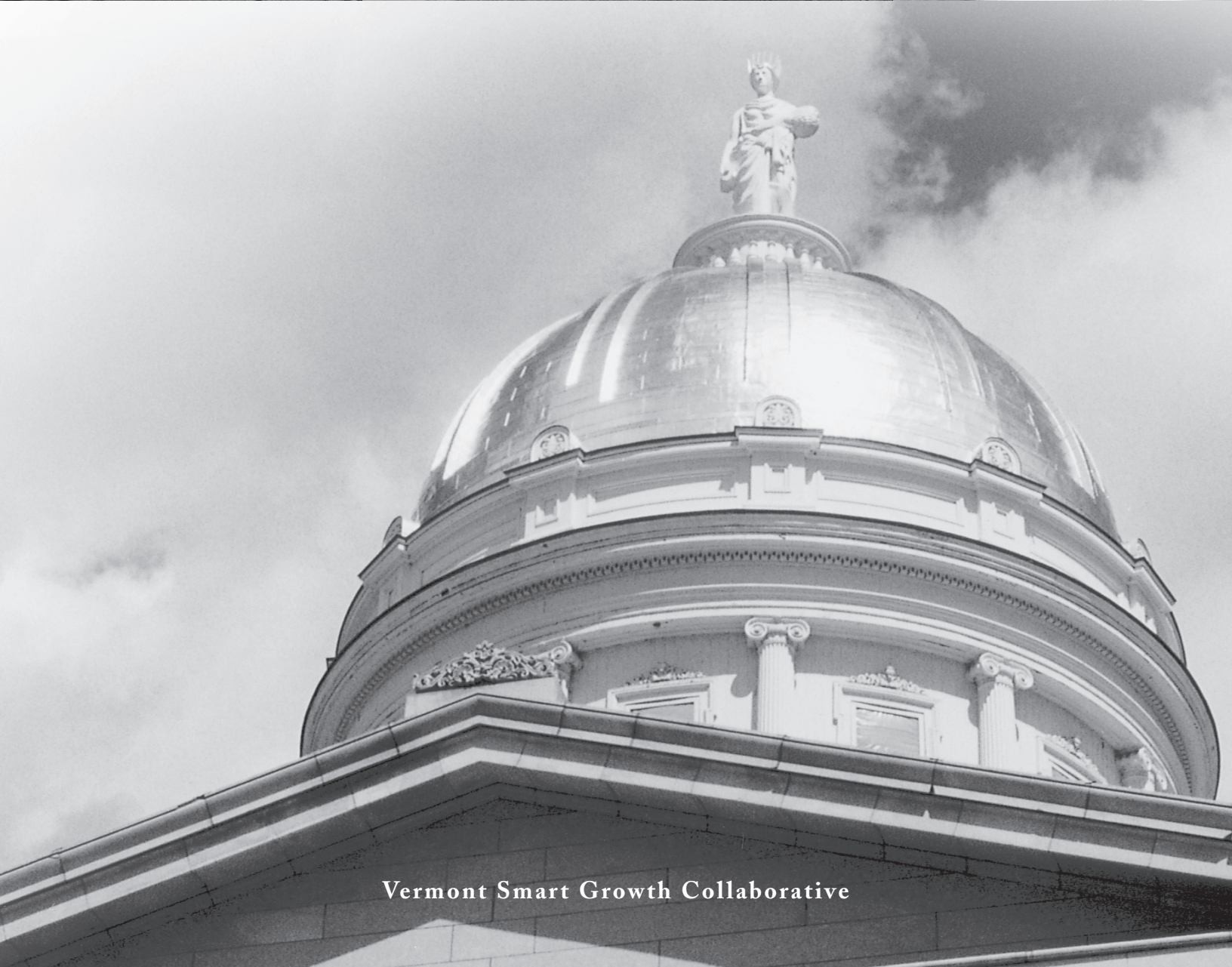


State of Vermont

SMART GROWTH

2007 PROGRESS REPORT



Vermont Smart Growth Collaborative

THE VERMONT SMART GROWTH COLLABORATIVE

The Vermont Smart Growth Collaborative is a cooperative effort among ten non profit organizations to foster a culture that supports a vision of compact settlements, separated by rural countryside, with access for all Vermonters. The Collaborative, formed in 2001, advances state policy, public education and community strategies to reduce sprawl and achieve smart growth in Vermont. Members of the Collaborative are:

- Association of Vermont Conservation Commissions
- Conservation Law Foundation
- Friends of the Earth
- Housing Vermont
- Preservation Trust of Vermont
- Vermont Bicycle Pedestrian Coalition
- Vermont Businesses for Social Responsibility
- Vermont Forum on Sprawl
- Vermont Natural Resources Council
- Vermont Public Interest Research Group

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1

OVERVIEW

There are many causes of sprawl. These range from the choices that people make about where to live, work and shop, to the decisions of municipal and state governments related to economic development, housing, transportation and infrastructure improvements, and the location of public offices. Despite a common perception that land use patterns are largely the result of market forces, state policy and spending decisions exert a significant influence on how our communities grow, and how private developers decide where to locate new homes and commercial space.

What is Smart Growth?

Smart Growth in Vermont is that which:

- Maintains the historic development pattern of compact village and urban centers separated by rural countryside.
- Develops compact mixed-use centers at a scale appropriate for the community and the region.
- Enables choice in modes of transportation (e.g., pedestrian, transit).
- Protects the state's important environmental, natural and historic features, including natural areas, water quality, scenic resources, historic sites and districts.
- Serves to strengthen agricultural and forest industries and minimizes conflicts of development with these industries.
- Balances growth with the availability of economic and efficient public utilities and services.
- Supports a diversity of viable businesses in downtowns and villages, including locally-owned businesses.
- Provides for housing that meets the needs of a diversity of social and income groups in each community.

In Vermont, the state's official policy has been to *plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside*¹ since at least the passage of Act 200 in 1988. In addition, the state planning and development goals that were adopted at that time state that “(e)conomic growth should be encouraged in locally designated growth areas, or employed to revitalize existing village and urban centers, or both” and that “(p)ublic investments, including the construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.”

To achieve these goals, the state must focus public investments on facilities, infrastructure and development activities that support smart growth², and avoid those decisions and investments that subsidize sprawl.

In 2003, the Vermont Smart Growth Collaborative evaluated state policies and spending practices to determine the extent to which those decisions were reinforcing – or undermining – the state's smart growth policies. The result of that evaluation was presented in the *State of Vermont Smart Growth Progress Report*, published in 2003. That report focused on state programs most likely to affect land use and development patterns and analyzed spending and budgetary decisions to determine whether they promoted smart growth or sprawl.

