



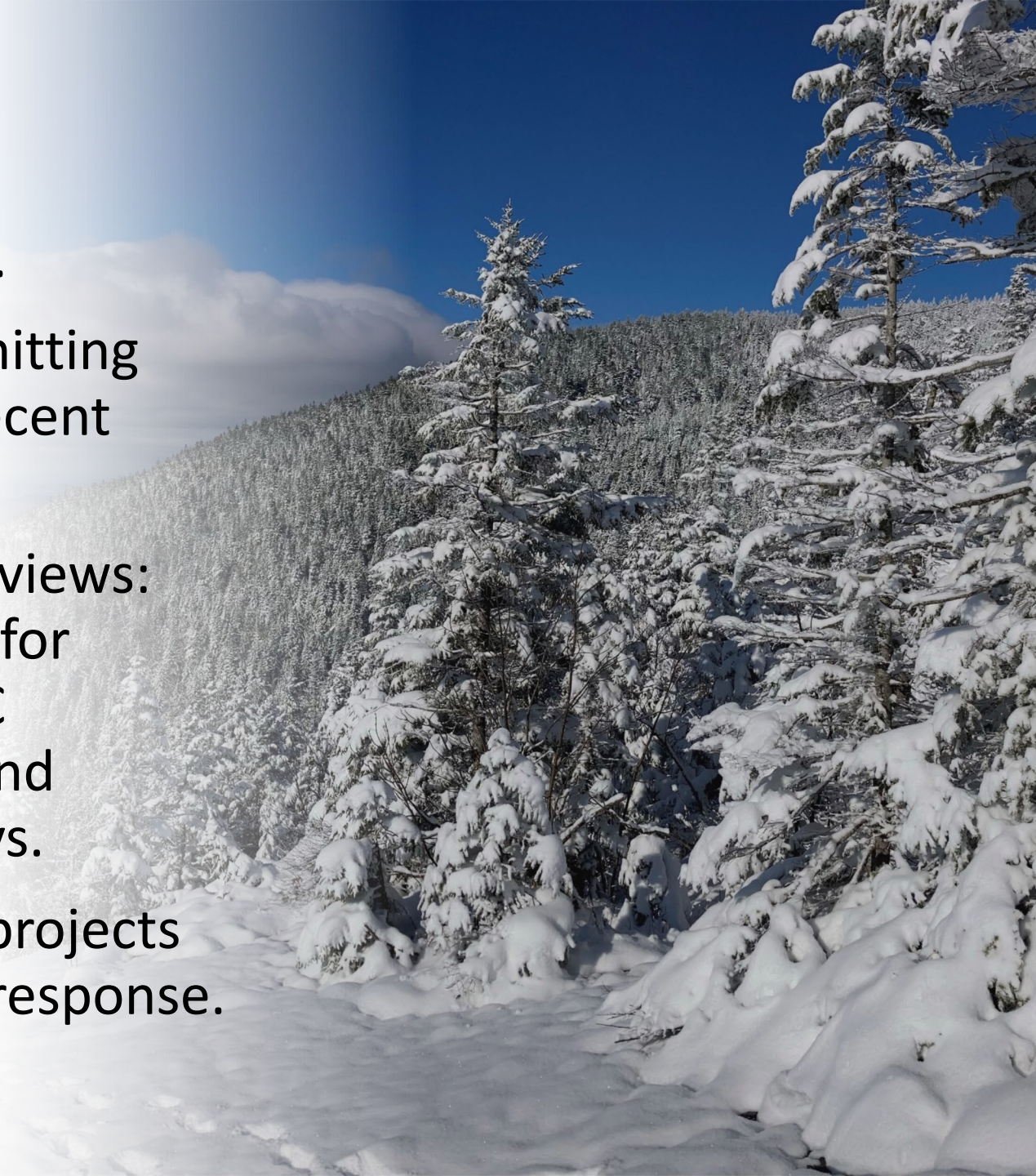
Act 250 and the Natural Resources Board

Central Vermont Regional Planning
Commission
March 21, 2024



Topics:

- Act 250 basics.
- Land Use Permitting statistics for recent years.
- Application Reviews: Opportunities for Municipal/RPC Involvement and Avoiding Delays.
- ARPA-funded projects and Act 250's response.



Key Messages to Act 250 Permit Applicants

(including municipalities, when municipal projects require an Act 250 permit):

- **Discuss your project and the land use permit application process with your District Coordinator before you apply.**
- **Submit American Rescue Plan Act (ARPA)-funded project applications ASAP to reduce potential for application bottleneck later.**
- **Ensure that application proposals conform with Regional and Town Plans**

Act 250 Basics

- The Natural Resources Board oversees Vermont's statewide land use review process known as Act 250.
- Act 250 review is a quasi-judicial process through which District Commissions review proposed jurisdictional projects for adherence to a list of criteria established in statutes by the Legislature.
- The review integrates water quality, wildlife, traffic, historic preservation, aesthetics, town planning and service capacity, and other reviews in one holistic permitting process.

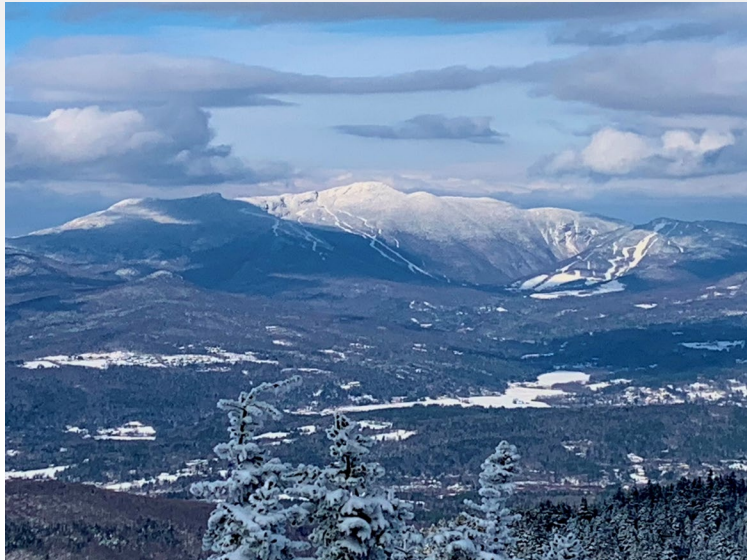
Act 250's Legacy and Future

Vermont looks and feels different than other states.



