

Town of Newark

Land-Use Investigation Project

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DRAFT

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Introduction

The Town of Newark Planning Commission is increasingly aware of new development pressures in the community. Newark abuts the Town of Burke, which is currently anticipating major growth due to a planned unit development that will include 1,000 new housing units. The proposed development is expected to more than double the town's existing housing stock and significantly influence the development in adjacent communities.

Newark has no zoning regulations, but does maintain a current Town Plan. Newark's Planning Commission has previously drafted zoning regulations, but these regulations were defeated by voters. The most recent attempt to introduce zoning was 2001.

New concerns stemming from the anticipated growth in neighboring Burke may have begun to change the public's perception of land-use regulations. In fact, citizens brought up the issue of zoning at the 2007 Town Meeting. From that discussion, it was decided that the Selectboard and the Planning Commission should investigate ways for the Town to have more direct input into the future development of the Town, and investigate the variety of planning options (both regulatory and non-regulatory) that may be implemented.

With the assistance of a Municipal Planning Grant, the Newark Planning Commission hired Northeastern Vermont Development Association (NVDA) to investigate all possible implementation strategies for the Town. With the assistance of NVDA, the Newark Planning Commission developed a project process that was driven by extensive public outreach and education to achieve the following goals:

- Better understand citizen's desires for future development in Newark.
- Determine if existing regulations are adequate.
- Identify appropriate measures, if any, to help direct future development.

This report, which is the result of that project, summarizes key findings and explains the key planning and development concepts that were investigated.

Caveat: Northeastern Vermont Development Association is the regional planning commission (RPC) serving the tri-county Northeast Kingdom, which includes Newark. As the Town's RPC, we can present options for implementation and provide technical insights for such implementation. We cannot, however, act as a decision maker. There was very active participation from the public in all of the planning and education sessions. All sessions were attended by individuals who had very strong opinions on local land use regulations. This form of public participation does not constitute an unequivocal consensus on the future direction of planning and zoning in Newark. Any and all of implementation options outlined in this report would therefore need to be properly vetted and adopted through requisite public hearing and adoption processes.

Project Process

Mindful of the strong opinions that individuals held on planning and land use regulation, the Newark Planning Commission created a project process that was driven by public participation

through focus groups and educational workshops. In the spring of 2008, the project was launched with a public session that allowed individuals to voice their concerns for the community. Four breakout groups of citizens addressed the following questions:

- Why do you live in Newark? Why do you stay here?
- What aspects of Newark do you treasure the most?
- What are the significant things that have taken place over the past 10 years? (either positive or negative)
- What developments/changes do you want to see occur over the next decade?
- What developments/changes do you wish to avoid?
- What developments/changes do you want for your children/grandchildren?
- What do you want to preserve for future generations?

Participants were encouraged to focus on overarching planning goals, e.g. rural character of the community, unspoiled natural environment. As the attached summary of the meeting will attest, however, discussion sometimes became a debate on the merits of regulation (e.g. “zoning in some New England towns has helped guide growth,” vs. “strong sense of property rights,” etc.) That aside, some very strong themes emerged from this discussion:

- **Newark residents highly value the rural character of the community.** This was cited in many ways, including large open fields, clean air and water, forests, dark night skies, as well as a small-town feel, and a sense of closeness and safety. A number of participants also cited a strong sense of pride in their school and a concern for having the school continue to play a vital role in their town.
- **There was strong support for protecting Newark’s natural resources, as well as its open space.** In addition to clean air and water, there was a call for forest stewardship, land conservation (including a specific mention around Newark and Center Ponds.) The loss of local agriculture was noted by some groups, and there was a desire to see a better use of the town’s agricultural resources and greater opportunities for local food production and valued-added food and forestry production. There also was an appreciation expressed for local resource-based economies, such as maple sugaring or forestry, which to some, appeared to be on the upswing.
- **Recreation and access to land for recreation purposes was deemed important by many.** Access to the land, ponds and forests, was valued, as was ready access to all forms of outdoor recreation. There was some concern expressed over the loss of quality fishing and lack of access to ponds. In addition, posting was discussed in more than one group, and there was some debate (though not heated) on its merits and effects.
- **Affordability was a key concern among many.** The ability to make a living, remain in Newark, and shoulder the tax burden was a concern that was voiced repeatedly. In fact, there was a call for more employment opportunities through home-based and small businesses. The ability to retain large tracts of land – and the ability to foot the

associated tax bill – was a strong concern. There was concern that while property values had gone up, some residents might ultimately be forced to sell. Some participants voiced concerns over double-wides and trailer parks, which are traditionally considered to be forms of affordable housing.

There seemed to be a consensus as to what residents did NOT like. Huge new houses did not appear to be well received; neither did the proliferation of camps and lakefront developments and the creation of new roads. When asked about developments residents wished to avoid, residents tended to speak disparagingly of uses associated with resort and second home development (like Ginn, the developer of the PUD in Burke). Such uses included condos, tract housing, and developments in high elevations.

After this session, the Planning Commission hosted a series of four education workshops to assess how regulatory and non-regulatory measures could help the town shape future development:

- **Existing State and Federal land use Regulations** (District 7 Permit Specialist John Miller)
- **Act 250 Review and Jurisdiction** (Act 250 Coordinator Kirsten Sultan)
- **Local Regulatory & Non-Regulatory Options** (NVDA): This workshop addressed a variety of measures primarily focused to preserve open space and rural character. Options included zoning, subdivision regulation, open space planning, and dedication of open space through easements and direct acquisition.
- **The Mechanics of Local Regulation** (NVDA): This workshop addressed how zoning and subdivision regulations are implemented, as well as the statutory requirements and restrictions.

The rest of this report is thus divided into two major sections:

PART 1 A full explanation of the planning concepts that were discussed in the workshops. Not everyone attended all these workshops. In fact, it's likely that there are some reading this report who did not attend any of these public sessions. This report, therefore, attempts to explain these concepts in greater detail in order to dispel any misperceptions.

PART 2 A menu of possible next steps. After the series of workshops, there was one more public planning session to identify key topic areas. This section, which is organized along these topic areas, identifies the specific concerns cited. Also since a goal of this project was to lend more specificity to the Newark Town Plan, we've identified specific items that can be incorporated into the Town Plan. Ultimately, it would be up to the Newark Planning Commission, the Selectboard, and the public to consider each item for inclusion in the Town Plan, amending the Town Plan accordingly, and adopting it. And lastly, we've listed all of the respective implementation options (regulatory and non-regulatory) for each topic area*. We list these options without

prejudice and do not make any attempt to weight them against political feasibility. Although this project placed a strong focus on public participation, we do not consider this participation to constitute any definitive referendum on land use regulations. Such decisions would need to be made through the public hearing processes outlined in Chapter 117.

*Of course, it should be noted that Newark always retains the option to maintain its current policies and procedures regarding land use planning and development.

