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Montpelier, VT 05602  
September 23, 2018

Commissioners  
Commission on Act 250  
Vermont Statehouse  
Montpelier, Vermont 05602  
Sent via email to: Act250Comments@leg.state.vt.us

RE: Comments on Act 250: The Next 50 Years

Dear Commissioners:

Thank you for your difficult and time-consuming work on the Commission on Act 250. Your work on this initiative is critically important to every Vermonter today and for several generations of future Vermonters. I very much appreciate the opportunity to comment.

As a full-time Vermonter since 1964 (8th Grade at South Burlington High School) and as a passionate environmentalist, I was enthusiastic to learn about your important work to "revisit and refresh" Act 250. As some of you know, I was also Vermont State Archaeologist for 38 years (1976-2014) and, in that capacity, traveled every corner of this unique state. I worked closely with the Natural Resources Board (NRB) staff at all levels for much of that time, with many developers throughout their Act 250 permit process, and with various divisions in the Agency of Natural Resources.

I participated in the South Royalton Public Meeting on July 25, 2018, which served as an important foundation for these comments. It gave me - - and the engaged Vermonters at my table - - the opportunity to think about and discuss the big picture (the "core values"), the resources protected by the 10 criteria, the process, the various institutions involved in the process, and the people who play a role in the process.

#### **Comments:**

According to the Commission's website, the Commission wanted to use the public input to (1) "confirm that we are looking at the right topics; (2) identify if there are other areas we should include in our work; and (3) get a sense of the public's desire for more or less environmental protection through land use." I have organized my comments accordingly.

(1) Is the Commission looking at the right topics? I believe that the Commission is generally looking at the right core values but missing at least one major value. The key, core value of **improved infrastructure** was absent in the conversation in South Royalton. Infrastructure includes communications (like cell service and Internet), bike and walking paths, and public

transportation such as train and bus service. Strong and reliable infrastructure is critical to Vermonters' ability to live and work in this state.

My table mates in South Royalton and I felt strongly that the different core values (represented by the cards that were the primary discussion tool used at the public meetings) need to be looked at in a much more integrated way. For example, while economic development is critical to the future of Vermont and to keeping our kids and grandkids here (two of my four kids live out-of-state because of their jobs), this value cannot be looked at in isolation. Every single person at my table in South Royalton felt that to ask, "Is Economic Development more important than Maintaining Settlement Patterns or Forest Productivity or Scenic Beauty?", or, "Is Maintaining Settlement Patterns more of a priority than Economic Development" are the wrong questions to ask. ALL the values represented by those cards are linked to each other. They cannot be looked at in isolation.

My personal most important value is "**Maintaining Settlement Patterns.**" It must be a core value of Act 250. When we look at various values in an integrated, linked, way, the importance of "Maintaining Settlement Patterns" stands out because it supports many other core Vermont values:

- Economic development: let's keep our cities historic villages and downtowns vital and have them serve as the hub for certain types of economic development.
- Preserving our agricultural land and forests: by maintaining Vermont's settlement patterns, agricultural lands and forests will suffer fewer impacts and be better protected. This, in turn, will foster the critical role of farming and forests in Vermont's economic development. From the perspective of my area of expertise, the more agricultural lands and forests we leave intact, the more archaeological resources we will preserve, even if they remain un-discovered and un-documented.
- Our scenic and natural beauty: maintaining growth in Vermont's cities, villages and downtowns results in less sprawl.
- Historic sites: maintaining Vermont's settlement patterns promotes use and re-use of historic buildings which, in turn, contributes not only to the economic vitality of a place but also to Vermont's scenic beauty. Vermont's striking scenic beauty is the combination of its historic places within a gorgeous landscape.
- Ecosystem protection is enhanced when we maintain our settlement patterns. Again, from the perspective of my area of expertise, the more ecosystems we protect and keep intact, the more archaeological sites we will preserve, again, even if they remain un-discovered and un-documented. For 12,600 years, Vermont's ecosystems were home to thousands of Native inhabitants. Over 500 generations of pre-European Vermonters lived, gathered foods, hunted and fished, made tools, worshipped, played,

and died next to rivers and streams, lakes and ponds, wetlands, vernal pools, springs, and the lands in between at all elevations.

(2) Are there other areas the Commission should include in our work? I think that it would be productive to re-visit and to re-invent how state agencies and the Natural Resources Board staff communicate about and coordinate their work. Working in and around the Act 250 process for almost 40 years, it's my strong belief that improved communication, coordination, and collaboration among the state agencies would significantly improve the Act 250 process. It would also significantly improve non-Act 250 processes that are often confused by the public as being an "Act 250 problem." Experienced Act 250 process participants around our table in South Royalton all stated emphatically that greater communication, coordination and collaboration among the state agencies involved in Act 250 reviews should be an important goal in a re-invented Act 250. The loss of a dedicated, Act 250 coordinating attorney in the Agency of Natural Resources is missed.

Given the new senior staff at the NRB, both Executive Director and General Counsel, and new District Coordinators and Commission members, I strongly recommend that on-going, scheduled, criterion-specific, training for staff be one of the Commission's final recommendations. Given the complexity of the Act 250 process, the multiple criteria, and the many sub-sections of many criteria, on-going training should be mandatory and not at the whim of a state division asking to be invited to hold a training. I'm confident that recent hires at the NRB have no knowledge of Vermont's irreplaceable archaeological resources (a sub-section of Criterion 8, historic sites) and the process for considering them during the Act 250 process.

(3) Desire for more or less environmental protection through land use? Given that 80% - 90% of development in Vermont does not require an Act 250 permit, I am extremely concerned that cumulative impacts in the coming decades will significantly impact Vermont's core values. We need more and stronger environmental protection, not less. Commercial farms must be subject to Act 250 review. Antectodal stories suggest that large farms are impacting water quality, wetlands, and archaeological resources. I wholeheartedly agree with former Commissioner of Environmental Conservation David Mears' testimony on December 4, 2017: *"The lack of evaluation of cumulative impacts of development for projects below the jurisdictional threshold is the single most important gap in Act 250. For instance, the damage to floodplains, wetlands, wildlife corridors and forest blocks as a result of piecemeal development is significant and a growing problem. Vermont should consider significantly lowering the jurisdictional triggers for development in or impacting these critical areas below the current trigger of ten lots or ten acres."* I want to add "archaeological resources" to his list.

I have read through other people's comments and wholeheartedly agree with the need to consider climate change and climate disruption in Act 250.

### **Summary Recommendations:**

I recommend that the Commission consider the following points in their re-examination of Act 250:

- Vermont's core values need to be looked at through a much more integrated, linked, approach.
- State agencies and the NRB staff must re-invent how they communicate about and coordinate their work during the Act 250 process.
- On-going, scheduled, criterion-specific, training for NRB staff must be mandatory and frequent.
- We need more and stronger environmental protection, not less, to protect Vermont's core values and to specifically preserve the natural and historic resources that help make Vermont the extraordinary place it is.

Thank you for considering my comments and allowing me to be part of your re-envisioning project. And thank you again for your hard work on this important initiative.

With warmest regards,

*Giovanna*

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