



ad hoc Commission on Act 250 Committee

Wednesday, January 30, 2019

5:30pm to 7:00pm

CCRPC Small Conference Room, 110 West Canal Street, Winooski

WIFI Info: Network = CCRPC-Guest; Password = ccrpc\$guest

Agenda

- 5:30 Welcome, Changes to the Agenda, Members' Items**
- 5:35 Review Minutes from January 23, 2019***
- 5:40 Review of draft CCRPC overarching comments***
- 6:20 Review of latest Proposed Bill(s)**
 - a. [Link](#) to the latest Bill as of 1/29/2019
 - b. [Link](#) to the House Natural Resources Committee page
- 7:00 Adjourn**

* = Attachment

NEXT MEETING: TBD



ad hoc Commission on Act 250 Committee

Minutes

Date: Wednesday, January 23, 2019, 5:30pm to 7:00pm

Location: CCRPC Small Conference Room, 110 West Canal Street, Winooski

Attendees: Chris Roy, Tony Micklus, Jim Donovan, Justin Dextrateur, Curt Carter (GBIC), Charlie Baker and Regina Mahony

- I. **Welcome, Changes to the Agenda, Members' Items.** Chris Roy welcomed everyone.
- II. **Review of Previous CCRPC Work – [2014 CCRPC Permit Reform Policy](#).** The Committee briefly reviewed the previous work and identified components that would still be relevant this time around.
- III. **Review of the [Legislative Commission Report and Draft Bill](#), the Administration's Bill and the draft CCRPC Comments.**

Regina asked if there were any other components of the report or draft bills that the Committee wanted to discuss that weren't highlighted at the presentation at the last Board meeting. Together with review of the draft CCRPC comments, the Committee discussed the following:

- Any changes to the Act 250 legislation should be with an aim toward decreased duplication, more predictability that minimizes inconsistency in reviews, and puts technical reviews in the hands of the technical experts (e.g. stormwater review at ANR). There was some discussion about making the technical reviews a condition of Act 250 rather than having to get them up front. The technical permits are where the costly engineering work occurs, and it isn't efficient to get that work done first if Act 250 or interested parties ask for layout/design changes. While the master plan process is intended to provide this option, it still requires a lot of up front technical work. There was also discussion about greater coordination with municipal permitting as well (e.g. towns says move this way, and Act 250 says move back the other way). Greater consistency and predictability, without compromise of environmental standards, could help with affordable housing and inspire development where we want it to happen.
- It could be helpful if there was someone to provide guidance on how to navigate through the system; and perhaps a sketch review with feedback along the lines of the Permit Review Sheet.
- Greater acknowledgement of municipal planning would be helpful.
- Capability & Development Maps – creating these maps at the state level, so far removed from individual property owners was the reason why these failed the first time around. Towns and RPCs go through a significant amount of effort to get these maps correct, and therefore should be the starting point. It would help to get clarity on how these maps are intended to be used.
- There was a comment that on Tuesday (1/29) the House Natural Resources Committee is going to walk through a bill from legislative counsel and decide what's in and what's out. Because the proposed bills are going to change, CCRPC should work from policy recommendations; with examples of what is good or bad in the current proposals.
- There was some discussion about whether we should provide data about development in our region, or just focus on responding to the proposed bills. There was consensus to focus on the proposed bills rather than comment on the data in the report.
- Energy efficiency – using language like “best available technology” is not necessary the right thing to do because it's the most expensive and with nominal improvement over the best technology. Also development standards should not be higher for projects that go to Act 250, than those that do not. It creates a perverse incentive issue.