PART 1: Planning & Development Concepts

1.1 The Current Regulatory Environment as it pertains to Newark

Before exploring and evaluating local regulatory options for Newark, the Planning Commission hosted two workshops on the state and federal regulations that currently impact land development in Newark. Act 250, considered by many to be the heart of regulatory processes, is a state law designed to control proposed development on a relatively “large scale” or in areas that are considered environmentally sensitive. What is meant by “large scale” depends on whether the municipality has local bylaws in place. Since Newark has no permanent subdivision or zoning regulations, here are the triggers for Act 250 review:

- Construction for commercial or industrial purposes on more than one acre of land¹;
- The construction of ten (10) or more housing units, including mobile home parks, within a radius of five (5) miles, and within a continuous period of five (5) years;
- The subdivision of land into six (6) or more lots within a continuous five year period²;
- Construction of improvements for commercial, industrial, or residential use in areas above 2,500 feet;
- Any construction that would substantially change or expand a pre-1970 development that would require a permit if built today;
- Construction for a governmental purpose, if the project involves more than ten (10) acres, or if it is part of a larger project that will involve more than 10 acres of land.
- The construction of a support structure, 20 feet tall or higher, primarily for communication or broadcast purposes.
- The exploration, beyond the reconnaissance phase, or the extraction or processing of fissionable source materials;
- The drilling of an oil or gas well.

¹ The threshold becomes ten (10) acres or more for a municipality that has adopted both zoning and subdivision bylaws.

² The threshold becomes ten (10) or more lots for a municipality that has adopted both zoning and subdivision bylaws.

- The sale, by public auction, of any interest in a tract of land or tracts of land, owned or controlled by a person, which have been partitioned or divided for the purpose of resale into five or more lots within a radius of five miles and within any period of ten years.

(Source: Act 250: A Guide to Vermont's Land Use Law, State of Vermont Natural Resources Board.)

Act 250 records can be reviewed in an online searchable database at:

www.anr.state.vt.us/site/cfm/act250/

Act 250 review determination is usually concurrent with the determination of other permit requirements. Review of this nature is entirely project-specific and is determined on a Master Review Sheet completed by the local Permit Specialist. Permits include potable water, wastewater systems, underground storage tanks, and storm water management. The Agency of Natural Resources publishes the Vermont Permit Handbook, which lists all the licenses and permits typically required by the various state agencies, as well as the US Army Corps. of Engineers: www.arn.state.vt.us

1.2 Land Use Regulations

Zoning is the most common form of land-use regulation. About 80% of Vermont's municipalities currently have some form of zoning. Zoning may be implemented as a standalone bylaw or as part of a "unified bylaw" that incorporates subdivision regulation.

The most common form of zoning is based on the establishment of *zoning districts*. Each district is shown on an official zoning map, and is usually configured to follow parcel lines, roads, rivers, or some other permanent feature that can be readily identified on the ground. Each zoning district contains a purpose statement that cites objectives from the town plan, states the intended character of the area, and helps to determine what uses will be deemed compatible. Example:

Rural Lands: This district is characterized by forestry and agriculture, as well as camps and scattered homes, which rely on onsite water and wastewater disposal. There are limited roads and electrical infrastructure in this district, and the soils tend to have limited capacity to support onsite wastewater disposal. Many areas of this district have great scenic values that would be lost, if the land were overdeveloped.

Source: Town of Brighton

Each district often has a list of allowed land uses, which typically fall into one of two categories:

- **Permitted:** Uses that may be established by right. All are usually subjected to some form of administrative review by the zoning officer, although some may also be subject to site plan review, which looks at the internal aspects of the development, such as landscaping, road access, and signage.
- **Conditional:** Uses that may be established in the district, provided they have no undue adverse impact on the character of the area (e.g. traffic, noise) or undue impact on community facilities.

Zoning districts also are likely to contain *dimensional standards*, such as minimum or maximum allowable setbacks from roadways and lot lines, minimum lot width, or maximum building height.

There is no template for zoning. That said, here are some of the kinds of zoning districts commonly found in rural communities in the Northeast Kingdom:

- **Village District:** Compact smaller lot sizes, generally less than an acre, with little or no setback requirements. Dimensional standards are usually geared to replicate historic development patterns. These districts often mix residential (single and multi-family) uses with commercial uses of an appropriate scope and scale (such as a general store or professional offices), as well as civic uses, such as town government and public gathering places.
- **Rural Residential:** This is usually characterized by larger lot development and restricts or prohibits uses other than single-family residential or seasonal uses. Some communities may have a Rural Residential I, with minimum lot sizes ranging from 2 to 5 acres, and Rural Residential II, where minimum lot size may be more than five acres. The concept of “large lot” is highly subjective, however, and minimum lot sizes varies greatly from town to town.
- **Lakefront:** Typically smaller minimum lot sizes, and with uses restricted to residential. These districts may have additional special requirements, such as vegetation buffers from the water. Sometimes these districts are *overlays*. (See below.)
- **Conservation:** These districts restrict or altogether prohibit most forms of development and allow only recreational or forestry uses. The Vermont Supreme Court has upheld regulations that prohibit residential development in such districts, provided the property owner can enjoy some reasonable use of the property, such as hunting or logging. These districts can also be overlays. (See below.)

Some towns prefer to have one zoning district, where virtually all uses are allowed, although they may be subjected to either site plan review or conditional use review. Newport Town has a zoning bylaw with a single-district. The Town of Burke had a single district until July of 2007.

Zoning is administered by the zoning officer (also known as the “Administrative Officer.” Appointed by the Selectboard, the zoning officer is responsible for literally interpreting the bylaws by checking to see if a proposed development is allowed in the district and if it conforms to dimensional standards. If the proposed development is subject to site plan review or conditional use review, the zoning officer then refers the proposed development to a special review panel, which may be a planning commission, zoning board of adjustment, or development review board. The proposed development is then reviewed in a publicly warned hearing in accordance with Vermont’s Open Meeting law and other statutory requirements. The panel doing the review must abide by specific rules and procedure to ensure that they are not unfairly swayed by *ex parte* communication (exchange of information that takes place outside of the hearing) or potential conflicts of interest.

In addition to hearing and procedural requirements, 24 V.S.A. Sec. 4412 has some required provisions and limitations on local zoning.

- Zoning cannot discriminate against affordable housing. Trailers and multiunit housing, for example, cannot be banned from the municipality. The zoning bylaw has to make reasonable accommodations for them. Moreover, a town cannot *have the effect of* discriminating against affordable housing, such as establishing large minimum lot sizes all over town.

- The zoning bylaw has to protect the right of the property owner to carry out home occupations or operate home daycares.
- There must be provisions in place to protect the continuation of nonconforming lots, structures or uses that may be created when a town enacts or amends zoning. Most towns refer to this protection as a “grandfather” clause.
- Zoning bylaw must provide some means of reviewing and approving development of landlocked parcels.
- 24 V.S.A. Sec. 4413 has further limitations on zoning. It cannot regulate farming (accepted agricultural practices or agricultural structures, such as barns), nor can it regulate accepted forestry practices, hunting, or trapping. Zoning cannot regulate power generation or transmission facilities, and it is limited in the way it can regulate certain state or publicly owned facilities, churches, schools, hospitals, and public waste facilities.
- Lastly 24 V.S.A. Sec. 4469 requires that local zoning offers property owners a way to develop their land if it is impossible to develop the land in strict conformance with the bylaws. This provision is known as a *variance* and can only be granted under specific conditions.

1.3 The Use of Overlays

Overlays are a form of zoning that are placed “on top” of existing zoning districts. Their purpose is to regulate certain special features of the areas they cover, without extending extra regulations to the entire underlying zoning district. For example, an overlay for a particularly sensitive shoreline area may require a shoreline vegetative buffer, longer building setbacks, and limited clear-cutting in order to prevent erosion. In this instance, parcels without shore frontage would not have to meet these extra guidelines (though they would be within the same underlying zoning district).

