

Windham Regional Commission: Act 250 Tier 3 and Road Rule Public Meeting

March 17, 2026

Speakers:

- **Matt Bachler (MB)** — Senior Planner, Windham Regional Commission
 - **Chris Campany (CC)** — Executive Director, Windham Regional Commission
 - **Alex Weinhagen (AW)** — Board Member, Land Use Review Board (LURB)
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Introduction

Matt Bachler: Thank you all for joining us this evening. My name is Matt Bachler. I'm a senior planner at the Windham Regional Commission. We are hosting this meeting and invited Alex Weinhagen from the Land Use Review Board to speak about some of the Act 250 reforms under Act 181, specifically Tier 3 and the Road Rule.

Chris Campany: I'm Chris Campany, Executive Director, Windham Regional Commission.

Alex Weinhagen: I'm Alex Weinhagen. I'm your representative from the Land Use Review Board, the Act 250 program.

Act 181 Update

Regional Plan Update

MB: Windham Regional Commission is in the process of updating its regional plan to address changes included in Act 181. We've begun meeting with towns to review the updates. During this process, we've received a lot of questions about Tier 3 and the Road Rule, so we set up this meeting and invited Alex to attend.

Act 181 was passed in 2024. It makes major changes to Vermont's land use planning and regulatory framework:

- New requirements for regional planning commissions
- Reorganizes the state designation program
- Overhauls Act 250 jurisdiction

We last adopted our regional plan in July 2025. We're really just addressing changes included in Act 181, mainly in our Housing and Land Use chapters:

- Required to include regional and local housing targets based on Vermont Housing Finance Agency analysis
- Required to update our regional future land use map based on new statewide land use categories

Our regional plan is not a regulatory document. Windham Regional Commission doesn't have any regulatory or permitting authority. Our plan provides policy guidance and establishes our work plan.

The Tier System

MB: Act 181 creates a new tier system that determines whether an Act 250 permit is required.

Tier 1 — Areas where growth is most suitable based on existing land use regulations and infrastructure. Regional planning commissions map areas eligible for Tier 1.

- **Tier 1A:** Fully exempt from Act 250 permitting
- **Tier 1B:** Partial exemption for housing projects up to 50 units on 10 acres or less

Tier 2 — Everything not in Tier 1 or Tier 3. The vast majority of the state. Generally the status quo under the current Act 250 program, plus the new Road Rule.

Tier 3 — Critical natural resource areas. May require an Act 250 permit for development. The Land Use Review Board was given the task of mapping Tier 3 areas and developing the rules.

Our mapping only impacts eligibility for Tier 1A and 1B. It does not impact local regulations — how a property can be used is still determined by local land use regulations.

Regional plans and future land use maps will now be approved by the Land Use Review Board. Once approved, state designations become automatic for a town.

Tier 1 Eligibility

MB: Requirements for Tier 1B eligibility:

- Municipal water or wastewater, or adequate soils for on-site septic
- Adopted zoning bylaws and subdivision bylaws

Just a handful of towns in our region qualify. **Guilford is not eligible for Tier 1B as the town doesn't have zoning bylaws.** We can work with towns interested in qualifying to understand what steps they would need to take.

Timeline

MB: We're working towards completing our regional plan update by this fall. We need an approved plan by the end of the year. We're currently in phase two — meeting with towns to review the future land use plan and housing targets. Draft regional plan will be completed this summer, submitted to the Land Use Review Board in the fall.

Tier 3 and Road Rule

Note from Matt Bachler before Alex's presentation: If your concern is about the legislation itself, address that to your legislators — Alex can't change the law. If you have comments on the rules the Land Use Review Board is developing, that's where Alex is genuinely looking for feedback. Comment on things you like as well as concerns.

What Is Act 250

AW: Act 250 is the state's land use development law. It's like what towns do at the municipal level with development review boards, but at the state level. It's been around for 55 years.

The Land Use Review Board is a five-member board. We were all appointed by Governor Scott last year. We're all full-time professional-level people with required professional expertise. We're

within the executive branch but independent — the governor appoints us but cannot remove us. The legislature set that up on purpose because of past concerns about political influence.

Permit categories:

- **Major projects** — Public hearings, site visits, neighbor testimony. By far the smallest portion of permits.
- **Minor projects** — Never go to a public hearing, never have neighbor opposition, simply get approved after a draft is mailed to adjacent parties. The vast majority of permits.
- **Administrative amendments** — Minor changes to existing permits.

The 10 review criteria cover water supply, soil erosion, stormwater, road impacts, conformance with town plan, and more. It's a comprehensive review — much broader than individual state permits from ANR or DOT.

Original jurisdiction is limited. Most development in Vermont does not go through Act 250. For residential, it's based on the number of lots or housing units. For commercial/industrial, it's based on project size. Some location-based jurisdiction has always existed for areas above 2,500 ft elevation.

What Changed

AW: Act 181 added location-based to existing size-based jurisdiction. Think of Vermont painted with three colors — all parts of the state will be in a tier.

- **Tier 1:** Reduce or eliminate Act 250 jurisdiction
- **Tier 3:** Sensitive, critical natural resource areas where more development will be subject to a permit
- **Tier 2:** The rest of the state (90%+), jurisdiction continues based on project size plus the Road Rule

Important: Tier 3 is not meant to prohibit development. It's meant to ensure good design in sensitive areas through a permit process.

We formed a working group about nine months ago with ~25 stakeholders: Vermont League of Cities and Towns, municipal representatives, realtors, logging associations, ski areas, ecologists, and Agency of Natural Resources divisions.

Act 181 gave us six resources to consider. The legislature did not try to map these areas or define the rules — they understood that required expertise and a public process, and vested the LURB with that authority.

Guiding principle: No duplicative permitting. If an existing state permit covers a resource area, we don't need it in Tier 3. Examples:

- **Wetlands** — well covered by ANR wetland rules, excluded from Tier 3
- **River corridors** — Act 121 establishes statewide permitting in January 2028, excluded from Tier 3

Tier 3 Mapping

Significant Natural Communities

Ecological types mapped by Vermont Fish and Wildlife. We identified the most rare types in upland areas (not wetland types, which are already protected). Mapped with a 50-foot buffer.

Headwater Streams

Initial mapping covered a huge percentage of Vermont, so we refined by intersecting three attributes:

- Steepest slopes (35%+ grade)
- Poorly drained soils
- Elevation above 1,200 ft

The intersection of all three layers covers just **2% of the state**.

Habitat Connectors

The most interesting and most commented-on component. Using Vermont Fish and Wildlife's Conservation Design Program:

1. Identified highest priority connectivity blocks (dark orange on maps)
2. Found where those blocks were separated by roads
3. Identified road segments with 75%+ intact forest on both sides
4. Combined to find where high-priority blocks are divided by roads with good forest cover on both sides

Tier 3 Coverage

AW: All in all, about **5-9% of the state** in the first draft, released October 2025. We've gotten substantial feedback since then. A revised version of the mapping should be available by the **end of April 2026**.

Significant changes are being made, particularly to habitat connectors — they will be significantly more refined, smaller, and less impactful.

Tier 3 Protections for Landowners

AW: Key protections built into the rules:

- **Construction-only trigger** — Jurisdiction triggered only for actual construction, not subdivision of a lot that happens to have Tier 3 on it
- **Project-area only** — Jurisdiction restricted to just the project area within the Tier 3 resource, not the entire parcel
- **Site-specific correction** — Landowners can present evidence that mapping is wrong on their property and get an easy correction through a district coordinator
- **All existing exemptions apply** — Farming, logging, forestry, most home occupations, accessory dwelling units
- **Additional exemptions being added** — Working to ensure run-of-the-mill development (home additions, failed septic replacements) doesn't require a permit
- **Pushing toward a half-acre threshold** — Alex recommended that any Vermonter should be able to do a half-acre of impact within Tier 3 without a permit; board still deliberating (some suggest 2 acres). This would require legislative change.

The Road Rule

AW: Unlike Tier 3 (a surgical tool), the road construction provision is a blunt tool written into statute:

- Any **new road longer than 800 ft** requires an Act 250 permit
- Total **new driveways and roads longer than 2,000 ft** require an Act 250 permit
- Takes effect **July 1, 2026**

Exemptions: State/municipal roads, utility roads, farming/forestry roads, and Tier 1 areas.

The statute doesn't define the difference between a road and a driveway. The board is developing guidance, expected in April 2026.

Key distinction: This applies to new construction. Existing roads and driveways are not affected. A short driveway off an existing private road with minor improvements is not captured. A new 2,500-foot driveway into the woods is.

S.325 — Proposed Delays

AW: The board recommended to the legislature that both effective dates be pushed out. The Senate Natural Resources Committee voted out **S.325** which would:

- Delay **Tier 3 jurisdiction to 2028** (currently Dec 31, 2026)
- Delay **Road Rule to 2030** (currently July 1, 2026)

- Give the board authority to reduce the number of review criteria for Tier 3 projects
- Include funding for landowner outreach

The bill still needs to pass the House and be signed by the governor.