- Regarding the greenhouse gas mitigation fee. The current bill lacks guidance to the Board to develop rules. There should not be new requirements in the bill without more clear direction on how it will be used. Transportation Demand Management (TDM) is a great tool for urban areas; however, it isn't really a successful option in more rural areas.
- There was discussion on whether the Committee was in support of the overall change in jurisdiction (from project size to geographic area). There was some concern regarding establishing an additional layer of process for the municipalities (yet another designation process); some concern around projects over 1 acre being subject to Act 250 everywhere except the very small enhanced designation areas; and concern about whether the historic preservation standard is too high or not. However, there was general consensus that the benefits of Act 250 being completely off the table in the places where we want to grow is very helpful.
- Enhanced designation – there was some discussion that no Act 250 criteria are removed so there really is no Act 250 relief. Rather the municipality needs to prove that they will review all Act 250 criteria as expanded under the proposed bill. There needs to be clarification on what is needed at the municipal level to achieve enhanced designation. It will be difficult for municipalities to fix their bylaws quickly to meet the enhanced designation requirement; and Act 250 will expand its jurisdiction – the combination could halt development everywhere. Perhaps the legislation should be phased; and/or grandfather existing designations, and give them 5 years to come up to speed on the new criteria.
- There was a discussion about the 'in between areas' (areas beyond the state designations that have infrastructure). It would help if the Neighborhood Designation buffer could be greater than ¼ or ½ mile; and a municipality could have more than one designation. As an example, Burlington should be able to get another designation in the new north end and south end.
- The commission's report repeatedly seems to confuse state designations and existing settlements, but these are not one in the same. It would help if that was unpacked with practical examples. We should believe in smart growth where we have infrastructure. Question regarding the statistic in John Adams powerpoint that statewide 83% residential and commercial development happen outside existing settled areas. Is that right or should it be outside of "designated centers"?
- Regarding rural and working lands – the proposal is for all 1-acre development to go to Act 250. After some discussion, the Committee was okay with this generally, however, there needs to be an expansion of the places for growth more broadly and an acknowledgement of the impacts on rural municipalities.
- Appeals – Currently Environmental Court and Supreme Court handle all the appeals in one place and therefore includes efficiencies. The alternative in the proposal is the Environmental Board rather than Environmental Court. The Environmental Board is more citizen friendly, but the opportunity to consolidate appeals is lost. The proposal has merit in the burden of proof being on the appellant (i.e. if you are the developer and lost you have the burden of proof; if you are the neighbor and lost you have the burden of proof).
- Act 250 and ANR permits going to one board is consistent, but you aren't applying consistent standards.
- The Committee decided to draft broad policies for review by the Board. Then the Committee can easily go through the specific bills and identify how the proposals conflict or support the broad policies.

IV. Adjourned at 7:10pm.

NEXT MEETING: January 30th 5:30 to 7pm

Recommendations for Improving Vermont's Act 250 Permitting System

Draft January 28, 2019

Act 47 (in 2017) created a commission of six legislators to “review the vision for Act 250 adopted in the 1970s and its implementation with the objective of ensuring that, over the next 50 years, Act 250 supports Vermont’s economic, environmental, and land use planning goals.” CCRPC has reviewed the work of this Commission and offers the following overarching comments.

1. CCRPC encourages the Legislature to ensure a predictable review process that minimizes inconsistency and duplication; and puts review in the most appropriate hands so that environmental protection is not compromised, and good development is not at unnecessary expense (e.g. technical review by experts at ANR).
2. CCRPC supports the comprehensive nature of resource area protections and the acknowledgement that Act 250 jurisdiction should be triggered by location in areas of statewide interest, rather than arbitrary project size.
3. CCRPC strongly supports the concept that Act 250 should not have jurisdiction in areas planned for growth to encourage investment in our smart growth areas – walkable, transit-friendly, water and sewer serviced areas. However, the enhanced designations are too small geographically for our region and urge expansion of the concept. In our larger municipalities a $\frac{1}{4}$ or $\frac{1}{2}$ mile neighborhood development area is not large enough to incorporate the urban area that supports the village or downtown. In addition, CCRPC requests that Legislature make sure that municipalities are able to achieve the requirements to obtain the Act 250 jurisdiction relief. It may be more realistic to allow the municipality to request relief from specific criteria so that municipalities can obtain partial relief for criteria that are being reviewed locally. This would be a more realistic approach rather than full exemption or nothing.
4. CCRPC finds that any mapping established to define jurisdiction in Act 250 should be based not only on State level maps, but also on mapping in local and regional plans due to the extensive public engagement involved in developing these maps. There may also be resources that should be considered by Act 250 that are not identified by the State.
5. CCRPC asks that the Legislature either work out further details before adopting new concepts; or hold until further details are worked out (e.g. greenhouse gas mitigation fee). The costs on development of some of these concepts could be substantial and should be more thoroughly thought through before adoption.
6. If this new jurisdiction paradigm moves forward, it will greatly expand the reach of Act 250, and disrupt the market. If this is done before municipalities have the chance to achieve the enhanced designation, all development may be halted. CCRPC encourages the Legislature to consider a phased approach to counterbalance this issue.
7. Regarding appeals, CCRPC supports an appeals process that allows coordination or consolidation of appeals of various permits to ensure consistency in decision making and prevent unaligned requirements between Environmental Court and Environmental Resource Board decisions.