complexity.
- There can be a lack of public understanding of the role of the plan.
- It is challenging to arrive at a consensus vision for today and the future that embodies the community's values and to provide a roadmap toward that vision.
- Plans are limited by jurisdictional boundaries--regional, inter and intra state agency, municipal vs. regional vs. state. The borders create stoppages – RPCs have failed to bridge or provide continuities across gaps.
- Engagement is challenging, especially to build continuity of engagement over time. There can be a lack of public interest – poor “sex appeal.”
- No one has the means to fully educate the public—there's a need for public information and a civics-like training.
- Divided political ideologies can lessen the value of planning.
- Many people take too narrow a view of planning; this can reflect a lack of imagination by planners or by citizens and interested parties.
- There may be too few or too many partners at the table.
- There can be a disconnect with reality, a confusion of means with ends: means = method; ends = plan.
- There's the challenge of ownership—whose plan is it, and who is charged with implementation?
- There are limits to volunteerism, and plenty of fatigue for those who do all the work.

- Conflicts of interest can produce inaction or the watering down of the elements of the plan that are actionable.
- Plans are sometimes not user friendly just by virtue of their size.
- There may be little sustained tracking of plans, little guidance for their implementation, and a lack of evaluation.
- NIMBYism and apathy work together to undermine the power of plans.
- There is often a lack of commitment to taking personal or community responsibility.
- There's not enough state or regional support--education, training, and targeted resources for implementation.
- Communities don't see of models or examples of success stories and often build plans using language emphasizing no rather than yes.
- Sometimes plans lack specifics or contain conflicting ideas/goals which make them difficult to implement. There's not enough conflict at planning stage for participants, not enough specific action steps in plans, and a lack of clear priorities.
- Many lack a clear understanding of the value of the plan as management tool so there's an automatic disconnect within some plans between goals and implementation.
- Plans sometimes emphasize values vs. preferences.
- We need to learn from models of planning beyond Vermont.

B. Summary of Challenges

- Public awareness and understanding of planning issues is limited. We need success stories and models and stories of failures in planning. Planning issues should be included in civics curriculum for Vermont students. There could be a PR campaign about planning issues in Vermont.
- There's a challenge in understanding the borders and jurisdictions of plans, the definition of planning and its scope, and the jargon and sheer size of plans that limit public interest.
- Process challenges include tracking/evaluating plans, coordination among groups, maintaining stakeholder involvement and commitment, conflicts of interest,

Volunteerism/Professionalism, continuity with staff and volunteer changes, and the locus of authority.

- Ideological differences can undermine the effectiveness of planning; these may be political, connected to NIMBYism or apathy, based on values versus preferences, between social groups (native Vermonters and new comers), or between environmentalists and business leaders.
- Fundamental questions need to be answered around prioritization, the authority and charge for implementation, whether plans are to serve as visions or as part of regulatory review processes, and how to ensure that plans reflect the consensus values of the entire community.

C. Recommendations

- Leadership development should be systematically addressed to provide community members with the skill sets for effective planning and access to new models and tools to improve results.
- Better coordination among planning organizations will improve both their legitimacy in public perception and their effectiveness.
- Vermont needs to foster public awareness and civic engagement earlier in the planning process through education and outreach to gain community engagement, action, and support. Part of this education should consist of developing measurement tools for teaching and evaluation, another part would entail a public relations campaign around the nature of planning, models of success, and best practices.
- An office of Planning and Coordination should be developed to provide resources, to manage the boundary issues between planning jurisdictions, and to promote public awareness and civic engagement.
- All parties need to recognize the ideological differences inherent in planning and work toward the adoption of models of best practice that clarify and rationalize the process.

Acknowledgements

VCRD deeply appreciates the advice and support of so many partners who helped advise and design the Summit. Over the last 6 months we've consulted with more than 40 planning leaders and customers of the planning system. Too many to name, but thanks!

VCRD Summit Committee

Jolinda LaClair, USDA RD; Bob Ackland, Sugarbush; Catherine Dimitruk, Northwest Regional Planning Commission; Barb Grimes, Burlington Electric Department; Steve Kerr, Agency of Agriculture and Marketing; Brian Keefe, Senator Jeffords Office; Pat McDonald, Agency of Transportation; Marcia Merrill, Montgomery and Merrill; Jonathan Wood, Forests Parks and Recreation.