Many towns use overlays for different reasons, depending on what’s most important to the community. Generally towns employ overlays to protect natural resources, maintain important agricultural or wildlife corridors, or preserve traditional development styles. The Vermont State Statutes authorize the use of overlays under V.S.A. Title 24 Chp. 117 § 4414 (2):

Overlay districts. Special districts may be created to supplement or modify the zoning requirements otherwise applicable in underlying districts in order to provide supplementary provisions for areas such as shorelands and floodplains, aquifer and source protection areas, ridgelines and scenic features, highway intersection, bypass, and interchange areas, or other features described in section 4411 of this title.

The statutes also authorize the use of shoreland and flood/hazard area regulations as “stand-alone” overlays. With these regulations, the town does not need to have underlying zoning bylaws. For some communities who prefer not to enforce zoning for the entire town, but wish to guide development along their lakes and ponds or within the floodplain, this is a great tool.

It is also important to note that there are ways in which a community can circumvent the requirement for underlying zoning for the other overlay types. In essence, a town can create zoning bylaws, but simplify it to the degree in which only the overlay areas address the actual design and development of property. An example of this type of underlying zoning might include one district for the whole town that identifies all uses as permitted (no conditional uses), has a minimum lot size of one acre (the minimum area necessary to support a well and septic system), and has no requirements

for development on the lot, such as setbacks, building height, etc. In this model, a zoning administrator would have to automatically approve all uses on lots on one acre or larger outside of the overlay areas.

The following overlays are just a sample of the different overlays that might be relevant to Newark's future land-use goals:

1.3.1 For Environmentally Sensitive Areas

Environmentally sensitive areas: These protect important natural resources, fragile areas, agricultural soils, endangered species, and wildlife corridors. These overlays are designed to limit the impact development has in these areas. For wildlife corridors, such as deer wintering areas and bear habitats, it is important to maintain continuous tracts of woodlands that are rarely intersected by roads, open fields, and high density development. The goal for wildlife corridors is to provide for safe movement, maintain easy access to food supplies, and limit interference with the public.

1.3.2 For Scenic Areas or High Elevations

For some communities the scenic areas, scenic roads, or high elevations are important to the identity of the town. The goals for these types of overlays vary greatly depending upon what the important features are and what the town is trying to preserve or create. For example, a town may value a popular scenic overlook with great views onto neighboring hilltops. With the goal being to maintain the view shed, the scenic overlay might include limits on development density, building heights and setbacks along the overlook, so as to not obstruct the view. Another community might treasure a few quiet scenic roads, enveloped in forests and large trees. In this case, the overlay might limit the amount of clear-cutting that can occur up to the road frontage and require larger setbacks to hide homes from the road.

For high elevations, most communities wish to have their most important ridgelines maintained in a more natural state. Common overlay regulations for ridgelines work to minimize the appearance of development on the ridge, make sure development is safe (for itself and neighboring properties), and protect important recreation areas. By limiting blasting and clear-cutting to the building envelope, maintaining driveway screening, and regulating road gradients, towns can encourage safe development that doesn't drastically change the ridgeline.

1.3.3 For Forest Areas

In most forest overlays the goals are to maintain active working forests, and/or maintain the seclusion and privacy the forest provides. Forest overlay elements may include limiting clear-cutting to building envelopes, maintaining screening along the roadways, minimizing the subdivision of lots below viable logging parcel size (12 acres) or focusing development along roadways or in clusters to maintain working forest corridors.

1.3.4 For Water Resource Protection

Water resources can be protected through a variety of different types of overlays. These may include shoreland area regulations, ground water or source protection areas, fluvial hazard areas, and surface water/wetland overlays. Most of these overlays employ development regulations that limit erosion and encroachment into natural habitats that affect water quality. In addition, most overlays

focusing on water resources pay particular attention to the land uses located in and near these sensitive systems. For example, a golf course would not be permitted within a ground water source protection area because it uses a large quantity of pesticides that may directly affect the public water supply.

1.3.5 For Flood/Hazard Area Regulations

Flood or Hazard Area Regulations focus on minimizing development impacts on the flood plain and preventing the destruction of property (and by default persons) in areas where hazardous conditions occur (V.S.A. Title 24 Chp. 117 § 4424). These regulations don't necessarily restrict all development from these areas, in most instances development can occur with particular design elements built in to mitigate potential problems. For flood prone areas, this may include raising up the building site to be above base flood elevations, establishing minimum culvert sizes to ensure appropriate flow, or creating other flood water retention areas. Other hazard area regulations typically address such risks as landslides, stream bank erosion, and earthquakes, but can also address man-made risks such as dam spillways. Hazard regulations for areas prone to landslides might include such requirements as retaining walls or vegetative buffers that have plants with deep root systems.

As mentioned previously, flood or hazard area regulations may exist as "stand-alone" regulations. Many towns in Vermont have "stand-alone" flood regulations in order to be eligible for the National Flood Insurance Program (NFIP), and other disaster or hazard mitigation project funding. The Federal Emergency Management Agency (FEMA) provides federal flood insurance to property owners whose municipalities are enrolled in the NFIP. One of the requirements of the NFIP is to adopt and enforce flood hazard area regulations that meet federal standards. Many property owners find they can not purchase flood insurance if their town does not participate in the NFIP. In addition, many banks will not finance mortgages or construction loans on properties within the floodplain without flood insurance.

Many towns utilize the FEMA issued Flood Insurance Rate Map (FIRM) as their Flood Hazard Area Regulations Map. The overlay generally encompasses all land depicted as within the Special Flood Hazard Area (the 100 yr floodplain) on the FIRM, but can also include buffer areas outside of this area, such as areas depicted within the 500 yr floodplain). Essentially it is up to the municipality to determine whether to extend the boundaries of a flood overlay district beyond those depicted on the FEMA Flood Insurance Rate Map.

1.4 Lot Creation/ Subdivision

Subdivision regulation controls the pattern of development, i.e. the way the land is divided up in order to accommodate road access and infrastructure. Here are the aspects of development that subdivision regulation would address:

- Design and configuration of parcel boundaries.
- Lot sizes, in order to assure adequate provision for water, wastewater, stormwater management and utilities, and to avoid the creation of undevelopable lots.

- The placement of storm water management facilities, public and private utilities, landscaping, and any other necessary improvements as may be specified in the municipal plan.
- The layout of roads, in order to maximize traffic safety and ensure adequate access by emergency response vehicles.
- Protection of natural resources and cultural features, as well as the preservation of open space.
- Placement and grade of building envelopes, in order to minimize adverse impacts to neighboring properties from runoff and erosion.
- How lots are recorded in the land records, and the level of detail that must be recorded, such as improvements to the lot, such as culverts and drainage, water and sewer, road access, easements, and the dedication of open space.

Unlike zoning, subdivision regulation does NOT address the specific uses that would be allowed on the parcel, nor does it address specific standards of development, such as:

- Design, colors, style and placement of windows, and building design specifications.
- Hours of operation.
- Types of uses to be allowed on the parcel.

Subdivision may be addressed through stand-alone regulation, or as part of a “unified development bylaw” that includes zoning regulations

Review of proposed subdivisions must include at least one publicly warned hearing. The review panel may be the planning commission, or, if the town has one, a development review board. Technically, it’s also possible to have the zoning board of adjustment handle subdivision review, but unless the town has a development review board, it’s usually the planning commission who is responsible for the review.

There are some transactions of land that may per se be considered subdivisions, such as the adjustment of a boundary line. The town has the option to either exclude such transactions from its legal definition of review (and thus exempt it altogether) or it may subject it to a simple level of administrative review by the town’s zoning administrator.

