



Comments to LURB on Preapplication of the TRORC 2026 Draft

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I submit these comments as a resident of Brookfield and as Chair of the Brookfield Planning Commission. I speak in my individual capacity. The Brookfield Planning Commission has not taken a position on the DRAFT Plan and nothing here should be attributed to it. My perspective as chair is nonetheless relevant. I work directly with the statutes the Regional Plan invokes and oversee the town planning process the Regional Plan will sit above, and I will live with the compatibility review consequences the Plan creates for our town plan under 24 V.S.A. §4350.

These comments almost certainly do not cover all of the concerns I may have as I've tried to process and understand the DRAFT Regional Plan, and do my best to compare it with the recently adopted Brookfield Town Plan. This is over a 350+ page review of content, not including the review of associated maps. It's hard to imagine that most towns in the region have had the time and capacity to fully understand and comprehend the content and impacts of the DRAFT Plan, especially since towns in the region are heavily run on the backs of volunteers. It is important that this is noted because although the statutory process may have been met by the regional commission, it's been a very short turn-around that has lacked widespread citizen engagement at the town level.

Here are some of the most obvious concerns that I was able to flag in in my first review of the DRAFT Regional Plan:

The plan converts guidance into regulation. 24 V.S.A. §4348a(a)(1). Section 4348a(a)(1) requires a regional plan to contain a statement of basic policies of the region to "guide" growth and development. What this DRAFT does is go way beyond guide, but is mandatory and prescriptive. The plan prohibits principal retail, offices, warehousing, and self-storage in Rural General and Rural Agriculture and Forestry areas (Rural General Policy 11 and Rural Agriculture and Forestry Policy 5). It caps residential density at one principal structure per two acres in Rural General and one per five acres in Rural Agriculture and Forestry areas (Rural General Policy 2 and Rural Agriculture and Forestry Policy 2). It bars residential buildings over five units in Rural General areas (Rural General Policy 3) and caps subdivisions at ten structures in Rural Conservation areas (Rural Conservation Policy 9).

Because these policies have regulatory force through Act 250 Criterion 10, they operate as land use regulation adopted without the process, the local accountability, or the statutory authorization that actual land use regulation requires. From where I sit as a town planning official, this matters in two ways. It binds Brookfield landowners regardless of what our duly adopted town plan and bylaws say, and it turns the Regional Plan from a coordinating document into a regulatory bylaw nobody in Brookfield voted on. The LURB should require TRORC to distinguish genuinely guiding policy from regulatory mandates, and to justify each mandatory "shall not" against the guiding function §4348a(a)(1) describes.

Brookfield illustrates the practical effect. Our recently adopted Town Plan permits low-density residential development in the Agriculture-Residential District at one dwelling per five acres and

encourages, but does not require, clustering. The DRAFT Regional Plan would instead impose mandatory clustering requirements and mandatory siting standards in Rural Agriculture & Forestry areas through Act 250. Likewise, Brookfield's Conservation District contains no numerical cap on structures or impervious cover, while the Regional Plan would impose a ten-structure subdivision limit and one-acre impervious surface cap wherever land is mapped Rural Conservation. These are not simply regional goals, they are new land use standards that supersede local policy in applicable Act 250 proceedings. This is not to say clustering and restrictions on impervious surfaces aren't worthy of consideration, but these are decisions that should be determined at the local level and with local impacts being the first consideration.

The plan moves decisions away from the most local level possible. 24 V.S.A. §4302(b)(2).

Section 4302(b)(2) requires that decisions shall be made at the "most local level possible commensurate with their impact." The DRAFT plan moves in the opposite direction.

First, the mandatory policies described above reach landowners directly through Act 250 regardless of local zoning, infringing on the town-level judgments that § 4302(b)(2) protects.

Second, the plan's self-defined "substantial regional impact" criteria (Plan Implementation, Section A) expand the range of projects the Regional Plan, rather than the town plan, controls in Act 250 proceedings. Criterion (n) treats a commercial building over 2,000 square feet in a Rural Conservation area, or 4,000 square feet in a Rural Agriculture and Forestry area, as a matter of substantial regional impact. A 4,000 square foot building is a modest farm store, a small repair shop, or a woodworking operation. These are local matters that need to be determined and made at the local level. Thresholds this low for every single town in the region are transfers of jurisdiction from the thirty TRORC towns and their respective town plans to one regional document.

