

# THE YANKEE PLANNER



American Planning Association  
Northern New England Chapter  
Making Great Communities Happen

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## Implementation Planning: The logical next step in the comprehensive planning continuum

By Dale Richards, AICP

Once a governing body embarks on a course of action to develop policies related to land use in their jurisdiction, the traditional course of action is for it to adopt a comprehensive land use plan (or general plan in some states). This political document (which holds legal force in some jurisdictions, but not all) needs a series of enabling ordinances to establish a legal touchstone that gives the comprehensive plan valence and effectiveness. Typically, once the comprehensive plan and supporting ordinances are approved, the process ends and the jurisdiction begins its journey to provide guidance and direction to the geographic distribution of land uses.

In this author's opinion, an important aspect of the comprehensive planning process is being left out. That is due to the fact that a static document (the enabling ordinances) is used as the legal basis for enforcement of a dynamic document (the comprehensive plan).

While the comprehensive plan clearly details the policy priorities of the governing body, the enabling ordinances (zoning, subdivision, sustainability, property maintenance, etc.) out of legal necessity do not. While it can be ar-

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## News from APA Region 1 Director

### ***A Message from Angela Vincent, APA Region 1 Director***

As some of you may know, I am the new APA Region 1 Director. Having officially taken office on May 25<sup>th</sup>, I was anxious to reach out to you to introduce myself and communicate what I'd like to accomplish over the next four years:

- Provide up-to-date information to you on APA Board affairs;
- Solicit input on various APA business and progress and be your voice on the APA Board;
- Increase communication within Region 1 to better serve the needs of the Chapters and the APA members; and

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## President's Message

*By Peg Elmer - NNECAPA President*

I hope you've all had a good summer! Each summer is the wildest time of the year here at Vermont Law School. Students come from all over the world for an intensive 10 weeks of environmental law courses taught primarily by equally far-flung, visiting scholars. The place buzzes with lawyers working on international environmental policy for the European Union or the UN. Climate change is a huge draw, and they do begin to make the land use/transportation connection. I have the privilege to teach a "sustainable community planning in practice" course to a wide range of students more familiar with Los Angeles, Detroit, D.C, Montreal and Paris than New England. It's a highly interactive course, where they reflect on the places they come from in relation to what they're learning.

What this experience does for me is highlight the treasures that we have in our communities here, how progressive our planning is for both downtown re-vitalization and rural protection. Most of all, there's the sense that democracy is more alive here...that more people are involved in their communities. I often get the comment "maybe you could do that here but that would never fly where I come from"... They love floating in inner tubes down the White River admiring the pastoral but feel most energized by the little urban cores devoted to the arts, like in downtown White River Junction. Their amazed at the concept of wildlife corridors, and designing culverts to be fish- and/or salamander-friendly. I want to pass on their excitement over what we've accomplished here to you - it's a tribute to the hard work of community planners.

NNECAPA aims to help support your work. We've got a new website - please check it out. The New Hampshire crew is planning a great fall conference in Portsmouth. And APA Boston will be an

opportunity for further exchange - the once in a decade chance to get to the national conference when it's fairly near by coinciding with cutbacks in travel expense coverage. There have been several times when I've paid my way to get to the conference when it's closer by (finding friends or relatives willing to put me up), and it's always been worth it for the inspiration I'd bring back.

Your board members are always open to ideas on how we can better support the profession - just pass them on to us. and thanks for the great examples of good work you're doing.

### Sustainable New England



**Make your hotel reservation by September 20 to receive the discount conference rate**

#### Featuring diverse topics

- local economies
- sustainable agriculture
- energy efficiency
- form-based codes
- climate change/adaptation

**Detailed agenda online**

### Register Online NOW for the NNECAPA 2010 Conference

**October 7&8, Portsmouth NH  
at the new LEED-Certified  
Portsmouth Harbor  
Events & Conference Center**

**[www.nnecapa.org](http://www.nnecapa.org)**

**If you want to register, but can't access the Internet, call Ben Frost at (603) 310-9361**

## Planners, Ticks, and the White-Footed Mouse

By Theo Holtwijk, Director of Long-Range Planning, Town of Falmouth, ME

### ***How can we best manage land to protect public health?***

#### **Lyme Disease Could Soar This Year**

Reports of confirmed Lyme disease cases have been pouring into the Maine Center for Disease Control and Prevention this year at a rate three times above normal.

*Maine Sunday Telegram*, April 4, 2010

Reading the recent headline above reminded me why I should write the following article for my fellow Maine planners.

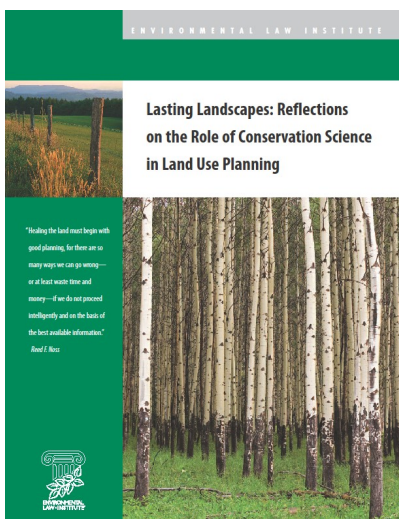
Last fall I was invited by the U.S. Environmental Protection Agency (EPA) to participate in a first-ever interdisciplinary science workshop, titled *Biodiversity/Landscape Change and Lyme Disease: Science and Application*.