The 2003 report covered the period between 1998 and 2002.³ This report serves to update that information by evaluating state investments between 2002 and 2006. It is designed as a supplement to the 2003 report, and therefore does not include detailed background information regarding existing smart growth laws, programs and policies in Vermont and other states, comprehensive definitions of sprawl and smart growth, or exhaustive descriptions of the various programs and the methodology used to compile and analyze the information. Readers interested in greater detail regarding these topics are encouraged to read the 2003 report which is available online at: www.vtsprawl.org/Initiatives/sgcollaborative/SGProgressReport.pdf

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SUMMARY OF RECENT TRENDS

The 2003 Progress Report evaluated state policies and spending decisions between 1991 and 2003. This update covers the period between 2003 and 2006. A detailed summary of spending decisions in key program areas during this period is included later in this update. The following section examines progress made in each of those key programs since the 2003 report was published to determine whether various state entities have made adjustments to decision making practices to ensure compliance with smart growth policies.

Economic Development

Vermont Economic Progress Council (VEPC) ↑

Between 1998 and 2003, nearly 3 out of 4 dollars (74%) in economic development tax incentives authorized by VEPC supported sprawl. Since 2003, a majority of incentives (61%) still support sprawl, although this does mark an improvement over the prior study period. It should also be noted that nearly all VEPC incentives were directed to existing facilities, and that of the relatively small percentage of incentives that supported new construction, most were directed to smart growth locations.

Vermont Economic Development Authority (VEDA) →

VEDA's economic development practices have slightly improved since the study period, during which nearly 65% of the funds loaned were directed to sprawl locations. Since 2003, 59% of the non-farm related funding supported sprawl. Like VEPC, the majority of the funds supported activities in existing facilities, or development within existing industrial parks.

Capital Spending

State Buildings/Capital Construction ?

Between 2003 and 2006, 67% of the total funds spent on state facilities and building were used in smart growth locations, compared with 69% of the total spent between 1998 and 2002. This excludes one large project for which a location has yet to be determined. The location of this project will determine whether spending practices related to state buildings has changed since the previous reporting period.

School Construction →

As was the case from 1998 to 2002, The Department of Education school facility funding has supported the renovation of existing schools in smart growth locations. Since 2003, however, 10% of the total dollars spent has supported school construction in sprawl locations – up from 5.8% for the prior period. While the increase in funding for sprawl projects is relatively small, in light of the fact that only 3% of total projects funded were located in sprawl locations, the apparent trend is cause for concern.

Vermont Agency of Natural Resources (ANR) ↓ Wastewater Treatment Facilities

Despite the adoption of a rule in 2002 that was designed to prevent state revolving fund dollars from supporting sprawl, the percentage of loans and grants for smart growth locations was reduced from 59% between 1998 and 2003 to only 22% between 2003 and 2006. With more than 77% of sewer funds supporting wastewater facilities serving sprawl locations, ANR has consistently ignored the wastewater funding rule, and have therefore become one of state government's most significant supporters of sprawl.

Housing and Conservation

Vermont Housing & Conservation Board (VHCB) ➡

VHCB was identified as a key supporter of smart growth in the 2003 report, with less than 5% of their total investment in housing projects located in sprawl locations. Since that time, the amount of funding supporting sprawl has increased slightly to 6%, with the remaining 94% of total grants and loans supporting smart growth. Of concern, however, is the reduction in funding for both VHCB's housing and conservation programs which, when coupled with rising land and construction costs, threatens to undermine this successful program.

Transportation

Vermont Agency of Transportation (VTrans) ⬇

Support for transit has remained steady as a percentage of total spending since 2003, although that percentage is well below prior years. Support for bicycle and pedestrian facilities and enhancement projects has declined. With the establishment of the Safe Routes to School program – which will replace the Bicycle and Pedestrian Program – there is uncertainty whether the state's commitment to supporting alternative travel modes will continue to decline.

Chittenden County Metropolitan Planning Organization (CCMPO) ➡

The CCMPO continues to emphasize highway expansion at levels above the organization's long range projections.

Land Use and Development Regulation

Act 250 ➡

There have been few significant Act 250 decisions that relate directly to sprawl since 2002, although there have been several statutory changes that affect the review procedures and sprawl. Only one, addressing primary agricultural mitigation procedures within designated growth centers, could be characterized as supporting smart growth. Another, related to the review of secondary impacts of utility lines, could be characterized as supporting sprawl.

Interchange Development ⬇

Since 2001, an executive order has been in place requiring state agencies and departments to “foster the conservation of land in and around interstate interchanges,” and to take specific actions to avoid strip development in these areas. Despite this, development has continued to occur in or near interstate interchanges with little or no action by state agencies to comply with this executive order.

Change in State Spending Priorities since 2003

- ➡ Spending practices of the program or agency have improved with regard to the support for smart growth since 2002. There still may be need for improvement, but the trend is headed in the right direction.
- ➡ Spending practices of the program or agency have not changed significantly since 2002.
- ⬇ Spending practices of the program or agency have changed to foster sprawl to a greater degree than during the period between 1998 and 2002.
- ❓ Key spending decisions, which will determine the level of support for smart growth, have not been finalized.

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STATE SPENDING AND SMART GROWTH

State program policies and spending decisions from 2003 to 2006 have significantly affected land use and development patterns. This Progress Report details their impacts and recommends actions for improvement.

Vermont Economic Progress Council

The Vermont Economic Progress Council (VEPC)⁴ administers several economic incentive programs (e.g., income tax credits, property tax-based incentives, and limited sales tax exemptions) offered to Vermont businesses and municipalities. These incentives are designed to create quality jobs in the state, close the wage gap between Vermont and the national average, and maintain and enhance Vermont's quality of life.

Smart Growth Connection

Commercial and industrial development in or near existing downtowns, villages, and growth centers supports smart growth principles by providing accessible jobs, promoting historic preservation, and limiting sprawl inducing infrastructure expansions (e.g., wastewater collection lines extended into rural areas).

Economic incentives are issued on a case by case basis, after VEPC determines that “but for the economic incentive to be offered, the proposed economic development would not occur or would occur in a significantly different and significantly less desirable manner.” After making this initial determination, the Council is required to evaluate the proposed development based on nine statutory guidelines. Several of these guidelines directly address land use and state a preference for projects sited in smart growth locations, including:

- The enterprise should protect or improve Vermont's natural, historical, and cultural resources, and enhance Vermont's historic settlement patterns;
- It is desirable for the enterprise to strengthen the quality of life in the host municipality, and to foster cooperation within the region; and

- It is desirable for the enterprise to use existing infrastructure or to locate in an existing downtown redevelopment project.

