

OPPORTUNITY ZONES
AND
MASTER PLAN/MASTER PERMITTING

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Report
of the
Governor's Committee on Downtowns and Growth
Centers

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March 25, 2005

Executive Summary

Designated Opportunity Zones and Master Plan/Master Permitting Legislation

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March 25, 2005

This proposal is the result of two initiatives: The Governor's Committee on Downtowns and Growth Centers and The New Models Project; a joint project of The Vermont Forum on Sprawl and The Business Roundtable.

The purpose of the proposal is to help prevent sprawl by encouraging mixed use development in Designated Opportunity Zones (including downtowns, village centers, and new town centers) with procedural and financial incentives that are consistent with the principles of Act 250, Act 200, Downtown Development Act, and State Planning Act.

A Designated Opportunity Zone is an area designated by one or more communities in their municipal plans and designated by one or more regional commissions in their regional plans to accommodate a significant share of growth anticipated by a community over a twenty-year period that has or seeks to achieve, the following values:

Is characterized by a mixture of uses that include or have the potential to include retail, office, services and other commercial, civic, residential, including affordable housing, recreational activity, and industrial uses in densely compact areas;

Incorporates public spaces that promote social interaction, as well as distinct organization around central places or focal points;

Allows land development density that is significantly greater than the rest of the community;

Results in compact, concentrated areas of land development served by existing or planned infrastructure, viable pedestrian circulation and other alternative transportation opportunities; and

Is supported by existing or planned investments in infrastructure by state and local governments, economic development corporations and housing authorities, and /or private developers.

A Four-tiered Process is envisioned:

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 Downtown, Village Center, or New Town Center may apply to the Land Use Panel of the

Natural Resources Board for Opportunity Zone Designation. This level would include a requirement for a needs study, a review of Act 250 and Act 200 criteria and goals, and a build out analysis among other items.

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. This level refines more general statements from the Opportunity Zone approval and includes a review of compliance with local and ANR regulations and many Act 250 criteria.

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.

The four-tiered process, beginning at the town and regional level allows and in fact requires many development questions to be answered in advance. This progressive approach means that the substantive and procedural requirements will be substantially reduced for Individual Development Permit Applicants because those issues will already have been resolved at the previous levels.

This type of structure will provide the obvious benefit to Individual Permit Applicants of a faster and less costly review process.

For towns and municipalities the key incentive will be the ability to guide the growth of the entity in the manner they desire. It is anticipated that additional incentives will be required to encourage the high level of planning required. Those incentives would include 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. In addition, there would be the potential for State financial support/investment through bonding, TIF approval, and VEDA financing in Designated Opportunity Zones.

Draft Proposal for Growth Center Opportunity Zones and Master Plan/Master Permitting Legislation

January 7-March 25, 2004

This draft proposal is a result of two initiatives: the Governor's Committee on Downtowns and Growth Center Growth Centers and the New Models Project. The Governor's Committee is chaired by Mark Snelling and Harlan Sylvester and includes: Paul Bruhn, John Ewing, Beth Humstone, Chuck Nichols, Ernie Pomerleau, Debra Ricker, Bill Stenger and Wayne Roberts. The New Models Project is a joint project of the Vermont Business Roundtable and the Vermont Forum on Sprawl. A Master Plan Permit Advisory Committee to the Project has been established consisting of John Ewing, Vermont Forum on Sprawl, Chair; Beth Humstone, Vermont Forum on Sprawl; Jay Kenlan, Vermont Business Roundtable; Patricia Moulton-Powden, Environmental Board; Ernie Pomerleau, Pomerleau Real Estate, Inc.; Stephen Reynes, Esquire, Primmer and Piper; Jim Saudade, Agency of Commerce and Community Development; Lisa Ventriss, Vermont Business Roundtable; Kinvin Wroth, Vermont Law School; and Michael Zahner, Environmental Board. Vermont Law School student Jamie Whitlock served as research assistant to the committee.