Chapter 117 §4418 has four mandatory provisions for subdivision regulations:

- Procedures and requirements for design, submission, and processing of plats (lot plans).
- Standards for the design and layout of all public facilities, such as streets and drainage culverts.
- Standards for the design and configuration of parcels or lots.
- Standards for the protection of natural and cultural resources and open space.

That said, towns have a great deal of flexibility in how they implement and administer subdivisions regulations. Preservation of open space and rural character is often an overarching goal of the municipality. There are several techniques used in subdivision review that may be used in order to achieve this goal. These techniques are described below. Additionally, Vermont statute has optional provisions that may be included in local subdivision regulations. These include:

- provisions for the review panel to waive some or all required improvements to the land;
- standards for promoting the conservation of energy;
- provisions for phasing the subdivision (and subsequent development of land) over time in order to minimize undue impacts to community facilities and services; and
- requirements for performance bonds and/or development agreements, in order to ensure that the required improvements are completed as promised by the developer; and
- specifications for planned unit development.

1.5 Subdivision Techniques for Preserving Open Space

1.5.1 Clustering

Clustering refers to a technique that concentrates buildings in one area of a parcel so that a certain amount of land will remain open for recreation, common open space, and in some cases, environmentally sensitive features. The concept, which is often confused with density zoning, is usually provided for in tandem with conventional subdivision regulations with minimum lot sizes and dimensional standards per housing lot. Clustering in this sense allows the developer to reduce the minimum lot size and bulk requirements, as long as there is no increase in the total number of housing lots that would have been allowed under conventional subdivision regulations.

Here's a simple example: A developer wants to put housing lots on a 60-acre parcel of land. Under the current local regulations, the minimum lot size is 5 acres. The developer can therefore create up to 12 housing lots, each on a five acre parcel. About half of this parcel, however, contains portions of very popular trails used for skiing and hiking. By clustering the housing lots the developer may still create the 12 housing lots, but now they will all be of varying sizes under 5 acres in order to keep the roughly 30 acres of recreation land open and unfragmented.

Figure 1: Traditional vs. Clustered Housing Development



If a town wishes to allow for clustering under its subdivision regulations, there are some provisions that should be addressed:

- **Incentives:** In many cases, residential clustering in and of itself may be a more profitable route for a developer. There are opportunities for shared infrastructure, such as wastewater systems and access roads, which will reduce development costs. In addition, housing sites that are located next to or near land that is permanently conserved may command higher prices on the market, which means more profit to the developer. That said, many towns consider density bonuses to be the best form of enticement. Bonuses are typically awarded in proportion to the acreage of open space that results (E.g. 5% density bonus in exchange for every 10 acres of open space created.) Some communities award density bonuses for including affordable housing in clusters. If a community opts to offer bonuses for affordable housing, Chapter 117 §4414(7) has some specific requirement for the municipality, such as clearly spelling out what kind of housing will qualify as “affordable,” as well as ensuring that the affordable housing is managed and maintained as affordable housing for a certain period of time.
- **Protection of the open space that results:** So once the open space is created, how does it remain such? Towns typically provide specific standards in their local regulations for keeping open space in perpetuity. Usually, land is either deeded to a local conservation commission, or it is maintained by a homeowners’ association. Some communities reserve the right to stipulate that certain open space remain available for use by the general public.
- **Standards for open space:** Determining the nature of the open space and usability is also an issue. As previously stated, clustering may be used to protect environmentally sensitive areas. Cluster subdivisions can, for example, protect traditional agricultural or forestry uses, thus serving as an alternative to the purchase of development rights. It is generally agreed, however, that clustering should not be used to subsidize a developer who wants to develop a parcel with significant natural constraints (such as floodplains, steep slopes, or wetlands) and expect to yield the same number of units if the land were to be completely developable. Such practices are not likely to yield development patterns that preserve rural character and prevent fragmentation of scenic open space. Density clusters should therefore ideally be based on total acreage considered to be developable.

1.5.2 Density vs. Minimum Lot Size

Traditionally, open space was protected by instituting large lot zoning. In Vermont, large lots for rural residential development are often considered to be anything larger than one acre. Unfortunately this form of large lot zoning results in low-density rural development that breaks up valuable tracts of forests, farm fields, and other valuable open spaces. It also can also drive up the town’s costs, by creating extra miles of roadway to maintain and extending emergency services to remote areas.

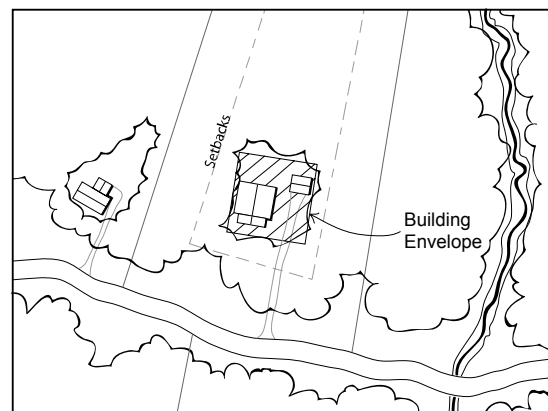
An alternative approach is to focus on density, rather than minimum lot size. Density zoning is often confused with cluster development, as described above, but density zoning doesn't necessarily entail the dedication of open space. This technique is typically used to encourage very low density development, (e.g.: one two-acre lot to be created for every 25 acres), and are therefore used selectively in rural lands districts or in special overlays dedicated to or agricultural or forestry uses. Here are some variations of density zoning:

- **Fixed Area Zoning:** The density is determined by number of acres, e.g. 1 unit per 25 acres. Usually, there is a maximum lot size, and a requirement that the lots created by the subdivision are situated on the parcel to minimize the loss of open space or agricultural land and limit the creation of internal roads. (For example, lots must be contiguous, rather than scattered throughout the lot. Lots must be placed in the least productive portion of the agricultural or silvicultural lands.)
- **Sliding Scale Zoning:** Again, this technique is often paired with a maximum lot size to limit land fragmentation. With this technique, the number of lots that may be created are inversely proportion to the original parcel size.
- **Variations:** Many communities have come up with variations on density zoning that allow for greater flexibility in sustainable lot design. *Example:* The Town of Norwich has a rural district where, using a performance-based system, the maximum allowable density may range from one unit for every two acres of developable area, to one unit for every twenty acres of developable area. The total allowable density is based on a number of factors such as steep slopes, wetlands, and floodplains, as well as access to public roads.

1.5.3 Building Envelopes

The building envelope is the three-dimensional space within which a principal and accessory structures and parking areas can be located. It is determined by minimum yard setbacks, as well as steep slopes, wetlands, and other environmentally sensitive areas. It can also be determined by building height. In approving a proposed subdivision, local regulations can specify the placement of the building envelope on the lot in order to minimize the adverse impact to natural resources, scenic view and unfragmented open space. Building envelope specifications may be used selectively in certain zoning districts or special overlays.