My first thoughts were: in my job I don't have anything to do with Lyme disease. I don't know much about ticks. What do I have to contribute to this effort? Isn't it enough to keep my pant legs tucked in and do regular tick checks?

But as EPA Environmental Health Scientist Montira Pongsiri and I talked more about this topic on the phone, my eyes gradually opened. I learned about a new **Biodiversity and Human Health effort** by the EPA to better understand the relationships between habitat fragmentation, deforestation, climate change, changes in biodiversity, and infectious disease transmission to humans. And I found out that the agency was particularly interested in discussing with land use planners best practices on landscape design to conserve and enhance "ecosystem services." Disease regulation is viewed as an ecosystem service that the EPA is trying to understand by asking: "how can we best manage land to protect public health?" Ah, interesting question, I thought.



Biodiversity and Human Health scientist Montira Pongsiri  
[www.epa.gov/ncer/biodiversity/](http://www.epa.gov/ncer/biodiversity/)



As little as I knew about Lyme disease as little did the health scientists know about planning, I realized. The scientists were eager to know: How does land use planning work at the local level? How does development occur? How does land preservation happen at the local level? How does science support land use planning decisions? How might new science on Lyme disease and landscape use/condition be incorporated? What do land use planners need from the scientific community to help support more conservation, and smarter development? OK, I think I can help was my reaction.

I put together a Land Use Planning 101 presentation that discussed one applicable Maine project: the Rural Brunswick Smart Growth effort. In the **Brunswick project** ecology scientists worked together with planners on mapping unfragmented wildlife habitats and corridors throughout the

## Meet David Kruse, SRC Region 1 Student Representative

David Kruse has been elected as the new Student Council Representative and will serve as a liaison to 16 universities that comprise Region 1. Responsibilities in his role will include encouraging student engagement with American Planning Association events, assisting with entry-level job searching activities, and promoting the services of APA to student members.

David has worked with University at Buffalo's Center for Urban Studies teaching students the benefits of community gardens and actions that can be taken for neighborhood beautification projects. He has also worked for Erie County with the Department of Environment and Planning. In the summer of 2010, he will be interning with the Town of Clarence.

David graduated from UB's Architecture and Planning, receiving a bachelor's degree in Environmental Design while pursuing a minor in Geography. He is currently in his second year of graduate studies with the University specializing in environmental planning and GIS. Upon graduation, he plans to move to Boston to continue contributing to the Region and APA's relationship with its student members.

### **Student Corner**

As students, we are in a unique position in that we have access to a plethora of knowledge from top class professors, guest speakers, and an association that is focused on advancing the planning industry and its relationships with professionals and student planners. Through working with the APA, students have the ability to gain insight into the latest news and happenings of the APA, while also having access to a comprehensive job posting section from the website. It is important to maintain and foster these networks with young professionals and practicing planners to help you earn the most out of your education and set yourselves on the right path to achieve the goals you have set forth.

One way to build relationships with fellow students and young professionals can be to get involved with Young Planners Groups (YPG's). They have the advantage of introducing working professionals who are similar in age to the students and can provide advice in breaking into the professional world, educational guidance, or act as a mentor. Between being proactive about establishing networks and utilizing the tools that the APA has to offer on its website, students can become successful young planners themselves.

One of these resources that can be of use on the website is the student section. Here, you can find out about the ways that the APA reaches out to student members. The New Planner is a fantastic publication that highlights the work done by students throughout the country, as well as related news of interest and a section on a working planner in the field and the advice that can be given.

Another way to become involved with your chapter is to attend the chapter conferences. Though not as big as the national conference, they offer excellent opportunities to meet fellow students and potential employers in a setting that is student friendly. These conferences showcase topics that may not be discussed in class while providing mobile workshops to get attendees a hands-on experience.

Occasionally I will provide any updated information that is pertinent to students and their affiliation with the APA. It is important for everyone to take an active role in their universities, communities, and local organizations. A strong partnership between students and their respective chapters can lead to incredibly rewarding opportunities. Now is the best time to become involved, for the benefits can last throughout your professional planning career.

## Meet Debbie Alaimo Lawlor, AICP Region 1 Commissioner

Deborah Alaimo Lawlor, AICP/PP, has been elected to serve as a Commissioner for the American Planning Association's professional institute, the American Institute of Certified Planners. APA is a 43,000 member organization that provides leadership in the development of vital communities.

Elected from Region I, Commissioner Lawlor serves all members for four years on the eight-member commission guiding certification, ethics, professional development and accreditation policies. She represents more than 16,000 members of APA's professional institute.

Debbie has 30 years of state, regional, and private sector planning experience. She is Chief of Sustainability for the New Jersey Meadowlands Commission (NJMC) and recently took on the additional role of Director of Administration for the Meadowlands Commission's NJMC Business Accelerator, an incubator for emerging businesses related to renewable energy and sustainability.

An active association member, Lawlor has held a number of leadership roles within the APA New Jersey Chapter, including Northeast area representative, chapter vice president, as well as vice chair of state planning for the APA Regional and Intergovernmental Planning Division. She received the 2009 New Jersey Chapter Distinguished Service Award.

Lawlor volunteers her time in her state and local community, serving on the Rutgers University Center for Green Building Advisory Board and was a recipient of the 2010 Arline Simpson Leadership Award for her work with the Meadowlands Regional Chamber of Commerce. She is a past president of the Packanack Lake Community Association in Wayne, New Jersey.