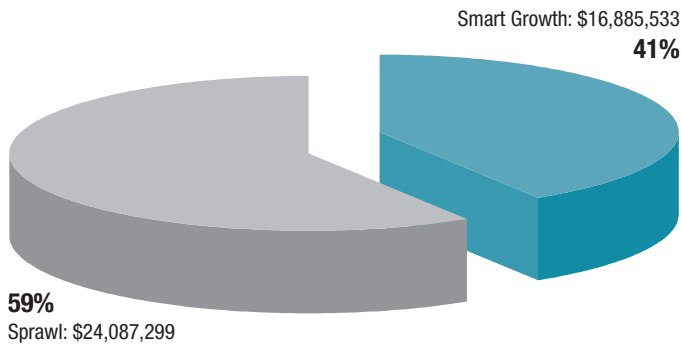
Conclusions

Despite these guidelines that promote investment in Vermont's historic settlement patterns and downtown development, VEPC's track record for supporting smart growth has been mixed. In the past four years, VEPC authorized \$45,069,310 in financial incentives. Of these, four projects totaling \$2,243,666 were in locations that could not be determined, all of which had been rescinded or are otherwise inactive. Of the remaining \$42,825,644⁵ of incentives awarded, \$24,087,299 (59%) were directed to 43 separate properties located in sprawl locations, while \$16,885,533 (41%) supported 26 projects located in smart growth locations.

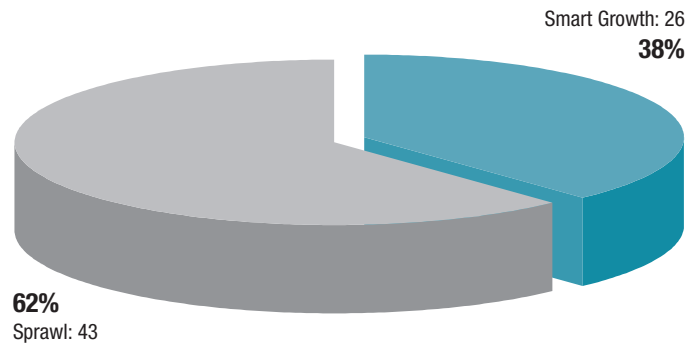
While 61% of the incentives were awarded to sprawl locations over the four year period, this marks an improvement from the previous study period during which 74% of the total incentives supported sprawl. It also should be noted that in both the 1998-2002 period and 2003-2006 period a significant percentage of the total investment was allocated to businesses that occupied or expanded existing facilities, many of which are located within existing industrial parks. While this still represents investment in sprawl locations, less than 6.5% (\$2,923,892) of the total amount of the incentives awarded between 2003 and 2006 resulted in new construction, which involved four separate projects. Of these, three (involving \$2,090,500 of incentives) were located in smart growth locations, while one supported new construction in a sprawl location. This demonstrates the positive affect that VEPC funding can have on promoting development, as envisioned by the statutory guidelines.

EXAMPLE: VEPC awarded a total of \$475,186 to Dubois & King, Inc. and the Town of Randolph to support acquisition and construction of a new office building in downtown Randolph village. With that support, the consulting engineering firm with approximately 45 employees was able to relocate from its location in a sprawl location to the center of town.

VEPC: Total Investments 2003-2006



VEPC: Total Projects 2003-2006



Recommendations

1. Provide clear information and examples to help applicants meet the nine guidelines for receiving credits.
2. Target the development of pilot smart growth projects that provide models for other businesses and industries in future years.
4. Provide incentives for projects in designated growth centers.
5. Increase benefits for projects with access to existing infrastructure to avoid extending water, sewer, utilities and roads to sprawl locations.

Vermont Economic Development Authority

The Vermont Economic Development Authority (VEDA) was created⁶ to expand employment and raise the per-capita income in Vermont through the creation and expansion of industrial sites, businesses, and farm assistance. The Authority carries out this mission through a variety of financing programs.

Smart Growth Connection

Jobs created in or adjacent to existing settlements and downtowns contribute to smart growth by making it possible for residents to live near their work and allowing communities to

maintain compact settlement patterns.

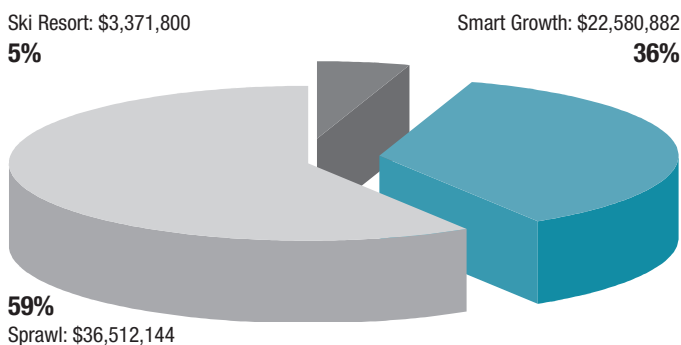
VEDA's enabling legislation includes very general guidelines supporting the adaptive reuse of existing facilities, and a general standard that bonds issued for industrial parks and small business incubator facilities **either create or preserve employment opportunities directly or indirectly within the state; or help to protect the state's physical environment, or will accomplish both purposes.** However, VEDA lacks specific guidelines or criteria directly related to project location or smart growth principles.

VEDA has statutory authority to "establish reasonable priorities among the types and locations of projects to be undertaken or aided." It presently has no criteria related to business location or smart growth to help in determining whether a business which satisfies the statutory eligibility criteria should receive financing.⁷

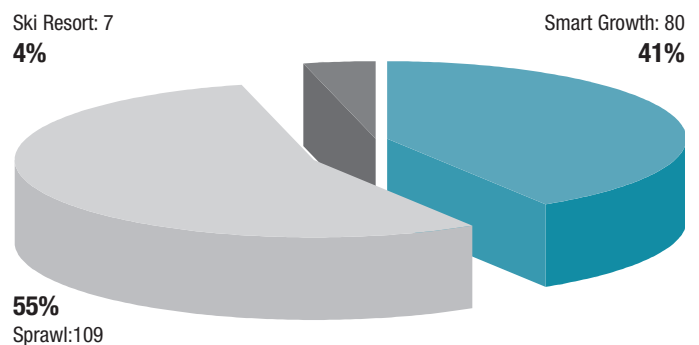
Conclusions

Between 2003 and 2006, nearly 60% (\$36,512,144) of the non-farm business assistance loans went to businesses located in sprawl locations. Thirty-six percent (\$22,647,882) supported businesses located in smart-growth locations, while 5% (\$3,371,800) were loaned to ski resorts which could be either smart growth or sprawl depending upon the nature of the development being supported. It is recognized that some of the

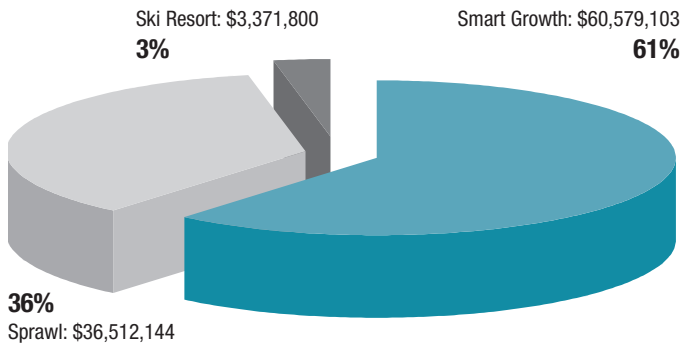
VEDA: Total Non-Farm Investments 2003-2006



VEDA: Total Non-Farm Projects 2003-2006



VEDA: Total Investments 2003-2006



funding directed to sprawl locations was invested in existing state-supported industrial parks.