Act 250's Legacy and Future

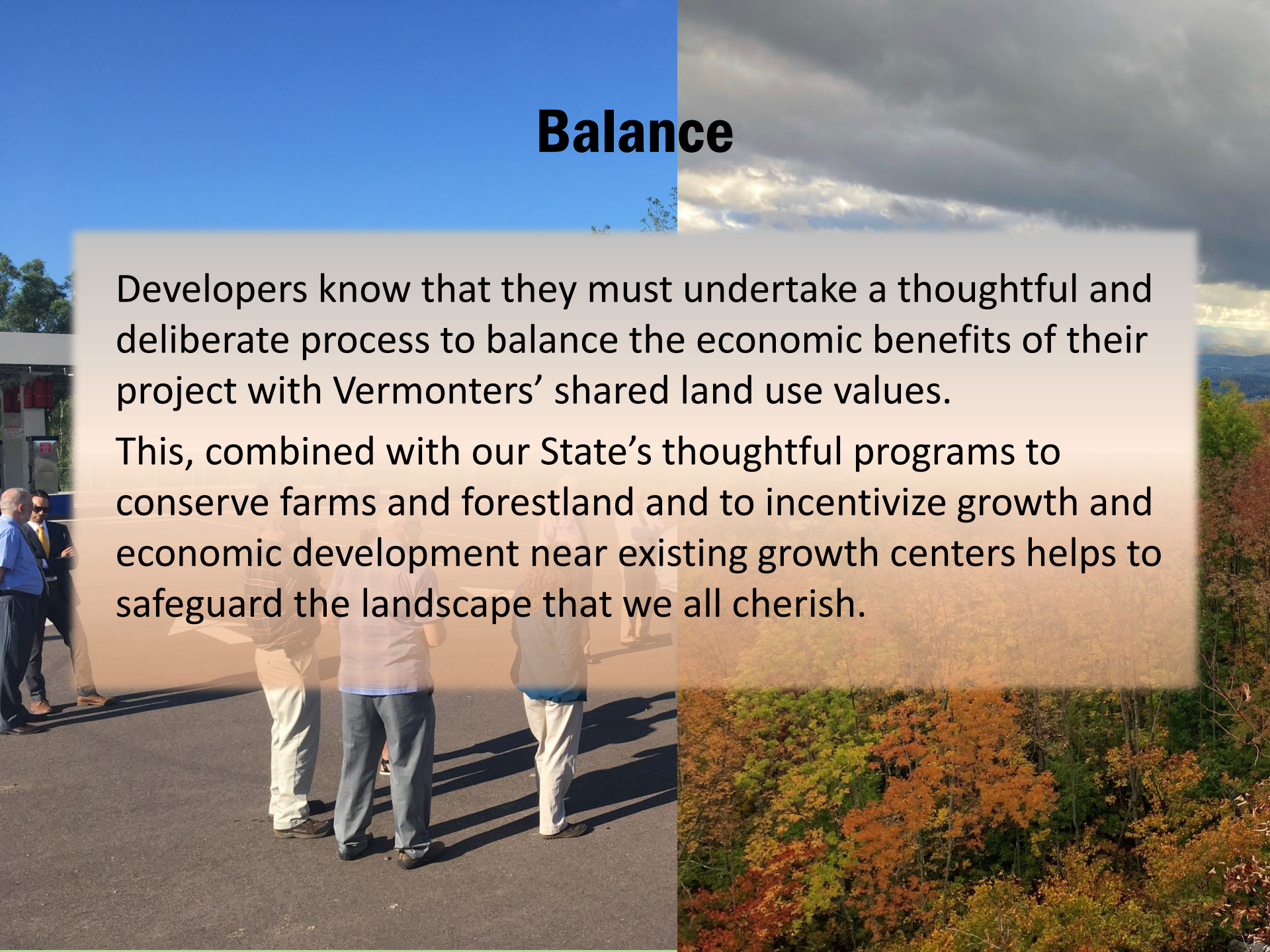
Act 250 shapes proposed development to support the natural and human environment.



Balance

Developers know that they must undertake a thoughtful and deliberate process to balance the economic benefits of their project with Vermonters' shared land use values.

This, combined with our State's thoughtful programs to conserve farms and forestland and to incentivize growth and economic development near existing growth centers helps to safeguard the landscape that we all cherish.



A Total of 32 Criteria & Sub-criteria:

- Criterion 1: Air and water pollution

- 1(A): Headwaters
- 1(B): Waste disposal
- 1(C): Water conservation
- 1(D): Floodways
- 1(E): Streams
- 1(F): Shorelines
- 1(G): Wetlands

- Criterion 2: Water supply

- Criterion 3: Impact on water supply

- Criterion 4: Erosion and capacity of soil to hold water

- Criterion 5: Transportation

- 5(A): Traffic
- 5(B): Transportation

- Criterion 6: Educational services

- Criterion 7: Municipal services

- Criterion 8: Aesthetics, scenic & natural beauty

- Historic sites

- Historic sites - archeology

- Rare and irreplaceable natural areas

- 8(A): Necessary wildlife habitat

- Criterion 9

- 9(A): Impact of growth

- 9(B): Primary agricultural soils

- 9(C): Productive forest soils

- 9(D): Earth resources

- 9(E): Extraction of earth resources

- 9(F): Energy conservation

- 9(G): Private utility services

- 9(H): Costs of scattered development

- 9(J): Public utility services

- 9(K): Public investments

- 9(L): Settlement patterns (*formerly* "Rural growth areas")

- Criterion 10: Local and regional plans

Municipalities and RPCs most commonly comment on criteria highlighted yellow.