Lawlor received her bachelor's degree in environmental planning and design and master's degree in geography from Rutgers University. She is a certified planner and a licensed professional planner in the state of New Jersey.

Debbie resides in Wayne, New Jersey with her husband Marc, who is also a planner, and children Sean (a recent Quinnipiac University graduate) and Alexis (a Bentley University sophomore).

## Professional Development Updates

By Ben Frost, Professional Development Officer

### **TRAINING OPPORTUNITIES**

Find a listing of free CM credits that are offered through distance education products at [www.planning.org/cm/free](http://www.planning.org/cm/free). There are more than 32 hours of free training available, including LAW and ETHICS.

Other programs include *Planning for Healthy Places with Health Impact Assessments*, developed in collaboration with the Centers for Disease Control and Prevention and the National Association of County & City Health Officials, and the popular *Tuesdays at APA* series.

### **Free Chapter Webinars**

Many chapters of APA have pooled their resources along with several APA divisions and Ohio State University, University of North Carolina, and University of Wisconsin – Milwaukee to offer webcast training opportunities that are free to APA members. Below is the list of sessions scheduled for the upcoming several months. You can visit the APA Utah Chapter website to register for any of these: [www.utah-apa.org/webcasts.htm](http://www.utah-apa.org/webcasts.htm).

CM | 1.5 each

September 3	<a href="#">Planning and Law Division – TBA</a>
September 10	<a href="#">Economic Development</a>
September 17	<a href="#">Monumental Core Framework Plan : Connecting New Destinations with the National Mall</a>
October 28	<a href="#">Blending Conservation Design and the New Urbanism</a>
November 12	<a href="#">Urban Design Reclaimed</a>
December 10	<a href="#">Supporting a Diverse Local Agricultural Economy</a>

Several other dates are listed on the Utah APA site as topic “TBA”.

### **AICP EXAM**

The fall exam testing window will be November 8 – 22. Test-takers should feel free to contact the Professional Development Officer to inquire about study resources, including the inexpensive Chapter Presidents Council Study Guide.

#### **September 21, 2010**

Final Notification Deadline (all applicants will have been informed of their testing status by this date)

#### **October 14, 2010**

Late Cancellation/Transfer Deadline

#### **November 8-22, 2010**

Exam Testing Window

### **May 2010 Exam**

Nationally, a total of 648 people tested during the May 2010 Exam, and of that 405 passed; this is a pass rate of 62.5%.

### **Exam Prep Webcast**

On August 27 from 1 to 4 pm, the PA Chapter's Professional Development Committee will be presenting a 3 hour webinar session to assist planners who are registered to take the APA's AICP exam, or considering taking the exam. The session will cover testing tips, a brief review of material on each of the exam's content areas, and additional sources for exam preparation. Submission of questions is encouraged throughout the session. Susan Elks, AICP, PA Chapter Professional Development Officer and Community Planner with the Chester County Planning Commission, and Christine Bartleson, AICP, PA Chapter Professional Development Committee member and Community Planner with the City of Bethle-

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## State Grapevines

### Vermont

*By Polly McMurtry, VT State Director*

The **Vermont Planners Association**, along with 25 other Vermont community and cultural organizations, was chosen to receive one of the outstanding pieces of art from the Art of Action project, a collaboration between the Vermont Arts Council and Lyman Orton. VPA held one of its Growth Centers forums last fall at the Burlington International Airport specifically to introduce its members to the exhibit on display there and to acknowledge Lyman Orton's longstanding commitment to planning in Vermont.

On July 2<sup>nd</sup>, **Dana Farley**, President of VPA, along with several other members, attended a reception to commemorate the project and recognize the 26 recipients at the Main Street Landing in Burlington.

The Vermont Planners Association received a lovely piece of art called "January" by Val Hird. Much of the artwork speaks to planners' canvases – there are paintings that include villages, ag fields, wildlife, construction equipment, local food, vistas with rolled hay bales next to housing developments, transportation infrastructure, bicyclists, windmills, aerial perspectives, and farm machinery. But "January" seems especially pertinent to Vermont planners at this time, because of its downtown setting, and also because of its tableau of companionship and collegiality mixed with employment that plays itself out in such establishments everyday all over our state.



It is Lyman Orton's intent that all of the pieces of art be displayed in public places around Vermont. "January" will be displayed in the Essex Free Library. Essex will have a special ceremony to welcome this artwork into its community.

And speaking of artwork, Vermont boasts a very fine photographer in the southern part of the state who also happens to be a very fine planner. Manchester Planning Director and photographer **Lee Krohn**, AICP, had the cover photo on the June issue of Vermont Sports magazine! His images also helped to illustrate stories that month about charity bike rides and local farmers' markets. You can see a variety of Lee's interesting galleries online at

[www.leekrohnphoto.smugmug.com/](http://www.leekrohnphoto.smugmug.com/)

The Expanded Downtown Board considered the City of St. Albans' application for growth center designation at their July 26, 2010 warned public meeting. The Board voted at that meeting to formally approve the City of St. Albans' application and to award growth center designation, based upon their review of the application materials, the Planning Coordination Group's June 10, 2010 unanimous recommendation, and the statutory designation criteria in 24 V.S.A. §2791.