Questions and Answers

When did Act 250 start applying to residential?

AW: Act 250 jurisdiction over residential development has been around since the start of the law, but in the past focused on larger subdivisions (6+ or 10+ lots) and developments with 10+ housing units.

Wildlife migration patterns and stakeholders

AW: Vermont Fish and Wildlife's habitat block mapping is based on forest cover, wetlands, and riparian areas. They're looking at the full suite of species, both plant and animal, trying to understand where the biggest blocks of habitat are and how to keep them connected as climate changes and development happens. The stakeholder group includes ecologists outside state government, conservation groups, the Chamber of Commerce, realtors, and ski areas.

Road vs. driveway distinction

AW: The statute doesn't define the difference. The board is developing guidance, expected in April 2026. The trigger is the length of newly constructed road/driveway. Existing roads with minor improvements are not captured. All five board members are invested in making this as practical and understandable as possible.

Tier 2 vs. Tier 3 permitting differences

AW: Most of Vermont will be Tier 2. In Tier 2, the traditional Act 250 triggers apply (10+ housing units, 10+ lots, commercial over 1-10 acres depending on town zoning) plus the new Road Rule. In Tier 3, those triggers plus smaller developments may require a permit. The board would like to ensure average development (potentially up to a new home) doesn't require a permit in Tier 3 areas but this would require legislative change.

Reducing review criteria in Tier 3

AW: The stakeholder working group suggested that Tier 3 projects only be reviewed under criteria relevant to the specific resource, not all 10 Act 250 criteria. However, Act 181 didn't give the board authority to do this. **S.325 includes language that would grant this authority.** The board is hopeful it passes.

Enforcement in towns without zoning

AW: A large percentage of permits are after-the-fact from people who didn't realize they needed one. In towns with zoning administrators, we can advise them to direct people to district coordinators. For towns without zoning, it's a PR and outreach challenge. **The state is not placing an enforcement burden on municipal officials.** The board plans outreach to contractors, realtors, and directly to Vermonters through PSAs and other mechanisms.

Multi-generational family land division

AW: There is nothing in the Tier 3 rules that carves out an exemption for multi-generational properties. This is difficult to do — you won't see it in municipal regulations either. But a permit requirement is not a stop sign. The vast majority of permits are approved as minor permits without public hearings or neighbor opposition.

Permit volume data

AW: From the 2025 annual report — of 383 applications deemed complete:

- **141** were administrative amendments (minor changes to existing permits)
- **224** were minor approvals (no hearing, approved in a few months)
- **Only 12** required a public hearing

Property tax and Tier 3 designations

AW: The legislature didn't include a provision to shift property tax burden. The board doesn't have authority to make that happen. The Tax Department is a stakeholder in the Tier 3 working group but hasn't proposed anything along these lines. Property values are based on fair market value and comparable sales — the actual impact on value remains to be seen.

If you want this addressed, contact your legislator — Alex can't change this.

Habitat connector width

AW: Based on board discussions since October, **we're very likely moving to 2,000 ft rather than 800 ft.** Interior forest habitat is protected through the Road Rule (punching a long road into woods triggers Act 250 review), which is why Tier 3 focused on the gaps between habitat blocks at roads. The mapping is being refined — each road segment is being individually evaluated, and existing development within connector areas is being excluded.

Projects currently underway

AW: We're not looking backwards. Tier 3 rules apply to new development and new construction. For the Road Rule, the board is grappling with the July 1 mid-construction-season start date and

is advocating for a mid-winter effective date instead. Guidance: if a road is substantially complete and drivable, it won't constitute new construction after the effective date.

Existing driveways and new homes

AW: If you have an existing driveway of any length and you're building an additional home on your property without extending the driveway, **no Act 250 permit is needed** under the Road Rule.

Permit cost and timeline estimates

AW: For a single new home in a Tier 3 area (which typically wouldn't trigger Act 250), these would likely be minor permits:

- **Timeline:** A few months
- **Permit fee:** Around \$1,000 range (depends on construction costs)
- **Additional costs:** Only if the site has issues with review criteria (e.g., steep slopes, stormwater, deer wintering area) — then you may need to hire an engineer

Working on getting real examples of what small projects have cost.

How to determine Tier 3 resources on your property

AW: The Tier 3 maps identify which component applies: significant natural communities, headwater stream areas, or habitat connectors. Supporting documentation will explain the mapping methodology step by step, so landowners can identify where they believe mapping errors occurred and seek correction through a district coordinator.

How to influence the process now: Contact Alex directly, attend weekly board meetings (generally Monday afternoons, hybrid format), or submit written comments. Alex is collecting email addresses (~400 people so far) for monthly updates.

Landowner notification: Alex plans to notify landowners with Tier 3 on their property when the next draft is released. Whether by mail depends on the number — 2,500 is doable, 20,000 may not be.

Map revision and notification

AW: The map link will likely stay the same with the map updated in place. The goal is to have both versions available to toggle on and off so you can see what changed. An announcement will go out through the email list, the website, and a more intensive outreach effort in May and June.

Consequences of building without a permit

AW: A healthy percentage of permits are after-the-fact. The process:

1. District coordinator or enforcement team becomes aware (often from a neighbor or town official)
2. Team reaches out to the landowner
3. Work together on an after-the-fact application

Consequences may include:

- Mitigation (e.g., replanting cleared forest in a deer wintering area)
- Penalty fee, based on the nature of the impact and whether the violation was intentional
- The house isn't going to have to move

Equity and cost concerns

AW: This is a real concern raised from the start of the working group. People worry this becomes pay-to-play where only the wealthy can afford permits. The board is addressing this through:

- Mapping that's as targeted and narrow as possible
- Exemptions in the rules for small projects average Vermonters would do
- Pushing toward a half-acre (or potentially 2-acre) threshold for exempt development in Tier 3

GIS mapping accuracy

AW: The statewide parcel map combines data from all municipalities and is only as good as the data coming in from towns. If the issue is a property line, it's likely a town tax mapping issue. Contact Alex with specific errors — he's experienced with GIS and can usually answer these questions or direct you to the right people.

Contact Information

Alex Weinhagen, Land Use Review Board

- Phone: Available on the LURB website
- Email: Available on the LURB website
- Website: Search "Act 250 Vermont" — click the Act 250 icon, then "Contact Us"
- Weekly board meetings: Generally Monday afternoons, hybrid (in-person and remote)

- Monthly email updates: Contact Alex to be added to the list (~400 subscribers)

Windham Regional Commission

- Regional plan update information and LURB links on WRC website
- Meeting recording will be posted on WRC website

Transcript from Windham Regional Commission public meeting, March 17, 2026. Edited for clarity by Jeannette Tokarz, formatted for navigation.

Appendix 1: Original Transcript

Introduction

Matt Bachler (MB): Thank you all for joining us this evening. My name is Matt Bachler. I'm a senior planner at the Windham Regional Commission. We are hosting this meeting this evening and invited Alex Weinhagen from the Land Use Review Board to attend to speak about some of the Act 250 reforms under Act 181, specifically Tier 3 and the Road Rule.

I have some introductory remarks and comments, but I wanted to give Chris Campany, our Executive Director, and Alex Weinhagen a chance to introduce themselves.

Chris Campany (CC): Hey, thanks Matt. I'm Chris Campany, Executive Director Windham Regional Commission.

Alex Weinhagen (AW) I'm Alex Weinhagen. I'm your representative from the Land Use Review Board, the ACT 250 program. Good to see everybody.

Act 181 Update, Matt Bachler

MB: As I think many of you know, Windham Regional Commission is in the process of updating its regional plan to address some of the changes to regional planning that were included in Act 181.

We've had a chance to begin to meet with our towns to review the updates to our plan. During

this process, we've understandably received a lot of questions about some of the other aspects of Act 181, mostly regarding Tier 3 and the Road Rule. So to help address some of those questions, set up this meeting and invited Alex to attend to address specific questions around Act 250.

I have a few introductory slides because I want to provide an overview very briefly about Act 181 and our regional plan update and to clarify our role versus the Land Use Review Board's role.

I just wanted to go over a couple of meeting guidelines. I know there are a lot of questions but we're going to ask folks to save questions until Alex has had a chance to present. We'll have plenty of time for questions and answers. If you'd prefer to type in questions into the chat box, that's also an option. We will reply to questions in the chat box at the end of what Alex has presented. We are recording this meeting so it will be posted on WRC's website.

Briefly, Act 181 is legislation that was passed in 2024. It makes some major changes to Vermont's land use planning and regulatory framework. It includes new requirements for regional planning commissions in their regional planning efforts. It also reorganizes the state designation program. Many of our towns have designated village centers and it makes reforms to that program.