Statement of Purpose: The following proposal has been developed and approved by the "Governor's Committee" and the Advisory Committee to serve as a basis for legislation to implement the growth center Opportunity Zones concept and master planning and individual project permitting within ~~designated growth center~~ Designated Opportunity Zones. The Growth Center Opportunity Zone/Master Plan process exists within the framework of Act 250 and 24 VSA §4302(b) and the principles of that framework are intended to guide this process.¹ It has as its purpose the attainment of the following principal goals:

- Incorporate and advance the Guiding Principles identified by the Governor's Collaborative Planning Group in its February 16, 2004, Draft Report to Stakeholders. The Guiding Principles are:
 - Designated downtowns should be the top priority for development and similarly designated village centers and new town centers.
 - Growth center Opportunity Zones should not dilute the Vermont "brand."
 - New growth center Opportunity Zones should not undermine existing downtowns.
 - Easier and faster permitting should be a feature of growth center Opportunity Zones.
 - Growth center Opportunity Zones should be compact settlements.
 - Efficiency and economy should characterize public and private investment in growth center Opportunity Zones.
 - The state has a legitimate role in making public investment in accordance with its own public policy for development.
 - Growth center Opportunity Zones need to be economically viable.
 - Growth center Opportunity Zones need to accommodate future growth needs.
 - Growth center Opportunity Zones should accommodate a variety of uses including housing, economic development and mixed use development.
 - Growth center Opportunity Zones will originate at the local or regional level but to receive state benefits the state must approve the ~~designated growth center~~ designated opportunity zone.

¹ The goals will be added as an attachment to the document.

Growth Center Opportunity Zone - Master Plan/Master Permit Program

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- Support, enhance and, where appropriate, expand, Title 24, Chapter 76A *Downtown Development*.
- Incent and enhance “smart growth” planning and development in Downtowns, Village Centers, New Town Centers, and Growth Center Opportunity Zones that balances environmental values with economic needs.
- Encourage and support a strong, growing and sustainable economy within Downtowns, Village Centers, New Town Centers, and Growth Center Opportunity Zones.
- Reduce regulatory barriers to economic development in Downtowns, Village Centers, New Town Centers, and Growth Center Opportunity Zones.
- Maintain existing planning and regulatory structures for development outside of Growth Center Opportunity Zones. The Growth Center Opportunity Zone/Master Plan program is not intended to establish “growth boundaries” or inhibit development outside of Growth Center Opportunity Zones.
- Respect other development priorities for communities, for example, the development of industrial parks, that may not fit within the context of this Growth Center Opportunity Zone designation process. This Growth Center Opportunity Zone designation process is not intended to exclude these priorities. Other economic development/community priorities should strive to meet Growth Center Opportunity Zone Values, but the Growth Center Opportunity Zone Designation process will not penalize them in any way for not meeting Growth Center Opportunity Zone Values.

Comment [ajk1]: In the definition of Opportunity Zone below (“Opportunity Zone means . . .”), “Opportunity Zone Values” is created as a defined term by capitalizing the ‘v’ in “Values”. The ‘v’ in Values should probably be capitalized here as well.

The Growth Center Designated Opportunity Zone - Master Plan proposal that the drafting committee has been developing is based on the following principal supporting elements:

- Municipal, Regional and State Planning Goals (24 VSA §4302[b]), collectively, the “Planning Goals.”
- State Plan Requirements (3 VSA Ch. 67).
- 10 VSA S. 6042 (Capability and Development Plan) and the Act 250 Land Use Criteria of 10 VSA §6086 (a).
- Downtown, Village Center, and New Town Center Development criteria under Chapter 76A (collectively, the Downtown Criteria).
- Capital Plans and Programs.
- Growth Center Opportunity Zone Designation.
- Integrated Growth Center Opportunity Zone Designation - Master Planning – Individual Project Permitting Process.

To give meaning and incentive to the Growth Center designation Opportunity Zone designation, significant benefits will accrue and be unique to Designated Growth Center Designated Opportunity Zones. For example:

- Planning grants.
- Alternative tax structures including pre-approved, flexible tax incremental financing.
- Priority of discretionary grants (e.g., housing, infrastructure, Brownfield remediation).
- Strongly incent State financial support/investment (e.g., bonding, TIF approval, VEDA financing) in Designated Growth Center Designated Opportunity Zones.
- Expedited planning and permitting processes.

