

**Natural Resources Board
Act 250 Necessary Updates
Steering Committee Meeting**

**August 10th 2:00 PM – 5:00 PM
Online Zoom Meeting**

Agenda

- 2:00 Welcome/Summary of Last Meeting
 - Comments on meeting Notes from 7/27
 - Stakeholder Focus Group Orientation
 - Upcoming focus group meetings/plans and expectations
- 2:10 Jurisdiction Online Survey Results
- 2:45 Location Based Jurisdiction
 - Encouraging development in appropriate areas
 - Limiting development in sensitive natural resource areas
 - Lots and acres as jurisdictional triggers/other location based triggers
 - Community service areas and growth boundaries
 - Tiers of jurisdiction
- 4:50 Questions/Next steps
- 5:00 Adjourn

Welcome everyone, thanks for participating in today's meeting. We sent around meeting notes, thanks Maddie! We did receive one tweak for correction, if anyone else has corrections please let us know. Haven't decided about what to do with notes. Had an orientation meeting this morning with stakeholders, question came up about transparency of project and how public can know what's going on and participate. Pointed to EMC and NRB website, EMC has all briefing documents which summarize what's being discussed, not same as meeting notes, but left it at that. Meeting notes won't be posted until further discussion with the steering committee we should continue to talk about this, if we receive records request they go out. Other thing mentioned, all steering committee members have notes, during focus group meetings they can be shared from Steering Committee members, it's not a secret or anything. IF have any comments/corrections on notes please send in.

Had orientation meeting, 53 attendees this morning. Seemed to go well, and as a refresher, it is confusing, while everyone was encouraged to attend it wasn't mandatory for steering committee

members. It is highly encouraged if not quite mandatory to attend focus group meeting that you are representing. 100% clear for example, Kathy Beyer would participate in housing/econ/ej focus group meeting, she would talk to that group about what we've been doing at the Steering Committee and then bounce ideas off large group, and then come back to Steering Committee and represent those stakeholder interests. Iterative process, refine ideas and build consensus around them.

Right now, it's scheduled that they'll be on alternate Thursdays on August 17th and 31st and September 14th and 28th 3 meetings held concurrently, 3 in morning and 3 in afternoon. NRB will be sending out email to make clear, just want to make sure Steering Committee hear it and can ask questions. Plan is attorneys, consultants, planning/municipalities 9-11am facilitators will be assigned to all meetings; 1-3 housing/econ/ej, environmental, and ag/working lands group. 3 meetings happening concurrently. You'll receive email that will be apparent. State agency group will be convened, not trying to leave anyone out, nor are we trying to overbook people. Recognize this is summer vacation time and schedule will make adaptations as necessary, trying to keep simple and straightforward. We don't have a full-time admin scheduler so appreciate NRB's efforts to get it straightened away.

Q - Can you say a little more about steering committee role in stakeholder group, what is the expectation?

- Don't know if anyone from NRB will be participating, haven't had that discussion yet, there will be a facilitator and note taker. Role of Steering Committee member is to be able to reflect what we talk about in these meetings and share that with stakeholders and bring their own personal perspective on it as a representative. You are part of that stakeholder group too. Have been meeting with District coordinator focus group and realize it's tricky to represent diverse opinions, facilitator will be there to help build consensus, but you are there to be the conduit between Steering Committee and focus group; 2-way conversation
- Seems odd to have one member of Steering Committee that is trying to reach consensus to be representing the nature of our conversations to others
 - o trust people will be objective, but it's an odd model
 - o We are open to suggestions, if there is another way to tweak it let's hear it; trying not to just have everyone from all different backgrounds shouting at each other/past each other, trying to get model
 - o Trust the process a little bit and see where it goes; but want to be clear that we can make mid-stream course changes and adjustments if not working
- Econ/housing/ej there will probably be at least 3 steering committee members there for that, so would you recommend those Steering Committee members that will be in that large group talk beforehand so that we aren't arguing with each other about what's being said.
 - o Very fair question. Let's have the first meeting and see where discussion is. Then if you confer with colleagues after that, maybe you'll have a better sense on how to maximize voice on specific propositions for the process
 - o If you have time to touch base before that is great, but understand people are busy
- Q – at stakeholder groups are we more in listening mode and facilitators will facilitate?
 - o A – think you need to do both; report back to focus group member on your perspective being in these meetings; Steering Committee has heard perspective and we are most curious to hear from focus groups; facilitators will guide conversation with stakeholders;