And then it also overhauls act 250 jurisdiction and that's the main thing we'll be talking about tonight. As I mentioned we [WRC] are in the process of updating our regional plan because of some of the changes in Act 181. We last adopted our regional plan in July of 2025. We're really just addressing changes that are included in Act 181. And those are mainly in our Housing and Land Use chapters. We're required to include regional housing targets as well as local housing targets based on analysis completed by the Vermont Housing Finance Agency. And then we're also required to update our regional future land use map based on new statewide land use categories that were included in Act 181.

Those are the really the only changes we're making to our plan with this current update process. Just a reminder as well um for our regional plan it's not a regulatory document. Windham Regional Commission doesn't have any regulatory or permitting authority similar to what a municipality has in terms of land use development and regulations. Our plan is really just to provide policy guidance for our region and it establishes in our work plan and actions that we take as a regional planning commission.

As I mentioned, Act 181 creates changes in terms of Act 250 jurisdiction. In Act 181 a new tier system was developed. These different tiers determine whether or not an Act 250 permit is required. In terms of the tiers and responsibilities Windham Regional Commission and regional planning commissions in the state are responsible for mapping those areas that are eligible for what's called Tier 1. These are areas where growth is most suitable based on existing land use regulations and infrastructure to support growth and development.

That eligibility is based in part on how we are completing our regional land use mapping using those new statewide land use categories. Our mapping is not impacting local regulations. Areas that are mapped as Tier 1 don't see any impact or change regarding how a property can be used. That's still determined by local land use regulations.

Under Tier 1, there are [two subcategories]. Tier 1A areas that are fully exempt from act 250 permitting. Tier 1B areas provide partial exemption for housing projects that include up to 50 units and are on 10 acres or less of land.

Of the other two Tiers, Tier 2 will cover the vast majority of the state. Tier 2 is everything that is not falling under Tier 1a, 1b or Tier 3 Tier 2 is generally the status quo under the current act 250 program.

Under that status quo an Act 250 permit is determined by the size of a project. Certain projects don't trigger Act 250 depending on whether or not a town has local land use regulations . The new Road Rule which Alex will be talking about does apply in Tier 2 areas. Tier 1 areas would be exempt from the Road Rule requirements.

Tier 3 which we'll be talking about tonight [regulates] those are areas with critical natural resource areas. Tier 3 areas may require an Act 250 permit [in order to develop].

As Alex will be talking about, the Land Use Review Board was given the task of mapping Tier 3 areas and developing the rules for Tier 3. The Tier 3 mapping and rule process is still underway so this is a good opportunity to learn about that process and provide feedback while it's still being developed. This slide tries to just provide a general framework for everything that's included in Act 181 in terms of the different changes.

The statewide regional future land use categories are shown along the top of the slide. What we're mapping as Downtown and Village Centers will automatically become Centers under the new state designation program. Planned growth areas and Village areas will become neighborhoods under the new state designation program. One of the goals was to tie the state designation program with regional land use planning to make it an easier process for towns to enter into that designation program and receive the benefits from it. Below that you'll see the Act 250 tiers and how they relate to the regional future land use plan. Again, our mapping only impacts eligibility for Tier 1A and Tier 1B. [Guilford is not eligible for Tier 1b as the town doesn't have zoning bylaws.]

Another change under act 181 is that regional plans and future land use maps will now be approved by the state Land Use Review Board. So in addition to overseeing the Act 250 program the Land Use Review Board will be approving regional plans from across the state. Once those are approved by the Land Use Review board those state designations become automatic for a town. So a town does not need to apply for state designation.

Towns that are eligible for a Tier 1b [Act 250] exemption automatically get enrolled in that exemption if they opt in once our regional plan is approved.

I just wanted to provide just some context in terms of what Windham Regional Commission is working on currently. For our regional plan update, we are working towards completing our update by this fall. We need to have an approved plan in place by the end of the year to address the Act 181 requirements. Right now we're in phase two of this process and meeting with towns to go over the future land use plan and also reviewing the regional and local housing targets. We're going to have a draft of the regional plan completed this summer then we'll be submitting to the Land Use Review Board in the fall. There's plenty of opportunities to review our plan and provide feedback in the upcoming months.

Eileen asked how municipalities opt in. So areas that we map as a downtown or village center or planned growth area or village area are eligible for Tier 1b. Some additional requirements [exist to qualify for Tier 1b status] beyond just our land use mapping. That includes either having municipal water or waste water or adequate soils within the area that a town is seeking Tier 1b exemption, [for example] adequate soils for on-site septic systems. A town also needs to have adopted zoning bylaws and subdivision bylaws to be eligible for Tier 1b. As we're meeting with towns in our region we have just a handful of towns that qualify for Tier 1b exemption.

We are letting towns know if they qualify. For those Towns that may not qualify today but are interested we can also work with you to help you understand what steps you would need to take to qualify for Tier 1b exemption. We're in the process of updating our plan now and that will include submitting requests for Tier 1B exemption. But once we go through this process, we can always work with towns to submit Tier 1b requests in the future.

Act 250 Tier 3 and the Road Rule, Alex Weinhagen

MB: So before I was with one regional [planning] commission at one point I was the federal policy coordinator for this group called the National Campaign for Sustainable Agriculture. A lot of my work was involved with helping farmers and other folk interested in the farm bill on how to comment on legislation and rulemaking. I just want to note that you know Alex is incredibly accessible. It's great that he's made himself so accessible in this rule making discussion, but something for the public to think about is in what he presents and what you have concerns about. If it's related to the legislation itself, you really need to address that to your legislators because there's not much that Alex can do about that. If you have comments on the rules, which are the things that Alex and the Land Use Review Board are working on, that's where he's genuinely looking for feedback on the rule and the evolution thereof. And one of the things I would just encourage you to do too is offer comments not only on the things that you have concerns about, but also things that you'd like to include.

Alex is going to talk about the evolution of Tier three and the Road Rule over time. If there are things you like about how that's evolved or things you have concerns about, make sure you comment on all those things because it's important not to assume that everybody's going to have your share your same view. Make sure that you know that [Alex] can't do a whole lot about Act 181 but he can help on the rules.

AW: Thanks Chris. Thanks Matt.

So, before I throw a bunch of slides at all of you, thank you very much for coming and I'm going to try really hard to make my presentation short because I want to have as much time as possible to hear your questions and have the conversation be a little more organic that way. Comments, questions, concerns, all that stuff. By way of introduction again, Alex Weinlagen with the Land Use Review Board which is the oversight board for the Act 250 program.

It's a five member board. I'm one of five. We were all appointed by Governor Scott last year so we're relatively new. Prior to us, Act 250 has been around for a long time, 55 years.

Prior to us [the LURB] there was a Natural Resources Board composed of one full-time chairperson and two volunteers. Those three members of the Natural Resources Board were the oversight board for Act 250 and had been for a very long time. The passage of Act 181 in 2024 shook things up. We're going to talk about some of the ways it's shaking things up in terms of Act 250 jurisdiction. The organization of the program changed such that the five of us on the oversight board are all full full-time professional level people.

We're not, you know, just political appointees. There were certain requirements for professional expertise that we needed to have in order to be eligible to be appointed. The governor was served up with some options and then he selected the final board members. The Act 250 program is within the executive portion of state government but it is an independent agency.

And so although we're under the governor's purview in terms of the executive function of state government, we don't actually report to the governor. He appoints us, but once we're appointed we serve out our terms so there's a little bit of insulation there. If we make a decision that the governor doesn't like, he cannot remove us. The legislature set that up on purpose because there had been some issues in the past with the Act 250 program.

People had a perception that there was some political influence there. With that as a preface I'll tell you that each of the five of us on the board come from different backgrounds. My background is in municipal planning. I spent 22 years as the town planner for the town of Hinesburg trying to help them figure out what they wanted to be when they grew up. My academic training is in wildlife. Prior to being in community planning I was at UVM um doing master's work up in the Kingdom. I grew up here in Vermont.

I grew up in Chittenden County and Essex Junction. I went away to school for the initial part of

my professional career and then came back and have been here for a long time. Enough about that.

Let me tell you a little bit about Act 250 and what we're working on with regard to the changes. Okay. So, apologies to those of you that have already seen bits and pieces of this presentation.

I'll be quick and get to questions and conversation. Act 250 is the state's land use development law. So, if you're not familiar with it, it's sort of like what towns do at the municipal level with development review boards and planning commissions where a development proposal comes forward and if it requires an Act 250 review, then there's a volunteer board. They're called District Commissions that review those applications and issue permits.

It's a balancing act. Its intent is to further housing and economic development but not at the expense of Vermont's landscape. It's part of the reason why Vermont looks a little different than other areas of the country. It is a citizen-based review process. There are nine district commissions across the state that hear Act 250 permit applications. Those applications are broken up into three categories.

Major projects that are what you're probably familiar with. That's what you hear about in the media all the time. Those are larger projects that actually have a public hearing. There'll be site visits. Neighbors can come to that hearing.

