

Stakeholder Review - Notes

Criterion 9(L) Draft Guidance

(Guidance Version dated 9/18/15)

Meeting Date & Time: October 8, 2015 1pm-3pm

Location: Calvin Coolidge Conference Room, National Life Dr, Davis Bldg, 6th Floor, Montpelier, VT

Participants: Curt Carter, GBIC; Seth Jenson, LCRPC; Kate McCarthy, VNRC; Brian Shupe, VNRC; Katie Taylor, LCCC; Catherine Dimitruk, NRPC; Peg Elmer Hough, VPA; Katrina Spaulding, VT Realtors; Chris Rice, Homebuilders and Remodelers; David Snedeker, NVDA; Bill Burke, District Environmental Commission (Rutland); Geoff Green, District Environmental Commission (Addison and Northwest); Clancy DeSmet, District Environmental Commission (Washington); David White, White+Burke; Sandy Levine, CLF; Caroline Duvet, CLF; Faith Ingulsrud, DHCD; Chris Cochran, DHCD; Noelle MacKay, DHCD; John Adams, DHCD; Jon Groveman, NRB; Greg Boulbol, NRB; Joan Goldstein, DED; Jen Mojo, ANR; Laura Trieschmann, DHCD

The follow notes include comments made in person at as well as any written comments submitted. Comments have been compiled and organized into the following topic areas:

1. Existing settlement determination
2. Efficient Use Requirement
3. Definition of Strip Development
4. Pathway 1 – ‘Contribute to a pattern of strip development’
5. Pathway 2: ‘Confined to strip development, infill and reasonably minimizing the strip characteristics’
6. General Comments

Existing Settlement Determination

1. Rural Areas and Infrastructure

- Don't exclude villages that are not served by water and other infrastructure. Other things (general store, post office, school, etc.) tend to suggest an “existing settlement” in more rural settings that don't have other infrastructure. (for instance Brownington)
- Broaden to ensure that small villages and hamlets in rural areas of Vermont are recognized as “existing settlements.” Recommended Language: *Centers may include new and existing settlements and may range in size from small settlements such as Garfield in Hyde Park to the region's largest urban area of Morrisville. Centers can be as small as a country store, a post office, school or church, and a cluster of homes.*

2. Existing Compact Center Characteristics

- Speed Limits. A Vermont context for this is critical (as noted for 35 mph speed limit—see T.19 re setting limits). Very difficult to get a speed limit under 35 mph (vtrans issue) which may create some issues in establishing an “existing settlement” under the

guidance. No reason why an applicant can't make the case that it can't meet the speed threshold b/c of vtrans issues. However, the word "typical" provides meaningful flexibility.

- Idea of being a continuum or transect with respect to "compact form and size" rather than black and white. Some cautions against the transect/continuum concept, especially a suburban one
- Highlight, define human/ pedestrian scale in this context ("within walking distance of each other") as a key component of an existing settlement—in relation to form, height, spacing, density of development, and available infrastructure.
- W/re to density, would also note statutory definition for designated areas... (1 unit per acre is common, but is it really "village"?)
- Not sure about using E-911 coverage, v. building footprints and units – especially w/re to mix, number of units—but may be best we have for desktop analyses? Could also determine off of orthos using measuring tools. Would include more info on "how to" use VANR Resource Atlas in this regard....

3. Determining 'the edge' & General Suggestions

- Areas adjacent to state designated areas, provide some guidance on how to treat & some acknowledgement that there is a distinction between these types of areas.
- Need to show how to define boundary/edge in vicinity of proposed development (to determine if project is In or out) –could discuss in relation to walking distance, as noted—to define "edge" in addition to mix, density of development within a ¼ to ½ mile radius of proposed project.
- Would note w/re to scale that, while Burlington is large, it is also functionally divided into more distinct, generally walkable commercial hubs/centers and residential neighborhoods. Isn't it possible that all of the developed area of Burlington/Chittenden county an existing settlement? Much of, yes – but lots of strip development as well.
- Should be broad enough to allow existing settlements to expand and eventually subsume existing areas of strip development
- Explicitly state that existing settlement are not limited by political boundaries

Efficient Use Requirement

1. Suggestions RE: Examples Used (Figures 5 & 6)

- Figure 5 – Inefficient vs Efficient Use example is unrealistic. Industrial parks don't develop like the example and need room to expand buildings. Multiple stories are not

efficient for industrial buildings. Need 100 feet to turn a tractor trailer around—need lots of road or big parking lot. It's also comparing an office park vs industrial park.