What's in...

Act 250 Jurisdiction

- Subdivisions of 10 lots or more, or 6 lots in towns without permanent zoning and subdivision regulations
- Commercial development on >1 or >10 acres, depending on a town's zoning and subdivision regulations
- State or municipal projects when >10 acres of land are used
- Housing projects with 10 or more units (higher unit thresholds for affordable housing in state designated centers)
- Communication towers >50 feet
- Commercial, residential, or industrial development above 2,500 feet elev.
- Material change to an Act 250-permitted project, and
- Substantial change to a pre-1970 project

What's NOT in...

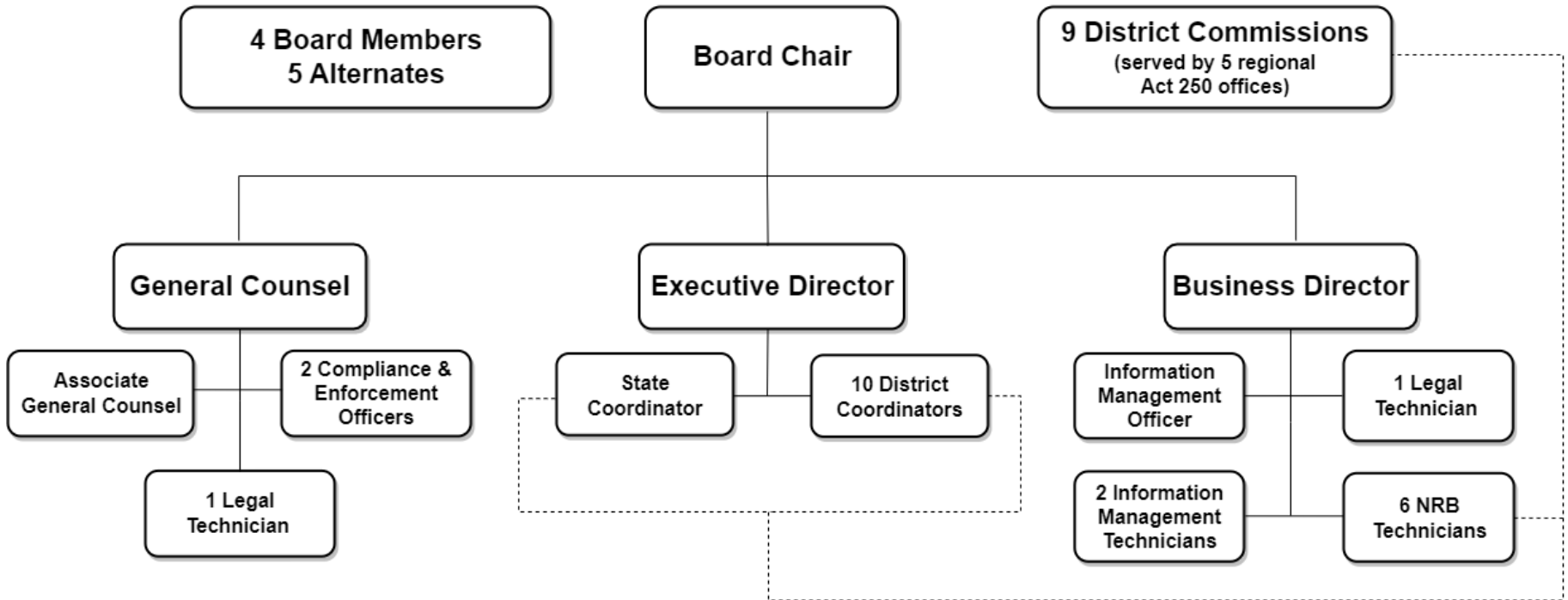
Act 250 Exemptions

- Farming below 2,500 feet in elevation
- Logging below 2,500 feet in elevation
- Many other exemptions for specific project types

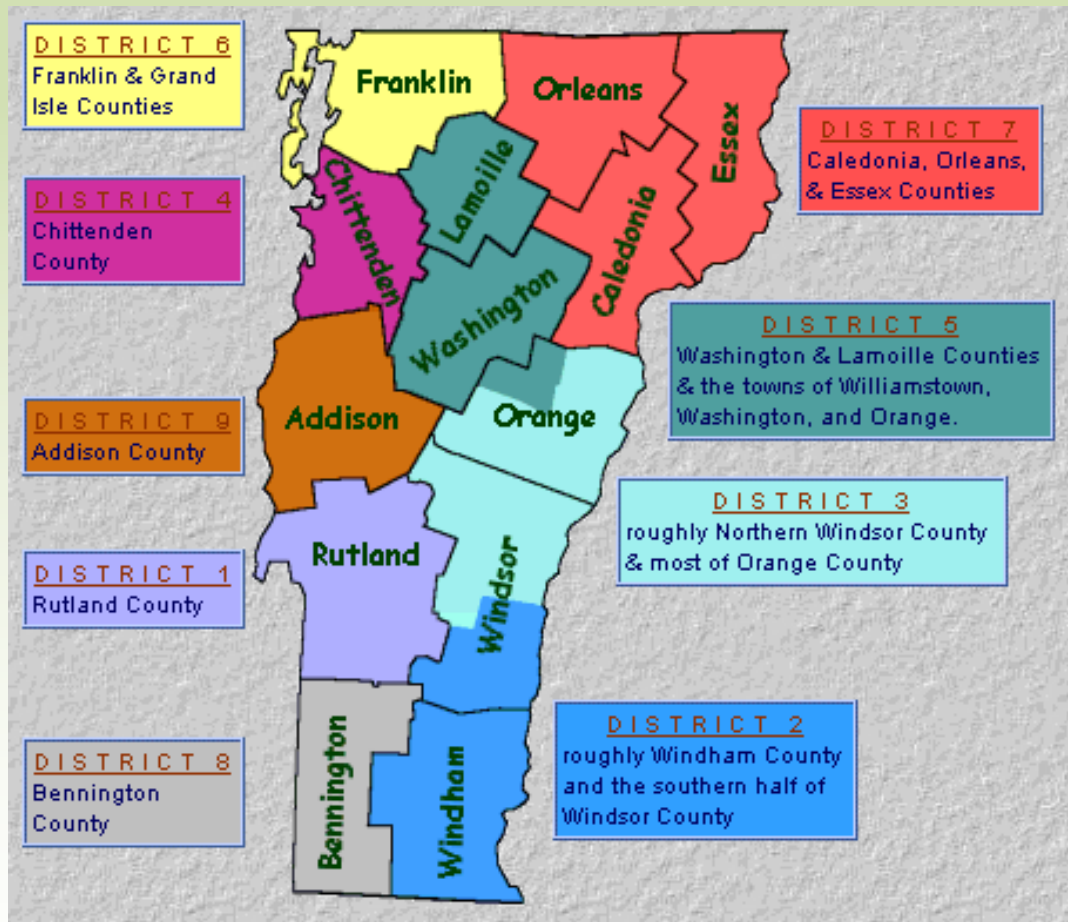
The NRB is an independent entity in state government that oversees the administration of Act 250. It is not part of any other state agency.