Different parties can provide testimony and then there's a decision. Those are by far the smallest portion of what Act 250 permits are from year to year. The vast majority of Act 250 permits never go to a public hearing, never have any neighbor opposition, and simply get approved after a draft approval is mailed to adjacent parties with the proviso saying we think this project should be approved. Here's a draft approval. If you have any issues, let us know. Otherwise, we're going to approve it. Those are the minor projects and they make up the vast majority of Act 250 permitting.

Then there are administrative amendments when a project needs to make a minor change that doesn't really affect any of the review criteria.

The Act 250 review process is comprehensive. There are 10 criteria that you see on the screen here and a variety of subcriteria within each of these. So unlike other state permits that people might get from the Agency of Natural Resources, perhaps for a new septic system, perhaps an access permit from the Agency of Transportation to put in a driveway off of a state road, perhaps a development that's impacting some wetland area.

Those permits are all targeted and fairly discreet. Act 250 looks at much much more than what those [ANR, DOT] permits look at. And in fact, it looks to those permits to help inform some of the criteria that are reviewed. So, it's looking at everything from whether there's adequate water supply to a proposed development, to what sorts of soil erosion might be happening and what

sort of storm water control needs to happen on these projects, whether the project is going to have an impact on the local roads and and the town's ability to maintain those roads and all the way up to whether [the project] conforms with your community's town plan.

There are a lot of factors that go into what is a very comprehensive review. Original Act 250 jurisdiction is limited. It doesn't cover all development in the state. In fact, it covers very little development in the state.

Most development in Vermont does not go through an Act 250 review to get a permit. If any permitting is required, it's handled at the local level or it's handled through state permits via the Agency of Natural Resources like the ones I mentioned previously. If it's a residential project with new development, Act 250 jurisdiction typically revolves around how many lots are being created, and if it's a subdivision, how many housing units are being created. For a commercial or industrial project Act 250 has been focused on the size of a project, and that's what triggers the need for a permit.

There's always been a little bit of location-based jurisdiction with regard to high elevation areas. Most development above 2500 ft has required an Act 250 permit for the last five decades but largely it's been based on the size of the project.

So what changed with Act 181 when it was passed in 2024? The law does a bunch of things including creating this new board that I sit on to oversee the program. One of those big changes was to try to create location-based jurisdiction.

So in Act 181 the need for a permit is not solely based on the size of a project but also on where it is. And so just imagine Vermont as being painted with three colors. And all parts of the state will be in one of these tiers. And these tiers are just just created to help clarify where Act 250 permitting is and is not or may be required.

As Matt mentioned, Tier 1 are those areas where we're looking to reduce Act 250 permit jurisdiction or eliminate it entirely. Tier 3 is the opposite. It's those areas that are very sensitive, critical natural resource areas where more development will be subject to an act 250 permit. And then Tier 2 is the rest of the state. As Matt said, probably in 90+% of the state the jurisdiction will continue to be based on the size of the project with the addition of this road construction provision that I'll talk about in a bit.

But just to clarify that within the tier three areas the reason Tier 3 is part of this law is not to prohibit development there but rather to say these are sensitive areas within which good design is necessary and so a permit process should happen.

We formed a working group about nine months ago with about 25 different stake holders, including representatives from the Vermont League of Cities and Towns, with representation from municipalities, realtors association, folks who deal with land owners quite a

lot, logging associations, ski areas, as well as ecologists and representatives from various divisions within the state government, particularly the Agency of Natural Resources, with the intent to determine what should comprise Tier 3 areas. Act 181 gave us six resources that we had to consider. They don't have to be included but were outlined in statute that we had to look at and we had the option to look at others. We tried to take a comprehensive look at the various sensitive resources out there.

The nice thing about Act 181 is that the legislature did not try to map these areas or or define the rules around them. They understood that they weren't well equipped to do that and that it required both expertise and a public process to make that happen. And so they vested the Land Use Review Board with the authority to define all of this. Within Tier 3 we and you have the ability to sculpt it very precisely and we have the authority both to do the mapping. We decide how the rule should be structured to balance ecological policy considerations with people.

We landed on just a few of them and here's some of the reasons why. The working group and the Board are not interested in having duplicative permitting at the state level. So to the extent that an existing state permit or a state permit that's on its way into existence covers a resource area, we don't need that resource area to be part of the Tier 3 area. Wetlands is perhaps the best example that we've talked about. Wetlands are absolutely a sensitive and critical natural resource area but they're really well covered by the wetland rules administered by the Agency of Natural Resources. River corridor areas are another example. We don't have a permit process for development in river corridor areas in Vermont yet [but Act 121 establishes state-wide permitting in January, 2028]. We decided that as sensitive as those areas are, especially with all the flooding that's been happening over the last decade, that there was a better permit program and review process. And so these are just a few other examples of resources that we considered and did not include in Tier 3 because of either incomplete mapping or geographic extents being too broad. We were very interested in Tier 3 being just a small portion of the state and and focused on the most critical and sensitive areas, not wide swaths of the state.

So what did we end up with? At least in this first draft which came out in October and we're in the process of now refining and revising we came up with 1) significant natural communities, 2) headwater stream areas, a particular subset of those, and 3) habitat connectors.

Significant natural communities are those are sort of ecological types across the land that you would recognize if you were standing in them. So, let's say you were walking through the forest and you entered into a very specific sort of red pine dry sandy soil forest. That's a particular type of natural community.

All natural areas across the state are in some sort of natural community and the Vermont Fish and Wildlife Department has identified many many different types. But what they've done is to map some of the most significant examples of those natural communities. And so we worked with Fish and Wildlife to identify the most rare types of those significant natural communities across the state and only those that were in the upland areas, not the wetland types, which

again are adequately protected by the wetland rules that we already have. We've mapped those areas for potential inclusion in Tier 3 along with a 50- foot buffer around them. That's one of the Tier 3 areas right now.

Headwater stream areas...A problem we had was that when we began our mapping of headwater streams a huge percentage of Vermont was included...Typically we talk about first, second, third order streams.

A first order stream is simply one that has no other streams running into it. A second order stream has one stream flowing into it. Headwater streams are generally in that upper echelon, first, second or third order. So, because it covered such a large portion of the state, we knew we needed to refine it and try to find just the most sensitive areas within that. And so we intersected that area with the three attributes that you see on this slide.

We looked at areas that had the steepest slopes of 35% or greater where water is going to run off quickly and potentially do damage to downstream areas. We looked at intersecting that with areas that had poorly drained soils from the soil conservation service maps, where once again water during a rainstorm is not going to infiltrate as much. It's going to run off quickly. And then we tried to limit it to just a band of elevation above 1,200 ft because gravity matters. Again, when large rain events happen, areas that are upslope in the higher elevation areas are going to have more likelihood of contributing to downstream damage.

So, we intersected all of those layers and found the union of where they all overlap. With this we're able to get the coverage down to just 2% of the state. So, that's the second tier three areas, headwater, stream, drainage areas.

Finally, habitat connectors. This is the most interesting one in my mind and the one that has driven the most comments and concerns from folks. It's a bit of a new analysis with the help of Vermont Fish and Wildlife.

Some of you may be aware that Vermont Fish and Wildlife through the Vermont Conservation Design Program has used high resolution mapping of forest cover across the state to come up with maps that show where interior forests are, where connecting forest habitat is. We looked at that initially and said, "Great, they've they've done some prioritization of where the most important connecting habitat blocks are that create a network for plants and animals to move at the landscape level across the state and across the region from the Adirondacks of New York through Vermont into northern forests in New Hampshire, Maine, and Quebec. And that's what you see on the left side, particularly in the dark orange which are the highest priority connectivity blocks identified through that program. This is not very useful for a Tier 3 mapping exercise because it covers a very large portion of the state. We worked with Fish and Wildlife to identify where those dark orange highest priority blocks were separated and divided by roads, sometimes by agricultural row crops and the like.

Then we used another one of their data sets to identify which road segments had really good intact forest on both sides, more than 75% of intact forest on both sides of the road. We married those together to try to find, okay, where do we have highest priority habitat blocks divided by a road and we have a road segment that has really good forest cover on both sides that could potentially allow wildlife to make that connection between blocks and that's what informed the habitat connectors.

So my property value goes down. All in all, we get to about 5 to 9% of the state in this first draft of Tier 3, broken up into these areas that I just described. We released this in October.

We've gotten a lot of feedback since then. I'm in the process of revising the mapping right now. We're hoping to have a new version of the mapping available by the end of April so that folks can look at a second draft and have time to comment and think about that. We're making some significant changes which I can go into more.

We have a webpage dedicated to Tier 3. I just wanted to let you know that in these Tier 3 areas, we're structuring the rule so that jurisdiction is triggered only for development for actual construction on the land, not for subdivision of a lot that happens to have Tier 3 on it. Furthermore, Act 250 has kind of a bad name for a lot of folks because once a development project triggers Act 250 on say a 40 acre parcel, that permit attaches to the entire 40 acre parcel, even if the development was only on a small portion of it. Well, we don't want that to be the case in the Tier 3 areas. We want the jurisdiction to be restricted to just the project area that is within the resource within the Tier 3 area itself to try to winnow it down.