When the small business assistance program loans are combined with the \$37,931,221 that was loaned through the Vermont Agricultural Credit Corporation and Farm Operation Loan Program to support commercial agriculture – all of which is considered supportive of smart growth – 61% of VEDA's total assistance over the four year period supported smart growth, while 36% was invested in sprawl locations and 3% at ski areas. These ratios represent an improvement over VEDA's performance during the previous period when approximately 60% of VEDA financing was targeted to sprawl locations.

Recommendations

1. Increase benefits for projects with access to existing infrastructure to avoid extending water, sewer, utilities and roads to sprawl locations.
2. Provide incentives for projects in designated growth centers.
3. Only support projects that accomplish both goals: preserving or increasing the prosperity of the municipality and of the state *and*, enhancing or protecting the physical environment of the state.
4. Demonstrate and report compliance with Title 3, Section 2293, the Development Cabinet Law for all activities.

5. Work with the economic development corporations to ensure more development of infill and compact commercial and industrial projects and reuse of historic structures.

Capital Construction/State Buildings

The capital construction budget pays for the construction of state buildings, including state offices, court houses, prisons and police facilities. Vermont law requires that a priority be given to locating facilities in downtown locations,⁸ and a preference for using existing space in a designated downtown, village center or new town center.⁹

Smart Growth Connection

Locating state facilities in downtowns helps attract other business activity and keeps development in areas that already have the needed facilities and services in place. It reduces pressures to build outside of traditional centers in sprawl locations and saves limited state dollars.

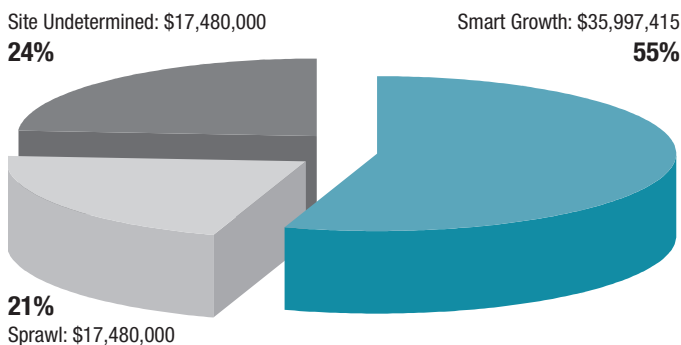
Conclusions

Over a five year period covering FY2003 through FY2007, there are 28 state building projects, totaling \$55,102,415. Twenty of these projects, totaling \$35,997,415 are in smart growth locations, meaning they are in a historic downtown or village. Seven projects, totaling \$17,480,000 are in sprawl locations and the location for one project, a new Vermont State Hospital, allocated \$1,625,000, has not yet been determined.

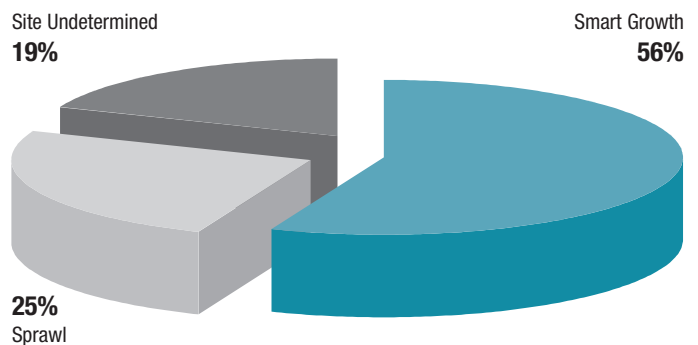
In recent years, location decisions appear to be less focused on sprawl impacts, but do support renovation or reuse of existing space, or moving into available space already built or under construction. Unfortunately, many of these decisions support sprawl. As new facilities are considered and planned, greater efforts are needed to direct building projects to downtowns and village centers.

EXAMPLE: When space was needed quickly for a newly expanded Environmental Court in 2004, offices were leased in an office building under construction in a farm field outside of town in Berlin. A location in either downtown Barre or Montpelier would have fostered pedestrian access and transit, and been more convenient to employees and the public.

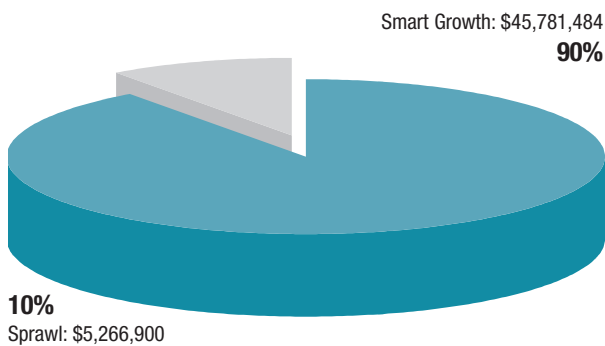
Capital Construction: Total Investments 2003-2006



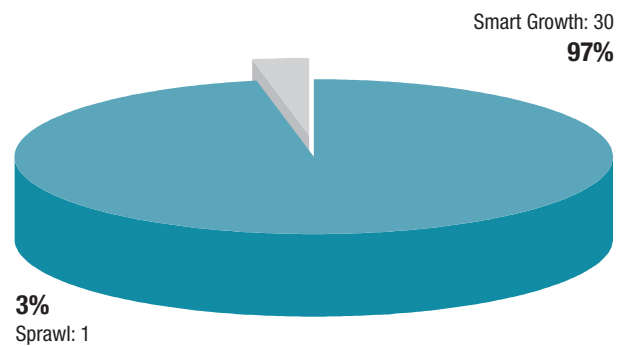
Capital Construction: Total Projects 2003-2006



School Construction: Total Investments 2003-2006



School Construction: Total Projects 2003-2006



EXAMPLE: Finding space for a consolidated health and forensics lab led to purchasing and reusing space formerly used by IBM in Essex. Although this \$10.75 million project is in an existing building, it is located in a sprawl location. The consolidation means that some offices that are now in downtown Burlington will be moved to a sprawl location.