Natural Resources Board

11-22-23



9 District Environmental Commissions



[District Staff and Environmental Commissions | Natural Resources Board \(vermont.gov\)](http://vermont.gov)



District Commissioners

Our 10 District Coordinators work with 63 volunteer District Commissioners to review projects. Commissioners are appointed by the Governor for staggered 2-4-year terms.

District 5 Environmental Commission

Chair:

VACANT (Exp. 2/28/25)

Members:

Gary Nolan (Exp. 2/28/26)

Jeremy Reed (Exp. 2/28/25)

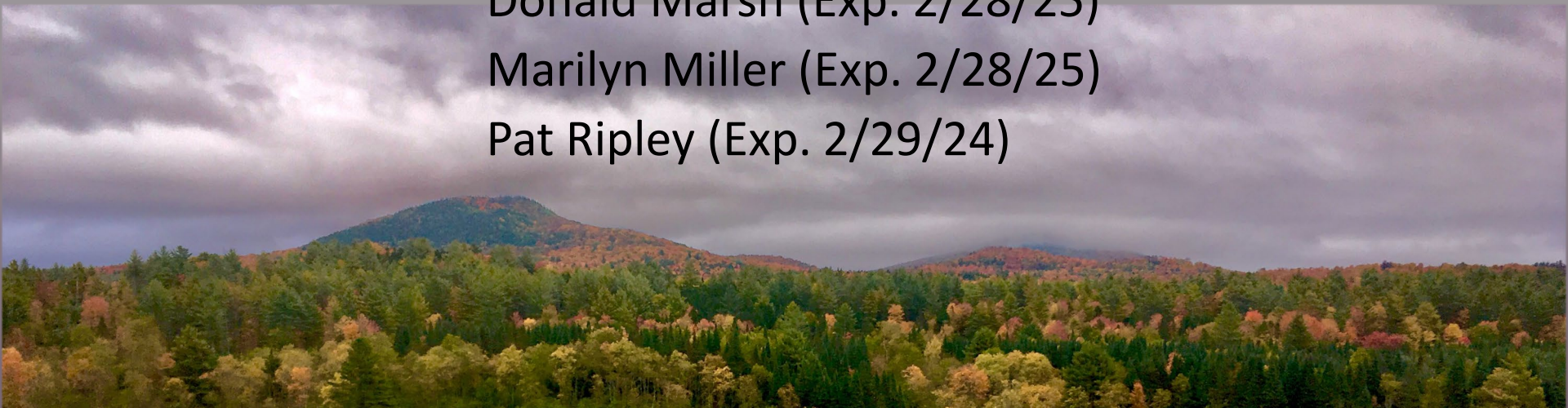
Alternates:

Nichole Loati (Exp. 2/29/24)

Donald Marsh (Exp. 2/28/25)

Marilyn Miller (Exp. 2/28/25)

Pat Ripley (Exp. 2/29/24)



Your Act 250 District Coordinator is your navigator.

Their role in permitting is threefold:

- **Jurisdictional Opinions:** To determine whether a project requires a permit under the law.
- **Coordination:** To facilitate the review process for applicants, the Commission, & other parties (if any).
- **As a “Clerk:”** To draft the Commission’s written decision.



If you are a municipal official,

- Feel free to reach out to [your district coordinator](#) at any time for guidance about whether a **municipal** project will require a permit or amendment.
- Please do not advise people about whether their project will require an Act 250 land use permit or an amendment.
- Feel free to refer people to their [Act 250 district coordinator](#) for guidance.
- To determine which ANR permits might be needed for a project, use ANR's online [Permit Navigator](#) tool. It asks a series of questions and generates a report with referrals to specific ANR programs. For further assistance, contact your [ANR Community Assistance Specialist](#).