Figure 3: Building Envelope



1.5.4 Screening

Screening requirements are similar to building envelope specifications in that they may be used to minimize adverse impact to natural resources or scenic areas. Screening – which may also be used

selectively in certain districts or overlays – usually limits clear-cutting or requires vegetation buffers in order to screen developments from public roads or along ridgelines. The Town of Burke, for example has a Scenic Conservation Overlay that limits clear-cutting for lots in elevations areas of 1,500 feet or more:

- A. On wooded sites, existing forest cover shall be maintained adjacent to proposed structures to interrupt the facade of buildings, provide a forested backdrop to structures, and/or soften the visual impact of new development as viewed from public roads and properties. The Development Review Board shall consider the location of proposed structures relative to existing vegetation, and may require additional tree planting and/or limit the amount of clearing adjacent to proposed development to provide screening and maintain a forested backdrop. A plan for the maintenance of remaining and proposed trees may be required. Such a plan shall address specific measures to be taken to ensure the survival and, if necessary, replacement of designated trees during or after site development and the installation of all site improvements.
- B. No repair, maintenance, development, landscaping, reconstruction, or paving work performed on or adjacent to a scenic road shall involve the cutting, damage, or removal of any tree with a circumference of 15 inches or more, measured at a point four (4) feet above the ground, except to accommodate a driveway.
- C. The Development Review Board may require the retention of a wooded buffer along the front portion of lots fronting a scenic road, stipulating that healthy trees above a certain diameter may not be removed except to accommodate driveways.

Source: Town of Burke Unified Bylaw

1.5.5 Conservation Design

This technique shifts the focus from the creation of lots to the protection of open space and natural resources. It determines the maximum development lots that can be created by eliminating primary conservation lands (lands that should be avoided altogether, such as steep slopes, floodplains, wetlands), as well as “secondary conservation lands,” such as viewsheds, recreation trails, agricultural lands, etc. Because this technique clearly links the local regulations to the town’s open spaces identified in the town plan (and an open space plan, if the town has one), the town plan language needs to be specific.

1.6 Conservation Strategies

The creation of conservation commissions are authorized in 24 V.S.A. Chapter 118. The commission may be created at any time, either by a vote of the town or by the Selectboard. The members of the commission are volunteers, and they may advise local officials on conservation matters, (such as the Selectboard or the planning commission), but they have no authority over land use issues. Vermont statute spells out the activities that a local conservation commission may undertake. They are spelled out in 24 V.S.A. §4505:

(1) make an inventory and conduct continuing studies of the natural resources of the municipality including but not limited to:

- (A) air, surface and ground waters, and pollution thereof;
- (B) soils and their capabilities;
- (C) mineral and other earth resources;
- (D) streams, lakes, ponds, wetlands, and floodplains;
- (E) unique or fragile biologic sites;
- (F) scenic and recreational resources;
- (G) plant and animal life, especially the rare and endangered species;

- (H) prime agricultural and forest land, and other open lands;
- (2) make and maintain an inventory of lands within the municipality which have historic, educational, cultural, scientific, architectural, or archaeological values in which the public has an interest;
 - (3) recommend to the legislative body of the municipality the purchase or the receipt of gifts of land or rights thereto, or other property, for the purposes of this chapter;
 - (4) receive appropriations for operating expenses including clerical help by appropriation through the budget of the legislative body;
 - (5) receive money, grants or private gifts from any source, for the purposes of this chapter. Grants and gifts received by the trustee of public funds shall be carried in a conservation fund from year to year to be expended only for purposes of this chapter;
 - (6) receive gifts of land or other property for the purposes of this chapter, by consent of the legislative body or by the affirmative vote of the municipality;
 - (7) administer the lands, properties and other rights which have been acquired by the municipality for the purposes of this chapter;
 - (8) assist the local planning commission or zoning board of adjustment or the district environmental commission, by providing advisory environmental evaluations where pertinent to applications made to those bodies, for permits for development;
 - (9) cooperate with the local legislative body, planning commission, zoning board of adjustment, road committee, or other municipal or private organizations on matters affecting the local environment or the natural resources of the municipality;
 - (10) prepare, collect, publish, advertise and distribute relevant books, maps and other documents and maintain communication with similar organizations; and encourage through educational activities the public understanding of local natural resources and conservation needs;
 - (11) make a brief annual report to the municipality of its finances and transactions for the year just passed, and its plans and prospects for the ensuing year.

We understand that Newark once had an active Conservation Commission that successfully acquired lands around Center Pond. In the public planning session, a number of participants expressed an interest in conservation-related activities, such as securing fishing accesses, restocking ponds, preserving open lands, etc. It seems that re-energizing the local Conservation Commission could help the Town achieve many of these objectives – all while building public consensus on land use priorities. Here are some of the activities where a re-energized local Conservation Commission could be instrumental in directing future development in Newark.

1.6.1 Open Space Planning

Open space plans are one of the supporting plans authorized in 24 V.S.A. §4432. Adopted separately or as amendment to the current town plan, the Open Space Plan would be a non-regulatory tool to guide public and private conservation strategies. The Open Space Plan typically contains an inventory and map of natural resources to be conserved as open space. It also identifies specific strategies for conserving those resources (e.g. direct acquisition or conservation easements, funding sources for acquiring the land). Although the planning commission would ultimately be responsible for the adoption of the open space plan, the local conservation commission would obviously play a critical role.

An Open Space Plan would likely be most effective if it were to include a Land Evaluation and Site Assessment (LESA), which ranks lands for protection according to multiple criteria. The LESA was first developed by U.S. Natural Resource Conservation Service, and the model has since been broadened and expanded to include a variety of local land use resources, such as forested lands (also known as a FLESA). Nearly 20 years ago, when the Town of Granby was faced with the pending sale

of large tracts of land held by timber companies, it became the first town in the nation to develop a FLESA. Their planning activities led to conservation of land around Cow Mountain Pond.

1.6.2 Acquisition of Conservation Lands

24 V.S.A. §4431 allows municipalities to either purchase land or development rights for conserving land. Such activity must be consistent with the town plan. Conservation easements are very popular because the landowner continues to enjoy reasonable use of the land, in exchange for some compensation.

Although there is a cost for acquiring conservation lands, there are a few vehicles out to help municipalities foot the bill. Easements are often held jointly with a local land trust or state agency that provides matching funds. And, it should be noted that towns with open space plans or LESAs will be considered more favorably by conservation organizations that provide matching funds.

Municipalities also fund conservation activities through annual appropriations or a dedicated portion of the property tax, or through fundraising. The Town of Granby, for example, sold bird houses and Adirondack chairs and held chicken pie suppers to help raise the local match for the Cow Mountain Pond lands.

Some communities include their conservation activities into a *capital budget and program*. A capital budget and program is a multi-year scheduling of public physical improvements for a municipality. The first year is the budget for the upcoming year. The remaining years – two through six – are the capital improvements that are scheduled to take place. A capital improvement can be physical improvement, such as furnishings, machinery, and equipment. It can also include studies or preliminary studies related to a physical improvement, OR it can include the acquisition of land or development rights to land. The capital budget and program does need to conform to the town plan, but it is non-binding, so once adopted, the town is not committed to make expenditures should some emergency arise.

1.7 Official Maps

Most towns don't realize that the development of infrastructure, such as roads, water and sewer lines, and utility corridors affects growth patterns. Where new infrastructure is built, new development will generally follow. Official Maps provide an opportunity to outline future development plans, by identifying lands intended to be utilized for public infrastructure uses, such as roads, utilities, parks and trail networks. Identifying these elements for future use on a town's Official Map doesn't necessarily mean that the municipality will acquire them, but it does allow the proposed infrastructure areas to be considered during the development review process. For example, if a town has identified a future road or utility corridor and a development is proposed for the area, the town may require that the development be designed to accommodate them. This may mean making sure a new home isn't built right in the middle of where a future road might go. All this is making sure development isn't occurring in a way that will interfere with future infrastructure. This planning tool involves more foresight, but in essence is less costly in the long run.

The planning commission may prepare an Official Map, and its design should be supported by the Town Plan and the Town Plan Maps. An Official Map is considered a regulatory tool as it has weight in the development review process. The adoption process for an Official Map is similar to other

planning documents in that it requires public hearings and is presented to the Selectboard for adoption.