EXAMPLE: One of the largest renovation projects involves the state office building at 133 State Street in downtown Montpelier. This is a smart growth location. It will support keeping state workers and economic activity in downtown Montpelier. It will allow workers now located in leased space outside of the City center to move into a downtown location.

Recommendations

1. All leases and new building investments for office space should have specific requirements to avoid sprawl locations.
2. Plans should be in place to move offices in existing sprawl locations to downtown locations.
3. Out of town sites should only be used for facilities requiring high accessibility, such as regional police barracks, and only after thoroughly investigating options for such facilities in growth centers.

School Construction Aid

The State of Vermont contributes funding for school construction projects.¹⁰ Up to thirty percent of the total cost is provided by the state for most projects, although projects that result from school consolidations are eligible for up to fifty percent state funding until 2008.

Smart Growth Connection

Schools are important community resources and often serve as an anchor in a community's development. Their location can either support or hinder smart growth. Schools in outlying areas force all students to be bussed or driven to school, and divert community activity away from a town's center. The availability of athletic fields and low cost land often drives schools outside of traditional centers. As schools consider consolidation, and serving multiple communities, keeping schools in town centers will continue to be a challenge.

Conclusions

Over the past five years, state funding for school construction has mostly supported renovation of existing schools and has allowed many schools to remain in town centers and away from sprawl locations. Only two new construction projects were undertaken. In 2003 a new middle school in Bennington was built in an open field approximately two miles from downtown along the new Bennington Bypass. This is not a smart growth location. For Norwich students, state funding was used for a new school in town in Hanover, New Hampshire. This is a smart growth location.

Many school districts are facing declining enrollment. If this trend continues, pressure may grow to consolidate existing schools, which could result in new school construction and the subsequent closure of existing schools. Without siting standards that promote smart growth locations, there may be pressure to locate new consolidated multi-town schools in sprawl locations between existing town centers.

EXAMPLE: After considering many options, the voters in the Town of Waterbury chose to renovate their elementary school in Waterbury Village rather than build a new school at a sprawl location outside of the Village. The renovation meets their needs and keeps an historic 1920s era building in public use and allows students who live in the Village to walk to school.

EXAMPLE: In Wilmington and Whitingham, a new school was proposed for a farm field outside of both towns. In 2005, voters in each town defeated a bond vote for this project by a 2 to 1 margin. The high cost of the new school, as well as the out-of-town location, led to the defeat. Renovations to the existing schools are now being considered.

Recommendations

1. Decisions on state aid for school construction should support Vermont's smart growth goals.
2. The location of a school should be specifically considered in state funding decisions, and keeping schools in town should be encouraged.
3. School transportation costs and impacts on land use should be specifically considered in decisions on school construction aid.

Transportation

The Vermont Agency of Transportation (VTrans) is responsible for the state’s transportation infrastructure. In addition to maintaining and expanding the state’s highway network, the agency administers several programs related to bicycle and pedestrian transportation and public transit. Within Chittenden County, however, the Chittenden County Metropolitan Planning Organization (CCMPO) is responsible for transportation planning and funding decisions.

Smart Growth Connection

Spending on highways includes both the maintenance and upgrade of existing roads and bridges that do not increase the capacity of the overall road network, as well as investments that are intended to expand existing capacity to address increases in traffic volume. The 2003 Progress report documented that increasing highway capacity directly correlates to increasing traffic volumes and sprawl, while investments in transit, bicycle and pedestrian facilities, and transportation enhancement projects reinforce traditional settlement patterns and support smart growth. In addition to the land use implications of transportation policy, vehicle emissions are the greatest contributor of greenhouse gases in Vermont. Targeting transportation spending on projects that promote smart growth – and reduce total vehicle miles traveled – is an important strategy for addressing global warming.

VTrans Conclusions

Many of the state’s highway improvement projects include both maintenance and facility expansion. Unfortunately, the way in which budget data is reported does not differentiate between the two except in the case of large-scale construction projects involving new roads. It is possible, however, to analyze funding for bicycle and pedestrian facilities and public transit relative to spending on roads, which provides one indicator of support for transportation options – a key smart growth principle.

Funding for both the enhancement program and bicycle and pedestrian projects¹¹ declined in recent years as a result of

the Douglas administration enacting a moratorium on both programs in late 2002, and capping project costs at a lower level than in previous years. Funding for the bicycle-pedestrian program was cut from \$5,070,689 in 2003 to \$2,630,021 in 2006 – a reduction of 48.1%.

Funding for public transit has fared better than bicycle and pedestrian facilities in recent years. Between 2003 and 2006, state support for public transit increased from \$12,724,531 to \$14,888,893 – an increase of 17%. However, as reflected as a total percentage of the transportation budget, spending on transit has remained steady at 4.0% of the total (after dropping to 3.7% in fiscal year 2004).

CCMPO Conclusions

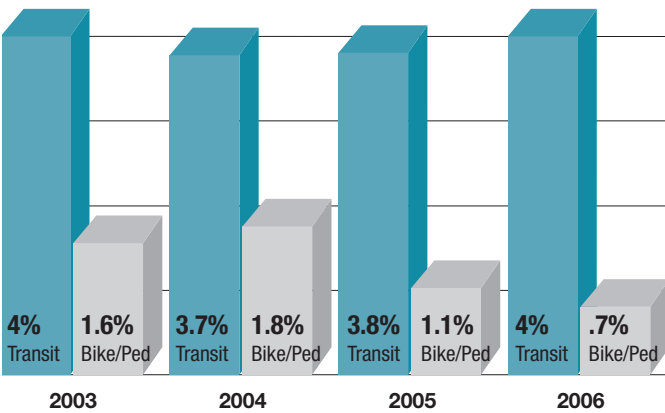
The CCMPO will have responsibility for over one billion dollars for transportation improvements between 2001 and 2025.¹² The 2025 Metropolitan Transportation Plan (MTP) breaks down capital costs into different funding categories than the categories used in Transportation Improvement Program (TIP) funding allocations, which makes comparison across the TIPs and the MTP complicated. Table 1 presents the percentage of funding projected for use in different categories of the 2025 MTP.¹³ Roughly 22.5% of funding will go towards expanding highway capacity expansion, while approximately 6.1% of funding is projected to go to transit projects, and about 5.9% of funding is projected for bicycle and pedestrian projects.

Based on the CCMPO’s Transportation Improvement Program for FY 2002 to FY 2006 funding for capacity expansion – new and improved roads – far outpaced funding for bike ped or public transport. Spending is summarized in the table below.