- there will be different opinions within focus groups, so don't want Steering Committee member to be able to facilitate those different opinions.
- Q – if we wanted to hear what other stakeholder groups are saying, can I show up?
 - A – it's not something we envisioned but wouldn't prohibit it; want to bounce off other team members; just want to make sure it's proportionate
 - When we originally talked about using this process of focus groups with people of like backgrounds the idea was to have a convening where people would feel comfortable speaking amongst their peers. Talked about grandstanding problems when mixing groups
- Q – can you circulate list of folks that have responded and confirmed they'll be attending? Interested in who we'll have in the room
 - A – we can probably do that, it's a work in process; invitations went out to 100+, 40 rsvp and 53 attended orientation meeting; a little bit of a challenge; still adjusting the list, not totally sure who is on the list; but should be able to share some drafts on who we are talking to; will do best to provide that info
 - Will be good to have an idea of who will be there and will help prepare
 - Anticipate having a list of names/emails to share with steering committee members
- Uncomfortable with framework, want to be transparent with information; unclear which dates and when, who are participating in focus groups, just sharing that in a clear and transparent way with this group would make feel comfortable.
 - We are trying to be transparent as possible; only hesitation we've had is that it's an evolving list and so we are trying to send something out when it's ready; when drafting policy and at an early draft you don't usually share that because it's being tweaked; want to be transparent with Steering Committee, we are all in this together; nothing to hide; hear what you are saying, by tomorrow morning we've promised to get something out, we can list facilitator assigned; also trying to minimize the number of emails because it gets confusing; also want to emphasize that Matt is very accessible if people have frustrations/feedback with process; we need Steering Committee to participate but to trust and believe in the process and if that's not happening facilitators want to know about that; make course corrections to make Steering Committee members feel comfortable with what's going on.

Jurisdiction 2.0 overview

- Been number briefs after each meeting so jurisdiction is one of 3 main courses (governance talked about first meeting and a half) jurisdiction and then question of future capability and development plan. Jurisdiction refers to location-based jurisdiction; what we've found in investigating legislative history, there wasn't a firm definition of location-based jurisdiction in the charge; in first briefing we did some digging on what's been done across the country (Oregon, Maryland, Lancaster County, etc.) discussed in the context of act 250 and VT needs. Jurisdiction 2.0 rolls up where we think we are in terms of those topics under location-based jurisdiction, but it's still a work in progress. Presenting some indication of concurrence at least to some degree by Steering Committee members on general topics to pursue. If that's not the case, we should

discuss. Had a good cross section of Steering Committee respond to survey. 4 key topic areas and proto directions in brief

- General problem statement – Act 250 has perhaps spent too much attention over-regulating areas that would be in state interest to foster development and under regulate vast land area of the state where there is need for some kind of guidance of how change is occurring in landscape
 - 1. encourage more development in appropriate locations
 - Designated centers program, TIF oriented program, not a land use planning/spatial planning program – should Act 250 treat these areas different? Precedent of HOME act and PHP; but also in this area is the question of prime ag soils and how they are treated; and the question of incentives and barriers (use of fees)
 - Introduced 2 concepts that aren't part of VT situation that have been used in other states and some sub-state programs; community service/growth areas (urban growth boundaries) and tiers concept; framework introduced for Steering Committee to consider that notion that if we look at Vermont there might be 3 tiers (existing community center areas, working lands and sensitive/important Natural Resource lands[forest blocks, riparian], and rural sprawl?)
 - 2. provide greater protection for sensitive natural resource areas (large topic) forest frag, perhaps more, act 171 forest frag on table from leg
 - Range of opinions on how to do it; variety of ways it might be approached from traditional private conservation efforts to local, regional, state roles in it; at federal level there's a big role but it's more limited in eastern states; act 171 as introduced mandate to local/regional planners to look at forest fragmentation as element
 - 3. Lots, acreage, time limits as predominate triggers of jurisdiction (10-5-5 and 6-5-5 rules); only real spatial triggers, 2500+ft elevation threshold and prime ag soils criterion
 - Heart of the triggers. HOME act has made one change for a bit, and there's a range of opinion on what to do, they aren't location-based they are individual development and spatial proximity and time based, but don't add up to land use planning approach; community service and growth areas could be an approach, so could tiers.
 - 4. a general principle that any changes to Act 250 should add value to states policy tools to guide change on VT landscape; not create redundancy, examine redundancy's that do exist
 - Quiet revolution of land use control; Act 250 occurred before federal legislation was even in place and there has never been a rationalization of permits handled by programs and Act 250 original criteria
 - Where existing media permit programs and other programs now also apply and it's a complicated area as many have pointed out, but it is out there; general concurrence that redundancy doesn't serve general aims, if we can remove it will be to the good
- Questions about run down?