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gued that the mere adoption of an ordinance establishes its priority, text alone is insufficient to communicate direction to staff on methods and styles of administration and enforcement. Consequently, staff is often left to either (a) direction from the City Manager on an administration and enforcement policy, or (b) happenstance created by the perceived health and safety threat of the violation.

This haphazard administration and enforcement method has the real potential of unintentionally thwarting the political will of the elected body when it adopted the land use policies in the comprehensive plan. Almost invariably, this thwarting is discovered after the fact. As a result, the elected officials may sense their political careers threatened, since land use controls are normally very politically sensitive.

This article introduces the concept of a post-ordinance plan that provides guidance and direction to those entrusted with administration and enforcement of the legal underpinnings of the comprehensive plan. This plan – called the “implementation plan” – provides a level of dynamism that is not present in the enabling ordinances.

The implementation plan not only provides priorities for enforcement of property maintenance ordinances. It also establishes systems for the procedure in administration of zoning requests (CUPs, variances, plats, zoning map amendments, site plan reviews, etc.) and dealing with the inevitability of “after the fact” requests. Finally, the implementation plan can be useful in providing a tool for evaluating the performance of staff.

### **ELEMENTS OF THE IMPLEMENTATION PLAN**

From the aspect of an elected body, the comprehensive planning process is similar to buying a car. As we all know, in buying a car we order features for their derived benefits. For example, we order air conditioning so we can survive summer weather in comfort. Call the completion of the comprehensive plan the establishment of the overall benefits we seek in our new car.

The next step – drafting of enabling ordinances – is akin to matching features to benefits. Once built, the new car’s features (ordinances) should be a perfect match for the benefits (comprehensive plan) desired by its owner (City Council).

There is one distinct difference – when we order a new vehicle, inside the glove box is an owner’s manual that gives direction and guidance in operating it. If this guidance and direction isn’t followed, the warranty can be voided. In a comprehensive planning context, the implementation plan is the “owner’s manual” for the City Council in administering the comprehensive plan and enabling ordinances.

As with any other piece of machinery, there are aspects to owning a car that are vital to its continued operation (regular oil changes) and others that are mere niceties (washer fluid). The same is true with bringing a comprehensive plan to life. **Consequently, the first step in the process of creating an implementation plan is the ranking of the Council or Board’s land use policy preferences.**

After this exercise (which may have been performed during the comprehensive planning process), the next step is to introduce two elements of implementation – process and compliance – and share with the

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decision makers some possible options to consider.

### Process

There are several basic elements to the development review process: procedural, technical, legal, and political. Planners have the most influence over procedural steps, and as they gravitate from procedure through technical and legal their influence diminishes. Finally (and ideally), planners have virtually no influence over the political process. As much as planners establish a fair process for review, and as much as planners ensure that technical and legal matters are discovered and addressed, in the end it's the decision makers that make the final call.

Since procedural matters are where the planner has the most influence, consequently is the area that is most foreign to decision makers. As a professional planner that also served a term on the Clear Lake (Minnesota) City Council, I can attest to the fact that procedure can be viewed as a Rubik's cube to a lay decision maker who simply wants to approve or deny the petitioner's request and doesn't understand the need for due process. Memorializing the process for review of zoning requests such as variances, use permits, plats, zoning map amendments, and the like, benefits both the decision makers and planning staff. For the decision makers, a comfort level is established whereby a particular policy preference enabled by ordinance will be administered according to a uniform procedure known to, and approved by, the elected officials. For staff, a separate comfort level is established. In situations where the status of the petitioner may influence the review process (which is common in smaller jurisdictions), establishing a written procedure gives staff a degree of protection against retaliation. Call it similar to an insurance policy against charges of arbitrariness and capriciousness on the part of planning staff.

As part of the development of the process section of the implementation plan, the follow elements should be discussed:

1. **What information about the applicant is required on the application form.** While this may seem to be *pro forma*, in many urban jurisdictions a street address is sufficient to establish the definite location of the subject property. For rural jurisdictions, a legal description may be necessary to establish specificity. As well, the relevant section of the ordinance should also be noted on the application form. Finally, some thought should be given to allowing space on the application form for the petitioner to make the argument for approval of the petition. Planners are not advocates for the petition, and as such should not be placed in that role.
2. **Whether agent information (e.g. legal representative, real estate agent, property owner, or other third party) should be included on the application.** Surprisingly, many jurisdictions omit this on their application form. There needs to be some "standing" on the part of the petitioner that authorizes making the request. I have seen situations where a petitioner requested a variance for uncontrolled property without property owner knowledge or acquiescence. Invariably, this involves a contingent real property purchase and the property owner is out of town or otherwise not readily available to sign the application. Regardless of the availability of the property owner – or whether a third party is advocating for the petition – virtually all jurisdictions require

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the legal owner of the property to sign the application. By setting aside space on the application for the owner's agent, it clarifies that someone else will be representing the property owner on this matter.