~~Designated Growth Center~~Designated Opportunity Zone and Master Plan Approval Overview

In concept, the Master Plan Approval program is the next-to-last level in a multi-tiered planning process that begins with comprehensive planning and ends with individual project-specific permitting.

~~Designated Growth Center~~Designated Opportunity Zone means:

A ~~Designated Growth Center~~Designated Opportunity Zone (“~~Growth Center~~”) is one or more areas designated by one or more communities in their municipal plans and designated by one or more regional planning commissions in their regional plans to accommodate a significant share of growth anticipated by a community over a twenty year period that have or seek to achieve the following ~~Growth Center~~Opportunity Zone Values:

- Is characterized by a mixture of uses that include or have the potential to include retail, office, services and other commercial, civic, residential, including affordable housing, recreational activity, and industrial uses in densely compact areas;
- Incorporates public spaces that promote social interaction, as well as distinct organization around central places or focal points;
- Allows land development density that is significantly greater than the rest of the community;
- Results in compact, concentrated areas of land development served by existing or planned infrastructure, viable pedestrian circulation and other alternative transportation opportunities; and
- Is supported by existing or planned investments in infrastructure by state and local governments, economic development corporations and housing authorities, and/or private developers.

Level 1: State, Regional and Municipal Planning: Participation in the ~~Growth Center~~Opportunity Zone - Master Plan/Master Permit Program will begin with coordinated, comprehensive Local, Regional and State Plans based on Planning Principles [24 VSA §4302 (b) and 3 VSA]². The emphasis will be on Municipal and Regional Plans that focus on community needs, existing and planned capabilities, projected and desired growth patterns and outcomes, and statements of goals and strategies necessary to achieve those outcomes.

Level 2: ~~Growth Center~~Opportunity Zone Designation

- Statement of Purpose: This process is designed to augment planning for the designation of ~~growth centers~~Opportunity Zones by municipalities and/or regional planning commissions.

Comment [ajk2]: I believe this change was agreed to at an earlier session that you may not have attended. Its intent is to recognize that infrastructure investments can come from a variety of sources. Do you see any problem with leaving this in?

Comment [EH3]: I don't have a problem with the change. I just want people to be aware that it is different from the document that they reviewed in October. I don't think I have missed any meetings in a while and was tracking all the changes for the last several meetings.

Comment [ajk4]: Because we have a provision that requires conformance with (or amendment of) local and regional plans as a prerequisite to approval of a DGC, I thought we should include Regional Plans here. Do you see a problem with this?

Comment [EH5]: Same comment. It's not a problem for me – I just want people to be aware of the change.

² Insert actual goals as an appendix.

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- In concept, Downtown, Village and other Growth Center Opportunity Zone designations will implement State Planning Goals, appropriate Act 250 Criteria, and local planning and zoning requirements in defined geographic areas within one or more municipalities that meet the definition of and criteria for a ~~designated Growth Center~~ Designated Opportunity Zone.
- Communities seeking Growth Center Opportunity Zone designation will have technical support from the Regional Planning Commissions and relevant State Agencies and the opportunity to have preliminary discussions and informal reviews with the Land Use Panel before submitting a formal application.
- Growth Center Opportunity Zone designation is intended to strengthen the planning goals of 24 V.S.A. § 4302 by requiring the Growth Center Opportunity Zone applicant to demonstrate conformance with Regional Plans as a prerequisite to filing an application for a Growth Center Opportunity Zone designation. The Regional Planning Commissions of the Region or Regions in which the Growth Center Opportunity Zone is proposed, and, by petition, the Regional Commissions of any other affected Region, Region will be Statutory Parties to the proceedings, will review applications, and have the opportunity to submit comments and findings to the Land Use Panel on each application for Growth Center Opportunity Zone designation. The Regional Commission's comments and findings will be limited to conformance with the relevant Regional Plan.
- Growth Center Opportunity Zone designation will strengthen the Downtown program (24 V.S.A. Chapter 67A) by requiring a Downtown (Village Center, or New Town Center) designation as a prerequisite to filing an application for a ~~growth center~~ Opportunity Zone designation.
 - Downtown designation (including, for purposes of this memo, Village Center and New Town Center designation) will be a prerequisite to ~~aan~~ Growth Center Opportunity Zone application.
 - Growth Center Opportunity Zone designation of, or that includes, a designated Downtown will enhance the effectiveness of the Downtown designation by providing additional planning and financial incentives, and by qualifying the designated Downtown for the regulatory and permitting benefits of Growth Center Opportunity Zone designation.
 - In an application for a Growth Center Opportunity Zone that includes a previously-designated Downtown, the findings of the Downtown Development Board under 24 V.S.A. §2793, 2793a, and 2793b (the "Downtown Designation Criteria") will be conclusive as to the Downtown Designation Criteria and also as to certain of the Growth Center Opportunity Zone Designation Criteria that address substantially the same issues as the Downtown Designation Criteria. The findings will constitute evidence of the conformance of the entire proposed Growth Center Opportunity Zone with the Growth Center Opportunity Zone Designation Criteria that address substantially the same issues as the Downtown Designation Criteria.