TABLE 1: Public Transit & Bike/Ped Spending as a Percentage of VTrans Budget: 2003-2006

	CAPACITY EXPANSION	BIKE/PEDESTRIAN	PUBLIC TRANSIT
2002	19.0%	6.1%	17.1%
2003	33.6%	7.8%	18.6%
2004	68.9%	3.3%	13.4%
2005	68.1%	1.0%	5.3%
2006	40.2%	2.8%	18.1%

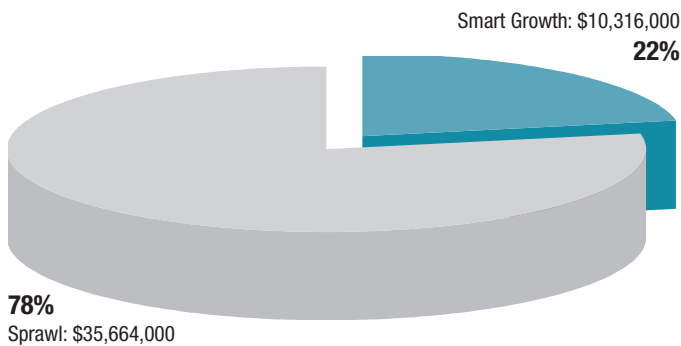
VTRANS: Percentage of Total Transportation Budget Devoted to Transit & Bike/Ped



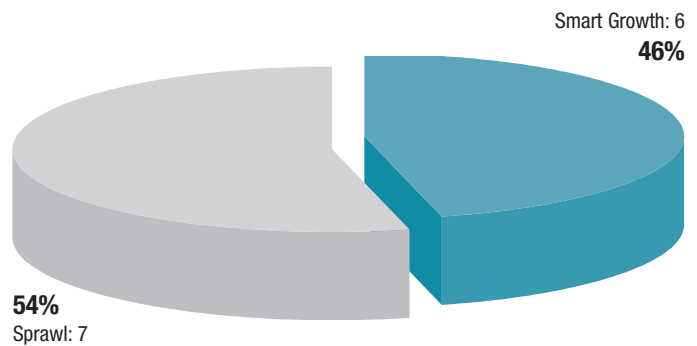
Transportation Recommendations

- 1. Adopt a statewide “fix it first” policy whereby new projects for roads and bridges are limited to no more than 10% of the total projects approved, with the remainder of the funding directed to fixing and maintaining existing infrastructure.
- 2. Target spending to areas that support smart growth, such as higher density in growth centers, and areas around transit stops. Direct spending away from lower density areas along highways where sprawl may develop.
- 3. Immediately reinstate funding both enhancement and bicycle/pedestrian programs to pre-2004 levels and increase the percentage of the total budget allocated to both priorities.

State Sewer: Total Investments 2003-2006



State Sewer: Total Projects 2003-2006



Vermont's Downtown, Village Center & Growth Center Program is a Smart Growth Model

Targeting state investments into smart growth locations – especially existing downtowns, village centers and planned growth centers – is not a new concept in Vermont. Since the enactment of the Downtown Development Act in 1998, Vermont has had a program in place that provides substantial state support for downtown revitalization.

Under the program, municipalities that receive downtown designation by a state board are eligible for a number of benefits, including tax credits, loans and grants from various state agencies. This program has been expanded twice; first to create new designation opportunities for “village centers” and “new town centers,” and again in 2006 to create a new designation program for locally planned “growth centers.” To date, 22 downtown development districts and over 70 village centers have been formally designated.

Since 2003, over \$3,620,675 in financial benefits has been invested in designated downtowns and village centers. These incentives, which funded infrastructure and transportation improvements and helped property owners with building restoration and code improvements, have leveraged a considerably larger amount of municipal and private dollars. This program has been an important investment in Vermont's existing community centers, and provides one framework for targeting future state spending to smart growth locations.

4. Provide funding for public transportation that enables 20% of travel and commutes to growth centers to be by public transportation. Intercity shuttles and rail systems should be primary targets.

EXAMPLE: VTrans continues to spend taxpayer dollars to advance the Circumferential Highway around Burlington despite demonstrations that this project is outdated and will not solve traffic problems or substantially reduce congestion. Improving existing roads and increasing transit would be more effective and cost less.

Water and Sewer Grants and Loans

The Vermont Agency of Natural Resources (ANR) contributes both state and federal funds to aid municipalities with water and sewer projects. Funding is provided based on how the project fares under a priority system that weighs public benefits and costs. Since 2002, whether a sewer project contributes to sprawl or has controls in place to address sprawl impacts is part of this evaluation.

Smart Growth Connection

The existence and location of water and sewer facilities makes land more attractive for development, and allows higher densities and a greater mix of land uses in the area served. Water and sewer projects promote smart growth when they serve downtown areas and support compact development and a mix of uses. They foster sprawl when they are used to serve outlying areas, often along highways, where development is spread out and automobile dependent. Pressure to expand sewer capacity and serve outlying areas often means there is less funding available to maintain existing facilities. This leads to a higher risk of sewage spills and more pollution. Keeping our existing facilities working well, instead of extending sewer lines to serve development in farm fields, promotes smart growth and reduces pollution.

Conclusions

Over a five year period covering FY 2002 through FY 2006¹³ \$95,029,400 was spent on expanding water and sewer facilities in Vermont. About \$45,980,000 was spent on sewer projects and \$49,049,400 was spent on water projects. Seven sewer projects, totaling \$35,664,000 expanded sewer capacity or extended sewer lines, and have the potential to contribute to sprawl. Six sewer projects, totaling \$10,316,000 refurbished existing systems or added new treatment and did not contribute to sprawl. Water projects are funded primarily with federal dollars. Projects ranged from improved treatment at existing facilities to expanding service in areas such as South Alburg and North Hero.

Since 2002, a limited effort has been made to address possible sprawl impacts of new sewer projects. The 2002 Wastewater Funding Rule that targets funding to projects that encourage smart growth – and limits funding for projects that will induce sprawl –

remains in place. However, its implementation is extremely limited. ANR does not evaluate of a project's impacts on sprawl. There is also no review if a project changes after approval is granted. If an applicant asserts the funding rule standards are met, the project is approved. Absent actual review of these assertions by either the public or ANR, the funding rule standards are largely ineffective.

EXAMPLE: Newport Vermont was provided funds to expand its sewer plant. Although funds are not to be used to pay for an extension of sewer lines, efforts are underway for the added capacity to serve strip development in Derby, Vermont, including a proposed Wal-Mart.

EXAMPLE: Sewer was extended to serve the new prison in Springfield. The sewer line runs along a highway strip near the I-91 interchange and is available to serve existing development. Efforts have been made to use this sewer availability to serve a new fast food restaurant at an existing gas station.