3. **Submittal requirements for each type of zoning request, pre-application conferences, and timelines for submittal of required documents.** It is understood that certain requests require more submittal documents. A checklist detailing every possible submittal requirement per type of request (variance, use permit, plat, zoning map amendment) should be attached to the application form. A component part of the implementation plan is the correlation between policy preferences and data requirements. For example, if the City Council establishes that downtown redevelopment is important, it could put language in the implementation plan that minimizes extraneous data requirements in order to expedite the review process. Alternatively, it could expedite review and grant "conditional" approval of the request. Many states have statutory time limitations for decisions on zoning requests. In these situations, memorializing the timelines for review (and the statutory scheme for time extensions) will give greater comfort on both sides of the table that the statute (as well as the ordinance) is being followed.
4. **Internal and external staff review procedure.** Depending on the complexity of the action, staff review may be simple or detailed. A simple variance on residential property might involve only a field visit and review of similar requests. On the other hand, a site plan review of a multi-store shopping center on a major highway most likely will bring county, regional, state, and/or federal agencies into the discussion. As well, some jurisdictions have "retired" from the conditional approval process, giving review agencies authority to hold up a petition until their individual concerns have been addressed to their satisfaction. Making discussion of these review requirements mandatory should be detailed in the implementation plan.
5. **Policy on negotiation of conditions on use permits between staff and the petitioner.** In situations where discrete conditions on use permits are not part of the enabling ordinance, staff determination of recommended conditions are based on expert review and accommodation of perceived health and safety conditions inherent with the request. These conditions may be challenged by the petitioner as unwarranted and costly. I have worked in jurisdictions that allow staff to negotiate these conditions with the petitioner and develop a "win-win" situation walking into the public hearing. I have also worked in jurisdictions that do not want staff to negotiate these matters. In these situations, the decision makers want to lead the negotiations and get the credit for lessening their impact. As previously mentioned, policy preferences on the decision makers can have an impact on this matter. The implementation plan should chart out which land use activities the governing body authorizes staff to negotiate, and which land use activities it reserves negotiating authority.
6. **Policy on whether and when the petitioner receives a copy of the staff report.** While many jurisdictions issue the staff report to the petitioner concurrently with its issuance to the decision makers, some do not. This may be due to minimizing any lobbying on behalf of the petitioner with

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individual decision makers, who are acting in a quasi-judicial capacity and do not want to be perceived to have *a priori* decided the issue. This may be an important issue in that jurisdiction, and the policy on issuance of the staff report to the petitioner should be mentioned in the implementation plan.

- 7. Number and types of hearings and meetings where review of the request is required.** Each state has statutory requirements for the number of review points and public hearings on land use matters. Other jurisdictions have additional meetings where recommendations are developed. For example, in Kendall County, Illinois a residential subdivision goes through 10 review points from the initial application to final plat approval. In Pine County, Minnesota that same residential subdivision goes through 3 review points at the County level and 2 at the township level. During the pre-application conference, the petitioner should be advised on the number and types of review points so as to enhance the petitioner's comfort level. Memorializing this in the implementation plan will also give comfort to the decision makers who may not be aware of these requirements, thereby reducing stress levels throughout the organization.
- 8. Policy on the responsible party for required publication and mailing of public hearings.** While most jurisdictions have this responsibility, in others it is the petitioner who is responsible for this. In petitioner-responsible areas, this requirement should be mentioned prominently in the implementation plan and the application form.
- 9. Post-approval recording responsibilities.** Jurisdictions vary broadly on the responsible party for recording of variances and use permits. (Most jurisdictions require the developer to record plats after the signature blocks have been signed on the Mylar.) Identification of the responsible party should be included in the implementation plan and the application form.

It is important to note that throughout the development of the process section of the implementation plan, the governing body needs to ensure that its policy preferences are identified and the method of review procedure is reflective of those preferences. In doing so, the governing body will be drafting a document that is as dynamic as its comprehensive plan – bringing life to the plain text of the enabling ordinances.

**It is not recommended that the process section be codified.** This is to allow flexibility to the governing body to change its policy preferences – and their impact on elements of the implementation plan – without the fiscal expenses associated with notice and a hearing.

### Compliance

Enabling ordinances are mere words on paper without a plan to enforce their compliance. A general rule is that the smaller the jurisdiction, the less likely that a uniform system of insuring compliance is established. This exposes these units of government to claims of arbitrariness and capriciousness in compliance matters (when an ordinance is enforced), as well as mandamus claims (when an ordinance is not enforced).

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A systematic method of ensuring compliance with the enabling ordinances provides many benefits to the governing body. Since they are the entity directly accountable to the citizens, the governing body is more attuned to the political realities of their jurisdiction and are best able to communicate the importance of stringent enforcement of certain ordinances and *laissez faire* responses to other violations.

I believe there is universal agreement that a burning pile of tires or a home occupation that generates noise and traffic concerns not usually associated with a residential area should be addressed with measures appropriate to the health and safety concern. It is in the enforcement of property maintenance and zoning codes that are mainly aesthetic in nature – or a minor nuisance – that a compliance element is beneficial. Without said direction, the governing body runs the risk of staff substituting their own sensitivities and enforcing the ordinances accordingly. This creates a “Catch 22” situation, where staff can’t really be faulted for doing their job, yet the political will of the decision makers is nevertheless compromised.