- Area designations – clarity on when the other working group will be coming out with their recommendations, seem like we are on parallel tracks
 - Brief primarily directed at more economic development and tax things, but under impression was looking at physical land use development/change more; are we looking at them the right way; districts are more about land use/development, seem less about taxes
 - Smart growth America study – we don't know, working on building line of communication with them; Tom has worked with them most recently, we wonder what they will come up with respect to Vermont; unique because there isn't a lot of planning/zoning across whole landscape of local government which isn't generally true across the rest of the country (except for Texas and Louisiana)
 - Centers – there is some overlap but the agency responsible for those designations isn't involved with land use policy directions, existing communities make sense
- Downtown development board role – kind of correct that many designations must deal with tax credit program, have 234 designated village centers (tax) simpler to get; other designations they benefit from tax program, but really about other exemptions that allow for higher degree of development, qualifications for getting those designations could be seen as influencing land use; certain things a town needs to enact into zoning/planning to achieve those designations; do allow for incentives that go beyond tax credit program
- Important that smart growth study knows that we are talking about possibly basing Act 250 exemption on designation so they have that context for examine current designation program and how it should look in the future
 - Should be some Act 250 delegation study being undertaken by VAPDA that is looking at a process that looks a lot like exemption
 - Studies could use some cross-pollination
- Important to understand village designation doesn't have much land use to it; but agree that other designation centers do have land use, they are reviewed every 5 years; NDA is state guidance around smart growth; was puzzled when said we don't have state level guidance, and we have RPCs
- Would like to get data on how many towns don't have zoning
- Designation programs and smart growth study – ACCD overseeing that study, they are well aware that the goal is to reform designation programs that could intentionally address land use issues upfront that could lead to Act 250 exemptions. Agree with what's been said, programs came up at different times, it is a patchwork and hodgepodge. Downtown was first don't even need zoning to qualify, village program, new town center, etc. All came up at different times, no comprehensive land use view and that they wouldn't necessarily lead to exemptions
 - Need to look at all the process for these designations; sprawling group of agencies, not set up to confer land use exemptions through Act 250
 - Don't want to reinvent the wheel but we need to review that work
- Will be diving deeply into designated area

- In terms of working with focus groups, gathering up position of coordinators on these topics has been challenging; working on survey as part 1 and part 2 some of it just barely landed; you can map out here's the information and agenda and then give people time to think about it and then discuss in advance of next steering committee meeting.

Survey results conversation

- Having looked at the response, there is a lot of progress for us to make about question of designated centers, what should happen with jurisdiction in those areas, how to handle forest fragmentation. We saw real potential in those areas. Intention to go through results and spend time on where to advance the ball with places of consensus. Have conversation about where we can make progress
- Toby shared presentation of survey results
 - Comments on overall principles/goals and framework – where should we focus? Where can we make real progress
 - Think we should have a serious conversation if Act 250 has a role in areas that already have a rigorous land use program and many of the 10 criteria don't apply, or they are being taken care of by other local/statewide programs; effort RPCs are engaged in and regional capability and development plan maps; should all 10 criteria apply across state or are there areas where it just doesn't apply?
 - Agree; also related to third point of balancing objectives; from political standpoint would make it stronger; to 4th point when talking about forest blocks, concern outlined, might be disconnect between forest and forest block meaning
 - Extent that we should focus on where we don't want Act 250 to apply in areas where we want to go; statement is incredibly broad, has to be quality control on what kind of zoning/planning towns have and capacity they have to address significant land use projects, that's why we have supported designation reform, it would create review process towns could go through and be ordained to have the zoning/planning that would justify not applying Act 250 because land use issues are being applied; very concerned about the notion that towns have zoning/planning so don't need to apply Act 250; state has Stormwater program so don't need Act 250; Act 250 is an overarching look at impacts to resources in community that would be lost. What is the ACCD smart growth study looking at, what are they recommending because we do need the quality control and review process.
 - Not just forest blocks, it was in the background materials but it's more than forest blocks it's looking a different critical resources that we want to ensure those resources are protected and Act 250 isn't protecting because there isn't jurisdiction; don't need to take jurisdiction of every forest block or near every high quality water, could have hybrid approach look at critical resources and look at impacts and then take jurisdiction; it's not saying no development ever in those areas and you can only build in designated areas; its saying that we are going to create a smooth and easier path to develop in those areas; can still build in other areas