Recommendations

1. Provide qualitative review and public input for all sewer expansions and provide for permit requirements that prohibit sewer expansions from fostering sprawl.
2. Assist towns with local efforts to address sprawl impacts from water and sewer expansions and make these measures part of any permit for the project.
3. Only approve funding for projects with clearly defined sewer and water service area boundaries that will serve smart growth development and not contribute to sprawl.

Vermont Housing and Conservation Board

The Vermont Housing and Conservation Board (VHCB) was established by the Vermont Legislature in 1987 to pursue the dual goals of conserving farmland and other natural resources and creating affordable housing. VHCB fulfills this mission through grants for affordable housing, as well as grants to conserve farmland and natural and recreation areas. State funding for these programs is primarily provided by a portion of the property transfer tax.

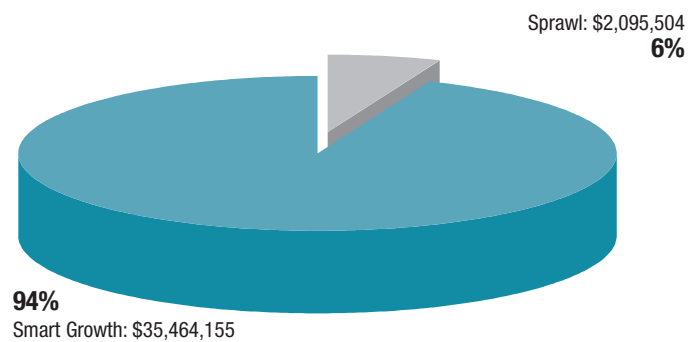
Smart Growth Connection

Affordable housing, historic preservation and farmland conservation are key elements of smart growth policy. Farmland conservation and historic preservation generally contribute to smart growth, while the location of affordable housing can either support or undermine smart growth. Housing concentrated in existing population centers maintains the traditional compact village and urban centers of Vermont's landscape. In contrast, new affordable housing in outlying areas hinders residents' access to goods, services, jobs and community resources, and promotes sprawl.

Conclusions

From 2003 through 2006, VHCB helped to fund forty historic preservation projects, investing \$1,298,462 in Vermont commu-

VHCB: Total Investments 2003-2006



nities. In the same period, it funded 81 farmland conservation projects totaling 14,172 acres across the state, investing \$8,282,804 to support agriculture. The majority of the easements were for farms in Addison and Franklin Counties. The board also supported the conservation of 3,260 acres of natural and recreational areas, allocating \$4,751,509 for that purpose.

Over the last four years, VHCB directed most grants for affordable housing to existing downtowns and villages. Of the 68 affordable housing projects funded in part by VHCB in the past four years (which excludes one project involving the acquisition of an existing mobile home park, determined to be neither sprawl nor smart growth), 64, or 94% were in smart growth locations. Of the \$23,226,884 VHCB has spent on affordable housing during the period, \$21,131,380 (91%) went to fund projects in smart growth locations, while \$2,095,504 (9%) funded projects in sprawl locations. Some of the sprawl projects were rehabilitations or adaptive reuse of existing facilities, or housing projects in communities with clear housing needs that lacked opportunities for housing projects within existing centers.

VHCB remains one of Vermont's primary public investments in smart growth. However, its overall funding in recent years declined, leaving VHCB with a 2006 budget more than one million dollars below the 2003 level. By statute, 50% of the proceeds from the property transfer tax is provided to VHCB. That percentage, however, has been reduced by the Legislature on an annual basis for many years.

EXAMPLE: In 2005, the Burlington Community Land Trust, Housing Vermont, and the City of Burlington received a grant from the VHCB to construct a 40 unit affordable housing project on a brownfield site on the waterfront in Burlington. The project is LEED certified, close to two bus lines and within walking distances of schools, downtown and recreational opportunities and has a density of 24 units per acre.

Recommendations

1. VHCB should make smart growth locations a requirement for housing project eligibility.
2. VHCB should work with other partners to develop a fund for

greenbelt protection (i.e., protection of lands that define the outer limits of metropolitan area growth), including protection of farmland, in the fastest developing regions of the state.

3. The State of Vermont should continue to fund VHCB at its statutory levels to protect farmland and provide for affordable housing for Vermonters.
4. VHCB should continue its policies on acquiring easements on farmland in blocks in the most threatened areas and maintain its policies regarding housing and house lots on farmland that minimize sprawl.

Act 250

Act 250 subjects large land development projects to review by one of nine regional District Commissions. Projects are evaluated using ten criteria, and several sub-criteria, relating to the development's impact on natural resources, governmental services, and other areas of public interest.

Since 2003, there have been several changes to Act 250 regarding appeals, participation, utility line extensions and agricultural resources. Appeals are now reviewed by the Vermont Environmental Court in place of the citizen members on the Environmental Board. Participation and appeal rules also changed. Citizens may participate and appeal if they can show they have a particular interest affected by the decision. They may participate without the right to appeal as a "friend of the commission."

With regard to utility line extensions, Act 133, enacted in 2005, narrowed the scope of review under Act 250. Consequently, only impacts of the utility line itself are reviewed, and impacts such as those from a housing development that will occur once an electric line is extended into a presently unserved area are not allowed to be considered.

As part of the growth centers legislation passed during the 2006 legislative session, the agricultural resources criterion was changed. Explicit authority is now provided for developers to mitigate impacts on agricultural land in growth centers by allowing the conservation of agricultural soils outside the growth center.

Smart Growth Connection

As noted in the 2003 Progress Report, Act 250 does not have an explicit sprawl criterion, although several of the Act's ten existing criteria do specifically address sprawl and its impacts. The Environmental Board's decisions between 2003 and 2005 continued to address the impact of sprawl as it fit within these various criteria. In *Re: EPE Realty Corporation and Fergusson Management, LTD*, the Board allowed a permit for a self-storage unit project even though the Town of Sharon contended it constituted sprawl and was not in accord with its Town Plan. The Board noted that:

"sprawl is not itself an independent criterion; a project cannot be denied because it constitutes 'sprawl.' Rather, Board precedent refers to sprawl only within the context of other criteria, such as Criterion 8 (aesthetics) (citations omitted), and

Criterion 10 (citations omitted). (Land Use Permit #3W0865-EB, Findings of Fact, Conclusions of Law, and Order; at 42.)"

Conclusions

There have been no decisions issued since 2003 that alter the findings of the 2003 Progress Report. It is too early to tell what impact the change in appellate procedure will have on the administration of Act 250 and land use in Vermont. As the Environmental Court's record emerges over time the implications of the change from a citizen based appellant body to the court system will become clearer.

The change in party status requirements has not appeared to have significantly changed the ability of citizens and interest groups to participate in Act 250 proceedings. As with the change from the Environmental Board to the Environmental Court, however, it is too early to determine whether participation will be curtailed in the future.