Another area of compliance has to do with theory vs. reality. Kendall County, Illinois (the fastest-growing County in the USA) adopted a conservation subdivision ordinance several years ago as a measure to preserve farmland and maintain rural views. While the County Board preferred that option in theory, when a proposal utilizing that ordinance was presented to the Board for approval, the Chairman of the Board alluded that the proposal was not what he envisioned when he voted to approve the ordinance. This level of disconnect is common when ordinances are adopted, as individual decision makers each have their own vision of what an ordinance will look like “on the ground”. To the extent that at any given time a majority of elected officials may have a different vision than what is proposed in front of them is what can create a strained relationship with staff. As it relates to ordinance enforcement, when a governing body enacts (for example) ordinance language prohibiting junk cars or junk and debris it has a particular vision in mind. However, staff is bound by the text of the ordinance and comports itself accordingly. One case I dealt with at Kendall County brings this to light. The County has an ordinance restricting off-premise signage in agricultural districts. In the collective mind of the County Board, the restriction pertained to billboards. However, a hay wagon at a busy rural intersection advertising a residential development 1.5 miles away also fit into the definition of off-premise signage. A complaint was sent to the property owner and the matter was heard by the County’s code hearing officer. After hearing testimony from me and the attorney representing the property owner, the hearing officer ruled that it was not an off-premise sign at all – it was a hay wagon. I brought this to the attention of one of the County Board members, who commented to me that “that is a nice looking sign. Maybe we should allow them.”

With the previous discussion in mind, the compliance section of the implementation plan should include the following elements:

- 1. An understanding of what the governing body intends to enforce.** Lay members of city councils and county boards cannot be assumed to have the level of experience (both practical and legal) necessary to realize the level of impact on the text of an ordinance. There needs to be communication between the decision makers and staff that clarifies the intention of the elected officials on what it is envisioning when reading and interpreting an ordinance. *This is especially important*

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*when the composition of the governing body has changed since the comprehensive plan and enabling ordinances were adopted. Only through this clarification process can the elected officials and staff be on the same page.*

- 2. Establishment of enforcement priorities.** The comprehensive plan usually references policy priorities such as downtown redevelopment, neighborhood stabilization, business retention and attraction, and so on. Other areas of the plan, in the mind of the elected officials, are lower in priority. It stands to reason that the City Council wants ordinances that are promulgated in support of higher policy priorities to be more rigorously enforced than other ordinances adopted out of either legal necessity or in support of lower policy priorities. By establishing enforcement priorities, the governing body recognizes that staff time is limited and is giving clear direction on the highest and best use of this limited resource.
- 3. Discussion of compliance techniques.** Staff has at its disposal a wide array of tools to bring violating properties into compliance. The most extreme measure is filing an action in the judicial system; the least extreme action is ignorance. Neither of these measures is commonly used in compliance actions as an initial response. The most common tools are either a “Notice of Violation” letter (written sternly to reflect the graveness of the situation) or a field visit to the property to discuss the matter with the property owner – with some sort of hybrid used on complex compliance issues. The implementation planning process involves discussion among elected officials, staff, and the jurisdiction’s legal team detailing compliance methods and correlating them with the stated priorities (listed in #2 above) to formulate a comprehensive compliance strategy. This strategy will not only assure the governing body that proper enforcement techniques will be used by staff. Indeed, in some cases the elected officials may reserve the right to establish techniques on a case basis. This strategy will also give assurance to staff that the appropriate technique will be used in support of the policy preferences of the elected officials.
- 4. Identification and assignment of appropriate compliance inspectors.** Most jurisdictions use building inspectors to investigate property maintenance and zoning complaints. Generally this is done because (a) the building inspector is in the field, anyway; and (b) most professional planners are neither trained nor comfortable in dealing with confrontational issues. It is my opinion that building department staff is inappropriate for dealing with most non-structural property maintenance codes and zoning ordinances. Building inspectors are accustomed with dealing with third-party contractors and only occasionally with the subject property owner. Building inspectors can talk more freely and without fear of property owner complaint with third-party contractors. The socialization of the building trades leads to use of language that would be deemed inappropriate in most professional settings. Finally, building codes are finite and specific, with little room for leeway in their interpretation or resolution. *In situations involving immediate or imminent threats to health and safety – burning tires or surface water pollution, to name two – the “black and white” skills of building inspectors are especially appropriate and should be utilized.*

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## Implementation Planning: The logical next step in the comprehensive planning continuum

**(Continued from Page 13)**

Non-structural property maintenance and zoning codes, on the other hand, allow for a shade of grey in their administration, interpretation, and negotiation of compliance terms. Additionally, invariably the staff interaction is with the property owner, and staff communication needs to have a degree of interpersonal and political sensitivity. This “grey shading” and degree of tact and diplomacy lends itself to skills usually associated with planning professionals. Planners are in a better position to ensure that negotiating compliance with property owners on violations of non-structural property maintenance and zoning ordinances is done in furtherance of the land use policy preferences of the governing body.

As with the development of the process section of the implementation plan, when completing the compliance section of the plan the governing body needs to ensure that its policy preferences are identified and the method of compliance procedure reflects those preferences.

### **CONCLUSION**

This article discusses the logical next step in the comprehensive planning process - the implementation plan. The implementation plan reintroduces a level of dynamism to the policy preferences of the decision makers that is taken out with the adoption of the legal framework to enforce these policy preferences. When properly developed – with interplay between elected and appointed officials, staff, and legal representatives – the implementation plan provides a road map for staff to follow, giving guidance and direction in how the ordinances are to be processed, administered and enforced. This road map is intended as a communication device from the elected officials and staff, giving comfort to the governing body that the policy preferences memorialized in the comprehensive plan is being implemented accordingly.