- Legislature - forest block never prohibited building in there, no one is saying you can't build there at all
 - Underscores important understanding that we all need to have when talking about these issues; they are contingent and linked; assuming this other issue is worked out appropriately, and if not, everything here is conditional; will be looking at packages that bring our ideas together to get buy in from people on
 - Delegation study is engaging in exercise of taking Act 250 criteria and looking at cities with current zoning that address those criteria and where they aren't and throwing in state regulation as well; everyone is assuming caveat that there's a level you have to reach to be exempt from Act 250; there still may be statewide regulations that extend through urban areas; designated zone in St. Albans has a forest in it and can't develop there
 - Coordinators don't see a lot of problematic redundancy between local review and Act 250 and want to ensure that whatever happens the Act 250 criteria protections remain intact in terms of resources and more settled areas; we already have municipalities directly undertake review of Act 250 criteria(6&7 schools and municipal services, as well as criterion 10 local plan) very few have put into practice, do municipalities have interest and/or capacity to deal with criteria is in question; haven't talked about redundancy with some of the ANR permits that have evolved over time, similarly coordinators don't see redundancy, recognize there is a strong nexus between state permits; redundancy would be applicant submits application and plans to say ANR/DEC for a Stormwater permit and then submits all the same info to Act 250, that then duplicates that review, that is not the practice. Applicant provides copy of site plan and ANR permit so that all the important elements are covered; not fully aligned on topic of redundancy
 - Certain state permits presume compliance with Act 250 criteria, there are opportunities for commission and others to challenge those permits, not as seamless in every case, but in many cases it is.
 - This group can/might/should if we have consensus around tiered approach based on robust of municipal defer to other study so we can move forward; the idea that municipal by laws would replicate Act 250 criteria is not rational or reasonable at this point in time when have 50 years of evolution; have to accept that if we want to see growth in certain areas, need to trust; and not insist that complicated Act 250 has to apply; don't see how that works if want to achieve goals; need to accept there will be growth in areas designated where we have infrastructure; protecting most important not every details
 - Raise affordable housing viewpoint but one of the reasons somewhat skeptical of abandoning PHP exemption and exemption for all development; the PHP's have enabled and encouraged the development of affordable housing in these areas; we want affordable housing because that leads to PHP designation and the entire development will be exempt, not a reason to say stop but wanted to share.
- Development Tier (facilitation team term) (toby's presentation)
 - When look at the highlights from comments in survey and think back on how each one of those designated areas came out in a piecemeal fashion, this is opportunity to take

holistic look, should they be treated differently, or should we take this opportunity to consolidate and do more thoughtfully. Think there's an opportunity for a strong recommendation on that

- Effective Incentives/approaches list
- Less effective incentives/approaches list
 - Incentives may be or can be effective, but that list of incentives are just naturally and historically always effective. But can differ and context matters

BREAK

- There's a very robust effort on the designations, so do we have questions we want them to answer
- Continue with Toby's presentation
- One of the areas named that has come up is question of do we need 4 different kinds of designated centers, should the goal be to have one? Is this something we should even try to resolve? Questions we should ask Smart Growth America on this?
 - Could advocate one form of designation to justify whatever interaction we proposed with Act 250; designation program created in late 90s for purpose of historic preservation and historic commercial areas from big box development. When downtown and village, it was for tax credits for existing buildings and revitalize downtowns economically in terms of vibrancy; then came downtown, etc. Encouraging those existing centers and some new centers that would develop in certain way and types and how should occur, later group is what talking about when designations could be relaxation or exemption from Act 250; they should still allow the low bar to reach village center to help historic buildings/centers relevant in today's economy
 - Don't need a whole bunch of things
 - Our study doesn't need it; doesn't matter what it's called, if it does these things, it should be Act 250 exempt or Act 250 relaxed; something a little different for historic area/buildings
 - Not sure if there should be one; trust the effort going on around designation; reiterate what's in chat, could the committee include a requirement around affordable housing, there is a great need across the state, doesn't mean every residential component but town by laws have inclusionary zoning...hard to hear...some other thing I didn't capture...
 - Designation process should require towns to have some affordable housing bonus, criteria evaluated on
 - Don't need 4; makes sense to have 1 for purpose of how A250 is applied; think there is a need to have other types of programs to address historic preservation that were noted; needs to look at Natural Resource impacts, mapping, don't know if we need to say a lot about that, other studies will look at those issues; process really matters, if we are going to confer exemptions need to have more of a permittee type of review process, currently more of a planning review process. If done right don't need criteria exemptions; don't know that need to say only certain criteria apply; if municipalities qualify for exemption, then there is nothing to delegate; concerned that delegation idea multiple entities implementing Act 250 or essence of Act 250 seems messy and more bureaucratic, would