Local Contacts

District 5 Environmental Commission
10 Baldwin St. Montpelier, VT 05633-3201

- Susan Baird, District 5 Coordinator

Susan.Baird@vermont.gov

(802) 522-6428

- Lori Grenier, NRB Technician

Lori.Grenier@vermont.gov

(802) 476-0185

Potential Application Review Methods

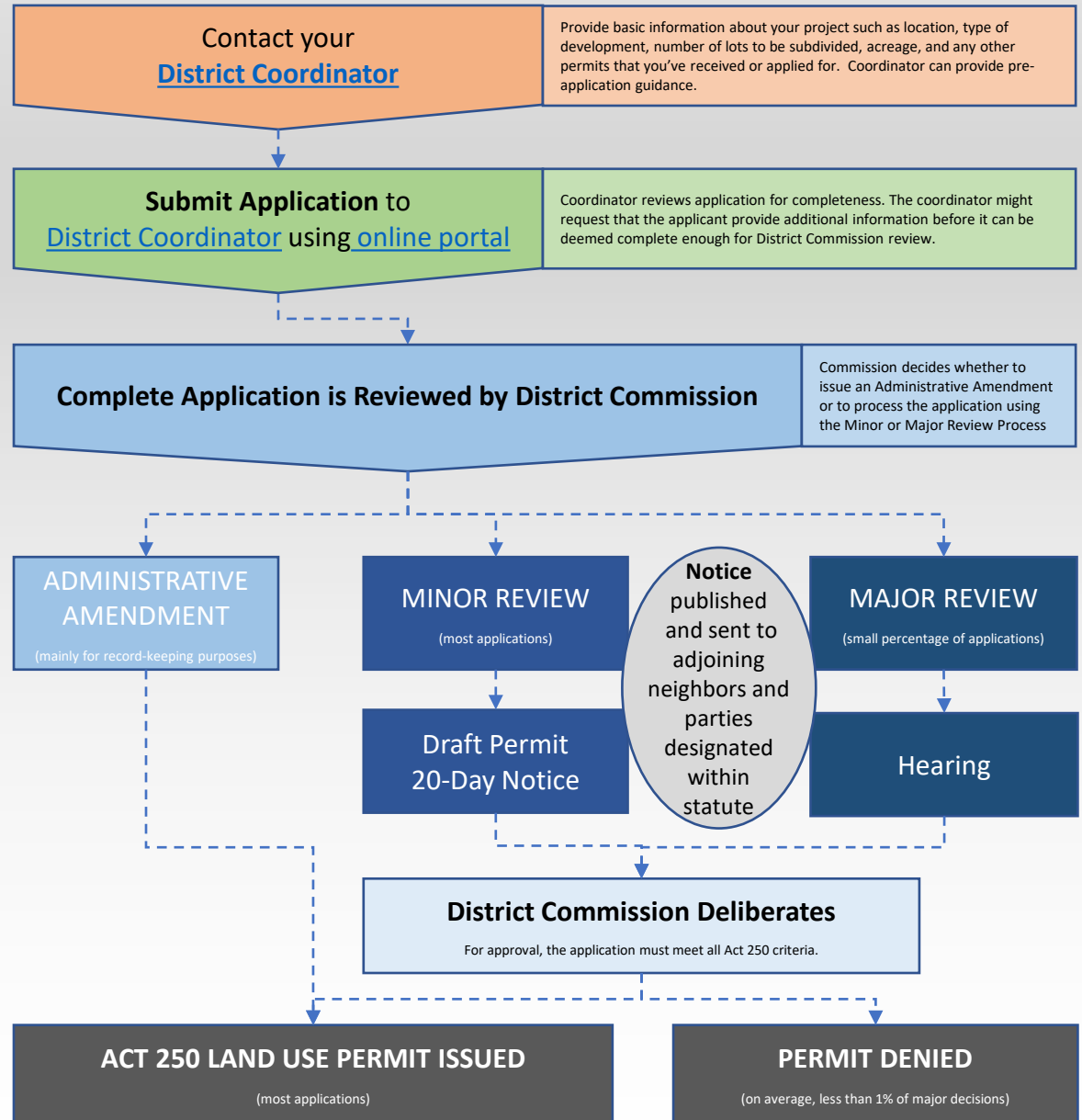
- **Major Review Process**: the Commission convenes a hearing, invites persons to participate as parties, and takes testimony on the application.
- **Minor Review Process**: the Commission drafts a land use permit, puts the draft permit on public notice, and then considers any comments received in response to the draft.

Administrative Amendments: exclusively for record-keeping purposes or to authorize minor revisions to permitted projects raising no likelihood of impacts under the criteria of the Act.

- The District Commission does not sign the permit amendment.
- No notice to the public or other State Agencies.
- No notice to adjoining until amendment issues.
- Not suitable for enlargement or reconfiguration of the footprint of any component of a project.
- Example: a short-term extension of a permitted construction completion deadline, subject to 10 V.S.A. § 6091(d) and Act 250 Rule 32(B)(1).
- Link to [Guidance](#).

Act 250 Application Process

If you are planning construction or subdivision of land in Vermont, you might need to obtain an Act 250 Permit. The steps outlined here provide a simplified overview of the application process. For more detailed information, visit nrb.vermont.gov or contact your [Act 250 District Coordinator](#).



The Statistics

On average, in recent years, statewide,

402 decisions issued per year.

22 applications (5%) go to a hearing each year.

380 permits are issued without a hearing.

Over 65% of decisions issued within 90 days.

7 decisions are appealed each year.

1 decision (0.2%) is denied each year

Act 250 Permits by the numbers

2023:

