

NVDA NEWS

Regional Planning and Economic Development in the Northeast Kingdom

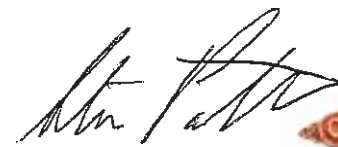
To our member towns and valued partners,

While we at NVDA are looking forward to the challenges of the coming year with some anxiety, we also have a renewed commitment to serve our municipalities and local businesses. Like many of you, we are still trying to grasp the full impact of a deepening recession and a shrinking state budget. Only one thing remains certain: Our economic outlook will worsen before it improves, times will get harder, and we will have to find more creative ways to operate with less money.

We all feel the brunt of this financial crisis, yet we realize that the work of our municipalities and local businesses must go on. As you look ahead to months of belt-tightening, we ask that you think about how NVDA might be able to help – even if that service may not currently be part of our service offering. Our goal is to mitigate the effects of this recession as

best as possible. With a region composed of 50 member municipalities and a local business area that encompasses three counties, we're used to working a little harder and a little smarter. The coming months will be difficult for sure. But we've always worn two hats – as the regional planning commission and the regional development corporation. This experience will serve us well in 2009.

My very best to all of you and your colleagues, family, and friends in this holiday season. I hope to hear from you in the near future.



Steve Patterson



Save the Date!

NVDA's Renewable Energy Fair March 27-28, 2009

Lyndon State College

Keynote Speaker & Reception – Friday evening
Exhibits & Workshops – all day Saturday

**Biomass – Solar – Wind – Hydroelectricity – Geothermal
Green Construction – Weatherization – Alternative Vehicles
Federal & State Outreach – Loans, Rebates and Incentives**

Talk with exhibitors about renewable energy options for home, farm, and business

Attend workshops and learn how to use less and pay less for the energy you need

Use special low interest loans and Vermont rebates to cover the cost of energy improvement projects

For more information: Lorna Higgs, Project Manager

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Regional and Local Planning

Vt Supreme Court Case May Impact Local Land Use Regulations

A recent decision of the Vermont Supreme Court (VSC) may have a substantial impact on local land use regulations. In this case (re: Appeal of JAM Golf, LLC), the developer was appealing a decision of the Environmental Court that denied their permit for a ten-lot subdivision in South Burlington. The Environmental Court's denial of permit was based on conclusions that the project did not protect wildlife habitat or scenic views (as was required by the South Burlington Zoning Ordinance) and did not conform to the city plan.

Upon review of the Environmental Court's decision, the Vermont Supreme Court reversed the previous decision and remanded it back to the local development review board. In doing so, the VSC struck down two sections of the South Burlington Zoning Ordinance on the ground that the sections were so vague and delegated such "standardless discretion" to the South Burlington development review board that they violated the property owner's due process rights.

The court contends that while a municipality may require conformance with the municipal plan, a project may not be denied a permit when there is not a specific policy in the plan that is stated in "clear and unqualified" language that creates "no ambiguity." The plan in question required for the protection of wildlife habitat and scenic views but gave no specific guidance as to how this was to be achieved. Likewise, the court determined that the ordinance itself was flawed because it "provides no standards for the court to apply in determining what would constitute a failure to protect the listed resources." Zoning ordinances must specify "...specific conditions and safeguards to guide applicants and decisionmakers."

In the past decade, we have seen a number of decisions from the VSC that have clearly rejected a land use regulation for "ambiguity" or lack of specificity. In fact, most towns tend to avoid being specific in their town plans for fear of being "negative" or "creating regulations" in what is supposed to be a visioning document. Clearly, the JAM Golf, LLC, decision brings to light the need for increased specificity within the municipal plan with regard to policy and recommendation. Given that land use regulations are required to be in conformance with the municipal plans as well as state planning goals, it

is essential that policies be written into the plan that will clearly explain how they should be implemented. And, of course, when they are implemented, the land use regulations must provide criteria for review that are specific enough to create no ambiguity or questions as to what the rules are.

— Christopher L. Sargent, Two Rivers-Ottawaquechee Regional Commission

To read a copy of the opinion, *In re Appeal of JAM Golf, LLC (2006-307)*, click on <http://170.222.4.25/supt/current/op2006-307.html>

The deadline for land use regulations to be in conformance with municipal plans is September 1, 2011 (as per 24 V.S.A. §4481). Please contact Dave Snedeker, Planning Manager, if you need assistance: 748-5181.

In Brief...