Comment [ajk6]: Do you see a problem with this?

Comment [EH7]: Same comments as above.

Comment [ajk8]: I put this here because it seemed to fit best in sequence with the next section. Any problem?

Comment [EH9]: No.

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- The Downtown Development Board, as a Statutory Party to the proceedings, will review applications and submit findings to the Land Use Panel on each designation. The Downtown Development Board's comments will focus on areas related to their legislative responsibilities and the guiding principles for Growth Center Opportunity Zones.
- One or more communities that have in place approved Municipal Plans under Chapter 117 of Title 24 and permanent zoning and subdivision regulations and a designated Downtown, Village Center, or New Town Center may apply to the Land Use Panel for Growth Center Opportunity Zone designation that will qualify them for financial, planning and regulatory incentives and support, and to entertain applications for Master Plan/Master Permit approval.
- The criteria for Growth Center Opportunity Zone designation will incorporate or be based primarily on:
 - The definition of Growth Centers Opportunity Zones.
 - Needs Study of the municipality or municipalities applying for the designation.
 - Identify municipal needs/opportunities that the Designated Growth Center Designated Opportunity Zone will address.
 - Assessment, accommodation and mitigation of local and regional needs and impacts.
 - The Planning ~~Goals~~ Goals (24 V.S.A. §4302(b)).
 - Act 250 Criteria (10 V.S.A. §6086(a)), as appropriate, and the planning principles expressed in 10 V.S.A. §6042 (Capability and Development Plan).
 - Duly-adopted local plans and zoning regulations that incorporate the Growth Center Opportunity Zone designation.
 - Build-Out Analysis of the Designated Downtown, Village Center or New Growth Center Opportunity Zone area that provides for reasonable population densities, cost effective development strategies, and economic opportunities to the meet the identified needs of the Growth Center Opportunity Zone and the region in which it is located for the planning period. Should the build-out analysis show that reasonable growth cannot be accommodated within these Designated Growth Center Designated Opportunity Zones, an expanded Growth Center Opportunity Zone or another Growth Center Opportunity Zone may be considered provided it meets the Designation criteria.
- While Growth Centers Opportunity Zones will be defined (and mapped) as discrete geographic areas of the involved municipality or municipalities, the proposed land uses will be expressed in terms of existing and planned types, numbers (e.g., square footages

or units) and densities, and development guidelines and limitations will be expressed as goals and objectives.