392 decisions issued

22 major reviews

224 minor reviews

146 Administrative Amendments

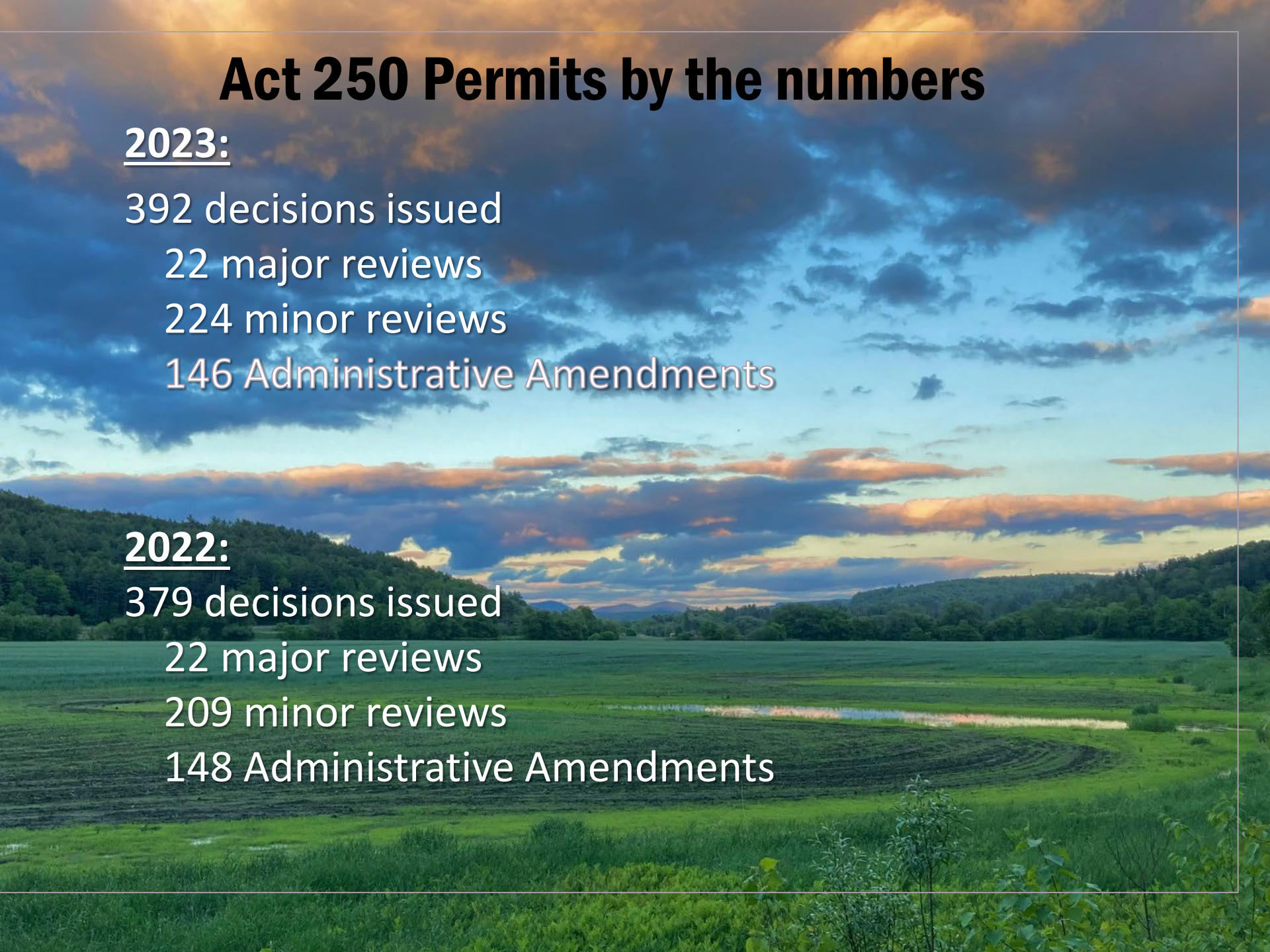
2022:

379 decisions issued

22 major reviews

209 minor reviews

148 Administrative Amendments



Beyond permit numbers

Primary Agricultural Soil Mitigation Payments

In 2023, through Act 250 permitting, \$941,838 was committed to the Vermont Housing and Conservation Board for use in leveraging farmland conservation in the areas that were developed.

Primary Agricultural Soils Protected Onsite

In addition, in 2023, we protected 60 acres of Vermont's best farmland on or near the projects that we permitted, ensuring that this land remains available to support Vermont's farm economy for generations.

Transportation Mitigation Payments through 2023 Act 250 Permitting

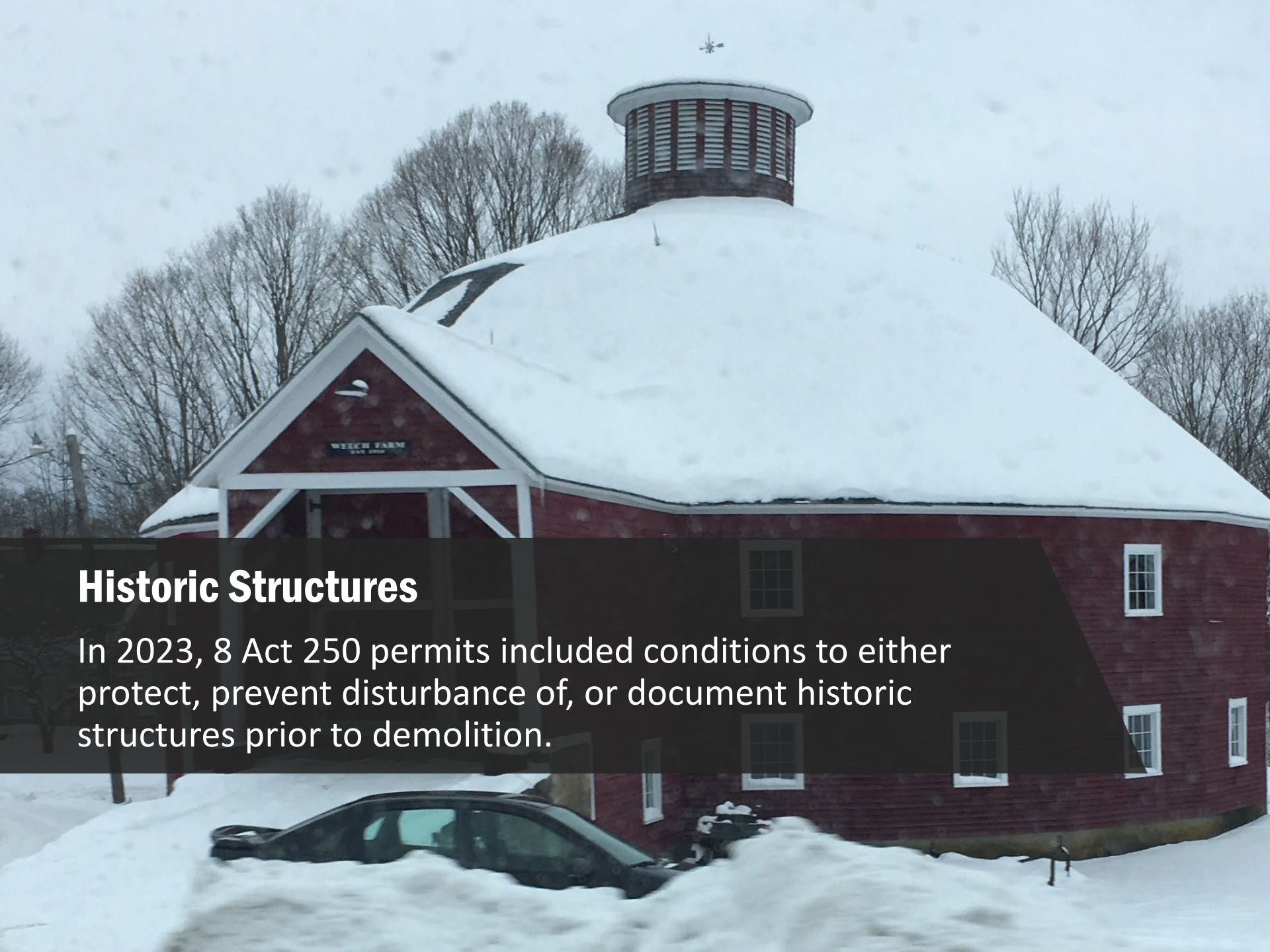
- Developers will transfer \$233,028 into a VTrans fund for critical future road improvements in areas heavily impacted by development-related traffic.
- Safer roads.
- Alleviates traffic congestion.
- Ensures that projects that cause traffic and congestion share the cost of new infrastructure.