- have a bunch of different entities trying to apply and track that, seems like it would take a lot of work to track and could result in problems
- Where does commercial and industrial play into this, mixed use building opportunities to incorporate commercial is important for downtowns; industrial needs own considerations, not usually appropriate for designated centers, but we need that type of development in Vermont, where does it fit into this conversation? Where is it appropriate development in the state? Planning development in an Industrial Park and spend \$100k+ on permitting is that best use of economic opportunity.
 - Need to think about middle-income housing so we aren't leaving out the missing middle, types of housing (townhouse, condo, duplex) to people who are on benefits cliff and don't qualify for affordable housing and can't afford 600k raised ranch? Where are we supporting those Vermonters?
 - If talking about exemptions etc. for affordable housing; what should happen to facilitate industrial/commercial sector, example of state that had an industrial area designation that seemed like something we could R&D (rip off and duplicate); let's look at others and what is being done well; best way to build those industrial parks and how can it be set up for best use of land, need to be outside of designated areas, if it's in these designated area that it is exempt who has gone through master permit process so going through lengthy process for expansion
 - Can we flush something out to share with group at next meeting?
 - This is an issue of concern
 - Talking about shifting the focus of Act 250 out of these areas that would be designated, keep in mind some concerns about equity or perceived ... hard to hear... breaking up...
 - Don't want to overthink it in terms of other studies also looking at this; want to provide feedback; interest in consolidating, why do we need 4 categories, could we make recommendation
 - Differences between a designated downtown or a new town center development; think there is a need to have separate types of designations due to land use considerations of a historically developed downtown
 - Exemptions for Act 250 could be consistent across the designations
 - Don't necessarily need to consolidate to 1 designation but have consistent across designations
 - Do have existing designations, better understand what other study does address, more specific details; what having those designation what are those other things that have been looked at in those areas
 - Criteria are going to change, what we need to review are criteria and designation process changes that are proposed and result in Act 250 exemptions
 - Agreement that existing programs are not set up to confer Act 250 exemption; purpose is to rework the programs in some way.
 - Would be good for this committee to come to consensus on whether we think exemptions vs delegations is the part; exemptions may be more appropriate path
 - Deferring on details to smart growth group make senses, could make some suggestions; delegations might be a nightmare of confusion so going exemption route makes sense; should have process that gives us confidence in exemptions, should be clear process for

getting municipal zoning approved that gives us faith that it will cover many of Act 250; combination of zoning and other state permits; haven't talked about regulatory burden on certain designated areas invites risk of inequity outside those areas; not seeing a lot of overlap between Act 250 and zoning (applies to some of the state but not all, i.e., Chittenden County) in addition to both giving guidance on designation and criteria and nod to support other communities that could benefit from affordable housing exemptions etc.