1.8 The Role of Newark's Town Plan

A Town Plan (sometimes called a municipal plan or a comprehensive plan) documents a community's combined vision for the future. It tells a story of where a community is now, where it wants to be in the future, and sets goals and strategies to get there. The Town Plan is essentially a guidance document that assists in future decision making, especially in regards to land use planning. The State of Vermont does not require towns to complete a town plan, although if a town chooses to develop a plan, statutes dictate minimum required elements (or topics that need to be addressed) and the process by which a plan can be adopted and amended (V.S.A. Title 24 Chp. 117 § 4382 - § 4387).

The most important aspect of a Town Plan is its authority in a town's implementation options, ACT 250 review, and the Section 248 Certificate of Public Good procedures. According to Vermont State Statute all regulatory and non-regulatory implementation tools must conform to the municipal plan and therefore have specific language that supports those tools. By requiring compliance with the Town Plan, State Planning Law essentially creates another layer of public affirmation of local land-use policies and procedures. For Newark's implementation options, this means that supporting language must first appear in the Town Plan.

1.8.1 Act 250

Since the Town Plan sets the framework for subsequent planning and implementation documents, such as zoning bylaws and Capital Budget Programs, it's also no surprise the Town Plan is an important part of state permitting (ACT 250) and the Certificate of Public Good process (Section 248). Depending on whether or not a town has zoning, development and subdivision projects of a certain size will trigger ACT 250 jurisdiction. In which case, the ACT 250 District Environmental Commission will review the project for 10 criteria prior to issuing a permit. ACT 250's 10th Criteria gives status to the Town Plan in the review process, by requiring the subdivision or development to be "in conformance with any duly adopted local or regional plan or capital program under Chapter 117 of Title 24" (10 V.S.A. § 6086(a)(10)).

This significantly elevates the importance of a Town Plan, especially for towns that do not have zoning. If a town does not have zoning, then one of its main influences on local development is through the ACT 250 process, with its Town Plan. Because of this, a Town Plan needs to be rather specific with its language in order for it to be applied, to a specific project application.

1.8.2 Section 248

Section 248's process for obtaining a Certificate of Public Good only pertains to the development of energy generation facilities. Under Section 248 proceedings, the Town Plan is also reviewed in order to determine if the project is in compliance with the plan. However the difference is that the Board of Public Service can make decisions that are against the wishes of the Town Plan if they deem the project to be in the public's best interest (i.e. "public good"). However, this has rarely been the case; most Section 248 projects have weighed Town Plan language heavily in the decision to issue a permit. But again, the town would need to be rather specific in order for the language to apply.

1.9 The Role of the Planning Commission

The role of the planning commission is to coordinate local planning activities, facilitate dialog on local issues, build community consensus, and prepare local plans and regulatory tools for adoption. The role of a planning commission is defined by state statute; however the activities a planning commission undertakes is dependent upon the community the commission represents. For Newark, the Planning Commission has historically limited its role to developing the Town Plan, providing written comments to the ACT 250 commission, and participating in regional planning projects. However, there are other activities the Newark Planning Commission may undertake that would better guide development within non-regulatory means. These include the following:

1.9.1 Outreach to Property Owners/Developers

The planning commission may consider conducting outreach to property owners and developers who are planning projects in town. In this capacity, the planning commission may offer the town plan and other guidance documents for the property owner or developer to review and consider when designing their project. Guidance documents (besides the town plan) would include pamphlets on subdivision design methods; traditional New England development patterns and architecture; best development practices for waterfront development; conservation options available, including those that provide financial compensation; or any other document that provides sound planning advice that is not property specific.

Since the Newark Planning Commission does not operate in a development review capacity at this time, they may also discuss a specific project and offer advice on the development steps, project design, and community preferences. It is only when a planning commission takes on the larger role of development review (enacted through zoning bylaws) that they must be careful to not participate in ex parte communications. Ex parte communications include any project specific discussions (either with the property owner, developer, or an interested party) that concern the merits of the project and occur outside of a public hearing setting. Therefore it is important for the planning commission to recognize the difference between ‘handing out pamphlets’ and ‘discussing a project at the transfer station’, if bylaws are in effect.

1.9.2 Creation of Advisory Commissions

Many municipalities turn to advisory commissions as a means to support the planning commission and Selectboard with outreach activities, additional expertise, and/or special community projects. An advisory commission can relieve some of the burden placed on planning commission volunteers, both in the required knowledge level and time commitment. It also might make sense for a community to create a commission for activities that it deems important, if those activities are beyond the traditional role of the planning commission or are best handled by another entity.

Some traditional advisory commissions include conservation commissions, historic preservation commissions, design review commissions, and affordable housing commissions. Conservation commissions are by far the most popular in Vermont and can deal with such things as natural resource planning, developing open space and important habitat inventories, educating land owners on conservation practices, and managing public lands and recreation areas (24 V.S.A. Chp. 118). Advisory commissions and their intended activities are unique to each community, but should be clearly spelled out as to how they relate to the planning commission.

PART 2: Key Topic Areas

2.1 Village

2.1.1 Concerns & Comments:

Although participants in the public planning sessions were divided on land use regulations, some participants voiced the desire to see “smart growth” take place over the coming years, primarily in the form of clustered housing. Participants also cited uses currently established in the village area (the school – which was a strong source of community pride – the park, the Union church, and town clerks office), all of which they’d like to see continued or even expanded. Participants also cited uses that they’d like to see established in the village area that might complement its primarily residential character, such as a post office. Others entertained the idea of establishing senior housing in the village.

Recommended Goals

Pursue traditional land development pattern of a small, yet compact village center, primarily residential in character that is surrounded by low-density development, open fields or forested lands.

2.1.2 Strategic Recommendations/Town Plan Language:

The current Newark Town Plan identifies key cultural and civic facilities that are in or near the village. It also notes improvements recently made to those facilities, as well as improvements that are still needed. It does not, however, identify the sum total of these facilities and how they collectively comprise a small village. It is interesting to note that one participant in the second planning session even stated that they didn’t think of the village “as a village.” The Town Plan, therefore, might address the following options:

- Define Newark’s “village” area: What are the most important social civic functions of the village? What functions could be expanded? (One participant, for example, suggested that the Union Church should be used for more social and community functions.) What are the gateways to the village?
- Identify upgrades and improvements that are needed to complement the character of the village and establish a “sense of place” in Newark’s village.

- Explore the potential benefit of Village Center Designation, granted through the State of Vermont downtown program. Village Centers do not necessarily have to be large or contain a diversity of uses in order to receive designation. Nor do they have to have zoning. The primary benefit of Village Center Designation is eligibility for tax credit for investment in income-producing properties built before 1983. Nonprofit entities, however, sometimes apply for and receive these tax credits in order to reduce the principal on bank loans for improvement projects. (The Town of Brownington, for example, recently received Village Center Designation. The Town has no zoning, and the primary non-residential use in its village is the Old Stone House Museum.) Another potential benefit could be priority consideration for certain grant-funded improvements, such as VTrans, or community development block grants.
- Explore the potential for establishing senior housing. Reach out to local housing organizations who might be interested in partnering in such an effort. Determine if Village Center Designation will make Newark a more likely candidate to receive funding assistance to build senior housing.
- Explore the possibility of establishing smaller minimum lot sizes in the village area and encourage the creation of residential “village hamlet” clusters that would complement the character of the village. Although this would likely be accomplished through zoning or subdivision regulations, this measure could help to ensure that some land remains affordable in Newark.