- Zoning for the Growth Center Opportunity Zone designation will permit the uses that are identified in the Growth Center Opportunity Zone designation, subject to conditions and limitations consistent with the municipalities' goals and strategies for the Growth Center Opportunity Zone. Because the applicants for Growth Center Opportunity Zone designation are the municipality or municipalities involved, there will be "buy in" so that the zoning will be at the request of the participating municipalities.
- To the extent that the Growth Center Opportunity zone applicant determines that amendments to municipal or regional plans, or local zoning, planning, subdivision or other municipal regulations, codes or ordinances (collectively, "Regulatory Changes") are required to achieve the goals and objectives of the Growth Center Opportunity Zone, Growth Center Opportunity Zone applicants will be encouraged to adopt such Regulatory Changes prior to submitting applications for Growth Center Opportunity Zone designation. The Land Use Panel may condition the approval of a Growth Center Opportunity Zone designation on Regulatory Changes necessary to accommodate the Growth Center Opportunity Zone, and Growth Center Opportunity Zone designation may be modified, suspended or revoked by the Land Use Panel if the applicant communities fail to make required Regulatory Changes. Communities applying for Growth Center Opportunity Zone designation may make the effect of their Regulatory Changes contingent on approval of the Growth Center Opportunity Zone designation by the Land Use Panel.
- Growth Center Opportunity Zone findings and conclusions may be conclusive, conditionally conclusive, or advisory with respect to other regulatory criteria depending on the level of detail and certainty that is provided by the Growth Center Opportunity Zone applicants. By offering as much finality and certainty as is reasonably possible at the earliest possible decision point, the Growth Center Opportunity Zone review and designation process should encourage applicants to present comprehensive, detailed applications. Such conclusive findings may include, but are not limited to, the following:
 - that the uses approved for the Growth Center Opportunity Zone conform with applicable municipal and regional plans for purposes of Act 250 Criterion 10.
 - at the municipality's option, Act 250 criterion for which the municipality has sought positive findings, may be included in the conclusive findings if the Land Use Panel of the Board finds that the Act 250 criterion are satisfied.
- The findings and conclusions of the Growth Center Opportunity Zone designation will identify any potential project-specific impacts and criteria that remain to be addressed for Master Plan/Master Permit approval within the Growth Center Opportunity Zone area. All other impacts and criteria will be deemed to have been satisfied by the Growth Center Opportunity Zone Designation.
- Growth Center Opportunity Zone designation will be subject to review at five-year intervals to ascertain whether the implementation of the Growth Center Opportunity Zone

Comment [ajk10]: This language is intended to expand upon and replace the last bulleted item in this section (highlighted below) by providing direction to the applicant communities to undertake plan and zoning amendments before submitting their applications, and by giving the Land Use Panel options other than revocation if the changes were not made exactly as contemplated by the Opportunity Zone designation. Any problem with this?

Comment [EH11]: Same comment as above. I think people should know that this is a change. I don't have a problem with what's written but I don't think it covers the situation we were trying to address below where a community changes its regulations once the designation is given.

is proceeding in accordance with and on schedule with the Growth Center Opportunity Zone designation. If it is determined that the Growth Center Opportunity Zone is not meeting its goals, or that material external changes have occurred that impact the Growth Center Opportunity Zone, the Growth Center Opportunity Zone designation may be modified by the provisions of these sections, provided that no such modification will modify or invalidate any previously-approved Master Permit or Individual Project Permit without the consent of the permittee.

- Communities may apply to amend or expand Designated Growth Center Designated Opportunity Zones, or apply for designation of additional Growth Center Opportunity Zones based upon the same criteria as the initial Growth Center Opportunity Zone Designation, provided that an applicant for an additional Growth Center Opportunity Zone Designation will need to demonstrate why the existing Designated Growth Center Designated Opportunity Zones cannot accommodate the growth and development anticipated in the proposed additional Growth Center Opportunity Zone, and that the proposed Growth Center Opportunity Zone will not unreasonably interfere with or impair the existing Growth Center Opportunity Zone.
- After the Growth Center Opportunity Zone designation is approved, municipal and regional plan changes and zoning amendments affecting the designation would not become effective until an amendment to the Growth Center Opportunity Zone designation incorporating the changes is approved by the Land Use Panel.

GROWTH CENTER OPPORTUNITY ZONE TYPES:

- The core Growth Center Opportunity Zone types are those that are currently defined under Vermont law:
 - ❖ Designated Downtowns.
 - ❖ Designated Village Centers.
 - ❖ Designated New Town Centers.
- The following Industrial Parks will be eligible for Growth Center Opportunity Zone benefits:
 - ❖ Industrial Parks that are incorporated in or are contiguous with Designated Growth Center Designated Opportunity Zones.
 - ❖ Industrial Parks that independently meet the Designated Growth Center Designated Opportunity Zone standards, or, by partnering with Designated Growth Center Designated Opportunity Zones, enhance and support the goals and standards of the existing Designated Growth Center Designated Opportunity Zones.
- New Growth Center Opportunity Zone types need to be established by statute and include:
 - ❖ Areas in close proximity to, directly connected with and of similar development pattern as a designated Downtown, Village or New Town Centers (including urban industrial areas, and urban residential neighborhoods).
 - ❖ Areas outside of and not contiguous to designated Downtowns, Village Centers or New Growth Center Opportunity Zones but that meet the requirements of a Designated Growth Center Designated Opportunity Zone.