Peg Elmer of the Department of Housing and Community Affairs deserves a special thanks for her hard work to produce the Status Report on Land Use Planning 15 Years after Act 200.

Paul Gillies roused a grateful assembly with his evocative interpretation of the history of planning from biblical days to the present (see appendix below).

We are grateful to the **VT State Legislature** for making the Statehouse available for the Summit and for their moral and financial support for the work of the Vermont Council on Planning over the next year.

Planning Summit Sponsors who helped make the event possible include:

The Vermont Environmental Board
The Vermont Association of Planning and Development Agencies
The Agency of Commerce and Community Development
Vtrans, the Vermont Agency of Transportation
The Agency of Natural Resources
The Vermont Planners Association
Community National Bank
Chittenden Bank
Two River Ottauquechee Regional Planning Commission
And always, our generous partners at USDA Rural Development

Summit Panelists provided an excellent introduction to the issues of the day:

Greg Brown, Executive Director, Chittenden County Regional Planning Commission
John Ewing, Chair, VT Forum on Sprawl; Chair, VT Housing & Conservation Board
John S. Hall, Commissioner, Department of Housing and Community Affairs
Lee Krohn, Planning Director, Town of Manchester
Pat Moulton Powden, Chair, Vermont Environmental Board
Bill Stenger, President, Jay Peak Ski Resort

Facilitators put in a terrific day to coordinate discussions:

Brian Keefe, Senator Jeffords Office

Fred Schmidt, UVM Center for Rural Studies
Hal Cohen, Central Vermont Community Action Council
Alex Aldrich, Vermont Arts Council
Richard White, Community National Bank
Chip Evans, Human Resources Investment Council
Jolinda LaClair, USDA Rural Development
Cynthia Gubb, Chittenden Bank

Scribes provided invaluable set up help and made sure we gathered all significant input:

Paul Hill, USDA Rural Development
Brenda Hausauer, Planning Project Manager, VCRD
Barb Grimes, Burlington Electric
Marcia Merrill, Montgomery and Merrill
Max Muise, USDA Rural Development
Bonnie Waninger, Northwest Vermont Planning Commission
Sherry Paige, USDA Rural Development

VCRD is particularly appreciative of the participation of leaders in the **Douglas Administration** and especially to **Governor Jim Douglas** for his thoughtful and considerate responses to the plethora of information presented before his closing remarks.

Finally, VCRD is grateful for the leadership and expertise each Summit participant brought to the table as we gather ideas to address some of the most fundamental long-term issues around Vermont's identity, land-use, and development.

Appendix

A VERY SHORT HISTORY OF PLANNING IN VERMONT

By Paul Gillies

Planning Summit, VCRD

August 11, 2004

- ¹ And the LORD spake unto Moses in the plains of Moab by Jordan near Jericho, saying,
- ² Command the children of Israel, that they give unto the Levites of the inheritance of their possession cities to dwell in; and ye shall give also unto the Levites suburbs for the cities round about them.
- ³ And the cities shall they have to dwell in; and the suburbs of them shall be for their cattle, and for their goods, and for all their beasts.
- ⁴ And the suburbs of the cities, which ye shall give unto the Levites, shall reach from the wall of the city and outward a thousand cubits round about.
- ⁵ And ye shall measure from without the city on the east side two thousand cubits, and on the south side two thousand cubits, and on the west side two thousand cubits, and on the north side two thousand cubits; and the city shall be in the midst: this shall be to them the suburbs of the cities.

Numbers 35

If there is any doubt that planning comes directly from God, this passage from the King James Bible should answer it. (The translators of the New International Bible use the word *pasturelands* for *suburbs*, but the point is made.) The passage may be the world's first town plan. God was the first planning commission, and Moses the first zoning administrator.

As you can see, I wasn't sure how far back to take the history of planning. But we can make our way quickly to Vermont. Henry Steele Wardner, in his fine 1927 history of Windsor, starts with, "In the beginning, God created the heaven and the earth," then fast forwards to 1215, at Runnymede, to see King John sign the Magna Charta, then to 1664 when Benning Wentworth signed the charter for Windsor, and begins his story there, in a page or two sweeping through the millenia.

The purpose of history is to remind us that we are not the first ones to do something. And that others had it harder. And that we can be the beneficiaries of their mistakes, if we know them.