Table 1

Village Options for Implementation	Zoning	Subdivision	Support Plans	Other Tools & Incentives
Create design guidance documents on traditional New England village development patterns and architecture			X	
Conduct outreach to property owners preparing to sell or subdivide.				X
Establish smaller minimum lot sizes in the Village District (i.e. 1 acre minimum).	X	X		
Provide provisions for Planned Residential Developments.		X		
Provide incentives to encourage more compact development through "density bonuses".	X	X		
Pursue Village Center Designation (for tax credits & other incentives to encourage development here).				X
Identify and plan for future infrastructure needs through a Capital Budget and Program and/or the Official Map.			X	

2.2 Maintaining Open Space & Large Lots

2.2.1 Concerns & Comments:

Public planning participants voiced concerns about fragmentation of open space, yet remained philosophically divided about how to address it. Participants did not want to see the development of several small lots; others wished to avoid “sprawl.” Some participants supported regulations in order to support the creation of “sensible lots.” Others did not wish to see the “whittling away” of undeveloped property. Others strongly supported the right of property owners to subdivide as they saw fit. Additionally, there was support for a re-energized conservation commission to push for the acquisition and protection of lands.

It was noted that areas around Beck Pond and Kinney Hill had extremely large parcels, yet there was no clear consensus on how to keep such areas unfragmented.

Recommended Goals:

Identify and protect specific scenic and open areas in town from fragmentation.

Minimize undue adverse impact from development in designated open spaces and scenic areas .

Discourage large lot development (i.e. ten-acre sprawl) in areas of town with no or poor access by public roads.

2.2.2 Strategic Recommendations/Town Plan Language:

Newark’s Town Plan currently states that it has a policy for the preservation of rare and irreplaceable natural areas, scenic and historic features, and resources. Other than the “wilderness areas to the East of Route 114,” however, it’s very unclear *which* open lands should be preserved, *how* they should be preserved, or even *why* they should be preserved. Whether or not Newark ultimately chooses to implement land use regulations, this language would not be sufficient to guide any Act 250 review of development that involves parcelization of large tracts of open space. To provide protection of open spaces, Newark’s Town Plan needs to at the very least do the following:

- Inventory and map important open areas and scenic views. Language must be as specific as possible e.g. Dee’s maple trees, lands above elevations of 1,500 feet, etc.
- Identify the factors that make these open areas and scenic views important.
- Identify how development in important open and scenic areas should take place in order to minimize negative impact to viewsheds and fragmentation. To say that they should be “protected” and/or “preserved,” is too vague to provide any guidance for any form of development review, either at the Act 250 or local level . If these lands were to be developed, is there a way to do so that would protect its essential rural character? If so, the Town Plan needs to be specific in its wishes for development. For example:

Development in these lands should be encouraged to place building envelopes at the edge of parcels in order to prevent fragmentation.

Shared access roads should be encouraged in order to minimize the creation of private roads.

Clear-cutting along these scenic elevation areas should be limited, allowing only enough for the creation of the housing site. Whenever possible, placement of the building envelope should be down slope of the ridgeline so that it is not visible from public roadways.

Private roads, wherever possible, should be configured to follow natural contours of the land.

- Identify open and scenic areas that should be protected through conservation efforts. (See section below on Conservation and Natural Resource Protection.)
- Encourage growth to take place along the town’s public roads.

Table 2

Maintaining Open Space & Large Lots Options for Implementation	Zoning	Subdivision	Support Plans	Other Tools & Incentives
Create an overlay for lands with agricultural or scenic value.	X	X		
Create a Conservation Commission.			X	
Educate landowners on the options to maintain large tracts of land and receive financial compensation.			X	
Create guidance documents for landowners on appropriate development styles and patterns.			X	
Prioritize Newark’s open space for acquisition or conservation through open space planning and/or a land evaluation and site analysis.			X	
Help the conservation commission acquire lands or development rights by partnering with appropriate conservation agencies.				X
Encourage the preservation of open space through the creation of small residential clusters.		X		
Discourage the creation of private roads more than X number of miles.		X	X	
Use building envelopes to prevent fragmentation of open lands.	X	X		
Establish larger minimum lot sizes in some areas of town or establish performance based regulations.	X	X		
Discourage the creation of private roads that bisect large lots & encourage the use of shared accesses whenever possible.	X	X		

2.3 Agriculture & Forestry

2.3.1 Concerns & Comments

Forests, in particular, maple trees, were cited as a cherished aspect of life in Newark. While, the re-emergence of the forest economy and maple sugar production was seen as a positive change for the community, participants lamented the loss of farming. Long-term goals to protect and promote agriculture included local food production, support for secondary and value-added production, and better utilization of agricultural resources. Forest stewardship was also cited as a long-term goal.

Recommended Goals

Encourage property owners to maintain large open farm fields and productive woodlands.

2.3.2 Strategic Recommendations/Town Plan Language

The Town Plan already recognizes the significance of its woodlands. Exploring incentives to property owners who wish to maintain large tracts of productive lands may be a priority. The Town also encourages continued enrollment in the State’s Current Use Program. The Town may therefore wish to include the following language in its Town Plan to help further these goals:

- Support value-added businesses that create new opportunities for local agriculture and forestry (e.g. cheese production, furniture, pellet fuels, etc.)
- If landowners must sell parcels in order to retain large tracts of productive lands, encourage landowners to subdivide in a manner that minimizes fragmentation (e.g. subdivide and sell unproductive lands for housing sites, create housing sites at edges of large tracts of land.)

Table 3

Agriculture & Forestry Options for Implementation	Zoning	Subdivision	Support Plans	Other Tools & Incentives
Create an overlay that preserves the viability of agricultural and forest lands.	X	X		
Create a Conservation Commission.			X	
Educate landowners on the options to maintain large tracts of land and receive financial compensation through use enrollment programs or conservation efforts.			X	X
Develop minimum lot sizes that allow for sustainable forestry practices in certain areas of town.	X	X		
Encourage the preservation of agricultural lands through the creation of small residential clusters.	X	X		
Discourage the creation of private roads more than X number of miles.	X	X	X	
Use building envelopes to prevent fragmentation of open lands.	X	X		

Establish larger minimum lot sizes in some areas of town or establish performance based regulations.	X	X		
Discourage the creation of private roads that bisect large lots & encourage the use of shared accesses whenever possible.	X	X		

2.4 Conservation & Natural Resource Protection

2.4.1 Concerns & Comments

When asked to describe the most treasured aspects of life in Newark, respondents most frequently cited its natural resources – the wildlife, as well as its natural beauty. Environmental protection (such as clean air and water) and conservation of land were cited as long-term goals. Lands to be evaluated for conservation included Center Pond (lands for public beach), lands on Maple Ridge Road, areas on Route 114, the Spring, Beck Pond area, and land “north of the hill” from Newark Pond.

Recommended Goals

Re-energize a formal conservation effort in Newark that seeks to actively protect and manage the community’s most treasured natural resources. Conduct outreach and education to landowners about conserving open spaces and maintaining clean air and groundwater.

2.4.2 Strategic Recommendations/Town Plan Language

- Identify specific areas that should be preserved through conservation efforts. Identify the means by which they should be conserved, such as purchase of development rights, enrollment in the Current Use program, or acquisition by the Town.
- Identify the most likely funding mechanisms for acquiring lands or development rights.
- Consider adopting an open space plan or incorporating it into the Town Plan.
- Consider conducting a Land Evaluation and Site Analysis to help the Conservation Commission, the Planning Commission, and the Town prioritize the acquisition of conservation lands.

