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Title 10 : Conservation And Development

Chapter 151 : State Land Use And Development Plans

Subchapter 004 : Permits

(Cite as: 10 V.S.A. § 6086b)

§ 6086b. Downtown development; findings

Notwithstanding any provision of this chapter to the contrary, each of the following shall apply to a development or subdivision that is completely within a downtown development district designated under 24 V.S.A. chapter 76A and for which a permit or permit amendment would otherwise be required under this chapter:

(1) In lieu of obtaining a permit or permit amendment, a person may request findings and conclusions from the District Commission, which shall approve the request if it finds that the development or subdivision will meet subdivisions 6086(a)(1) (air and water pollution), (2) (sufficient water available), (3) (burden on existing water supply), (4) (soil erosion), (5) (traffic), (8) (aesthetics, historic sites, rare and irreplaceable natural areas), (8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy conservation), and (9)(K) (public facilities, services, and lands) of this title.

(2) The request shall be complete as to the criteria listed in subdivision (1) of this subsection and need not address other criteria of subsection 6086(a) of this title.

(A) The requestor shall file the request in accordance with the requirements of subsection 6084(a) of this title and the requestor shall provide a copy of the request to each agency and department listed in subdivision (3) of this section.

(B) Within five days of the request's filing, the District Coordinator shall determine whether the request is complete. Within five days of the date the District Coordinator determines the request to be complete, the District Commission shall provide notice of the complete request to each person required to receive a copy of the filing under subdivision (2)(A) of this section and to each adjoining property owner and shall post the notice and a copy of the request on the Board's web page. The computation of time under this subdivision (2)(B) shall exclude Saturdays, Sundays, and State legal holidays.

(3) Within 30 days of receiving notice of a complete request:

(A) The State Historic Preservation Officer or designee shall submit a written recommendation on whether the improvements will have an undue adverse effect on any historic site.

(B) The Commissioner of Public Service or designee shall submit a written recommendation on whether the improvements will meet or exceed the applicable energy conservation and building energy standards under subdivision 6086(a)(9)(F) of this title.

(C) The Secretary of Transportation or designee shall submit a written recommendation on whether the improvements will have a significant impact on any highway, transportation facility, or other land or structure under the Secretary's jurisdiction.

(D) The Commissioner of Buildings and General Services or designee shall submit a written recommendation on whether the improvements will have a significant impact on any adjacent land or facilities under the Commissioner's jurisdiction.

(E) The Secretary of Natural Resources or designee shall submit a written recommendation on whether the improvements will have a significant impact on any land or facilities under its jurisdiction or on any important natural resources, other than primary agricultural soils. In this subdivision (E), "important natural resources" shall have the same meaning as under 24 V.S.A. § 2791.

(F) The Secretary of Agriculture, Food and Markets or designee shall submit a written recommendation on whether the improvements will reduce or convert primary agricultural soils and on whether there will be appropriate mitigation for any reduction in or conversion of those soils.

(4) Any person may submit written comments or ask for a hearing within 30 days of the date on which the District Commission issues notice of a complete request. If the person asks for a hearing, the person shall include a petition for party status in the submission. The petition for party status shall meet the requirements of subdivision 6085(c)(2) of this title.

(5) The District Commission shall not hold a hearing on the request unless it determines that there is a substantial issue under one or more applicable criteria that requires a hearing. The District Commission shall hold any hearing within 20 days of the end of the comment period specified in subdivisions (3) and (4) of this section. Subdivisions 6085(c)(1)-(5) of this title shall govern participation in a hearing under this section.

(6) The District Commission shall issue a decision within 60 days of issuing notice of a complete request under this section or, if it holds a hearing, within 15 days of adjourning the hearing. The District Commission shall send a copy of the decision to each State agency listed in subdivision (3) of this section, to the municipality, to the municipal and regional planning commissions for the municipality, and to each person that submitted a comment, requested a hearing, or participated in the hearing, if any. The decision may include conditions that meet the standards of subsection 6086(c) of this title.

(7) The requestor may waive the time periods required under subdivisions (3), (4), and (6) of this section as to one or more agencies, departments, the District Commission, the District Coordinator, or other persons. Such a waiver shall extend the applicable and subsequent time periods by the amount of time waived. In the absence of a waiver under

this subdivision, the failure of a State agency to file a written determination or a person to submit a comment or ask for a hearing within the time periods specified in subdivisions (3) and (4) of this section shall not delay the District Commission's issuance of a decision on a complete request. (Added 2013, No. 147 (Adj. Sess.), § 3, eff. June 1, 2014.)