As a planning commission chair I can speak to what this transfer actually costs. Town plans are built through hearings our neighbors actually attend, reflect tradeoffs our communities have actually debated, and are adopted by boards our residents actually elect or can appear before. The LURB should require TRORC to demonstrate that its mandatory policies and its substantial regional impact criteria leave decisions at the most local level possible commensurate with their impact.

Brookfield provides a useful example. Under our Town Plan, a modest woodworking shop, farm store, or value-added forest products business is a local land use decision. Under the DRAFT Regional Plan's substantial regional impact criteria, a 4,000 square foot building is Rural Conservation would instead become subject to regional conformance standards. Those thresholds encompass ordinary rural businesses that towns have traditionally planned for themselves.

The Regional Plan puts town plans under pressure the statute does not authorize. 24 V.S.A.

§§4345a(5), 4302(f)(2), 4350. Regional approval of a town plan turns on the town plan's compatibility with the Regional Plan. That gives every provision of this DRAFT, including provisions outside the required elements of §4348a, potential force as a condition on town planning.

Under §4345a(5) the Regional Plan must be compatible with duly approved municipal plans, and under §4302(f)(2), where a plan will significantly reduce the desired effect of another plan, it must contain the four statements required by §4302(f)(2)(A) through (D). Approved town plans in this region that encourage forms of rural economic and residential development that the DRAFT prohibits are incredibly problematic. The DRAFT does not appear to contain the required

§4302(f)(2) statements identifying those incompatibilities, explaining their necessity, showing the absence of reasonable alternatives, and describing mitigation. The LURB should require those statements or require the conflicting mandatory provisions to be conformed to the affected town plans.

Brookfield's adopted Town Plan demonstrates the problem. The Regional Plan identifies Brookfield Center as a new Village Center intended to accommodate principal retail establishments, wholesale businesses, light industry, and higher-density housing. Brookfield's Town Plan takes the opposite approach. It expressly states that principal retail will not be permitted within Brookfield Center and that industrial uses are not planned or encouraged. This was done intentionally to leave capacity for more housing opportunity, especially given the reality that the area lacks water and wastewater capacity. Similarly, the Regional Plan's Rural General designation allows substantially greater residential density than Brookfield plans for outside its villages. These are not minor policy differences, but rather represent fundamentally different visions for where and how growth should occur.

The DRAFT also directs municipalities to undertake actions unrelated to any §4302 goal or §4348a element, including directives in the Healthy Communities chapter that towns conduct audits and surveys, establish committees and events, and restructure participation in local government. Regardless of the merits of these directives, these are not elements a regional plan is authorized to contain, are unlawful, unfunded mandates, and because town plan approval is directly tied to compatibility under § 4350, they risk operating as conditions on elected local governments and its officials. The LURB should require TRORC either to remove them or to state expressly in the plan that they are non-binding aspirations that will not be treated as compatibility criteria.

Housing targets adequacy is misaligned with realities on the ground. 24 V.S.A. §§4302(c)(1)(A), 4348a(a)(9). The region's 2030 housing target is 2,424 to 3,640 additional homes (VHFA/DHCD, Statewide and Regional Housing Targets, Appendix 1, pp. 4, 13), and §4302(c)(1)(A) requires the plan to demonstrate that its designated centers and growth areas can accommodate a substantial majority of it. The DRAFT not only directs the substantial majority of housing to designated centers, but it imposes rural density caps, the five-unit building prohibition, and the ten-structure subdivision cap that sharply reduce capacity everywhere else. If rural capacity is curtailed to that degree, the designated centers must absorb essentially the entire target, and the plan nowhere shows with unit counts that they can.