Table 4

Conservation & Natural Resource Protection Options for Implementation	Zoning	Subdivision	Support Plans	Other Tools & Incentives
Establish vegetation buffers around all natural bodies of water. (Can be a freestanding ordinance.)	X			
Create a Conservation Commission.			X	
Prioritize the acquisition of open space and conservation lands.			X	

Protect steep slopes and wetlands through building envelopes and buffers.	X	X		
Prohibit development on steep slopes greater than 25%.	X	X		
Prohibit or restrict development in wildlife corridors.	X	X		
Prohibit the creation of large areas of impervious surfaces.	X	X		
Map aquifers and establish ground water source protection areas.	X	X	X	
Limit erosion through appropriate storm water management practices.	X	X	X	
Conduct outreach and education on new potable water and wastewater regulations.			X	
Minimize clear-cutting and require screening for homestead lots in high elevations.	X	X		

2.5 Recreation Uses

2.5.1 Concerns & Comments

Access to outdoor recreation – hunting, snowmobiling, hiking, horseback riding, cross-country skiing, etc. – was a highly valued aspect of life in Newark. Its proximity to Burke was also noted in the initial public planning session. Participants were divided over the loss of access to lands. While some regretted posting of lands, others maintained that posting resulted from individuals who failed to show respect for others’ lands. Others wanted to see ponds restocked for fishing.

Recommended Goal

Ensure that residents of Newark continue to enjoy year-round access to outdoor recreation opportunities.

2.5.2 Strategic Recommendations/Town Plan Language

The Town Plan already has language about the acquisition of lands that have recreational value, but does not identify any such lands for priority consideration – and has no consensus if such acquisition is even feasible. The Town might therefore consider adding language that identifies priority areas for potential acquisition and possible means to acquire them. The use of conservation easements (such as those obtained through the Forest Legacy Program) may also be a possibility. Additional provisions may include the following:

- Ensure that any open space planning or evaluation prioritizes lands for their recreation value and wildlife habitat.
- Encourage subdivision of land to take place in a manner that minimizes fragmentation of lands that have significant recreation value.
- Educate residents (and visitors) about liability issues surrounding others’ access onto private lands, as well as the respectful and responsible use of private lands. Have the

Planning Commission and possibly the Conservation Commission develop and distribute outreach literature.

Table 5

Recreation Uses Options for Implementation	Zoning	Subdivision	Support Plans	Other Tools & Incentives
Identify areas for public beaches and boat docking.			X	
Map trails and establish legal trails.			X	X
Explore the existence of ancient roads for recreational uses.			X	X
Work with property owners to explain liability issues.				X
Educate the public on respectful land use.				X
Prioritize lands for acquisition in terms of recreation value.			X	
Hold recreation events and fundraise for conservation and other recreation projects around town.				X
Prohibit or restrict development in wildlife corridors.	X			
Maintain larger minimum lot sizes in priority hunting areas, and/or encourage clustering techniques to protect them.	X	X		

2.6 Waterfront Development

2.6.1 Concerns & Comments:

Clean water was one of the valued aspects of living in Newark. Respondents did voice concerns about growth in lakefront development. In a similar vein, it was noted that Newark is considered to be one of the popular areas in the state for vacation properties. Participants called for Vermont Land Trust to protect the lands around Newark and Center Ponds. Some participants were concerned that the exceptional quality of drinking water from local springs might encourage “water farming” (bottling) in the future.

Recommended Goals

Ensure that Newark residents continue to enjoy access to its ponds.

Protect water quality by incorporating environmentally responsible development standards.

2.6.2 Strategic Recommendations/Town Plan Language

The Town Plan already identifies protection of water resources as a priority, although through a voluntary effort. It is interesting to note that residents and landowners were originally supportive of

enacting local wastewater regulations before the state took delegation of all such regulations. Perhaps the Town would be similarly supportive of a freestanding ordinance requiring protective vegetation buffers around bodies of water. While the town plan can explore such an option (as well as how such an ordinance may be enforced), the decision would ultimately rest with the Selectboard and the voters.

The Town Plan currently places a strong emphasis on outreach and education to residents and landowners. The town might consider adding recommendations to re-establish a Conservation Commission, as well as specific opportunities to educate the public on water quality.

Table 6

Waterfront Development Options for Implementation	Zoning	Subdivision	Support Plans	Other Tools & Incentives
Create a Buffer Ordinance. (Can also be a freestanding ordinance.)	X			
Establish minimum setback requirements and maximum building height and coverage.	X			
Educate property owners on water quality issues.				X
Prohibit impervious surfaces on lakefront properties.	X			
Conduct outreach and education on state potable water and wastewater regulations.			X	X

2.7 Home Occupations

2.7.1 Concerns & Comments:

Affordability was a key concern, as was ensuring enough personal freedom to earn a living. Participants were concerned about the quality of the local jobs available and wished to see something more than seasonal. There was also a desire among residents to see more local employment opportunities from small businesses and home-based businesses.

Recommended Goal

Provide economic opportunity to all residents of Newark in a manner that complements the uniquely rural character and natural scenic beauty of Newark.

2.7.2 Strategic Recommendations/Town Plan Language

Newark’s Town Plan currently characterizes its commercial uses as forestry, arts and crafts, home construction, and home occupations. The Town Plan also states that establishment of “small and home-based businesses that make the most of the surrounding area” (i.e. Burke Mountain, the many beautiful lakes and ponds, hiking trails, and facilities, etc.) should be encouraged. Given that the proposed Ginn development is likely to generate a substantial amount of secondary growth, there

may be substantial growth in such businesses. Newark may therefore want to consider incorporating the following language into its town plan:

- Better define home occupations. This phrase is currently used interchangeably with home-based businesses, and they are not necessarily synonymous. A home occupation typically involves a minor portion of a residential dwelling unit for an occupation that is considered to be customary in residential areas and does not have an undue adverse impact on the character of the area. A home-based business however, may entail outside storage and/or heavy equipment, multiple employees, and client traffic. Even if residents remain undecided about local land-use regulation, it may be helpful to have commonly understood definitions for both terms.
- Take note of the fact that statute prohibits local regulations from infringing upon the right of any resident to use a minor portion of their dwelling for a home occupation. It should also be noted that home daycares serving six or fewer children are protected as a permitted use of a single family dwelling under statute. While the Town of Newark continues to evaluate regulatory options, including such language in the Town Plan may help to dispel concerns that zoning will take away an individual's right to carry out a home occupation.
- For the reason given above, the Town Plan should take note that statute exempts accepted agricultural practices (which includes maple sugar production), as well as accepted silvicultural (forestry) practices from local regulation.
- Define undue adverse impact. Undue adverse impact could mean different things in different parts of town. Is it smoke? Noise? Traffic? The Town Plan should give provide some guidance in their area.
- Identify areas in town where residents face limited opportunity for poor cell phone service and Internet access. Identify partners who can help address this shortfall in coverages, such as Vermont Council on Rural Development, and Vermont Telecommunication Authority.

Table 7

Home Occupations Options for Implementation	Zoning	Subdivision	Support Plans	Other Tools & Incentives
Allow for occupations that are customary and usual in their respective areas.	X			
Require buffers, screening or increased setbacks around selected commercial uses.	X			
Conditionally approve certain uses.	X			
Apply free-standing site-plan review for all uses, except single and two-family homes.	X			