We're also including a site specific correction option because we know these maps are not 100% accurate. We want land owners to be able to have a relatively easy process to come into one of our district coordinators and say, "Hey, you've got this spot on my property mapped as a Tier 3 habitat connector. I want to do something there. Look at it, it's been a parking lot or part of my driveway for the last 25 years and your mapping is wrong. We're including a process in the rules where someone can present that and a district coordinator can say 'great, there's no jurisdiction here.' Easy out.

All of the exemptions that apply through the Act 250 program will apply, and there are lots. This program has been around for a long time and a lot of exemptions are built into statute including farming, logging, forestry, most home occupations, and accessory dwelling units for the moment. All of those existing exemptions will follow through within the Tier 3 areas. So even though these are sensitive natural resource areas, these types of land uses and development that are exempt from Act 250 will still be exempt in these Tier 3 areas. And we are adding additional exemptions to try to make sure that we don't capture run-of-the-mill development. You know, we don't want someone who's putting an addition on their house that happens to be near a Tier 3 area to need an Act 250 permit. We're working through changes to the early draft to make sure that that doesn't happen.

We want to make sure that if your septic system fails and the only place you have to put it is in a Tier three portion of your property that you can do that and you don't need an Act 250 permit for that sort of development.

I've been meeting with planning commissions and other community groups for the last few months and trying to respond to all of the questions that are coming in via email and phone calls. I'm at your disposal. Like this is a phone number. This is a real phone. I will pick it up if I'm there. If not, I'll call you back. I'm trying real hard to get back to everyone via email within a week or so, sometimes sooner. I'm happy to come to your community's Selectboard meeting or Planning Commission meeting when it works for you. We just need to get it on my schedule.

So feel free to reach out. All of this information is on our website. I am the lead for the board on the Tier 3 effort. We have two other board members that are leading on the road construction jurisdiction provision which a lot of folks have concerns about as well.

Our entire board is working through all of this. So if you have any questions, really any questions, feel free to reach out to me and I can direct you to another board member who's more appropriate.

I guess I should say a little bit about this road construction jurisdiction provision. It's unlike the Tier 3 areas which is sort of a surgical tool to identify sensitive areas where more development might need an Act 250 permit. The road construction provision is admittedly a blunt tool.

This is written into statute from Act 181. This provision, which takes effect July 1st of this year, says that any new road longer than 800 ft requires an Act 250 permit or total new driveways and roads longer than 2,000 feet require an Act 250 permit. Again, with a bunch of exemptions.

This doesn't apply to state municipal roads or utility roads. Doesn't apply to roads that are primarily for farming or forestry, and it doesn't apply in these Tier 1 areas where we're trying to reduce Act 250 permitting. It does apply everywhere else and that 'everywhere else' is a sizable chunk of the state. I can show you some mapping on this but my board has been in front of the legislature in the last few weeks to tell them two things.

One is we think that we need more time. So Tier 3, for example, is supposed to go into effect at the end of this calendar year, December 31st, 2026 The road road construction jurisdiction provision is supposed to go into effect July 1 of this year. We recommended to the legislature that they push those dates out. We think that both our board and voters need more time to understand and be able to comment and help shape this new policy.

The reception we got from the Senate Natural Resources Committee was positive. They voted out last Friday for bill S325 which pushes it [Act 181] out further than we even recommended. The bill would delay the implementation of Tier three jurisdiction to 2028 and would delay this road construction provision to 2030. We'll see where that bill goes.

If it passes the House or some version of it does, differences need to be worked out between the House and Senate and then it would need to go to the governor for signature. So, there's a long road to go in terms of that bill and whether we're going to see some change to the effective dates of these expansions of Act 250 jurisdiction. My board and I are hopeful that we will see that. We'll be in front of the House committees that will be discussing to continue to advocate that these extensions make sense from a technical standpoint and a workload standpoint. Voters need more time to get this right.

I'm a mapping person, but I want to make sure that we have some conversation first. And if your commission wants to see a map, I'll pull it right up. So maybe we could take some questions or some thoughts before we start looking at the maps.

Question and Answer segment

MB: Eileen had a question about the opt-in process for municipalities, which I think we addressed.

Melanie asks if Act 250 began as a regulatory process for commercial projects, when did the regulations start applying to private or non-commercial property?

AW: I looked at it for a long time from the outside, but my understanding is that Act 250 jurisdiction over residential development has been around since the start of the law. As I indicated on one of those slides, in the past has been very focused on larger subdivisions, six plus or 10 plus lots and developments with 10 or more housing units.

MB: Stephen asks: What animal migration patterns are being considered and which individuals and organizations are helping to inform this plan?

AW: Vermont Fish and Wildlife works with all the critters and the migration patterns that they're considering with their habitat block mapping, which was in the orange that you saw in some of those slides, that's really based on forest cover and wetlands and riparian areas. They're looking at the full suite of species, both plant and animal, and trying to understand where where the biggest blocks of habitat are and how we keep them connected over time so that as climate changes and and forest patterns change and as development happens, we don't um we don't disconnect those blocks of habitat across the state. In terms of individuals and organizations helping inform this the Vermont Fish and Wildlife is playing a big part. The stakeholder group includes several ecologists who are providing expertise outside of state government.

We are also reaching out to conservation groups and regular economic development entities like the Chamber of Commerce, the realtor's group, ski areas because these questions are not just ecological. This is sort of a mapping exercise, a science exercise, and a policy exercise all wrapped up in one.

MB: There's a comment from Christa who notes that 'we had reached out to Alex with questions about our property and he was incredibly helpful and accessible.'

So just affirming what Alex had mentioned that he is accessible and willing to help out with answering questions.

From Andy Snelling. What is the distinction between road and driveway? Are the length restrictions along the road or are they the distance from an existing road?

AW: This is a great question and this is really the nub of this road construction jurisdiction provision.

First the bureaucratic answer. My board is working on guidance which we hope to publish in April ahead of the road and driveway construction season here in Vermont so that people have a sense of what we think the difference is between a road and a driveway. So stay tuned.

Okay, now the real answer. The statute doesn't define what the difference is between road and driveway. So we're all trying to figure that out.

The distance is really important, right? Because this trigger for an Act 250 permit is for more than 2,000 ft of driveway, which you know, people build driveways that long, but that's a pretty long driveway. And it's more than 800 ft of road. We could argue about whether that's a long road for new development.

It relates to the length and what the trigger is the length of newly constructed road. So, if you have an existing private road and you're putting in a short driveway off of it and you're making some minor improvements to that existing road and then putting in your driveway, that's not what this provision is going to capture. But if you're building a new driveway off that same private road and that new driveway goes 2500 ft into the woods that's what this provision triggers. Similar with roads. So there has been some confusion about whether this applies to town roads or private roads.

This is based on new construction. So I think of it that way. If you have a parcel and you need to build a new road to get into it, that's where this provision kicks in. And I'm dancing around the distinction between a driveway and a road because we're still working on the guidance. I have my own feelings about that.

All I can tell you is that all five board members are really invested in making this as practical and understandable as possible and trying to give Vermonters as much leeway as we can within the statutory construction. As Chris said, a lot of the road construction provision is laid out in statute and my board doesn't have the power to change that, but we can try to adopt guidance and maybe rules at some point to get into the details.

MB: Question from Eileen. What is the material difference between Tier 2 and Tier 3 in terms of the permitting requirements?

AW: Great question. Remember, most of Vermont is going to be Tier 2.

It's just these smaller particular resource areas that'll be Tier 3. In terms of Act 250 permitting it is going to be the level of development that triggers the need for an Act 250 permit in a Tier 2 area. It's going to be whether you meet the traditional Act 250 triggers like more than 10 housing units, more than 10 lots, new subdivided lots, commercial development on a parcel that's over an acre in some towns, over 10 acres in others. In Tier 2 areas, it's the status quo Act 250 jurisdictional triggers and this road construction provision that's new.

And in Tier 3 areas, it will be those triggers and smaller developments. The devil's in the details, right? I would encourage you to look at the draft rule which talks about what types of development would require an Act 250 permit. Know that given the feedback we've received since October, the board is working with the intent to try to make sure that we're not capturing what an average Vermonter would be doing on their property, potentially up to and including construction of an entirely new home. We haven't quite gotten there yet, but our discussions over the last couple months have been pushing in that direction to try to keep the permit requirements Tier 3 areas for larger developments, not small amounts of development.

MB: Could you talk about the effort to eliminate some review criteria in Tier 3?

AW: This came up very early in our stakeholder working group where several of our members including the representative from the Vermont Natural Resources Council was that these Tier 3 areas are different. The reason that we care about them is because they represent very sensitive critical natural resource areas. Act 250 is a comprehensive review that looks at impacts on schools and impacts on transportation and roads in the vicinity. The suggestion was made that maybe we don't need Tier 3 related projects to be reviewed under all 10 act 250 criteria.