- Concerned the images would be interpreted literally
- Look at Interstate Interchange Guidelines for examples
- Examples good, but less building detail could be a solution
- Concerned over the structured the parking lot—which are expensive.
- Wants realistic examples (including parking garage)
- nice illustrations; should be accompanied by a discussion of specific considerations/tools for making efficient use of land, infrastructure (e.g., conservation subdivision design, clustering, access management, shared infrastructure);
- Would highlight the benefits of efficient use for the developer (reduced costs of land, infrastructure, etc.).

2. Expansion of existing infrastructure

- Some don't like assumption that expansion of infrastructure is not efficient use. Others stress emphasis to try and first to get more from what you have with regard to infrastructure/efficient use. – Some expansion of infrastructure can allow more efficient use of existing infrastructure – “gets more out of what you have.”
- Make reference to ANR WW Rule

3. Context and Future Development

- Should include considerations addressing the context of proposed development (greenfield, strip, leapfrog, rural growth area, etc.) – and the need to minimize or avoid impacts to protected resources under Act 250 (VANR Atlas), and as identified in local and regional plans.
- Would provide additional guidance w/ re to what constitutes “efficient use” in this context, e.g., re to include shared community facilities, services (parks, recreation, community buildings, gardens, parking, transit stops, etc.) to at list provide some support services and infrastructure on site...
- Would specifically reference incorporating regional transit /bike path facilities and services (TOD development?) in this context, to provide connectivity apart from auto/highway network.

- Look to ANR's policy document re: extension of utilities so as not to foster sprawl
- The determination of "efficient use" needs to take into account the spatial requirements for water, wastewater, and storm water.
- Contextual question to consider is what occurs with land that is not currently proposed for development?
- Allow phasing the potential for further development should play a role in determining if the application is making efficient use of land.
- Providing guidance on how to structure local land use bylaws to enable efficient use of land will need to be a priority if the goals of 9(L) are to be realized.
- Consider efficient use on a community scale
- Why do/should "purely residential" projects that meet the efficient use requirement comply with 9L?

Definition of Strip Development

1. Topography

- The Guidance should address the fact that many Villages are linear-by nature due to topography, and ensure that these areas are not deemed to be strip development.
- The statement regarding topography needs to be moved from the end of this section to the beginning. ~~Topographic constraints should be considered~~ State Statute requires that the District Commission consider topographic constraints when evaluating whether or not a project is strip development, as the topography may make it impossible to avoid certain characteristics of strip development...

2. Characteristics of Strip Development

- *Broad Road Frontage.*
 - o This seems to suggest that buildings should be setback from the road, rather than built close to it. This is contrary to much of the rest of the Guidance. Buildings located close to the road are a key component of a pedestrian friendly atmosphere. Language should be reworded to focus on the location of the parking rather than the location of the building. *Reorienting a building so that it is perpendicular to a highway, while placing ~~and has~~ parking along the road frontage, does not minimize this characteristic. In order to minimize this characteristic, parking should also be reoriented so that it does not dominate the*

frontage; for example by relocating parking areas to the side or rear of the building.

- *Predominance of single-story buildings.*
 - Should this refer to majority of the visible buildings/ buildings along the frontage? Use of multi-story “frontage buildings” can be used as a screening technique for uses that are by nature single story (warehouse, auto-repair, etc.).
 - In many rural settings, the market does not support second stories, especially if an elevator is required. The Guidance should allow applicants to meet this criteria if a single story is designed to appear to have a second story AND the building is designed such that additional stories may be added in the future.

- *Limited reliance on shared highway access.*
 - Reserving access for future redevelopment or development on adjoined properties should be included as an option for avoiding this characteristic of strip development. The District Commission should also consider access management plans and official maps adopted by local communities in accordance with CH117 when determining the applicability of this characteristic of “strip development.”

- *Lack of connection to any existing settlement except by highway, lack of connection to surrounding land uses except by highway, and limited access for pedestrians.*
 - Pedestrians walk straight paths and in parking lots and sidewalks in parking lots often do not get used—may not be the right solution.
 - Parking in back of store creates some very difficult logistical challenges for certain retail. Not good to have a blanket statement that door needs to be in front with parking in back, need to have some flexibility built in. Dual entrances can sometimes work, but not always
 - Useful to acknowledge that on street parking can be part of a pedestrian friendly development. (Example—Underhill flats).
 - Revised to support local efforts to improve connectivity. Direct the applicant and District Commission to consider future plans for pedestrian connectivity, such as a capital plan, downtown/village master plan, or other document approved by the municipal legislative body, when determining whether or not a development exhibits this characteristic of “strip development.” Interpretation of 9(L) could create a Catch 22 where commercial uses cannot be created without formal pedestrian infrastructure, but pedestrian infrastructure cannot be constructed without commercial uses.
 - Recognize that pedestrian infrastructure often takes a different form in rural area settings. Diverse, alternative means of providing pedestrian access and non-motorized connectivity in rural settings include trail systems, expanded shoulders, and multi-modal paths.

