

**Land Use/Environmental Permitting Recommendations**  
**Submitted By Lake Champlain Regional Chamber of Commerce and GBIC**  
**To the Vermont Natural Resources Board 10/11/2011**

**Issue Statement**

Our members support the state and local environmental protection standards that are in place today. Those standards contribute to the quality of life we all enjoy in Vermont. Unfortunately, a patchwork of regulatory processes and land use designation procedures that have grown over decades threatens the integrity of Vermont's environmental protection standards. We concur with the "Challenges for Change" report to the Legislature issued in 2010 which states, "Streamlining bureaucratic processes could provide faster licensing and permitting without compromising quality standards." We believe that the time has come for reformed growth center designation, permitting and appeals processes that can make Vermont's permitting process more efficient, predictable, and collaborative while protecting the environment.

Our members are particularly concerned that the costs and time loss of permitting in existing developed areas create disincentives to building in those areas where we want growth to occur, thereby encouraging sprawl. Development in green fields and rural areas is often less costly and time-consuming and as a result, contributing to less sustainable and desirable development patterns. Development in designated growth areas needs to be encouraged and strengthened.

The numerous local and state permits that are required for a project, the timeliness of review and the appeal process are vestiges of a dated system. Redundancies in the local and state processes result in project delays, increased costs and in many cases, abandonment of projects that could benefit communities with existing development.

**Recommendations:**

1. Special Permitting For Growth Areas. If projects are in areas designated for growth and a community has a robust plan, regulations and staff, then consider waiving certain local and state reviews and Act 250. Limit appeals and party status for projects in designated growth centers.<sup>1</sup>
2. Economic Benefit Criteria. Afford greater weight to the economic benefits of projects within designated growth areas as an incentive and encouragement of development in these areas.
3. System Analysis. Authorize an overall systems analysis to reengineer our designation, municipal and state permitting and appeals processes to develop an improved integrated process. This could be funded as a private public initiative. Objectives would include: reducing time, reducing cost, improving enforcement of standards, and increasing development / redevelopment in compact settlements.
4. Presumptions. Grant more weight to municipal, state and federal permits in the Act 250 process to reduce redundant jurisdiction and grant rebuttable presumptions for items prepared by certified professionals such as engineers and architects and approved at the municipal level. If needed to meet a deadline, have a third party review technical issues to be paid for by developer.
5. Process Improvements. Many minor improvements can be made to system administration. Below are just a few ideas for improving service delivery in the land use permitting process.
  - a. Technology Upgrade for Permitting. Use technology to bring services on-line as well as a consolidated permit application form that can be used for applications to multiple agencies / departments / divisions for the same project.

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<sup>1</sup> If this recommendation would result in a more efficient and timely process in designated growth areas, many members may be willing to support more stringent standards and thresholds for development review in rural areas.

- b. Uniform Deadlines. Create uniform deadlines for actions on permits or agency reviews and institute permit facilitators.
  - c. Staff Reviews. Reinstitute regular ANR staff reviews of applications in an inter-department/agency meeting.
6. Improvement to Appeals Process. Our members hope to see major improvements to the appeals process for local, Act 250, and other state environmental permits to reduce cost and accelerate resolution of litigation. Ideas include the following:
- a. Burden of Proof. Place the burden of proof for appeals on the appellant, not the applicant, who has already submitted evidence.
  - b. Elevate Importance of Beginning of Process. Afford greater weight and deference to up front public participation, transparency and accountability at the municipal hearing and District Environmental Commission level to minimize “back end” dilatory appeals, rather than using de novo standard at the Environmental Court. Appeals should meet certain standards and be limited to areas of concern.
  - c. On The Record Review. Allow an “on the record review” process at the local and District Environmental Commission levels at the choice and expense of the applicant as an alternative to the de novo appeals, so that the Environmental Court can decide an appeal based on evidence developed before these review boards instead of having an entirely new trial.
  - d. More Clerks. Provide at least one more legal clerk for the Environmental Court to reduce delays.