*Dale Richard Powers, AICP, is CEO of ZIA Planning Systems in Clear Lake, Minnesota. He can be reached at 320-493-8930 or [dalepowers@ziaplanning.com](mailto:dalepowers@ziaplanning.com)*

## News from APA Region 1 Director

[\(Continued from Page 1\)](#)

Increase coordination between the APA Board, AICP Commission and Student Representatives Council (SRC) in Region 1.

**Short Bio:** I am the Northeast/Mid-Atlantic Regional Director for ICLEI – Local Governments for Sustainability (ICLEI), a membership association of local governments working collectively to reduce greenhouse gas emissions and achieve local sustainability. I've been involved with APA since I was a graduate student in 2001 at Antioch University New England. From 2002 to 2007 I was on the NNECAPA Executive Committee where I served as the Vice-President and the Chapter President. I took a short hiatus when I moved to Boston to work with ICLEI, but have never lost touch with the APA world (or my membership!).

**Back to APA Business:** I am jumping into this position with both feet! I met with your new AICP Region 1 Commissioner, Debbie Lawlor, and the SRC representative, David Kruse, so we could begin discussing ways to work as a team in Region 1 and provide relevant forums for you to express your voices and provide feedback to us. If you have ideas, I would love to hear them! We want to hear what works best, what doesn't work, and how we can increase communication and coordination at all levels.

More to come as I transition into being your APA Region 1 Director. The Board and Commission retreat is coming up in July and I will learn more about my job as your Region 1 Director. In the meantime, I'm available to talk, email, Skype, meet in person, Facebook you, LinkedIn with you, or even exchange smoke signals. My contact information is included below.

Angela Vincent, [angela.aparegion1@gmail.com](mailto:angela.aparegion1@gmail.com), 603-305-5385.

I look forward to working with each of you and am honored to be in this position!

Sincerely,

Angela Vincent, APA Region 1 Director

## Professional Development Updates

[\(Continued from Page 6\)](#)

hem, will be presenting. Here is the link to register:

<https://www2.gotomeeting.com/register/915277523>

### **AICP REINSTATEMENT**

AICP members who did not fulfill their CM requirements in April may apply for reinstatement. For more information about AICP reinstatement policy please visit

<http://www.planning.org/aicp/reinstatement.htm>.

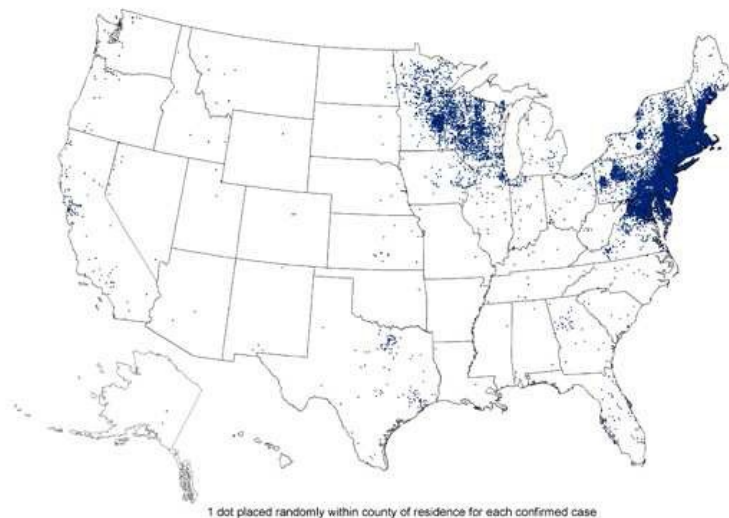
## Planners, Ticks, and the White-Footed Mouse

[\(Continued from Page 3\)](#)

community and devising ways through which development impacts could be minimized. While looking into the relationship between planners and ecologists a bit more, I stumbled on an interesting report called [Lasting Landscapes: Reflections on the Role of Conservation Science in Land Use Planning](#) (2007) by the Environmental Law Institute. More lights went on!

Then I packed a bag, went to EPA's regional lab in Chelmsford, Massachusetts, and mingled for two days with a diverse group of scientists, medical professionals, and wildlife managers. At the [Regional Science Workshop](#) I learned about the white-footed mouse, Lyme disease epidemiology, Babesiosis, tick management, field experiments in Lyme disease transmission, and more. I also learned how much we do not know yet, how serious a [health issue](#) Lyme disease really is, how much it is expected to increase in the coming years, and how we as planners better start paying attention.

Reported Cases of Lyme Disease -- United States, 2008



Here are a few quick excerpts from the workshop proceedings:

Lyme disease is the vector-borne disease with nearly 29,000 confirmed cases reported in 2008. Most cases are clustered in the Northeast and upper Mid-West.

The human risk varies and is dependent upon the local distribution and abundance of vector competent tick species and the available vertebrate host community, such as white-footed mice and white-tailed deer, upon which the ticks across their various life stages depend.

Not all mammals are equally effective or efficient at transmitting the disease to ticks.

[http://www.cdc.gov/ncidod/dvbid/lyme/ld\\_incidence.htm](http://www.cdc.gov/ncidod/dvbid/lyme/ld_incidence.htm)

White-footed mice appear to be the most effective (or “competent”) when it comes to transmitting LD-causing bacteria to ticks. It appears that the abundance of white-footed mice is predictive of both the density of infected tick nymphs and the Lyme disease risk in the human population. Deer are the preferred animal hosts of adult-stage black-legged ticks. Fragmented habitat and forested areas, along with limited hunting access, contribute to the increasing abundance of deer in urban and suburban landscapes.