Maybe we could just pick the criteria that are relevant to that resource area. Make it easier for the applicant. Make it more relevant to the resource. Well, as it turns out, the way that Act 181 was written, Tier 3 is just a jurisdictional question. The law did not give my board the ability to reduce the number of criteria that are used for review of projects in Tier 3 areas. We went to the legislature and we asked can you give us that authority?

We think that it'll make it easier for land owners and more relevant to the resource that's being impacted. That's another provision that is in the bill S325 that came out of Senate Natural Resources on Friday. It includes language that would give my board the ability to write rules to minimize that uh the number of criteria being reviewed. So, we're hopeful that we'll be able to fine-tune the review that way, but we do need the legislation to pass that bill so that we can have

that authority.

MB: This is a great question. How will Tier 3 and the road rule be implemented and enforced especially in towns without zoning? Will construction contractors be trained and accountable to direct land owners to a district coordinator?

AW: These are all great questions. This is a tough one.

I'll be perfectly honest with you, in some of our districts a very large percentage of permits that we process are after the fact permits from people who didn't realize that they needed an Act 250 permit, or maybe they did know and they just thought that they could get away with it. I would like to believe mostly it's people who are well-meaning and just didn't realize. This is a real issue. And so I think one of the challenges that my board as a new oversight board for the program has is to do better PR and more public outreach and engagement about the Act 250 program, why it matters, why it actually does some good things for Vermont. It's not just bureaucracy.

It's a lot easier in towns that do have their own local zoning administrator that we can talk to and say, "Hey, just advise folks that come in for building permits that they maybe should talk to our district coordinators who serve a similar function and are there to help answer questions." For towns that don't have zoning it's our PR challenge to sort of make that happen. We are not placing the burden for any of this on municipal officials, right? This is a state program. It's the state's responsibility to educate Vermoners about it.

We want to partner with municipalities to help in that regard, but we're not going to put that burden on municipal officials. We should be doing outreach once we get this figured out to contractors around Vermont. We should be doing outreach to the realtor's community. We should be doing outreach directly to Vermoners through PSAs or whatever other mechanisms that we can leverage.

MB: Thanks. The next question is from Suzanne. There's a question about how Tier 3 and the road rule might affect the division of a large family plot of land into multi-generational properties.

AW: There's there are plenty of properties and farms out there where people have been stewarding the land for decades or generations and they're thinking about their kids and they're thinking about their grandkids and how are they going to provide for them, especially with housing prices being as ridiculously high as they are in this state.

I was talking to someone just the other day saying the only way that a lot of younger Vermoners can afford to stay and live here and build a home is if their family's able to give them some land to do it. I'll be honest with you, there's nothing in the Tier 3 rules that carves out an exemption for multi-generational properties or the passing down of land from one family member to another. That's a really difficult thing to do. You won't see that in municipal zoning or subdivision

regulations either, for the most part. I think the best I can say is that if permitting is required in order to create new lots to pass down land to family members there is a process and that it's not a stop sign, right?

It's not a red light that says you can't do it if you happen to trigger the need for an Act 250 permit. It's simply a recognition that there needs to be decent design and that we're going to have a review process that helps make sure that happens. I know that's not a lot of comfort to folks who maybe have a fear of bureaucracy and Act 250 permitting in particular. There are real costs involved in getting such a permit. I hope folks can take some heart in the fact that the vast majority of permits are approved as minor permits that never go to a public hearing and never have any neighbor opposition. Just so you know I'm not just blowing smoke, let me share my screen and show you just a little bit of data from our annual report from this year.

Our program submits an annual report to the legislature each year. It's scintillating reading if you need something to fall asleep by.

Of the permits that were deemed complete in 2025, there were 383 applications that we worked on. There were 12 that actually had a public hearing. Fully 141 of them were administrative amendments because those were a prior permit and somebody needed to make a minor change. Forget about those. Of the ones that weren't just amendments, 224 were dealt with as a minor approval in which an applicant submitted an application, worked with a coordinator, and the coordinator drafted an approval with the help of the commission and just sent it around and said, "This project is getting approved unless somebody speaks up."

It was only 12 of them that actually were big enough or had a request to require a hearing. I don't want to minimize the fact that Act 250 takes time. It costs money. It can create some uncertainty for folks because of the potential for someone to appeal. But in the vast majority of cases, there is no appeal and the approval, you know, happens within a few months and it and it's done.

MB: Annette Smith provided a really helpful explanation of the evolution of the road rule. So if folks are interested I would just encourage you to look at the comment from Annette in the chat box just providing some of that history.

AW: And just to butt in Matt, Annette has been a hugely helpful resource for the Tier 3 working group and the board. She's at almost all of our meetings. She's very diligent and I think it was just today that she sent us clippings from 1975 newspaper clippings where they talked about where the original road rule came from and how it evolved.

MB: from David. He notes that the Tier 3 designation for habitat connectors imposes significant new regulatory requirements on private property that previously had none. If my land on Windham Hill Road is designated as a Tier three connector for the benefit of wildlife movement, why isn't the property tax burden shifted to the public? Is the LURB coordinating with the tax

department to ensure that these restrictions automatically result in a reduction in our land's assessed value? And what is the status of H730 and H805?

AW: Excellent question, David. You're not alone. We've we've I've heard this from folks at most of the meetings that we've held. So your first question is why isn't the property tax burden shifted to the public?

The short version is that the legislature didn't write the law that way. They didn't include that as a provision in the law. My board doesn't have the authority to make that happen. I think that the way town listers and assessors value property is important and it's based on fair market value related to recent comparable sales. There is some question about whether having to get a permit will affect the value of a property. What the sales numbers actually demonstrate over the 3 years after all of this goes into effect.

I don't think there's an easy answer there. I understand the policy point that you're making but I don't think there's an easy answer as to just tell the tax department to just go do that. I will tell you that the tax department is a stakeholder in our Tier 3 working group. They haven't proposed anything along these lines, at least not as of yet.

We are talking to them, but I don't want to fool you. There isn't any real movement along that line at the moment.

Honestly, I don't know the status of H730 and H 805. I'd have to look those up and get back to you.

MB: The next question is from Bill. Why are some habitat connectors 800 ft wide and others are 2,000 ft wide? What's the starting point for measuring either 800 or 2,000 ft?

AW: I think what everybody should know based on the board's discussion since October when we released the first draft is that it's very likely we're not going to use the 800 ft. We're probably looking at the 2,000 ft.

When we talk about critical wildlife habitat a lot of folks were saying, "Hey, your habitat connectors seem to be focused on road segments. What about all that wildlife habitat that's not near a road? Like how come that's not indicated as a Tier 3 area?"

And our answer was yes, all of that interior forest habitat's pretty important or at least some of it is. But Tier 3 doesn't need to be concerned with that because of what the road construction jurisdiction is designed to do. It's designed to say if you're punching a road that far into the woods, you're going to be in Act 250 review and we'll have review criteria that will help make sure that it's not completely fragmenting that interior forest. So that was why we did not look at the interior forest areas. We felt they were covered through this other jurisdictional provision.

That's why we focused on the gaps between those areas and where the blocks were divided by roads. Now the starting point for measuring that distance is essentially at the road moving out. And right now that draft mapping that you see is clumsy. Uh it's literally just a circular buffer around these road segments. And so it ends up including areas that it shouldn't.

Part of the refinement that I'm working on, which is why it's taking so damn long, is that I have to look at each road segment and sort of snip it down to where it makes most sense and to eliminate some of that overlap. The other thing we're doing, which you'll see in the mapping, if you go to our website and look at the map viewer, is we're trying to poke holes in that area wherever there's existing development. so that areas around houses, even if they're within one of these Tier 3 habitat connectors, are excluded from the Tier 3 mapping. That's some of the mapping complications that we're working on. Hopefully you're going to see a cleaner version of it at the end of April when I finally get my act together and we get the next draft out the door.

MB:Next question from Pete Silverberg. How are projects that are currently underway affected by Act 181 and LURB rules?

AW: That's a good question. We're not looking backwards.

As the Tier 3 rules become effective we're talking about new development, new construction within those areas. It's a little harder with the road construction jurisdiction. It's one of the things the board is grappling with. It's particularly inconvenient that the legislature chose to have that provision go into effect on July 1 of this year right in the middle of the road building season. We made that very clear to the Senate committee that that doesn't work.

We can't have halfbuilt roads that might trigger the provision or might not or maybe half the road does. I'm hopeful that whatever happens that'll get changed to a mid-winter date. We're talking about guidance where if the road is substantially complete and you can drive on it in a normal vehicle that doesn't constitute new road construction after whatever the effective date is. If you're in act 250, you're already in act 250.

MB: The next question is from Jordan. If someone has an existing driveway that's 800 ft in length or longer possibly, and they're building an additional home on their property, but they're not extending the driveway, no new driveway being built, would they need an act 250 permit?

