

TO: Burke Planning Commission
FROM: NVDA and Smart Growth Vermont
RE: Implementation of Performance Standards

Below are a few issues for you to consider when reviewing the proposed bylaw revisions.

1. Site Standards and Activity Standards

There are two categories of performance standards – site standards and activity standards. Site standards regulate the appearance of a new development in order to ensure that the development is compatible with the community character. Screening, landscaping, building bulk are examples of site standards. Activity standards regulate the outputs of an industry in order to limit the potentially noxious effects an industrial use may have on neighboring property owners, such as smoke, heat, noise, and release of hazardous substances. These standards are a blend of both.

2. Specificity

Activity standards pose a critical challenge to rural communities. The standards may be written very precisely, giving measurement and formulas, or they may be deliberately vague, preferring to place the burden of enforcement on existing state and federal regulations. Given the size and administrative resources of Burke, we've attempted to develop activity standards that inhabit the space in between these two ends of the spectrum. In other words, too specific may be too technically difficult to administer, while too vague may be lead to what the Vermont Supreme Court has deemed to be "standardless discretion."

3. Global Standards vs. Use Specific

Performance standards can be written to eliminate the need for traditional separation of uses, use lists, and land use definitions. Many communities, however, supplement their traditional separate of use zoning with performance standards that address specific development pressures in the community. The sample performance standards that were presented to us by the Burke Planning Commission followed the latter approach. Moreover, the content of those standards appeared to pertain exclusively to industrial uses, rather than residential uses. There are excellent examples of performance standards pertaining to residential development: density, percentages of open space, quantitative measures for the quality of the open space, etc. We strongly recommend that the Burke Planning Commission consider these performance standards to be specific to industrial development, not as global development standards. We can revisit the concept of performance standards in Tasks 2 and 3 (overlay districts for natural resource protection and siting and clustering residential lots).

4. Noise

Noise is probably one of the easiest standards to manage, because a hand-held decibel reader can be purchased for about \$500. We felt, however, that your proposed decibel levels were too high for a rural community. We've provided you with another comparison chart which provides greater detail. One important caveat: Comparison charts can be misleading because they fail to convey the sustained effect of a noise. Also, because intensity is measured in decibels using a logarithmic scale, a sound of 60 db will be ten times higher than that of 50 db. In purely unscientific terms, the late night raucous party on your street that probably registers "only"

somewhere between 50 and 60 db is still likely to leave you and your neighbors irate and bring out the state police.

5. Trip Generation

The Institute of Transportation Engineers regularly compiles and publishes self-reported results of thousands of trip generation studies nationwide. Because this is a national compilation, actual trip generation numbers may be a little higher than Vermont averages. This source, however, can be very helpful when evaluating proposed industrial uses. www.ite.org.

6. Maximum Sizes

We felt that traditional square foot maximums of Class II and Class III Industrial uses were not particularly helpful in identifying uses that may be too intense for a rural community. We therefore went with Floor Area Ratio and limitation of impervious surface coverages. While this may sound daunting to administer, Class II and III will almost positively require some state regulation and the assistance of a civil engineer. A civil engineer should be able to calculate these dimensions.

In sum, here are some of the potential advantages and disadvantages of implementing performance standards for siting industrial uses in your community.

Advantages:

- Allows for increased community input and active participation of citizens
- Provides some flexibility to accommodate rapidly developing industries and/or technical advances.
- Less frequent need to revise zoning bylaws to “adjust” use lists.
- May allow for the creation of new developments that adhere to community character while benefiting the community economically.

Disadvantages:

- Effective enforcement of these standards may pose a greater administrative burden on the town.
- Purchase of some equipment might be required, such as a decibel reader.