It is still unclear what ecological spatial scale is most appropriate to potentially manage public health risk. Many types and sizes of spatial units have been studied, from the backyard to landscapes measuring hundreds of square kilometers, with significant relationships found across scales among indicators of disease risk. Studies suggest that there is a connection between the abundance of animal hosts and tick vectors and the landscape they inhabit. Forest fragmentation and destruction in the U.S. have been shown to reduce mammalian species diversity and to increase populations of the white-footed mouse.

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# Planners, Ticks, and the White-Footed Mouse

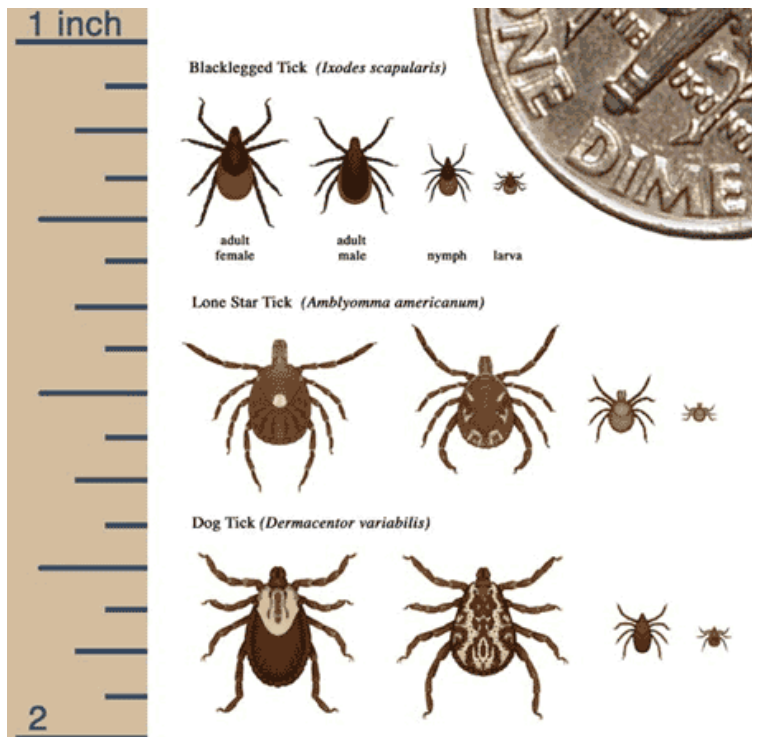
[\[Continued from Page 16\]](#)

EPA researchers are investigating whether the degree of fragmentation can serve as a surrogate for the density of infected ticks and, therefore, public health risk.

Currently, we rely mostly on self-protection measures to avoid being contracted with Lyme disease. A comprehensive and helpful **Tick Management Handbook** aimed at disease prevention was produced by the State of Connecticut. However, how we plan for our communities may have a considerable impact as well.

At the site plan scale, less risky landscapes can be created, for instance, by selecting certain plants and avoiding others and installing wood chip border areas. At the neighborhood scale we may be able to reduce exposure risk by not developing into forested areas. At a town-wide or regional scale, preservation of wildlife habitat may help to reduce tick abundance. But this is a complex issue and more research in this area is needed before we know if there any measures that are likely to be most effective.

Following the Fall 2009 Workshop, EPA established a so-called on-line “Community of Practice (CoP)” around the issue of biodiversity/landscape change and vector-borne (Lyme) disease in the hope that it will foster closer collaboration between public health practitioners, land use planners, ecologists, and the public to study those issues. All Maine planners are encouraged to participate in this effort.



**Comparative Images of Black-legged, Lone Star and Dog Ticks**

[www.cdc.gov/ncidod/dvbid/lyme/ld\\_blackleggedTick.htm](http://www.cdc.gov/ncidod/dvbid/lyme/ld_blackleggedTick.htm)

How serious are ticks and Lyme disease in your community? Do you tuck your pant legs in?

## **White-footed Mouse**

[www.fcps.edu/islandcreekes/ecology/white-footed\\_mouse.htm](http://www.fcps.edu/islandcreekes/ecology/white-footed_mouse.htm)

## NNECAPA's Executive Committee

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## Events Calendar

### APA Webcasts

#### Redevelopment is in the details

October 8, 2010

#### Fundamentals of development agreements

October 22, 2010

#### Urban design reclaimed

November 12, 2010

#### To LEED or not to LEED

November 19, 2010

#### Bridging the gap between community based organizations and the planning community

December 3, 2010

**Details:** [www.utah-apa.org/webcasts.htm](http://www.utah-apa.org/webcasts.htm)

### 2010 NNECAPA Annual Conference - Join US!

Date: October 7-8, 2010

Venue: Portsmouth, NH

Visit our Calendar frequently for additional professional development opportunities: [www.nnecapa.org/calendar](http://www.nnecapa.org/calendar)

### Are you working on an innovative project in your community?

### Have you just finalized the creation or update on a plan you are proud of?

Please share your successes with your peers and submit an article for the NEW Northern New England Community Highlight section of the Yankee Planner!

Contact NNECAPA PIO Sandrine Thibault ([sthibault@ci.burlington.vt.us](mailto:sthibault@ci.burlington.vt.us)) for information and publication deadlines.