AW: Simple answer. No.

MB: The next question is from Bill. Can you estimate how long it will take and how expensive it will be for someone who wants to build a new house for a family member within a Tier 3 area to get an Act 250 permit.

AW: I'll give you the as simple answer as I can give first and then I'll qualify it a bit.

I think that in most Tier 3 areas for the construction of just a single new home, which typically wouldn't trigger an Act 250 permit, I think that those are likely going to be minor Act 250 permits. Those are the types that get issued in a few months. The cost of the permit can run. It depends on the construction costs of the home and there's a formula for that, but there's been some numbers bantered about.

I'm trying to get some real examples so I can give folks a better idea, but you could be in the \$1,000 range for just the permit cost. Then it depends. An easy permit that doesn't have any issues, that's not sitting perched on a steep slope where there's potential storm water runoff or erosion problems or isn't sitting in the middle of a deer wintering area that is protected as a part of the Act 250 review process. A project that doesn't have those issues with it your cost is going to be that permit fee and that alone. It's when your where you want to build has an issue with some of the review criteria under Act 250 that you then need to hire a professional like an engineer to help you demonstrate how you're going to do it properly.

That's when those costs can be inflated based on the cost of hiring an engineer so I don't really have a good number for you for a typical example. It's something I'm working on. I've been working with one of our district coordinators to get examples of small projects that triggered Act 250 in the past, maybe because it had prior jurisdiction for some reason. My hope is to get you some real examples of what it cost for a project that didn't have to do much versus a project that got stuck in the mud and had to pay more for engineering costs and the like.

MB: The next question is from Kevin. He asks how can a property owner determine which critical resources apply to a particular site included on the Tier 3 map? Where is the information located to submit corrections or clarifying information? Why aren't directly impacted property owners not directly notified and consulted as stakeholders?

AW: A property owner can determine which critical resources apply to a particular site on the Tier 3 mapping through the map itself. So right now, if you look at the Tier 3 maps, it identifies the different components of Tier 3, the significant natural communities of rare types, the headwater stream areas up on the steep slopes, habitat connectors. So the maps will contain that information so that when this all comes into effect, however long that takes, the final maps will have that level of detail so that you as a property owner will be able to say, "Okay, I want to build here. They say it's Tier 3 and oh, I see that it's a habitat connector." The rules and our supporting information will tell you exactly how we map that and what what the steps were that went into that so that if a landowner is like, I think you're wrong and I see in your five-step process where you screwed up on my property, you'll be able to point to that and come to our district coordinator coordinator and say, "The map's wrong on my property and here's why." You'll be able to get redress without having to go in front of my board and get a whole rule change.

The question is a really good one. Why aren't directly impacted property owners not directly notified and consulted as stakeholders? My hope is that we will do that. Honestly, I did not want

to do that with the first draft of the mapping because it was so rough and I wanted to bring it out across the state and say, "This is what we're thinking. What do you think?" And the response was substantial.

I think you'll find that when we release the next version of the map, especially with regard to these habitat connectors along roads, it's going to be significantly more refined, smaller, and less of an impact. It's at that step, this next draft, where I would like to notify land owners who have these Tier 3 areas. The question is one of logistics and cost. The best case scenario is that we send a letter to all those folks and they get something in their mailbox. I don't know yet whether that means we need to send a letter to 20,000 land owners or 2500 land owners.

One is probably doable, the other may not be from a just snail mail perspective. So if we can't, the way to do it is with every other mechanism I can get my paws on, right? It's these meetings, it's Front Porch Forum, it's working with your municipality to help them sort of get the word out through their town newsletters, local media, etc.

MB: And just a follow-up question for you, Alex, related to the last question. Correct me if I'm wrong, but I think the Senate bill has some funding allocated in that for the Land Use Review Board to do some of this outreach because understandably there's cost associated with that and you don't necessarily have the funding to do that outreach currently.

AW: We do have some funding. I don't want to make it sound like we have no resources. The question was asked directly to us by the senators and they said, "Do you need more resources?" And I said, "Well, of course we do, especially if we want to do mailings to, you know, a large swath of the state." So they did include some real dollars in the bill, but I want to put all of you on notice that in the years I've been watching the legislature, which has been quite a while, well-intentioned money in bills that drive policy frequently get stripped out of those bills when they hit the the the financial committees and the appropriation committees in the legislature because we just don't have enough money to do everything that Vermont wants to do. So, I'm not counting on that extra money, but boy, it would be great if we got it.

MB: Well Alex, I'll just note this is one of those things where just don't talk to Alex about it. Call your legislator about it if you want the money to be included in that bill, right? There's not much that Alex can do about that, but that's something that you as voters can do to appeal to your legislators.

So the next question is from Melissa. In carrying out the road rule will towns be required to ask about driveway length and let applicants know of the need to get an Act 250 permit? Should towns be waiting to issue an access permit until after an Act 250 permit is obtained?

AW: No, towns will not be required to ask about driveway length and let applicants know of the need for an Act 250 permit on that basis. I believe existing law and procedure requires that when towns issue zoning permits and other municipal land use decisions they advise that state

permits might be necessary and include some boilerplate language in those decisions or permits. It's not going to be required that it be specific to Act 250 or related to driveway lengths.

For projects that do require a permit based on these road construction jurisdiction pieces I don't think towns should be waiting to issue access permits. I don't want to speak for the board. We haven't talked about that so I'm just speaking as one board member as myself on this. But municipal permitting and state permitting are two different animals.

And I don't think that towns should feel like they're like they're waiting or that they're held hostage when these Act 250 provisions go into effect. I think they're two separate things.

MB: There was a question about sharing the LURB's website. I did post a link for the LURB's main website and then also a link for a separate page just on Tier 3 and the rulemaking process.

I posted that link and a link directly to the draft Tier 3 mapping page. Google Vermont Land Use Review Board. The current draft is available on Vermont GIS website.

MB: The next question from Melanie. When the map gets revised at the end of April, will a new link be provided or will the current map change? Will there be an announcement that the map has been revised?

AW: Yes, there will be an announcement. Just so all of you know, I am collecting email addresses from interested voters.

I've got about 400 people on the list so far and I'm trying to send monthly updates to anyone who's interested in this stuff so that you get a feel for how things are going. That's one vehicle by which we'll be announcing that the new maps are here and the new draft of the rules. So, definitely reach out to me if you'd like to be included on that list but yes, we'll splash it across our website. There will be a much more intensive public outreach effort in May and June to try to get this information out.

As to the first question, I haven't quite decided yet, but I think my intent is that the map link will stay the same and the map will simply change. I have to talk to our mapping experts as I want to have both the first version and the second version available to sort of turn on and off so you can see how it changed, right? Otherwise, it's going to be kind of hard to figure out what happened in the second draft. So, that's my hope.

We haven't put it all together yet. So, patience, please.

MB: The next question is from Christa. You said that Act 250 isn't a stop sign. What would be things on a private property that would be a stop sign? Deer wintering, something else?

AW: Hey, that's a great question, Christa. As I said, Act 250 review is based on those 10 criteria.

They're all important but not all of them can become a stop sign. Some of them are if there's an issue that crops up the district commission can't deny the project based on that issue. They can only attach some conditions to address that. So what are things that could be a complete stop sign?

Honestly, I think I need to get back to you on that one. I want to give you an accurate answer about which of the criteria could function as a stop sign and what some typical examples are of that. Most permits get approved. So, whatever those issues are, they tend to get worked out. Um, but let me make a note of that.

Christa, and you know how to reach me because we've talked. I can try to get you a better answer on that one.

CC: And Alex, I would just offer to the extent there are any stop signs. I find in Vermont there are actually remarkably few. It is probably one of those other ancillary permits, not an Act 250 permit, but you know, a stream alteration permit or something like that.

You know, if you want to build a house on the edge of a stream, there might be a hard stop on that one or something.

AW: I suppose that's true. That's the easy easy answer Chris. So, I appreciate it, but I want to take it to the next level of like what within Act 250 would be that stop sign. It's absolutely true that if you want to build a house on your property and your septic engineer says, "I can't find any perkable soils." Like, "I can't design a system in this location.

There just aren't the right soils." That's a stop sign. You'll probably get that stop sign before you ever submit an Act 250 permit. But if you did submit an Act 250 permit and you didn't have a viable septic design, you would not get an approval. Those are the easy ones. The harder ones are like, okay, so I want to build in a deer wintering area.

Is that really going to end my project? Or some other criteria that might come into play. So, let me get back to you on that one.

MB: Next question is from Jessica. What part of the state budget receives and spends the permitting fees or are the fees redistributed to the corresponding town?

AW: Act 250 permitting fees go into a special bucket that helps pay for the Act 250 program. A good chunk of the Act 250 program is funded by general funds and then a smaller portion of it comes from the fees that are collected. They don't get redistributed to towns. They get used to help pay for the program itself, the staff that help run the program and legal notices and all those fun things.

