

MEMORANDUM

To: Noelle Mackay, Jon Groveman and John Adams

From: Blair J. Enman, PE

Date: October 30, 2015

Re: Criterion 9(L) – Draft Guidance 9/18/15

My comments generally pertain to the **Overview** (purpose) of the intent of Criterion 9(L) as I find the principles of Criterion 9(L) to be fundamentally flawed. My comments are in *bold/italics*.

The following is quoted directly from **CRITERION 9(L) GUIDANCE of 9/18/15**.

Overview

Vermont's distinctive sense of place, quality of life and brand are tied to its historic development pattern of compact centers surrounded by working lands. Act 250 Criterion 9(L) encourages sound development that bolsters Vermont's economy because:

- It preserves Vermont's bucolic landscape, a cornerstone of why visitors from all over come and spend approximately \$2.5 billion dollars per year on lodging and services;

Vermont's manmade landscape is an evolution of greater than 200 years. The historic settlement patterns were along rivers and streams as these were the highways of yore. These areas are all too often poorly suited for new development.

*For visitors to spend \$2.5 billion dollars on lodging and service, Vermont needs to provide the services, workforce and infrastructure necessary to attract and accommodate these visitors. If Vermont expects the revenue to grow, and I believe Vermont does, then Vermont needs to embrace that development **MUST** occur. Act 250 Criterion 9(L) sets forth a program specifically designed to thwart the orderly growth and development of the last 50 years.*

Vermont's downtowns lack the capacity to provide services, workforce and infrastructure necessary for our citizens and visitors. Our downtowns are old, the transportation, the water, the sewer, the stormwater, the power and other infrastructure are not and were never intended to accommodate even the current demands let alone the these future demands.

Let's not forget that tourists come to Vermont expecting to shop, yes at large scale box stores, too. And these cannot be accommodated in the downtown. To deprive our visitors of accommodations they can get elsewhere will eventually deprive Vermont of tourists and tax revenue.

Accommodating Vermont's residents is also of concern. Most Vermonters already spend significant resources beyond Vermont's borders, largely in New Hampshire. If Vermont does not accommodate the growth of large scale box stores and commerce, then more Vermonters will shop across the border and additional revenue will be lost.

- It keeps our downtowns and villages strong and vital by encouraging new development in areas where it already exists;

I have for near 40 provided civil engineering services both within and without the downtown development areas. I have attended hearings with rooms packed with opposition to a downtown convenience store and gas station. Vermont's land use laws and zoning laws do not easily accommodate any new development, especially in areas where development already exists. The opposition forces are often too great for successful negotiation of the process.

Simply put, there is no area within the City of Rutland to accommodate a large box store, or for that matter even a moderate scale development. Were the City zoning to allow any large scale development, a significant number of developed properties would have to be accumulated, and then the historic structures located thereon would have to be destroyed. Is this the intended consequence?

- It saves tax payers money by making efficient use of existing infrastructure;

This is patently wrong, Vermont's historic downtowns lack the infrastructure capacity to accommodate new development of a large, moderate and even small scale project. New development places an even larger burden on the existing transportation, parking, water, sewer, stormsewer, power and other utilities.

- ✓ ***Vermont's downtowns lack a suitable transportation systems to accommodate large tandem trailers required for construction and the efficient delivery of goods for services. Even some of the smallest of stores receive goods by tandem.***
- ✓ ***Vermont's downtowns lack suitable parking for existing uses, let alone the construction of new development.***
- ✓ ***Vermont's downtowns are significantly residential, and the combined use of commerce and industry downtowns is an incompatible use.***
- ✓ ***The City of Rutland is to my knowledge, needs to spend \$1M/yr. for the next 100 years to upgrade their aging water infrastructure. I doubt that Rutland is alone.***

- It safeguards the millions of public and private investments in downtown and village revitalization; ***This is patently wrong. If small and medium development is forced downtown much of the invested millions of public and private investments will need to be destroyed and reconstructed. While this may be of benefit, the developer alone cannot afford this and remain economical. Therefore, who pays for the reconstruction of the infrastructure?***

- ✓ *The demands for goods and services are expected to increase. Vermont has always enjoyed large land masses, such that development patterns have occurred laterally along the outskirts of the developed areas.*
 - ✓ *Development downtown cannot be accommodated horizontally, therefore, this will force the vertical development.*
 - ✓ *Most zoning has a vertical component limitation, disallowing vertical development.*
 - ✓ *Forcing development downtown will require the demolition of the core of our downtowns, it will obscure the views of our properties and those of our neighbors.*
 - ✓ *Our downtowns will be forever changed.*
- It helps get people out of their cars – walking, biking, and transit – which promotes public health and reduces transportation costs;
I am in favor of public health.

Unfortunately, some of the most unsafe locales for walking & biking are downtown. Most cyclists (I am one) prefer to be outside the city. Bicycling within the city represents significant hazards as most drivers are unaware of the surroundings.

The construction of bicycle lanes will further restrict vehicle movement and challenge the already narrow roads within our downtown areas. Bicyclists face significant danger with parking ingress and egress, as well as the opening of vehicle doors along streets with parking. Personally, I avoid bicycling downtown.

Bicycle lanes are advantageous, but Vermont's rural roads are far more attractive, safe, and they always will be.

- It protects the environment, reduces vehicular greenhouse gas emissions, and supports longstanding policies including the Comprehensive Energy Plan and the state land use goals;
The state's land use goals are flawed as is outlined above.
- It maintains the working lands that Vermonters and visitors cherish

Vermont's working landscape is disappearing. The number of farms within the state decrease each year and while development is often to blame (another farm gone and another box store comes), the reality is farming is hard work and the number of people that want to commercially farm is falling. The farmer's retirement account is his land and even farmers need to retire.

If Vermont is to become a museum, a series of bucolic pastures surrounded by forests, then someone has to pay for this. Much of our rural landscape is in Current Use, and all of us are paying for that. Can we really afford more?

Vermont might be better suited to turn our downtowns into museums and allow development along the periphery preserving some areas of farm and forest land as a museum.

In closing, Vermonters' need employment, we need a place to live, and we need a place to shop in downtowns and in box stores. We need the tax revenue from these large box stores, the medium businesses and the small downtown merchants. We need to have it all. Criterion 9(L) will not accommodate this.

The reality is our bucolic downtowns, Vermont's 200 year manmade landscape and the historic settlement patterns along rivers and streams, these highways of yore, are poorly suited for new development. Vermont's downtowns cannot accommodate the pressures of new development and cannot accommodate all of those. Those who think they can may be horribly misguided.

Do we need land use policy, yes, but Act 250, Criterion 9(L) is the wrong mechanism.

Thank you,

ENMAN • KESSELRING CONSULTING ENGINEERS, PC

A handwritten signature in black ink, appearing to read 'Blair J. Enman', with a stylized flourish at the end.

Blair J. Enman, P.E.
Founding Partner