

Hartland Planning Commission

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Public Statement by the Hartland Planning Commission Concerning its Supreme Court Appeal of the Sunnymede Project.

Approved with Clarifications and Corrections of November 20, 2024

The Hartland Planning Commission (HPC) recently filed an appeal with the Vermont Supreme Court to overturn the permit issued to SM Farm Shop LLC and SMFVTMGT, LLC, the applicant and owner. Both corporations are registered in Naples, Florida and are commonly referred to as Sunnymede. The HPC found Sunnymede's Act 250 application was not in compliance with the Hartland Town Plan. The HPC, initially joined by our Regional Planning Commission (TRORC), representing 30 towns in Windsor County, objected to a number of the lower courts' legal findings in the Sunnymede docket. This Public Statement is intended to explain the HPC's reasons for our appeal and to make future recommendations.

All towns in Vermont are subject to Vermont's Act 250 Land Use Regulations that by statute are based on policies and goals stated in a Town Plan. A Plan is drafted by a Planning Commission, then reviewed and voted on by the Selectboard, and at their discretion, by a public vote. Most towns in Vermont have local Ordinances, created, administrated and acted on by local town officials. Over the past 50 years, Hartland has never had a Land Use Ordinance. The HPC did prepare 3 Land Use Ordinances in the past 35 years. All were narrowly defeated. Another plan was prepared in 2014, a public hearing held, then delivered to the selectboard who took no action. Hartland does have a Town Plan that must be updated every 7 years, usually a 2-year work effort. The Plan closely follows the results of its many town-wide surveys, the most recent one taken in 2023, in which its most common public refrain was "We like Hartland the way it is."

A potential developer must file an Act 250 application based on the adopted Town Plan. If a town has an Ordinance, then both Ordinance and Act 250 approval are required for a project to be constructed. If a permit application subject to a Town's Ordinance is denied, then no Act 250 permit can be issued. If the town is without an Ordinance, as Hartland is, then only the 3 member board of the State's District Environmental Commission are the sole judges who determine a project's compliance with the Town Plan. The HPC and TRORC opinions in the matter are only advisory. The HPC has had good success in the past relying solely on Act 250 in land use cases.

But times have changed. Vermont Governors appoint District Environmental Commissioners and other court officials who, understandably, are more in line with current views of state government and its regulations. We have recently been advised by regulators that if a town has strong views on development, it should be reflected in a local Ordinance, not just through the Act 250 process. Our experience with the Sunnymede project has brought this point home, despite the HPC's Act 250 testimony based on a strong Hartland Town Plan.

The HPC interprets Hartland's future as a town composed of many rural areas, with home-based and small businesses connected to our 3 Village centers. One, the Three Corners Village, has all the essential commercial services needed by a town with 3,600 residents. Local businesses and home-based commercial activity with societal connections lie within our small Village, integral with Hartland's Town Offices, Library, Recreation Center, playing fields, the Elementary School, Historical Society and a church. An added benefit to the town is that visitors passing to or from our non-commercial I-91 interchange can stop for food, fuel, and more at village stores, a mile north of the interchange.

The HPC believes the Sunnymede Project will adversely change the Village setting and its long-term vitality. The HPC is not trying to protect businesses from competition, but rather, to have businesses locate as specified in the present Town Plan.

Sunnymede is self-described as a “Farm Store.” Under terms of the permit, 60%, by dollar value, of Sunnymede’s principle for-sale products need to be agriculturally based ones. The remaining 40% of sales are unrestricted, not identified by Sunnymede or how those percentage limits will be verified. The project also proposes to install multiple charging stations for electric vehicles, more typical of commercial travelers’ services than “Farm Stands.”

Its 9,000 square feet of buildings and paved parking lots are the size of the entire footprint of all the commercial buildings in the Three Corners Village. They would occupy nearly all of Sunnymede’s narrow and level hay field that sits alongside Route 5, nearly a mile south of the Village. Village stability is of great concern. For example, if “Mikes” convenience store should fail because of business siphoned off by Sunnymede’s sandwiches and sundries, the town’s only gas and diesel pumps could disappear, with a trip to another town the only alternative. One doesn’t need to look far away to see many small Vermont towns with closed general stores and no gas stations.

Sunnymede never sought to meet directly with the HPC before they filed their Act 250 permit application. There we could have discussed their project’s design and reviewed the Town Plan’s provision that “No commercial business is allowed in a Rural District except agriculture. The applicant’s lawyer instead met with town officials and the former town manager at 2 public meetings in 2022 in an unsuccessful attempt to have the 2022 Proposed Town Plan modified, further detailed in their letter to the Selectboard dated April 18, 2022. The original Town Plan of record remains in effect today and is the document used in all legal proceedings.. Sunnymede’s size and project details remain as first proposed, except for their earlier elimination of a live music venue and on-site worker housing.

The HPC has also considered other factors in its decision. (1) A Sunnymede project would NOT provide meaningful Hartland property tax relief by increasing the town’s tax base because of Vermont’s Act 127 school funding law. To create statewide education equity, the state takes school property tax money and redistributes it on a weighted pupil basis. Some towns (the receivers) gain an oversized proportional share back, lowering their tax rate, Other towns like Hartland (the donors) get back an undersized proportional share, raising their tax rate. (2) Rural District boundaries are set based on a low density collection of homesites in relatively quiet neighborhoods, often in agricultural settings. Sunnymede acts as a Traveler’s Service, not a simple farm with produce for sale. (3) We question whether there will be a sizeable impact on the town’s police and emergency services. This could result from increased interstate off-ramp traffic looking for common travelers’ needs found at Sunnymede’s store, adjacent to the exit, and in an otherwise small quiet neighborhood.

The Hartland Selectboard, with voter approval, recently funded a \$1,600,000 completed upgrade of the intersection in Hartland Three Corners Village, the intent to improve safety, attractiveness and vitality. To further that goal, the HPC requests that the Selectboard, who have not yet taken a position on Sunnymede, engage with the HPC in developing a Basic Land Use Ordinance. That, in combination with a revised 2025 Town Plan, should allow Hartland to more directly enforce its own values and keep Hartland “the way it is.”