- Delegation study itself is not really interested in delegation in having municipal issue Act 250 permits by proxy, looking at basis for exemption; seems like everyone is thinking exemption across the board
- As long as we ensure that there is some basic impacts considered and that there is a commitment to provide some more robust Natural Resource protection outside designated areas; grand bargain, would hate to see less jurisdiction and we've seen that quite a bit over the years
- We envision a series of recommendations there will be some whole heartedly endorsed and some you can live for in exchange because they are important. That's where we'll come together and piece the puzzle together; no deal until everything is done
- Had a number of conversations internally, ACCD, planners, and importance of making sure that all 3 studies and the work that we are working together, that the puzzle pieces will fit to best of ability. Don't know a lot right now but whatever we can share will be helpful to other studies
- Are we comfortable with designations where no criteria would apply?
- Ideally yes, will see conversation of if state should take over river corridors and flood zones
- Still would be a whole suite of environmental areas and permits that would still be in place under the framework via ANR
- Talked about this before the flood, had been conversation about statewide protection of river corridors and floodplains, expanding those ANR programs, that's accelerated since the flood, it's not a new issue; how do we deal with river corridors more comprehensively, that's where development is concentrated and still is/will be; might come up when talk we about Natural Resource based jurisdiction
- Q – local capacity keeps coming up with respect to designation/exemption, not all zoning created equal, in other states over the last 50 years the ways various states have approached is a review/certification process, act 200 brought some in but not fully; is there a role for a recommendation or concept to be put forward about process maybe involving regional planning framework who have important role and the state in some form to be able to create confidence that communities that would receive this status with respect to Act250 would do that. Thoughts? Could be a piece of something to put forward
 - Going to have to be some review process, who does the review of whatever it is that justifies the exemption; if we talk about exemption should be talking about full exemption; if have some Act 250 lite or relaxed, it won't have the same value, we hear that regardless of if the project meets criteria and success rate

that go through Act 250, just the fact they have to go through it is enough to deter development; if we can eliminate all together it benefits development

- Intrigued by who might sign off on plans; suggestion that might be RPC, good alternative, could be others; version somewhat like this getting energy plans approved by Department of Public Service as enhanced energy plans, interesting example to look at because there is a set review process and criteria for Dept. to look at and review those plans; could be model for this type of approach
 - This has come up before and putting forth a model even without solution yet, gives legislators a basis for trying to study what might be done looking at existing partial model that is analogous
- Statutory requirement for zoning to be in conformance with town plans but no check for that to happen; town plans say compact settlement with resident countryside; then look at zoning that has to be voted on by townspeople and it doesn't line up; towns lack capacity; need a system with a lot of accountability if we are going to give exemptions, can't just be Chittenden County for everyone
- Needs to be a robust, transparent, accountable process for conferring these exemptions. Town zoning/planning capacity exist to protect resources formerly protected by Act 250; can be done but it should be statewide, don't want different RPCs all doing this, want it to funnel up; not the downtown board, not set up as review process, could be the NRB. Could be a professional board (governance conversation) enhanced board; whatever entity is they administer Act 250, they should be the ones conferring that a town could be exempt from Act 250 since they know the program best.
- NRB through staff do this now, in a way, in Jurisdictional determinations. NRB maintains a list of each municipality status as 1-acre or 10-acre town; detailed checklist that municipalities wants status assessed, typically when updated bylaw, NRB staff ask municipalities to go through checklist and identify where in bylaws that item has been satisfied, staff review that along with other info about making sure municipality...hard to hear...this does happen to a degree in terms of jurisdictional determinations; staff receiving information from the zoning officials; ACCD person who used to be involved with this but doesn't occur anymore; it is between town and NRB
 - Agree that current designation process with downtown board not adequate for process; NRB as currently constituted not the place either; some collective effort; designations now around regulatory relief and municipal bylaw requirements, it's going to have to be a mix of professional staff and stakeholders; needs to be transparent, balanced, no answer for this but not the NRB Board as currently comprised
- If professional board with right expertise, would it be more comfortable approving exemptions?
 - Maybe, have to be careful in what talk about; don't know what structure is; designation is conferred on municipality along with goes certain benefits, some Act 250 exemptions; will future designation program be same thing, Act 250 exemption relief piece that promote development;

need to wait and see; if it's limited to whether a certain standard is achieved; Broader analysis there would likely need to include other voices in that analysis.

