

NRB Act 250

Consultants Stakeholder Meeting 8/31/2023

Steering committee overview

- a lot of conversation focused on the tiered system and how to break those out. Some consensus in designations and different programs that can be consolidated into the tiered system
- Tier's framework has been useful for discussion, a lot of local control in Vermont having a statewide tier system applied from top down will usurp local control, may face resistance from municipalities of all sizes.

Thoughts and concerns on tiers?

- Tier 1 (existing designations, does an area have planned or existing sewer capacity, regional plan) either no or limited review makes sense; what goes in and how it gets decided?
- Designated areas don't go over well with locals. Need to work with local planning commissions to get them on board with the idea.
 - o Rural differences effected by the designated program.
- VAPDA study being led by regional planning commission.
- Important to realize there are negative results from designated areas; areas we currently have seem very small.
 - o Current areas are studied, but don't seem to hit the practicality of developing in/near designated areas.
 - o Concern on if designated areas have enough room for growth; they were developed as tax relief orientated program vs. land use planning oriented program.
- Designations and decisions and flexibility to expand boundaries should be made at local level, no higher than regional planning commission; local decision making on the boundaries.
 - o If on wrong side of line and don't qualify exemption, then the boundaries need to be readily changeable by local board that can review expansion of growth area.
 - o Flooding – some of villages are historic and in narrow river valleys and very vulnerable to future flooding; if town decides to designate area outside of danger zone, that option needs to be available so that won't have vulnerable villages.
- Can't fit rural communities into designations designed for developed areas; state needs to be flexible for boundaries to expand.

What about RPC and regional councils as a structure for local review of growth areas, downtown/neighborhood development areas to allow for more nimble designation? Are they an appropriate umbrella for this?

- Yes, but RPCs will need technical support if they have such broad reach; staffing and local expertise would need to be beefed up.
 - o RPC funding increased from 3 to 6million in most recent legislative session.
- Local planning commission needs to send any changes on to RPC anyway; local control really steers this.
- We have ANR defining village, seems odd; they made comments about not being in a village during the Act 250 review, (ANR review of 9L raises a question)

- Any restructuring or designation or RPC should have in-depth analysis of town zoning and bylaws; there are municipalities that do a full act 250 review before you get to that point and then you do it all again; it's not just geographical; how much review is the project getting.
- Changes seem very theoretical – would be a major shift to change into this new system, would eliminate predictable, consistency; challenging to reach consensus.
 - o Seems to be momentum to release some areas for Act 250 jurisdiction.
- Real risk that this idea of Tier 1 could collapse of its own weight; if want to make changes might be better to start small (Piloting Tier 1)
- Look at areas that can be graduated from Act 250? Would that help make more predictable, consistent? (Tier 1)
 - o Makes sense; many towns have robust zoning, and they are getting reviewed under the same criteria in Act 250
 - o Need to consider that if there is a tier system some things are not mutually exclusive (ie. Village designated and designated flood way) how do you reconcile that location with designation and natural resource area overlap.

Tier 3 – Natural Resource Areas

- Some consensus on forest fragmentation (steering committee)
- State is very forested, have unique forest lands that should be protected; many forest lands that can be fragmented that are less unique.
 - o Need better maps and establish threshold for forest frag review
- If talking about enacting a new act 250 criteria that would have major impacts
 - o Not sure if ready for this yet
- Connectivity blocks encompass both developed area and terrain (ski resorts); need mapping to be updated.
- When talking about large tracts, expanding with Act 250 seems ridiculous, we have ANR that is making significant changes.
- Climate change is already impacting, when it's dumping 5-8" of rain thousands of cubic yards of sediment and material; causing damage at level that don't see with just installing a parking lot and needing a stormwater permit for that
- Watershed level, what's the mitigation we have now? 100 years ago army corps of engineers creations; are making headway with rivers program in bridges and culverts going beyond capacity (bank full width, etc.)
- Flood hazard hasn't been a part of the steering committee discussions but it's important.

Some consensus about bring back road rule

- 800ft rule seems silly and easily skirted by 799ft road with long driveways off it.
- Redundancy; we have all the permits from ANR that sometimes create odd circumstances, but they are intended to protect against various impacts
- What is the purpose of trying to reenact a road rule?
- If town was interested in having development occur in certain areas, it could be part of town plan.
- Road rule being tied to forest fragmentation in steering committee conversation;
- What would road rule accomplish vs. zoning and planning?

Ag soils

- Is there consensus that primary ag shouldn't be factored in growth/development areas?
 - o Yes absolutely; northern new England area will never be food self-sufficient.
 - o More important to have compact villages than to protect land for potential future farming.
- Elevation trigger – it's been studied.

Tier 2 – everything else; rural sprawl issue

- Governed by lots, acreage, and time limit rule in these areas, 1 acre/10acre town designations; opinions that those mechanisms don't produce results in reigning in low density subdivisions; there is regulatory avoidance behavior (i.e., 9 lot subdivisions)
- Towns don't build anything anymore; not sure where the big problems from rural sprawl are occurring, don't see sprawl issues that aren't covered by other regulatory arms.
- Encouraging development in or near existing villages and discouraging development areas seen along major roadways
- Is this a perceived problem and hold over from original act 250; not seeing creation of subdivisions and new housing areas; see creation of large single family home over a subdivision with many houses.
- Previous 10-15 years very few subdivisions being developed; seen a recent uptick (2020); seems to be more of a perceived issue; towns and state don't build anything new; private developer assumes all risk by creating new stock; only building what's practical.
- Agree with previous two comments; older subdivisions and public utilities, there is an issue where stormwater systems are partially built, haven't built, not maintained, agreements with town to have them maintained; huge issue around stormwater maintenance and who's responsible for what; act 250 tried to address it but not sure it's been effective.
- Do everything you can to make convenient to build in village areas.

Governance

- Consistency of process and having regional differences; should be both; but if a district that won't determine application complete until have all ANR permits versus others where you don't need those permits until the permit is going to issue; this is fundamental; not sure why some coordinators can delay until have all the permits in hand.
- If you get all these permits and go into Act 250, neighbors come in, then you have to go back and potentially amend the technical permits.
- General Fund should support NRB more if it's going to be a statewide program.
- If a goal of the state is to have healthy growth in the state, the act 250 fees deter people from developing here.
- Benefits of act 250 are supposed to benefit all of us, so why is the developer bearing all the cost.
- Current fee structure maybe worked over time, but seeing wild swings in cost, costs are 3x than they were 3 years ago; the more the developer builds, the more it costs, so it's punitive
- What are the alternatives to the fee structure?

Other thoughts

- VNRC proposal of Act 250 permit required for high quality waters, see this as highly problematic; have water quality standards and permits that maintain and protect these.