It is history's job to skip around, and make selections, because you can't conceive of everything all at once. Events come at us lineally; history, like planning, is selective, intensive, and insinuating. It starts with an act of will, empowered by control.

Of course there was planning from the very beginning—where to locate the village, where waste should be put, what fields should be prepared for planting. But it was informal, and private. Of course, when you are in control, planning is easy. The Romans planned cities in Britain in the first century A.D./C.E. Savannah was the first planned city in what would become the U.S., by James Oglethorpe, in 1734. But those were exceptions. In Vermont, it was the ones who came first who made all the essential decisions that control our towns today.

The First Vermont Town Plans

The first Vermont town plans are found in charters, issued by Benning Wentworth, Governor of New Hampshire. The charter of Grafton, for example, in 1754, imposed the following obligations on the 60 proprietors:

1. Every Grantee his heirs or assigns shall Plant or Cultivate five Acres of Land within the Term of five years for every fifty Acres Contained in his or their

Share or Proportion of land in the Said Township and Continue to Improve & Settle the

3. Before any Division of the Said Land be made to and Amongst the Grantees A Tract of Land as near the Center of the Township as the Land will admit of Shall be reserved and marked out for Town Lotts one of which Shall be Allotted to each Grantee of the Contents of one Acre.

Long before the adoption of a constitution, Vermont was a series of city-states, operating under charters granted by a Governor who had no interest in governing their lives. These governments ruled largely by instinct and deliberation. The moving parties were the proprietors, acting as public corporations created by charter, each of whom owned a right or share of a charter. The charter, issued in the name of the English king but by the colonial governor, authorized the improvement of a defined area, often six miles by six miles in size, set among the deep forests of the land west of the Connecticut River. The proprietors were tenants in common of the whole land mass, and had a right to an equal portion of that acreage. The charter was both a deed and organizational document, binding the proprietors together in a common bond of town, lot and community.

The decisions they made applied to everyone, equally. You owned a part of everything, and there was no such thing as private property. The first meeting in town, when the land was divided, was an event usually memorialized in all town histories where the records are available, as was the name of the first person to fell a tree or break ground for planting. If the issuance of the charter was conception, the first meeting was a quickening.

Records

What we know of the doings of the proprietors comes from their records, and from contemporaneous accounts of the first residents. But many towns are without such records. Readsboro's records were burned up. The charter and lotting plan of Barnet were reported to have been carried out of United States during the Revolutionary War. The proprietors' records in Hubbardton were stolen. No one in Townshend knew what became of the charter. The proprietors' records of Brandon were burned by the enemy, and town used the only remaining source, the survey book, to restore its division map. All records of Pittsford for the first ten years were lost. Even today, those records you can find are fragile. Parts of them are worn or broken off. Some town clerks are not aware they have such records, or what they are.

Now come with me to the Vermont Room at the State Library, over across the green. There I can show you several hundred cubic feet of studies, produced by conferences just as dedicated as this one. This is where good ideas go to their well-earned, if untrumpeted, rest. Some of those conferences produced miracles, and make Vermont what it is today.

Produce a copy of the first town plan enacted in your home town. You will be lucky to do so, because records are transient, especially at the beginnings of things, and early planning materials are often in disarray. But the choices they made last for generations. It is for us, the next generation, to live their dreams.

Divisions

The result of all the work of the proprietors was the creation of a plat, showing the town divided into lots, each lot numbered and each number assigned to a share, chosen by lot from a hat filled with pieces of paper with numbers on them. The result of the division was a chart, showing what everyone took, which was put in the minutes of the proprietors' meetings. At this point, once the division was made, the divided land ceased to be held as tenancy in common and became private property, with all its bundles of rights, all its yearnings to be made productive, and its conditional independence.

The towns needed settlers, and they took unusual steps to attract people to inhabit the wilderness. Randolph proprietors voted an additional 40 acres to any settled proprietor. Each settler of Concord was entitled to 100 acres, whether they were proprietors or not. In Granville, the first woman who settled in the town with her family was entitled to one lot of 100 acres. The first settler of Ripton, Ebenezer Collier, cuts his way through the dense forests under the belief that the first child born there would get a share of the town. Imagine the face of his poor wife when he had to tell her it was a rural myth. As Samuel Damon put it, in his history of the town, “But rumor was groundless and she was landless.”