Archaeological Sites

In 2023, 14 Act 250 permits included conditions to either permanently buffer, prevent disturbance of, or excavate and document archaeological sites.



Historic Structures

In 2023, 8 Act 250 permits included conditions to either protect, prevent disturbance of, or document historic structures prior to demolition.

Buffering Vermont's Streams

- In 2023, 92 permits included conditions that protect areas along perennial and intermittent streams and their tributaries.
- Water quality
- Water temperature
- Flood resilience
- Habitat
- Aesthetics



Protecting Vermont's Wetlands

- In 2023, 77 permits included conditions that protect wetlands and the areas surrounding them.
- Water quality
- Habitat
- Flood resilience
- Aesthetics



Protecting Vermont's Shorelines

- In 2023, 4 permits included conditions that protect areas along Vermont's largest lakes, ponds and rivers.
- Water quality
- Water temperature
- Habitat
- Flood resilience
- Aesthetics





Drinking Water

In 2023, 26 Act 250 permits included conditions designed to protect source water protection areas from contamination.

Habitat Protection

- In 2023, 34 permits included conditions that protect wildlife habitat.
- Prevent harm to endangered plants and animals.
- Wintering areas for deer.
- Prevent destruction of critical habitat for T&E species.
- Set aside special areas for protection.



Noise Limitations

- In 2023, 192 Act 250 permits included conditions to prevent excessive noise from project construction or operations.
- Aesthetics



Ensuring that Gravel Pits and Mines are Reclaimed

- In 2023, 8 Act 250 permits included conditions to ensure that open mines are not abandoned without proper reclamation.
- Stabilizes sites to prevent soil erosion and dust.
- Ensures that sites are left in a condition suitable for an alternative use or development.
- Aesthetics.



Application Reviews: Opportunities for Municipal & RPC Involvement

Criteria 6 & 7: Educational & Municipal Services

- Projects may not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services.
- Education, fire, police, water, sewer, roads, etc.
- A permit cannot be denied under Criteria 6 or 7, but the Commission may impose conditions to alleviate any burden created by the project.



Criterion 10: Local & Regional Plans

To assess conformance, Commissions look for mandatory and specific language in those plans.

- *“Should”* and *“strongly encourage”* indicate non-mandatory language.
- *“Shall”* and *“must”* indicate mandatory language.
- To address subjects at issue, plan provisions must pertain to the area proposed for the project and be clear to the average person.



Statutory Parties

**10 V.S.A. §
6085(c)(1):**
**“The following
persons shall be
entitled to party
status:”**

The applicant

The landowner



The municipality in which the project site is located, and the municipal and regional planning commissions for that municipality

Municipalities and regional planning commissions adjacent to the project

State agencies affected by the project

Opportunities for Participation in Application Review: Municipalities, RPCs, and other Statutory Parties

- Receive email notice when an application is received.
- Once district coordinator deems application complete, the district commission will determine the method of review, and statutory parties will receive email notice of a 20-day public notice period.
- Statutory parties may provide written comments and/or request a hearing during that notice period, based on application's compliance with the Act 250 criteria.
- If a hearing is scheduled, statutory parties automatically have status to participate in the hearing.

How to help facilitate a smooth Act 250 review and approval process for applicants

Encourage applicants to:

Engage project **neighbors & stakeholders** early in process.

- Listen.
- Address their concerns in design.

Meet with **district coordinator** during scoping.

- Design project to address all Act 250 criteria.

Towns:

Fill out Municipal and School **Impact Questionnaires.**

- Document Town's capacity to provide services to the development.



Engagement on the front end can help to avoid . . .

Letters from the coordinator or district commission requesting additional materials.

- to ensure that [all Act 250 criteria](#) are addressed, and that application is complete enough for commission review.



Hearings.

- Scheduling delays.
- Findings of Fact and Conclusions of Law.



Appeals.

- People feel that their concerns have been heard.