- Any reason to continue or transition to sensitive Natural Resource areas and river corridors? This may be the time to segway, when we were sharing slides there was some interest in increasing protections of forests. One participant provided information on forest blocks prior to the meeting. Has everyone had a chance to read those documents yet?
- Not sure how others feel but digging into this at 4:30pm after 2.5 hours of meeting is difficult. Maybe we can read what was sent around. It's talking about what the legislature has done over the last several years including input from the administration, business groups, etc. The thought is that it would be good to show politically how these things have been handled in certain bills over the years. The governor did ultimately veto these bills, but some got through the house and senate.
- Would be helpful to dispel any myths on these provisions. The proposal is not a complete ban of activity in these areas.
 - o To summarize the two documents were provided. One addressing jurisdiction in forest blocks. The second proposes a new criterion. In both documents there is a summary of studies that have been completed in the past. Analysis of scattered development, adverse effects and the different values that should be protected. Different ways of triggering jurisdiction to provide better protection like lowering the elevation threshold to 1500 or 2000 feet using the State's conservation design maps for forest blocks as a basis as a locational trigger. Those things were politically difficult because of amount of land involved that would fall under Act 250. Ultimately viewed as too broad of an approach. Documents that were sent focus on jurisdictional triggers that have passed in a few bills like bringing back a version of the road rule. The road rule said that if you had a driveway over 800 feet that would trigger Act 250 jurisdiction. Road rule was abandoned at the same time when the 10-acre loophole an exemption from wastewater. The theory was that you didn't need the road rule jurisdiction because at least wastewater would be reviewed by ANR. But that didn't factor in the ability of Act 250 to look at long roads segmenting forested areas and habitat and other functions. In one of these documents there's a new version of the road rule that is linked to forest blocks and that is the jurisdictional tool that we've been focused on in the last few years. Want to use this as an example that it's not an all-of-nothing proposition. More targeted way to protect the resource in a more limited way than other jurisdictional choices. Without having a forest protection criteria, because forest jurisdiction wouldn't do much. Based on research in the last several years Act 250 hasn't adequately protected forested areas. Criterion 9(C) hasn't been used in any meaningful way historically. It's the sister criterion to 9(B). Rather than trying to apply 9(C) here we're proposing a new criterion that would not prohibit development in forested areas or forest blocks but would require clustering development and locating projects near existing roads to undue avoid adverse effects. Importantly this was something negotiated with the legislature and administration, that there would be rulemaking. Using rules to provide more clarity and certainty to the process. We concluded that if we're going to create a new criterion, let's upfront have a rulemaking to define significant forest blocks, adverse impacts, proper mitigation, and the criteria wouldn't go into effect until the rule was complete. Rulemaking would allow

for a robust stakeholder process to address issued upfront rather than through litigation which is how many criteria have been fleshed out over the years. That's the summary.

- Hoping someone could provide more detail to bring this into focus? Are forest blocks on a sliding scale between Shelburne and say Readsboro? Are we talking about 1 acre, 10-acre, 100-acre, 1,000 acres? Where's the definition that I can go to?
- Let's generate the questions and these are things we can incorporate into the Jurisdiction 3.0 memo and try to flesh it out a little bit.
- First, I would like to note that we lost a participant from the meeting who is valuable to this discussion. I'm going to add a broader context. When I was reading the survey and latest documents, I put forest fragmentation in a different category than riparian buffers and river corridors. Forest fragmentation is a land use issue that does belong, we may not agree on how to configure it under Act 250, but it's a land use issue that can't be taken care of permit-by-permit. I think riparian and stream corridors can be taken care of on a permit-level that ANR administers. Personally, I was more in favor of the forest fragmentation issue getting further strength in Act 250 than others.
- I agree with the last commenter. ANR has long discussed way to bring forest fragmentation issued in Act 250 (inaudible...) around technical permit programs. In these large areas of the state, we know that regulations should happen in certain locations at certain scales for change to be made. There's been a lot of conversation on the best way to provide that review but I think a combination of location-based jurisdiction of being within certain forested areas tied with an impact trigger like the road rule is probably the most logical way to proceed. Note that this provision was in a piece of legislation that the administration supported a number of years ago and was voted out of the House Natural Resources Committee, but it was accompanied by governance changes to Act 250 and those governance changes were stripped out by the House and the administration could no longer support the bill. Just to highlight that all these pieces need to work in concert. The pieces are there it's just putting them together in a way that the stakeholder feel make sense moving forward.
- Q - Seems based on survey results there was a little more interest in focusing on large forest tracts and less so on river corridors and riparian areas. So, we can focus on that. Are there any other resource areas that we should focus on?
 - previously raised the issue of high-quality waters which are different than riparian areas and river corridors. This is an issue that came up in legislature this year through ANR's proposal to do more Class A designation of waters which are the highest quality waters. Most Class A designated waters are over 2,500 feet with a few exceptions of designations through petitions. ANR required under the Clean Water Act on a constant basis to identify high quality ecologically significant waters and classifying them. Right now, there isn't a development limit in these watersheds. In terms of wastewater there is a limit on the wastewater systems that can be in these watersheds. ANR has wanted to eliminate that limitation. Act 250 has jurisdiction on development over 2,500 feet where the Class A waters are now. Act 250 could be a better way than just having wastewater look at development in these watersheds because these watersheds could be degraded. It would be minority of the State. Right now, the majority of waster (~98%) are currently Class B and maybe with classification changes that percentage could change. Act 250 could be the right tool to address cumulative development and density of development in these watersheds.