How they dreamed. On a “rocky hill,” in the southwestern part of Fairfield, they laid out city lots. This “innascent” city was never developed, however, according to local historian Col. Samuel Perley. There were 70 one-acre city lots surveyed and granted in Panton, in 1766, out of the undivided lands, but a century later it all made a nice sheep pasture. So with the town lots of Ryegate, which remained a city of faith, rather than a reality.

Later, when Vermont began issuing charters, after independence, the General Assembly required each resident to build a house sixteen feet square. Today, that would be decried as intrusive, abrogating the common law rights of property. Back then, it was the rule.

The first plan in Vermont, adopted by the representatives of the people, was Chapter II of the Vermont Constitution of 1777, called a Plan or Frame of Government.

Government Arrives

Until the 20th century, planning was not done by government. It was done by topography, and by industry, by what was cheapest and most functional. Through the 19th century, the railroad, and manufacturing plants and mills, ruled the landscape. What was good for them was good for us, and many sacrifices were made in the service of a growing economy.

At the end of the 19th century, trustees of Wells River dynamited a mill and dam to save a public highway, and when the owner turned to them, and eventually the courts, for compensation, the relief was denied. This was the police power, the greatest force on earth, at work, not a taking, and not compensable. Of course, the police power is the source of zoning, Act 250, everything the Agency of Natural Resources does, everything government does really. It has become omnipresent. Without it, there would be chaos. Without the active involvement of volunteers, all we would have is madness. There would be no *we* here, because there would be no way we could have anything to say about how things should go in town, without planning commissions and other boards.

In the first decades of the 20th century, Vermont participated in a wave of progressive thinking that was part of a nationwide movement toward openness, participation and compassion. That era brought us the direct primary, worker’s compensation laws, corrupt practices acts, and the first laws on planning.

K.R.B. Flint, in 1919, introducing Vermont officials to this new idea of planning, wrote,

In the average Vermont community, industries are located by accident, streets are laid out as the need requires, and sewers are laid down with no thought of how they will fit with extensions of the sewerage system; a man builds a house, not knowing whether it will sometime be on a wart or a ditch; the danger of fire is always present; trees are planted in a haphazard fashion and the natural beauties marred—because there is no plan, no thought of the morrow.

Asked whether planning would apply to farms and rural areas, outside villages, the Professor answered no, of course not. That was never part of the scheme.

New York City had enacted the first zoning bylaws, regulating height, setbacks and density, in 1916. The first Vermont law on planning arrived in 1921, and it is an interesting law. The planning commission would adopt a plan, “which shall primarily be based on the public welfare,” and

that plan would guide the development of the municipality. No highway, bridge, viaduct, park, square, fixture, public sewer system or water system, public building or any public improvement could be constructed until reviewed and approved by the commission. The legislative body could overrule the commission's disapproval.

This first planning law was not a foundation for zoning at all. Zoning did not even become general state law for another ten years, in 1931. There were no regulations, except in a few villages, on setbacks, but private development was exempt from regulation (other than junkyards). The focus was on what the town wanted to do.

In the 1921 law, the planning commission was the watchdog of the selectboard. They could tell the selects not to do something with public money. The scheme remained in place for 47 years. In 1933, the voters were given authority to adopt the plan, but otherwise the law remained essentially the same until the general rewrite of the state's planning and zoning laws in 1968. Planning only for public land and public infrastructure. Private property resisted planning. How could you predict what would happen in the future? It was an era of planning without zoning.

Vermont's first formal zoning laws were enacted in 1931. St. Johnsbury had zoning as early as 1930. Randolph adopted it in 1931. Before that time, some villages had adopted fire protection rules governing the siting of buildings and the materials used in their construction. Following the great Montpelier fire of 1875, downtown buildings were required by rule to be constructed of brick or stone.

The modern era of planning began in 1968, when the first comprehensive planning act was passed, during the last term of Governor Hoff. Then, as today, the law explained the duty of municipalities: "to plan for the prevention, minimization and future elimination of such land development problems as may presently exist or which may be foreseen and to implement those plans when and where appropriate." I will do a disservice to that period, and the wonderful history prepared by David Selkowitz, during Greg Brown's tenancy of the Department of Housing and Community Affairs, if I didn't defer to this text, but ask yourselves, as you read it, the greatest unanswered question in our regulatory system today—Did Act 200 fill the void left by the failure to adopt the third leg of Act 250, the state land use plan?