Brookfield demonstrates the problem. The DRAFT Regional Plan assumes that expanded Village Centers in towns lacking sewer capacity can absorb substantially more housing, yet Brookfield Village has well-known limitations related to water supply, wastewater disposal, and physical development constraints. Brookfield's Town Plan therefore anticipates relatively modest village growth and continued low-density rural development. By simultaneously restricting rural housing through density limits, subdivision caps, and mandatory clustering while assuming village capacity that does not presently exist, the DRAFT Plan reduces overall housing opportunity rather than redistributing it.

Rural economy provisions contradict statutory definitions of the plan's own land use categories. 24 V.S.A. §§4348a(12)(H),(I), 4302(c)(2), 4302(c)(9)(B). The Rural General category is statutorily defined to allow low-density residential and "some limited commercial development." Rural General Policy 11 prohibits principal retail entirely, and read with the plan's other commercial

restrictions it is difficult to identify what commercial activities are allowed. A policy set that eliminates commercial use is inconsistent with §4348a(12)(H).

The Rural Agriculture and Forestry category is statutorily defined to require that development be managed to "promote the working landscape and rural economy." The prohibition on new retail, offices, and warehousing (Policy 5) and the cap of twenty social events per year on accessory on-farm businesses (Policy 8) not only suppresses the rural economy rather than "promote" it, but takes the local communities' opinion entirely out of the equation. Value-added marketing, agritourism, and on-farm sales are exactly what Goal 9(B) directs the region to encourage, and they are absolutely necessary options that need to be on the table for communities to consider as they determine how best to encourage, protect, and promote working farms and forest enterprises that are essential in our rural communities and economies.

Many of the region's lower-income communities lie within the rural areas where the plan bans new commercial enterprise outright. The LURB should require the plan's rural commercial and accessory on-farm business policies to conform to the defining terms of § 4348a(12)(H) and (I) and to the economic opportunity directions of Goals 2 and 9.

Brookfield's economy depends on forestry, agriculture, home occupations, and small-scale value-added enterprises. The Town Plan encourages these uses as essential to maintaining the working landscape. Regional prohibitions on principal retail, offices, warehousing, and restrictions on accessory on-farm businesses therefore affect not only future development patterns but the viability of the local rural economy that the Town Plan is intended to support.

Prohibition on fossil fuel combustion exceeds statutory scope. 24 V.S.A. §§4348a(a)(3), 4302(c)(7). The energy element required by §4348a(a)(3) includes an analysis and "a statement of policy," and the related goal in §4302(c)(7) speaks in terms of identifying suitable areas and encouraging renewable energy. The DRAFT instead imposes mandates on private development enforceable through Act 250 by prohibiting fossil fuel combustion as a primary heating source for new development (Thermal Energy Policy 2), mandating EV charger installation ratios for projects with five or more parking spaces (Transportation & Land Use Policy 2), and a required demonstration of due consideration of geothermal systems (Thermal Energy Policy 3). Whatever one thinks of these requirements as policy, a statutory direction to *encourage* does not *authorize* a regional planning commission to prohibit heating fuel choices or mandate equipment through the Act 250 process. The LURB should require TRORC to identify which energy provisions are binding, and to justify each against the element's analytical scope and the encourage-level direction of §4302(c)(7)(A).

Brookfield's Town Plan encourages improved energy efficiency and supports renewable technologies where appropriate, but it deliberately leaves heating technologies and specific building systems to property owners and applicable state codes. The Regional Plan instead converts those policy preferences into mandatory Act 250 conditions without any corresponding direction in the Town Plan.

The plan is disconnected from the region's actual development trends and needs. 24 V.S.A. § 4348a(a). Brookfield illustrates these disconnects. The Town has intentionally planned for modest village growth, continued low-density rural housing, protection of working lands, and carefully scaled commercial development. The Regional Plan instead expands Village Center boundaries,

anticipates substantially greater village density, restricts rural development more aggressively, and permits commercial uses in locations where the Town Plan expressly discourages them. Whether those regional policy choices are preferable is ultimately a matter for public debate, but they demonstrate that the DRAFT Plan is not merely coordinating municipal planning, rather it is replacing significant elements of locally adopted planning with a different regional vision.

Respectfully submitted,

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Resident of Brookfield and Chair, Brookfield Planning Commission (individual capacity)