

## Agriculture and Working Lands Stakeholder Meeting Notes 8/31/2023

### Steering Committee overview

- Focused on location-based jurisdiction; tier system; discussed using development in the area being the trigger for jurisdiction
- Governance conversation

### Tier 3 discussion

- What falls in this natural resource area?
- Seems very broad, what would the criteria be to define these areas?
- If we dropped jurisdiction down to 2,000ft, tens of thousands of acres of working forests would come under Act 250 jurisdiction.
  - o To clarify – tier 3 would be large forest blocks, wildlife habitat connectivity and possibly high value waters; tier 2 rural villages and hamlets, onsite septic; and then surrounding country side, ag land falls into tier 2
- Seems like there's a road block every time you go to do something on the land, hearing more jurisdiction and seems counter productive to wanting development here, making it harder
- Not sure how tier 3 would work without a lot of redundancy with existing state laws and policies
- Would the tier system change jurisdiction of working lands below 2500ft?
- Issue of driveways and how a road rule trigger might be applied, important consideration about not stifling development.
- Elevation trigger, if it drops to say, 2,000 feet, it would be important to keep ag and working lands exempt
- For lands that are already conserved do we really need hoops to jump through? Note: Conservation of private lands did not really exist in Vermont when Act 250 was written in 1970.

### Forest Block dive

- We want to protect these, but what is the trigger for development here?
  - o Road rule; if a road (and with driveways) went into a block certain distance, that would trigger review; wouldn't stop it.
  - o Over time, there have been different road rule lengths, ended up with some perverse outcomes; incentivizes more dispersed development to stay under jurisdictional trigger
- Idea of how do you create a system where people can use smart design rather than try to avoid Act 250, but still catch the proposed projects that should be going somewhere else.
- Trying to frame this in view of climate change and people coming to Vermont.
- Road rule and agriculture – might mean that road should be longer than 800ft; Cumulative distance v cumulative impact
- Road rule would be trigger in priority forest block areas;
  - o This would have to go through rule making with ANR

### On farm/forestry related businesses

- How could these be allowed and not have to go through act 250 process; some kind of exemption level on site

- “on site” - Not sure it works with forest businesses, saw mills can’t get all the wood from parcel they are on
- Agriculture business usually located on farm and use products produced on farm itself; they should have their own category in Act 250; shouldn’t be viewed as commercial business, should be viewed as part of the viability of farm.
  - o Limit in size? Processing products on site, might have wastewater/water supply issues
    - Have struggled with what the size means – usually acreage
  - o When farm product business gets going, they have to move off farm to keep growing the business
- (AOFB) Accessory on Farm Business designations; NRB report from last year proposed a few options for treatment in Act 250
- Instances where farm-based businesses have not proceeded through the Act 250 process, or haven’t happened because of the cost and time of going through the Act 250 process
  - o Also, businesses have gone ahead with expansion or change of use without consulting Act 250
  - o Objective often is to avoid act 250 review
  - o Desire to expand operation, diversify, that they haven’t done because of fear, anxiety, cost of the Act 250 process
  - o Less than one-acre exemption from Act 250 has been proposed for AOFB
- Would 1 acre exemption solve those problems?
  - o Not sure we know for certain the percentage of projects that fall under this, but it’s a significant number
- How is 1 acre impact defined? How is it calculated? Are there parallels in the forestry space?
  - o Any square footage of construction (parking, access road, soil disturbance of project)
- What makes you eligible for exemption?
  - o Being a farm (need a farm determination from Dept. of Ag) and being an accessory farm business on a farm; this process already exists
  - o How would this apply to a sawmill
- On less than 10 acres project is still subject to stormwater regulations
- 1 acre seems too small; we want to see people selling products they produce on their land; trigger should be higher 3-5acres
- Farming currently has a definition in the Act 250 statutes; we need definitions for forestry and logging, could make comparable treatment more possible.
- Involved land doesn’t always mean disturbed land, NRB attorney’s are best resource to help understand this
- Automatic permit condition about onsite/offsite mitigation forest mitigation, similar to ag land
  - o We’ve talking about replacing forest soils criterion with a forest fragmentation criterion
  - o There is an Act 250 process for ag soils but no process for forest soils
- Forest products businesses, permit conditions added that may require UVA management plan to change to comply with Act 250 permit

### Governance

- How are the people put on the board if they are doing rule making?

- One way is NRB chair who is appointed by the governor and district chairs appointed by the governor.
- Favor having a more supported board to help provide structure to the staff
- There needs to be a checklist for completeness and predictability
- Recommendation about advocate/ombudsperson
  - o Future of Agriculture study has recommended this for agriculture; would advocate for this for Act 250.
  - o They have a public advocate in New Hampshire; someone who helps people through the process versus an adversarial role
- More capacity within the NRB would be helpful
- Coordinators do provide assistance to applicants going through the process; and provide assistance to commissions making decisions, heavy burden on them to provide assistance.
- Would “new” board hear appeals like old environmental board?
  - o There is no agreement on this question.
- Appeals – anyone can appeal for a small amount of money and by time get to environmental court it can take a year or more and costs and be \$10k+ seems kind of unfair; someone should have to put up more to be able to appeal
- Notice to abutters can be many people when working in forest blocks
- Environmental court process takes a very long time

#### Scheduling conflicts moving forward

9/14 is Vermont Forest industry summit, pulling folks across working lands mostly forestry; might need to reschedule this meeting