Level 3: Master Plan Approval / (“MPA”)

- In Communities that have obtained the [Growth Center Opportunity Zone](#) designation, applicants may apply to the District Environmental Commission for Master Plan Approval for master plans for one or more development projects within the [Growth Center Opportunity Zone](#) that satisfy the goals and conditions of the [Growth Center Opportunity Zone](#).
- A Master Plan will refine the general statements of goals and objectives set forth in the [Growth Center Opportunity Zone](#) designation into more specific development proposals and areas within the area of the MPA. As an example, applicants for an MPA would identify an area within a [designated Growth Center designated opportunity zone](#), and propose that within the MPA area certain numbers of housing units in certain configurations, numbers of square feet of retail, commercial or industrial development, transportation corridors and facilities, public infrastructure, parks and open spaces, means to preserve unique natural resources, and anticipated build-out schedules. MPA approval will give the MPA finality in a variety of regulatory and permitting requirements, forward commitments for public infrastructure capacity for the projected build-out of the MPA, and expedited regulatory requirements for individual projects within the approved MPA.
- Applicants for an MPA would include individual and multiple owners of property within a proposed MPA area, one or more of the municipalities that has obtained the [Growth Center Opportunity Zone](#) Designation, public development entities (e.g., regional or municipal economic development corporations or housing authorities), or any combination of them, and the applicants for an MPA need not hold title to all of the properties within the MPA area, but should demonstrate the ability to address infrastructure needs of the project as a whole and demonstrate the potential for the master plan still to be realized.
- Properties that are included in an MPA application that are not owned by the MPA applicants may be developed in accordance with the municipal zoning regulations in effect for the [Growth Center Opportunity Zone](#) and applicable Act 250 criteria provided that the development of such properties will not unreasonably interfere with or impair the overall attainment of the MPA.
- The MPA process will include review for compliance with local zoning and subdivision regulations, Agency of Natural Resources regulatory programs, and Act 250 criteria.
- The MPA will identify the project-specific impacts and criteria under local and state requirements that remain to be addressed for Individual Development Projects proposed within the MPA area and may set conditions for impact mitigation and standards for Individual Development Projects. All other impacts and criteria will be deemed to have been satisfied by the MPA.

- MPA approval would be granted for defined periods of time sufficient to justify and support the public and private investments necessary for the realization of the MPA, and would be subject to periodic review and “benchmarking” to monitor attainment of the MPA’s development objectives. . MPA approval will vest in the MPA applicants and permittees, and their successors and assigns, the permitting and infrastructure commitments that are confirmed through the [Growth Center Opportunity Zone](#) and MPA approval process. Properties within the MPA area that are not co-applicants for MPA will not have the benefits of vesting.
- Consideration should be given to the creation of condemnation authority for properties that are determined to be critical to the attainment of the MPA.

Level 4 – Individual Development Permit (“IDP”) Approval (“ground level”):

- Once an MPA has been approved, persons or entities that own or control properties within the MPA area may apply to the Development Review Board in the municipality (or municipalities) in which the MPA is located for an Individual Development Permit (“IDP”).
- Both the substantive and procedural requirements for IDPs will have been substantially reduced to the extent that such requirements were satisfied through the [Growth Center Opportunity Zone](#) Designation and MPA processes.
- Regulatory criteria that were addressed and resolved in the [Growth Center Opportunity Zone](#) Designation and MPA processes will not be reopened for IDPs.
- The IDP permit process will be an expedited process, and IDP applications that are determined by the Development Review Board to be within the development “envelope” of the [Growth Center Opportunity Zone](#) Designation and MPA will be processed similarly to current Act 250 “minor” permits.
- IDPs that are determined to exceed the development envelope of the [Growth Center Opportunity Zone](#) Designation or MPA will be reviewed by the Development Review Board only with respect to the aspects of the IDP that appear to exceed the development envelope.