- One thing that would be helpful would be for high quality waters and forest tracts. When coordinators issue jurisdictional opinions, they would like to see clarity on how they can identify what is in, or not in. If we could get information on these high-quality waters, we can circulate it and try to have a deeper conversation. Same thinking on forest tracts. One way to move forward would be a to form sub-groups that get together between meetings and try to form a proposal on how to define a forest tract.
 - o There is already some information on how forest blocks are defined on ANR's mapping system. This is why I'd like the group to consider the rulemaking approach because the rulemaking would define significant forest blocks. It was determined to not just have a bare-bones legislative provision. NRB and ANR could flesh out in a proposed rule and the criterion wouldn't go into effect until the rule was in place. Will provide information but I want the group to consider rulemaking approach to take technical definitions and create a legal definition that would trigger under the criterion.
 - o I have not been involved in forest blocks discussion and it's interesting to see the background. I get the concept, but I need to see maps or examples of what we're talking about. The uncertainty is hard to overcome when creating a new criterion. Rulemaking may be necessary but we may want advanced information so people can understand what we are talking about. Details could come in rulemaking. TO get there we might need more context.
- Q - I hear a willingness to consider a trigger for forest jurisdiction and a criterion, but there is a hunger for more information rather than saying rulemaking. Anyone who's interested can drop me your name so you can participate in a sub-group discussion. Hopefully we can provide that information by middle of next week.

(in audible...)

- o We can give you links to hours of 27 hours of legislative testimony.
- o We can try to summarize.
- o There are definitely maps and information about this topic. The reason why we got to rulemaking in the past because none of the information answers the question of what's the legal definition. You can look at all the technical information, maps and data and then you say what should the legal definition to be. But it all exists.
- o I know some of this overlaps with forest blocks and I'm sure with high quality watersheds right now the threshold is 2,500 feet elevation. The predictability of having that line makes it clear and those areas can be challenging to develop because they are steep and have steep shallow soils that are highly erodible. Looking at maps, we should evaluate whether that elevation threshold should be lowered. It's not just environmental resources, also the aesthetics of ridgelines. We all see what happens. Favor a change that is more protective than the current threshold. Maybe 2,000 feet or 1,500 feet and protection of ridgelines could be the new trigger. And some other rulemaking and other criteria we could implement in those locations.
- Would like to bring to light some comments in chat – if 2,000 feet is the new trigger that would bring 521k acres under jurisdiction, if 1,500 feet that would bring more than 1M acres under jurisdiction. Something we will need to revisit, and it impacts different parts of the State differently. That's something we have to look at. We are scheduled to end in about 3 minutes.

- Maybe this is an area that I need to learn more about, but would like to know where does outdoor recreation fit in? Wondering where those important parts of the economy fit in?
 - o Good question. This is a good opportunity for anyone to say – these are questions I have and I’m hoping they can be addressed. What I’m hearing is – apart from rulemaking how do we know what tracts and what uses would be allowed and how would outdoor recreation fit in?
- Please take a look at the documents submitted because it addresses trails squarely. There is a FAQ section that addresses trails. I think that was addressed, at least in how the legislation was formed, but obviously we could recommend something different here.
- Hoping for something by middle of next week for more information about forest tracts and high-quality waters.
- Next Thursday are the first focus group meetings. NRB will send out an email tomorrow with participant lists for each group and zoom link. We will figure out if we will provide further briefing material or if we will rely on briefing we have. Any closing thoughts? Thank you for your patience and time. Will check in over the coming weeks. We have asked several people to form sub-groups which will be huge and we will provide more briefings. Hopefully it will all come together. I know one member raised concerns about process were heard.
- I just want to see what groups are meeting, which steering committee members are participating. I just want to understand more.
- I appreciate that we are trying to be as transparent as possible. It’s not that we’re trying to hide anything other than our lack of progress (laughter). Thank you all again.