The elimination of jurisdiction over the secondary impacts of utility extensions does appear to further limit the ability of Act 250 to combat sprawl, especially scattered residential development in remote, undeveloped locations. This change is sprawl legislation.

EXAMPLE: Times and Seasons Gift Shop and Gas Station, Royalton, Vermont. In 2005, the Environmental Board upheld the District Commission's denial of a large gift shop in a rural, residential area near the Joseph Smith Birthplace. Though the decision did not mention sprawl as a factor in denying the permit, it upheld the District Commission's finding under 9(b)(iii) that the project failed to use "cluster planning and new community planning to economize the costs of roads, utilities and land usage." Even though the project would include only one building, the project's road and other impacts were not designed to avoid undermining the site's primary agricultural soils.

Changes to statutory criteria related to primary agricultural soils, however, should encourage smart growth by limiting favorable mitigation¹⁴ policies to designated growth centers. However, off-site mitigation of agricultural soils continues to be allowed outside of designated growth centers in narrow circumstances. This provision should be vigorously enforced to ensure that its use does not undermine smart growth by allowing sprawl development outside of town on valuable farmland.

Recommendations:

1. Provide clear guidance on how District Environmental Commissions should address sprawl with existing criteria.
2. Impacts on land use and not simply fiscal impacts should be consistently considered under the growth criteria of Act 250.
3. District Commissions should have more opportunities for independent analysis of impacts. In many cases only information from the Applicant is reviewed and there is little opportunity or expertise afforded to the Commission for analysis of the impacts.
4. "No Sprawl Zones" should be established and enforced through Act 250. Areas should be based on existing land uses and greater scrutiny for sprawl impacts should be provided in these areas.

5. Town or Regional Plans should include clear language that opposes sprawl and supports smart growth by promoting downtown and village center development, compact residential neighborhoods and protection of rural and important natural resources such language can be useful in Act 250 in stopping sprawl projects and promoting smart growth.
6. Act 133, exempting considering of the secondary impacts of utility lines, should be repealed.

Interchange Development

Developments at Interstate Interchanges are often the beginning of sprawling development patterns, especially highway strip development. Several Vermont interchanges have been spared this fate, but pressures continue to mount. Since 2001, an Executive Order has been in place requiring state agencies and departments to “foster the conservation of land in and around interstate inter-

changes,” and to “take specific actions to avoid strip development in these areas.”¹⁵ Over the past five years, developments have moved forward in or near interstate interchanges with little or no action by state agencies to comply with this executive order. Big box retail and housing developments have moved forward near both interchanges in St. Albans, a large grocery store was built near the interchange in Waterbury, and efforts have been made to use sewer to serve sprawl development near interchanges in Bradford and Springfield.

Recommendations

1. Make the requirements of the Executive Order on Interstate Interchanges part of Vermont Statutes and prohibit contrary state agency actions.
2. Report yearly to the public and the Legislature on activities taken to implement the Executive Order.
3. Include compliance with the Executive Order as part of any state issues permit for development in or near interchanges.

1. 24 V.S.A. §4403(C)
2. 24 V.S.A. §2791(13) defines “Smart growth principles” as meaning growth that:
 - (A) Maintains the historic development pattern of compact village and urban centers separated by rural countryside.
 - (B) Develops compact mixed-use centers at a scale appropriate for the community and the region.
 - (C) Enables choice in modes of transportation.
 - (D) Protects the state’s important environmental, natural and historic features, including natural areas, water quality, scenic resources, and historic sites and districts.
 - (E) Serves to strengthen agricultural and forest industries and minimizes conflicts of development with these industries.
 - (F) Balances growth with the availability of economic and efficient public utilities and services.
 - (G) Supports a diversity of viable businesses in downtowns and villages.
 - (H) Provides for housing that meets the needs of a diversity of social and income groups in each community.
 - (I) Reflects a settlement pattern that, at full build-out, is not characterized by:
 - (i) scattered development located outside of compact urban and village centers that is excessively land consumptive;
 - (ii) development that limits transportation options, especially for pedestrians;
 - (iii) the fragmentation of farm and forest land;
 - (iv) development that is not serviced by municipal infrastructure or that requires the extension of municipal infrastructure across undeveloped lands in a manner that would extend service to lands located outside compact village and urban centers;
 - (v) linear development along well-traveled roads and highways that lacks depth, as measured from the highway.
3. In some instances, data was not available for all years between 1998 and 2002, in which case the specific years were identified.
4. The Vermont Legislature overhauled VEPC and the economic development programs that it administers in 2006 with the passage of Act 184. This act revises the scope, authority, and formation of tax increment financing (TIF) districts, replaces the economic advancement tax incentives (EATI) program on January 1, 2007 with a single Vermont employment growth incentive (VEGI) program based on projected employment, payroll, and capital growth; establishes a new Economic Incentives Review Board (EIRB) to replace the VEPC on April 1, 2009; and creates a new Commission on the Future of Economic Development (CFED) to conduct long-range economic planning on July 1, 2006.
5. These figures include all incentives that were awarded, and therefore include several projects that are deemed inactive. A project is considered “inactive” if it has been rescinded, replaced, cancelled or some other action by the applicant or VEPC that renders the authorized credits unavailable. Fifteen projects awarded between 2003 and 2006, totaling \$7,967,604, are inactive. This includes 21.4% of the funds awarded to projects in sprawl locations, and 14.4% of the funds awarded to smart growth projects.
6. 10 V.S.A Chapter 12.
7. 10 V.S.A Chapter 12 §216(4)
8. 24 V.S.A. § 2794(a)(13).
9. 24 V.S.A. § 2793b(c)(2).
10. 16 V.S.A. chap. 123
11. The Safe Route to School Program was established by the Federal Government in the 2005 and will replace the bicycle and pedestrian program in Vermont. Prior to the establishment of the federal program, the CCMPO sponsored a Safe Routes to School pilot project that will serve as the model of the statewide program.
12. CCMPO, 2025 Chittenden County Metropolitan Transportation Plan, Adopted January 19, 2005, page 33.
13. Data follows a consistent five-year study period. The previous report reviewed FY97 to FY01 since incomplete data was available for FY02. This report covers the following five years.
14. Due to previous Environmental Board rulings, in some instances applicants were able to develop on primary agricultural soils in provided they entered into an off-site mitigation agreement in which they paid for the purchase of development rights on a non-contiguous parcel with equal or better agricultural soils at a ratio of 2 or 3 acres protected for every acre developed. Under the Growth Centers program, applicants for projects within designated growth centers are automatically entitled to off-site mitigation at a ratio of 1 acre per 1 acre.
15. Governor Howard Dean, M.D. Executive Order #01-07, Montpelier, VT, September 13, 2001. www.dhca.state.vt.us/Planning/ExecOrder.pdf



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