Procedural Provisions

Notice: Generally, notice of applications and hearings will be by:

- Newspaper of general circulation in the municipalities in which the [Growth Center Opportunity Zone](#) is to be established.
- Written notice to Statutory Parties and Governmental Agencies.
- Posting on the ANR and NRB web sites.
- Once interested members of the public and NGOs have appeared at a hearing and provided public comment, they will be included on a service list and served with notice of proceedings and the location where documents can be accessed.

Party Status/Public Comment/Public Advocate:

- Statutory Parties: At all levels, the Statutory Parties will be the Downtown Development Board, relevant State agencies with respect to compliance with State agency plans and regulations, relevant regional planning commissions (including adjacent regional planning commissions) with respect to conformance with regional plans, the municipalities within which the Growth Center Opportunity Zone is located, municipalities adjacent to the applicant municipalities, and property owners whose properties are within or abut a Growth Center Opportunity Zone or MPA area.
- Public Participation: Non-statutory parties (individuals, NGOs, citizens groups, etc.) will be invited to submit public comments either in person or in writing. Once public comments have been submitted, public participants will be included in a service (notice) list and will be provided with notice of all subsequent proceedings, the filing of applications, the filing of pleadings or other relevant documents, and a location in the municipality within which the Growth Center Opportunity Zone is to be located where copies of all documents are available for review.
- Limiting Party Status: Party status and public comment may be limited by the Land Use Panel, the District Environmental Commissions and the municipal Development Review Boards (the “reviewing entities”) to those statutory parties, public participants (a “Participating Party”) that have been admitted as Parties in the Growth Center Opportunity Zone, MPA or IDP at the earliest possible stage of review. The reviewing entity will have the authority to require consolidation or joint representation in cases where there issues raised by one or more Participating Parties are substantially the same. The burden shall be on a Participating Party who seeks to intervene at a later stage in a proceeding to demonstrate to the satisfaction of the reviewing entity that their participation is required at the later stage to identify or develop material issues or impacts relevant to the pending application that were not raised or addressed at an earlier stage, or that the pending application raises new issues or impacts that were not addressed in the earlier application or proceeding.
- Parties/Appeals: Party status and the right of appeal will be determined in the same manner as in 10 V.S.A. §6085.

Dispute Resolution: The reviewing entities will be expressly authorized and directed to engage in mediation of disputes among applicants, statutory parties and public participants in order to resolve disputes or obtain consensus. A reviewing entity may:

- require the participants to engage a mediator.
- engage a facilitator to assist the parties in reaching consensus.
- hold formal or informal negotiation sessions with the participants.
- appoint a master or fact-finder.
- propose changes or conditions to resolve disputes.
- negotiate draft findings, conditions and development agreements with the participants.
- assess the costs of mediation or facilitation to the parties.

- award costs, expenses and attorneys fees where participants do not engage in good faith efforts to mediate disputes..

Review/Appeals:

- Because aan Growth Center Opportunity Zone Designation is a planning, and not a regulatory decision, there will be no appeal from aan Growth Center Opportunity Zone decision by the Land Use Panel.
- Appeals of decisions of a District Environmental Commission with respect to a Master Plan/Master Permit application shall be on the record to the Environmental Court for determination of conformance with the Growth Center Opportunity Zone Designation and relevant criteria of Act 250. The Environmental Court may, at the request of the applicant, remand the Master Plan/Master Permit Application to the District Commission. Decisions of the Environmental Court are appealable to the Supreme Court.
- Appeals of decisions of a Development Review Board on an Individual Development Permit Application shall be on the record to the Environmental Court under the provisions of V.R.C.P 76. Appeals from the Environmental Court shall be to the Vermont Supreme Court.

Appropriation:

- For Land Use Panel to staff this program.
- For ACCD and ANR to provide technical assistance to applicants for getting Growth Center Opportunity Zone designation.
- For planning grants to do Growth Center Opportunity Zone Master Planning and Master Planning within Growth Center Opportunity Zones.