- *Lack of coordination with surrounding land use.*

- Sometimes “coordination” with other land uses may be “thoughtful separation.” e.g – CCTA and Burton.
- Coordination with other land uses should also consider/acknowledge local zoning, context, existing uses. Get rid of signage and lighting discussion. The Guidance places too much focus on signage in particular, which is already highly regulated.
- More discussion of landscaping, use of shared parking, and context sensitive design should be included. While Master Plans are one tool for ensuring coordination of surrounding land uses, other techniques, should also be given effect.
- Suggest adding: shared storm drainage or other utilities, connected walkways, communal bike shed or racks, collaborative landscaping for energy savings and more – to foster such innovative collaboration.

Pathway 1 – ‘Contribute to a pattern of strip development.’

1. Circumstances of

- Some trepidation about the list though appreciates the pragmatic end. Looking at #2 in particular, industrial use in an industrial park can still use land inefficiently.
- Concerned about what “approved industrial parks” mean
- Some uses attract strip development.
- Define “home occupation”
- This language seems to be limited to the visually attractive portions of Vermont’s working landscape. Uses such as sawmills, stock yards, feed stores, agricultural processing plants, and equipment repair/supply are critical to Vermont’s working landscape economy, but they may not be aesthetically pleasing to some tastes.
- “If the proposed project is a use that contributes to and/or supports Vermont’s working lands economy, including, but not limited to traditionally fits into the rural landscape and traditional part of Vermont’s countryside, such as a roadside vegetable stands, sawmills or other forest products related facilities, stock yards, feed stores, agricultural processing facilities, and/or agricultural or forestry equipment repair/supply.”

2. Lack of Clarity

- More guidance needed on when a project will not contribute to strip if the proposed project does not meet the characteristics of strip. If a project doesn’t meet the definition of strip, can it still contribute to a pattern of strip development? Be clear.

- Doesn't know how to get an affirmative finding that it is not going to contribute to strip development. Wants more clarity on how to get green light
- there is nothing referring to lot size and acreage in the document, or frontage, or existing curb cuts, or any existing condition that more specifically defines what contributes to strip development.

Pathway 2: Confined to strip development, infill and reasonably minimizing the strip characteristics.

1. Being 'Confined to strip'

- Can there be a vacant lot in between that is still part of the strip? If so—clarify.
- State that projects located outside of strip development in pathway 2 would not comply with 9(L).

2. Minimizing the Characteristics of Strip

- *SEE COMMENTS IN 'DEFINITION OF STRIP DEVELOPMENT' SECTION*

General Comments

1. Flowchart & Order of Guidance

- Suggested flowchart submitted (see attached.)
- Flowcharts are really helpful when trying to understand 9L
- in addition to or before looking at whether project is strip, look at the area and decide if the area is strip. This analysis should be done prior either pathway 1 or pathway 2 b/c it will force you into one of the paths.

2. Incorporate work from other Vermont publications and policies.

- Build on guidance documents been developed in this area through VPA, Smart Growth VT, VNRC, DHCD and RPCs – including past definitions included within DHCD documents.
- Provide more context/background specific to 9L under Act 250 as a regulatory process – including legislative directives—and limit vague aspirational stuff, instead ref: goals in § 4302 and smart growth principles.

- Please lend weight to the document by anchoring the reason for the guidance in the long legacy of historic statute and rule, and policy documents – giving it a more substantial foundation and reference points.
- The language (about “traditional settlement pattern” that led to the overarching land use goal) in the 1988 Report of the Governor’s Commission on Vermont’s Future: Guidelines for Growth (see p. 16, lead to recommended guidelines) came almost directly from the 50 yr old 1968 Vision and Choice document issued under Gov Hoff. Please keep that historic anchoring going! It set Vermont apart, and should continue to do so.

3. Stylistic / Other Recommendations

- Write to audience – which is unclear.
- Present more as ‘how-to’ guidance for making determinations – include info/data sources, checklists.
- Guidance should be as clear and objective as possible given the context (if not yes/no, then a scoring system?—lots of scorecard examples out there...)
- Don’t start with reference to lodging and services.
- Guidance would be stronger if it emphasized the benefits of downtowns and village centers in creating diverse economic opportunities.