Newport City was recently selected by the American Institute of Architects (AIA) to participate in its highly innovative **Regional/Urban Design Assistance Team (R/UDAT) program**. The R/UDAT is an intensive and interdisciplinary community design process in which a team of nationally recognized professionals work to identify ways to encourage desirable change in a community. The team visits the community for four intense, productive days, and then returns within the year to advise on specific implementation strategies. The R/UDAT is scheduled to take place in March of 2009.

NVDA's Web site now has **2008 traffic counts** for the following communities: Albany, Barnet, Brighton, Charleston, Concord, Coventry, Craftsbury, Danville, Derby, Glover, Granby, Groton, Guildhall, Hardwick, Holland, Jay, Lowell, Lunenburg, Lyndon, Maidstone, Morgan, Newport City, Newport Town, Norton, Peacham, Ryegate, St. Johnsbury, Stannard, Troy, Victory, Waterford, and Wheelock. To find your community's traffic counts visit <http://www.nvda.net/TopNavBars/towns.html>

Economic Development

Vermont Food Venture Center II Receives USDA Rural Business Enterprise Grant

NVDA recently worked with Northern Enterprises, Inc., a nonprofit organization, to obtain a Rural Business Enterprise Grant in the amount of \$500,000 from USDA Rural Development.

Funds will be used to construct a food incubator in the Hardwick Industrial Park, off Route 15. *Vermont Food Venture Center II (VFVC II)*, a 10,000 square foot multipurpose facility, will serve Northern Vermont, most specifically the Northeast Kingdom, where several innovative food and agriculture-based businesses have already become established. The Hardwick area is home to Pete's Greens, Jasper Hill Farm, High Mowing Seeds, Vermont Soy Company, and the Vermont Milk Company. These new businesses have already helped foster an entrepreneurial culture in the Hardwick area, and small and emerging businesses that rent space in the new food incubator facility can expect to enjoy the synergy created by the emergence of this promising, rapidly growing industry sector.

Vermont Food Venture Center II is a significant

expansion of the original Vermont Food Venture Center (VFVC), which has been in operation in Fairfax since 1996. The original VFVC was situated in a small, vacant food processing plant in a circa 1900 facility. From this relatively small investment, dozens of food businesses were created, many of which are still thriving. The Center has gained a national reputation as a leader in the food business incubation and has maintained close ties with food science departments at the University of Vermont and Cornell University.

Once completed and operational, the Vermont Food Venture Center II can expect to create employment opportunities for as many as 30 individuals. This is a conservative estimate and is based on the success of the original Vermont Food Venture Center. Since the original VFVC opened in June 1996, at least 79 food businesses have been started. Thirty-two are currently processing there, 23 are at their own facilities, 4 have moved to outside co-packers, representing a business success rate of 85%.

NVDA Brownfield Assessment Program Update

The NVDA Brownfield Assessment Program has taken off recently, with projects all across the Northeast Kingdom. The program has already assisted property owners and developers in Lyndon, Hardwick, Newport City, North Troy, Sutton, St. Johnsbury, and Barton.

The program provides funding for Environmental Site Assessments, Phases 1 through 3. These assessments can determine the potential for contamination on site through an historic review of the property use, the current operator's compliance with environmental standards for disposal/storage permits, the actual toxicity of known contaminants or the potential human and environmental receptors. The benefit of these assessments is a better characterization of any environmental problems that may exist and the ability to then assign solid cost estimates to address them. This allows banks and developers to have better redevelopment figures going into a project, rather than assigning a large contingency figure to the environmental work.

Very few developers are able to spend \$25,000 to \$80,000 up front on environmental assessments, only to find out that the cleanup will be too expensive. The NVDA Brownfield Assessment program is trying to eliminate the developer's speculative risk exposure by addressing this upfront work. The amount of interest in the program so far shows us that it's really needed.

Major projects coming up for the program include environmental site assessments for Southern Bay Street in St. Johnsbury to spur redevelopment of the area and the complete assessment, demolition, and clean-up of the former gas/service station in North Troy Village.

NVDA
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Northeastern Vermont Development Association serves the three counties of the Northeast Kingdom -- Caledonia, Essex, and Orleans -- as the region's economic development and planning entity. NVDA is an equal opportunity lender, provider, and employer.

The **USDA Rural Development Community Facilities Program** offers loans, grants, and loan/grant combinations to construct, improve, or purchase facilities or equipment that provide essential services to a rural community. Grants are based on project need and the community's median household income. To find out if your community is eligible for grants, visit www.rurdev.usda.gov/vt and click on "Community Facilities Programs."

Applications for grants and loan/grant combinations are due January 20, 2009.

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