MB: The next question is from Christian. Alex mentioned that the goal of Tier 3 is to encourage

good design that's environmentally conscious, which is which sounds good and reasonable. Is the permit cost intended to cover the expert analysis required to review project plans rather than a pay-to-play fee? Is that the intention of the fee calculation formula?

AW: That's a good question. It's sort of a different wrinkle from the normal question I've been getting about whether this whole endeavor is going to turn into a pay to play where just the wealthy get to get their permits and everybody else is stuck, which we should talk about, but that's not what this question was. The permit cost is not really intended to cover expert analysis, but it is a function of the construction costs and so it is designed to be higher for bigger projects which might entail the need for more intensive review but not really I guess is the answer. The expert analysis that happens is generally something that an applicant does have to pay for.

So there is that sort of pay-to-play sort of piece in it. I'll just keep picking on deer wintering areas because it's easy and I used to be a wildlife guy. If the project proposes to impact an area that Vermont Fish and Wildlife has mapped as a deer wintering area, and the applicant's like, "You're wrong." It's not a deer wintering area. I think I can show you that. Oftentimes they will hire a wildlife professional to go and evaluate the site and render a professional opinion.

That costs money and the application fees do not pay for that. That's an additional cost borne by the applicant to have that done and to have that submitted. It really does depend on the nature of the project and what issues arise based on how it's designed.

MB: The next question from Christa. What would the consequences be for a private homeowner who builds without getting a permit?

AW: As I mentioned earlier, which was somewhat of a surprise to me when I joined the program, a healthy percentage of permits are after the fact. What happens is the district coordinator or our enforcement team becomes aware of the issue.

Oftentimes it's the neighbor that says, "Hey, something happened here. I don't understand how they got a permit?" Sometimes it's a town municipal official who says, "Hey, this happened and we don't think they got the right permits." What happens is pretty straightforward. Our team reaches out to the land owner and says, "Hey, it looks like you did a project, it might have needed a permit. Let's talk. Let's figure out whether you actually did need one or not." Then the district coordinator works with the land owner to get an after-the-fact application submitted and get it approved.

The consequence is that it's hard to undo things that you've already built. I'm going to use deer wintering areas again. If for example, as a part of your project, you cleared a whole bunch of spruce fur forest that happens to be an important deer wintering area because you wanted a bigger yard or you wanted a nice view. Your house isn't going to be going to have to move, but you may have to pay to replant some level of landscaping for that area. You may not, but you may have to.

That's an example of a consequence. I guess the other consequence is that there can be a penalty fee that's required for not getting the permit. Our enforcement team has some discretion there and it very much revolves around the nature of the impact, how much of a particular resource that Act 250 was designed to protect is actually impacted and whether the work without the permit was intentional and was flaunting what was what was required or what was already known to be required. So, sorry, not a crystal clear specific answer, but it really is fact dependent on the case, but that's sort of the protocol.

MB: Kind of a follow-up question from Kevin. I still am not clear about how to currently determine what resources were and are being considered for the Tier 3 designation on a subject property and how to address those with the LURB. No town or property ownership should be put on hold while maps are drawn from behind the scenes.

AW: I understand better now. Kevin, your question wasn't so much about what's your recourse once these maps are in effect, but your question was how do I influence the process now while they're being created. I'm happy to talk to you about the three resource areas that are currently in the draft Tier 3 areas, the significant natural communities, the headwater stream areas, and the habitat connectors. I'm happy to give you the blowby-blow on how we've mapped those areas so you can understand and question. Reach out to me offline.

I'm happy to provide that level of detail. Anyone is welcome to address their concerns with that mapping right now. You can do that by contacting me and having a conversation. You can do that by coming to one of our weekly board meetings.

We meet generally every Monday afternoon. They're public meetings. They're hybrid. So you can participate from the comfort of your home. Or you can come in person.

Like most boards, public boards, we have a section at the beginning of every meeting where we allow comments on non-agenda items where it's like, "Hey, you're not talking about this today, but I want you to hear this," and you're welcome to come. If we're talking about it as an agenda item, there's space within that discussion for public comment as well. I hear what you're saying about being put on hold while maps are being worked on. Frankly I feel bad that it's taken me as long as it has taken me to get from October to the end of April to have just one more iteration of the map. So sorry about that and we're doing the best we can to get another version up that people can look at and then comment on.

MB: There's a question from Suzanne who was wondering if we could have Selectboard members who are participating in the call raise their hands and then planning commission members to raise their hands. But maybe we could do that as kind of a final thing.

There was a question about Alex's contact information. I'm going to put that in the chat here.

AW: And as Matt said, you know, in this modern age nobody remembers websites addresses, right? So, don't worry about that. Just go to your search, your internet browser, whatever it is. and just type in Act 250 Vermont and it's going to take you to one of our pages.

And once you're there click on the icon for Act 250 in the upper left. It'll take you to the homepage. And we have a 'contact us' page that's available there. It's got all of our contact information, mine included.

CC: Matt, one towards the end was from Michael. He noticed several properties that are not correct within the GIS mapping. Wondering if they will be updated to reflect town property mapping.

AW: It's a good question. The state sort of combines parcel mapping, property line mapping from all municipalities across the state. And they've created a statewide parcel map, which is really cool. As you can imagine, it is only as good as the data coming into it from the towns.

So if the problem with the mapping you're seeing has to do with a property line it's probably an issue with your town tax mapping. It may be a vintage issue between the last version you have and the last version that was sent to the state. There are plenty of other ways that the mapping can contain errors. Reach out to me if you see something specific and you want to know more about that. I'm pretty savvy on geographic information systems and mapping.

I can usually answer those kinds of questions. And if I can't I can point you in the direction of the people who created the data.

MB: There were also a couple of comments, not questions. Both Neil Ryan and Jessica Mosley posted comments about equity issues and the costs involved in this expansion of Act 250 and what Vermonters are going to be required to do to get a permit.

AW: I just want to echo that that it is an issue and it is one that has come up in our working group meetings from the start. People have the impression that Act 250 requires a lot of money and takes a lot of time.

People are worried that this is going to become a state where you have to get a permit and the only people that can afford to do that are the super wealthy. What I want to tell you about that is we hear we hear you. We don't have easy answers. Neil knows that. Neil and I have been talking.

I will tell you that the mapping that you're seeing, which is trying to be as scientifically based, as ecologically relevant as possible, is trying to be balanced by the rules themselves. The exemptions that we're building into those rules to try to make sure that small projects that an average Vermonter would do would be exempt particularly in these Tier 3 areas. Can we exempt everything that an average Vermonter would want to do? No. But can we exempt large

portions?

I think we can. I would just encourage folks to look at and critique the mapping, but also look at the draft rules and be really ready to speak up and say, "Hey, this doesn't look like I can build a home in a Tier 3 area without and without getting an Act 250 permit. Tell me whether you think you should." And if you have an idea of what that critical footprint ought to be, tell me what you think that is. I've heard from some folks it should be a half an acre. Any Vermoner should be able to do a half an acre's worth of impact within a Tier 3 area without getting a permit.

That's what I recommended to the board. We're still trying to see if that passes muster with them. I had other people say two acres. Two acres is like a typical home site and if you're in the use value appraisal program, you have to take out two acres around a house site, right?

So why not sync it up with that? That's an idea. We're trying to do balance and the balance happens both in the mapping and the rules. Take a look at both.

MB: We covered a lot tonight and Alex, I appreciate all of your responses to the questions we got. There is a follow-up question about the select board members and planning commission members wanting to identify themselves. We'll go with Selectboard members first if you're able to use the raise hand on Zoom. We'll do Planning Commission members next.

So, it looks like we got a few select board members. Looks like we have three planning commission members. I know we had quite a few folks earlier in the evening, too that have signed off.

We appreciate your attendance and as I mentioned we are recording this meeting so we'll post that on our website. We do have information on our website about our regional plan update process and links to the Land Use Review Board's website. As you get questions in your community about Tier 3 and the Road Rule please direct community members to the Land Use Review Board's website.

CC: Hey and I just want to thank Alex and thanks Matt for organizing this and thank everybody for participating and really appreciate your civility.

I mean, I know those are challenging issues and one of the things I really I've really loved about being here-I've worked in other jurisdictions where things are not nearly as civil as what they are in Vermont. I want to express my appreciation for having a good conversation about this.

AW: Thanks everybody for being here. I'm happy to come back in May or June when we have the next version of the maps and the rules and we can do this all over again and talk about what changed and where things are going.

I'm hopeful that by May we'll know what the legislature is doing with regard to potentially

extending the effective dates of this which could make a big difference in terms of having the bandwidth to think it through. To all you great select board members and planning commissioners, help us spread the word to your communities about all this stuff and send them our way. I worked in municipal government, like I said, for 22 years. So, I have a lot of respect for all of you citizens and board members. And I, too, served on a Selectboard for three years in Westford when I used to live there.