



Michael Zahner, Vermont Chamber of Commerce

Testimony on H.809 (Enterprise Zones), February 6, 2014

SMART GROWTH PRINCIPLES AND STAKEHOLDER RECOMMENDATIONS UPON WHICH ACT 183 IS BASED - Reprinted from a Vermont Law Review Article referenced below.

Act 183 is based largely upon recommendations made by two groups—the Vermont Forum on Sprawl (now called Smart Growth Vermont) and the Vermont Business Roundtable—that began working together in 1999 [later merging their efforts with the Governor's Committee on Downtowns and Growth Centers, Chaired by Mark Snelling]. They published their initial recommendations in 2003 as the New Models Project. Sharing a common purpose, the two groups represent the unlikely bedfellows of environmental and business interests. Smart Growth Vermont aims to help local communities “plan for the future in a way that maximizes past investments in our downtowns and villages, maintains Vermont’s quality of life and protects our unique landscape.” Its board of directors includes the president of the Vermont Land Trust and the executive director of the Preservation Trust of Vermont. The Business Roundtable is similarly “committed to ‘promoting the economic vitality of the state without sacrificing its unique environmental qualities,’ ” yet its board is made up entirely of business leaders. As hybrids of their stakeholders’ seemingly contrary business and environmental concerns, the New Models Project and, by extension, Act 183, are evidence that smart growth is in the best interests of both resource conservation and economic growth.

Proposal: Designated Opportunity Zones and Master Plan/Master Permitting Legislation (Legislative Proposal). The Legislative Proposal suggested a four-level planning and permitting process:¹

Level 1: State, Regional and Municipal Planning: Participation in the Designated Opportunity Zone Master Plan/Master Permit Program will begin with coordinated, comprehensive local, Regional and State Plans based on Planning Principles...

Level 2: Opportunity Zone Designation: One or more communities that have in place approved Municipal Plans, permanent zoning and subdivision regulations, and a designated [Growth Center], Downtown, Village Center, or New Town Center may apply to the Land Use Panel of the Natural Resources Board for Opportunity Zone Designation...

¹ This proposal originated from the joint efforts of the Vermont Forum on Sprawl, the Vermont Business Roundtable, Vermont Law School, Vermont Natural Resources Board and the Governor's Committee on Downtowns and Growth Centers in 2005. Major participants included John Ewing, former Environmental Board Chair and founder of Vermont Forum on Sprawl; Kinvin Wroth, former Dean of Vermont Law School; Kay Kenlan, Rutland Land Use Attorney (VBR); Darby Bradley, former Chair of the Environmental Board and President of the Vermont Land Trust; Mark Snelling, Chair of the Governor's Committee on Downtown's and Growth Centers; Pat Moulton-Powden, former Chair of the Environmental Board and Natural Resources Board; Michael Zahner, Executive Director of the Natural Resources Board; Lisa Ventriss, President of the Vermont Business Roundtable and, Beth Humstone, Executive Director of Vermont Forum on Sprawl.

Level 3: Master Plan Approval: In communities that have obtained the Opportunity Zone designation, applicants may apply to the District Environmental Commission for Master Plan Approval for one or more development projects within the Opportunity Zone that satisfy the goals and conditions of the Opportunity Zone approval...

Level 4: Individual Development Permit Approval: After Master Plan Approval, persons or entities that own or control properties within the Master Plan area may apply to the Development Review Board in the municipality in which the area is located for an Individual Development Permit.

Stopping short of echoing Act 250's original call for a state land use plan, the Legislative proposal anticipated that this system would provide developers with "a faster and less costly review process," while simultaneously giving municipalities control over growth." The Legislative Proposal also suggested giving municipalities financial incentives to undertake the master-planning process, including "planning grants, alternative tax structures including pre-approved, flexible tax incremental financing, elevated priority status for discretionary grants such as housing, infrastructure and Brownfield remediation." The Legislative Proposal's regulatory and financial incentive system, as articulated in a subsequent legislative draft submitted to the chair of the Senate's Natural Resources and Energy Committee in 2005, provided the blueprint for Act 183. Source: VERMONT'S ACT 183: SMART GROWTH TAKES ROOT IN THE GREEN MOUNTAIN STATE, Vermont Law Review: <http://lawreview.vermontlaw.edu/files/2012/02/kraichnan.pdf>

10 V.S.A. § 6001(3)(D) is amended to read: (possible language for transfer of regulatory authority)

* * *

(vi) The construction of improvements for commercial or industrial purposes, or substantial or material changes to such construction, on a tract or tracts of land, owned or controlled by a person, that lie entirely within a traditional industrial district or industrial park, currently subject to a master permit issued under this chapter, within a municipality that:

(I) has a duly adopted municipal plan regionally approved pursuant to 24 V.S.A. § 4350;

(II) has duly adopted permanent zoning and subdivision bylaws necessary to implement the municipal plan;

(III) has adopted a development review board; and,

(III) has elected by ordinance, adopted under chapter 59 of Title 24, to have municipal jurisdiction under this subdivision (3)(D)(vi) apply, in lieu of jurisdiction that would otherwise apply under this chapter. For an industrial park subject to a master permit issued under this chapter, the municipality that has elected by ordinance to exercise jurisdiction shall implement and enforce all provisions and conditions of such permit while municipal jurisdiction is being exercised.

(Taken from S.127 - 2007 Legislative Session; and modified to fit the 2005 VBR and VFOS Model)