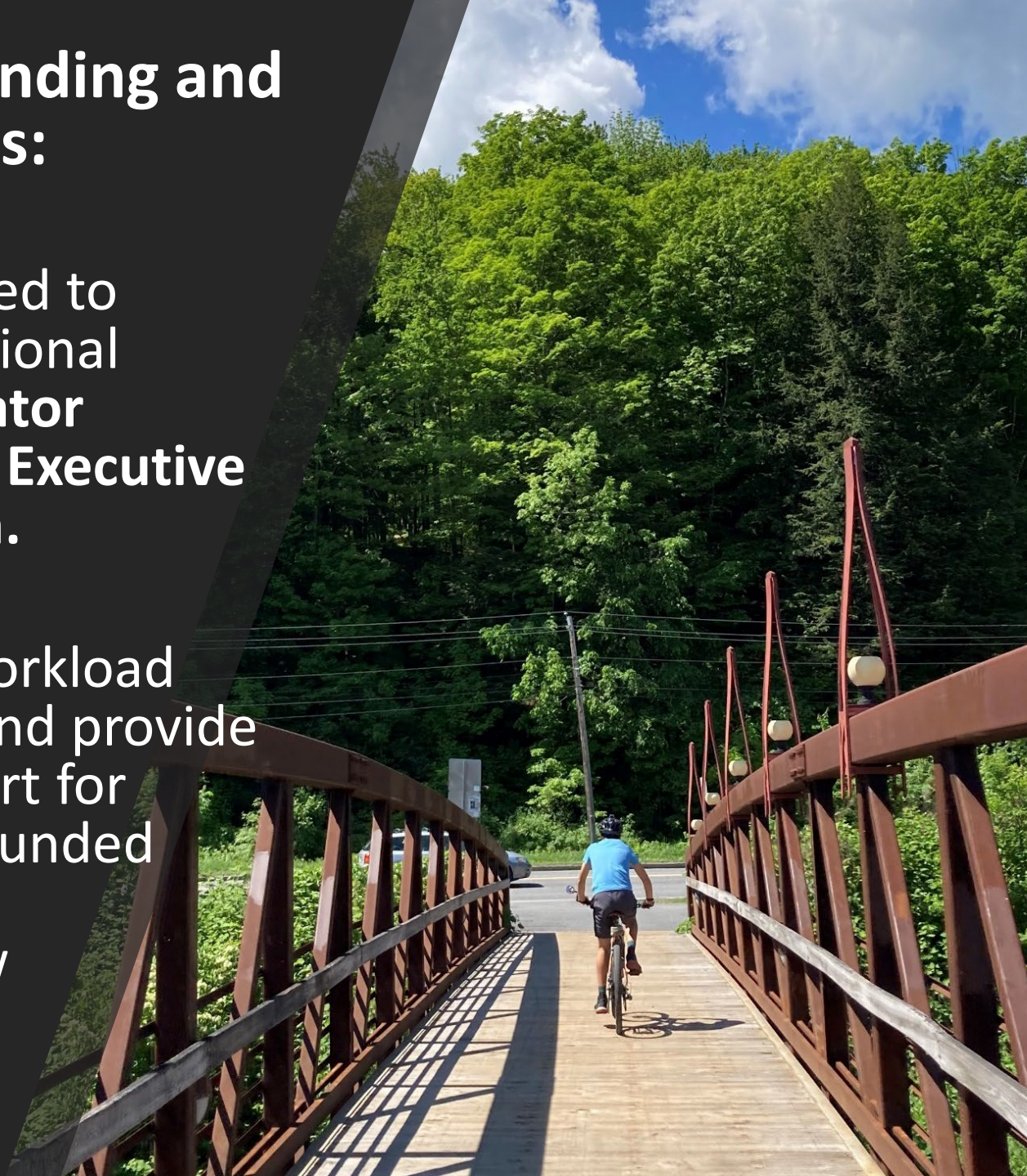
Future land use permit violations.

- Design projects to minimize the potential for violations.



Federal ARPA Funding and Program Updates:

- ARPA funding used to secure two additional **District Coordinator** positions and an **Executive Director** position.
- **Goal:** manage workload across districts and provide additional support for review of ARPA-funded projects without impacting review of other project applications.



ARPA Funding and Program Updates continued:

- New and Improved Database and Application Platforms

[Act 250 Database Search \(vt.gov\)](#)

[Online Application Portal](#)

- Scanning Project: Districts 4 & 7

Will scan the first 11,000 of almost 30,000 paper records extending back to 1970.

2 million+/- pages of documents & site plans will go digital in Phase I.



RESOURCES

[Application Submission Overview](#)

[Application Guide](#)

[District Commissioner Training Manual](#)

Act 250 Database:
<https://anrweb.vt.gov/ANR/Act250/default.aspx>

ANR Act 250 Review:
<https://anr.vermont.gov/planning-and-permitting/planning-tools/act-250>

ANR Permit Navigator:
<https://permitnavigator.my.vermont.gov/s/>

Agency of Agriculture Act 250 Review:
<https://agriculture.vermont.gov/land-use-renewable-energy/act-250-criterion-9b>

VTrans Act 250 Review:
<https://vtrans.vermont.gov/planning/development-review-services>

ACCD Division of Historic Preservation Act 250 Review:
<https://accd.vermont.gov/historic-preservation/resources-rules/laws-regulations/act-250>

Subscribing to the Weekly Act 250 Agenda

Stay up-to-date with what's going on in Act 250 by signing up for weekly Act 250 Agenda updates via email. Here's how to sign up:

- Visit the [Act 250 Agenda Page](#). You can get there by clicking on "AGENDA" at the top of the [Act 250 database portal](#).
- Scroll down to the bottom of the AGENDA page.
- Click on "Subscribe to Act 250 Notifications."
- Enter your email address.
- Click "Subscribe."

The AGENDA page displays a list, updated daily, and links to the following information:

- All Act 250 jurisdictional opinions (JOs) and district commission decisions issued during the current week, the prior week, and the week before that.
- All Act 250 land use permit applications that are currently subject to a public notice period.

If you subscribe, you will receive an email every Monday morning, including a link to the most current Act 250 Agenda. However, you don't need to subscribe to check the Act 250 Agenda. You can [check it online](#) at any time.

Additional Contacts

Natural Resources Board
10 Baldwin Street
Montpelier, VT 05633-3201



- Sabina Haskell, Chair
Sabina.Haskell@vermont.gov
802-461-8072
- Peter J. Gill, Executive Director
Peter.Gill@vermont.gov
802-522-7150
- Aaron J. Brondyke, State Coordinator
Aaron.Brondyke@vermont.gov
802-595-2735
- Kevin Anderson, District Coordinator
Kevin.Anderson@vermont.gov
802-522-6074

Key Messages to Act 250 Permit Applicants

(including municipalities, when municipal projects require an Act 250 permit):

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Questions?