Who cannot see the follies of poor planning in every town in Vermont every day? And these are not troubles we brought on ourselves back in the 19th century; no, we see bad planning in decisions made at the state and local level daily. Never intentionally, but thoughtlessly, without taking the thing in context, focusing too much on existing conditions, developers' needs, and not enough on future trends, future growth, and that "peculiar suitability for particular uses in relationship to surrounding areas, and with a view to conserving the value of buildings." 24 V.S.A. § 4302(b) (1968).

Should

Zoning is to shall, as planning is to should. But what is should?

One dictionary describes *should* as the past tense of *shall*. *Shall* commands its will to be done; *should* encourages, urges, and articulates a vision of what could be, what ought to be. But is there some natural chronological order? Can you mandate, and then encourage? In our communities, we accept that planning comes before zoning, before action. That seems so basic, but not if *should* is the past tense of *shall*. *Should* should be the future tense of the future tense of *shall*.

As a past tense, *should* can be made to work, but it illustrates the reason planning must come first. You're at bat, waiting for the pitch. You *shall* hit it out of the park. Swish. You *should* have hit it out of the park. In that sentence, *should* acts as an auxiliary verb. That's *should*'s dark side. How the word took on disciplinary airs, and the voice of a common scold, arose no doubt from that use of the word as a tense without time. Whether you hit the ball or not, you *should* have. Because you *ought to* and *could*.

That's how planning starts, with colossal failure and blame. Why couldn't you have thought of that yet?

If *should* began its life as something past, a judgment after failure, somewhere in history, there must have come a sparkling moment when the word leapt backward in time to apply to an act that has yet to occur, a plan made before action, guiding it, providing some benchmark against which to measure its wisdom. That was a great and positive ratchet click forward for the language and human affairs. There was a change from mere action to a higher moral ground, where what we are going to do is done because we intended it to be done. Morality emerges in a plan made before action. It represents the simple idea that action should never precede judgment.

Invocation

To make planning make sense, and fully contribute to our condition, there are certain steps that need to be taken.

First, we need to inspire the passions of people toward a prosaic subject, one they have become used to taking for granted, because it is usually static, unfocused and pedantic. The language of plans is the basic problem. They rarely show creativity. They only incidentally link history and the present in any continuum. They parrot back homilies like saints, but miss the most important opportunity planning offers, which is the articulation of a vision of the town, region or agency as it ought to be. That's why plans use *should* while bylaws use *shall*.

The courts routinely describe plans as *aspirational*, which is a word that connotes hope as well as a deep breath, sometimes a sigh of *exasperation* at trying to fashion a future that fits with the established patterns of the marketplace and private property generally. People mistakenly assume that plans must predict the future, but that is backwards. The benefit of good planning is the creation of something new, a bending of the forces that control land use and public expenditure toward an established goal. It's so American, this exercise of will that forecasts an outcome and then drives toward it.

Of course, plans are conservative, in both senses of the term. They are intended to protect the rights of residents and landowners, but they are also all too commonly timid and hesitant in stating anything explicitly and forcefully, out of a fear of insulting somebody. That's the reason for the collision of roles plans have traditionally played in Act 250 and Chapter 117, regulatory in the first instance and aspirational (and distinctly non-regulatory) in the second.

At the heart of zoning is the fact that there is no such thing as purely private property, property without control imposed by the community at large, local, state or federal. At the heart of planning is a basic principle that we are all public officials, and have a role in deciding what should happen here. In town meeting we reason together. In planning we dream together.

Zoning is enforced planning, but planning must be liberated from zoning. Planning must promptly resign as zoning's geek. It must stop apologizing for itself. Stand up on its two hind legs and kick out. Planning should not be an exercise of the police power. That just weighs it down with an arsenal. Planning should be free to dream.

I heard a radio program this morning on dreams. You know the two kinds of sleep—REM sleep, when we dream—and deep sleep, when we rest. Scientists have discovered that too much dreaming and not enough resting leads directly to depression. Same as with planning. REM sleep, according to these experts, is when we rehearse the tough encounters we expect to confront in the future, and everything about the story, including the actors and the props, are metaphors. Their conclusion is that too little REM sleep, too little dreaming is just as bad for you. You wind up rested but unprepared. Dreaming is an essential ingredient of sound, mental health.

The great American poet, Delmore Schwartz, named his first book of short stories and poems, "In Dreams Begin Responsibilities."

Dream today.

Paul Gillies, 8/11/04



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