

Planning Lunches at Noon (PLAN) Monthly Webinar Services

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The webinar will begin shortly. Please mute and turn off camera.

Check out our Planning and Zoning Training website page for:

- Slides and recording of all completed webinars in the PLAN series
- Schedule for upcoming webinars
- A short, anonymous online survey to gather feedback and topics for future webinars

www.nh.gov/osi/planning/planning-training.htm

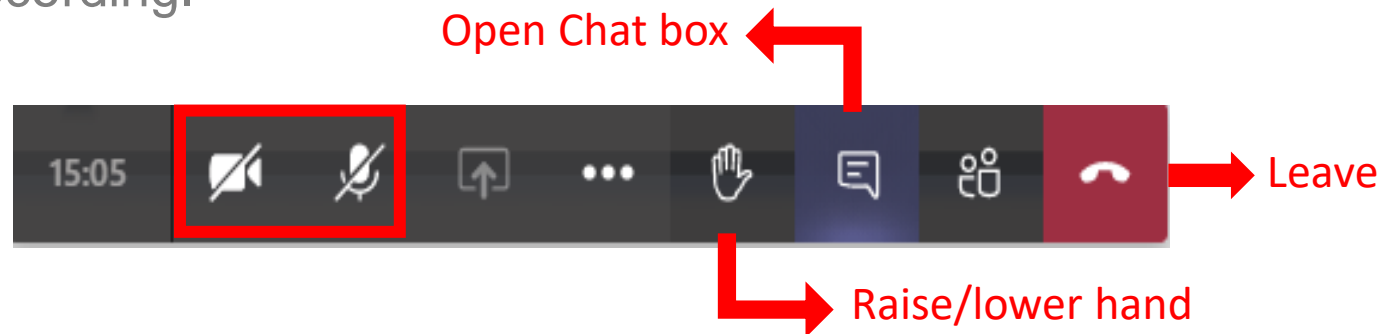
Webinar Logistics

Presentation then Question and Answer session

- ▶ Type questions into Chat box

Please be sure to **turn off** your camera and your microphone now.

- ▶ We will be **recording** the presentation portion of this webinar. Any camera videos that are on during this portion may become part of the recording.



DEVELOPMENTS OF REGIONAL IMPACT

BEST PRACTICES FOR BOARD MEMBERS

March 17, 2022

NH Office of Planning and Development

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Kaela Tavares, Principal Planner, North Country Council

Agenda

- Introductions and overview of RSA 36:54-58 Development of Regional Impact (DRI)- Stephanie
- Overview and amendments to the DRI RSA - Susan
- DRI determination and procedural process for land use boards- Susan
- Case studies and results- Susan
- DRI Guidance Document, determining thresholds for DRIs, how a board determines when you have a DRI- Kaela
- Moderated Panel Discussion with guest James Burdin from Strafford RPC, and Q&A
- Closing -Overview of DRI process and Best Practices/ ideas for boards to utilize

Chapter 36 Regional Planning Commissions

Chapter 36 Regional Planning Commissions

Section 36:45 Purposes.

“...whose duty it shall be to prepare a coordinated plan for the development of a region, taking into account present and future needs with a view toward encouraging the most appropriate use of land...”

According to the statute, the RPC's coordinated plans are for “the facilitation of transportation and communication, proper and economic location of public utilities and services, the development of adequate recreational areas, the promotion of good civic design, and the wise and efficient expenditure of public funds.” All with the goal of the “plan shall be made in order to promote the health, safety, morals, and general welfare of the region and its inhabitants.”

Coordinated plans include developing regional transportation plans, housing needs assessments, economic development plans, etc.

CH 36 RPCs cont'd

Development of Regional Impact

- January 1992, Legislature enacts “RSA 36:54-58 Review of Developments of Regional Impact (DRI)”
- Section 36:54 Purpose.

I. Provide timely notice to potentially affected municipalities concerning proposed developments which are likely to have impacts beyond the boundaries of a single municipality.

II. Provide opportunities for the regional planning commission and the potentially affected municipalities to furnish timely input to the municipality having jurisdiction.

III. Encourage the municipality having jurisdiction to consider the interests of other potentially affected municipalities.

What is a DRI?

RSA 36:55 – Definition

Any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality because of factors such as, but not limited to ...

What is a DRI?

Six + factors

- Relative size or # of dwelling compared w/existing stock
- Proximity to borders of a neighboring community
- Transportation networks
- Anticipated emissions – light, noise, smoke, odors, particles
- Proximity to aquifers or surface waters which transcend municipal boundaries
- Shared facilities such as schools and solid waste disposal facilities

Who determines DRI status?

RSA 36:56 Review Required

“A local land use board, as defined in RSA 672:7...”

RSA 672:7 Local Land Use Board

PB, ZBA, HDC, Building Inspector, Building Code Board of Appeals

“...or other board or commission authorized under RSA 673 established by a local legislative body...”

Heritage, Ag, Housing

Note – Conservation Commission is not on authorized under RSA 673; it is authorized under RSA 36-A

When Should Determination Be Made?

RSA 36:56 Review Required

“...upon receipt of an application...”

“...shall review it promptly...”

“...determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact”

“Doubt ... shall be resolved ...” in favor of DRI status

Practice Pointer

Add DRI review to the board's checklist for processing applications and/or Rules of Procedure.

This review should be among the first items taken up by the board.

Procedure for DRI Notification

RSA 36:57 Procedure

Notify RPC and “affected municipalities”

DRI determination should include board discussion of which municipalities may be affected

Provide notice not more than 5 business days after decision by certified mail

Include minutes of meeting at which the DRI determination is made

What is the Significance of DRI Determination?

RSA 36:57 Procedure

Gives RPC and “affected municipalities “status of abutters”

Significance = Notice and an Opportunity to be Heard

Purpose

- Timely notice

- Opportunity for timely input

- Consideration of interests of other municipalities

Statutory Amendments

RSA36:57 Procedure

Development plans 2003

Board shall submit initial set of plans to the RPC, paid for by the applicant

144 hours/5 business days 2005/2009

Board shall furnish RPC and affected municipalities with meeting minutes and development plans

Was originally within 72 hours after DRI decision

Statutory Amendments

RSA36:57 Procedure

Building inspector 2008

Building permit application – use or structure has potential for regional impact

When DRI determination has not previously been made by another land use board

Notify governing body, RPC, affected municipalities

Given 30 days to submit comment prior to issuance of building permit

Statutory Amendments

RSA 36:56 Review Required

Guidelines - 2009

RPCs may develop DRI guidelines to assist local land use boards in their determinations

Post and advertise notice of the intent to develop guidelines

Allow for public participation

Guidelines adopted by RPC Commissioners

Case Study #1

Gas Station/Convenience Store/Apartments

5-6 mi W of Maine border, near southern end of Ossipee Lake

Ossipee River provides drinking water for Maine municipalities

Site is at intersection of state highway and town road

300 feet from town line

Most of length of town road is in neighboring municipality

Above Ossipee Aquifer – NH's largest stratified-drift aquifer

CASE STUDY #1

Gas Station/Convenience Store/Apartments

Gas station/Convenience store and other commercial uses pre-dated town zoning

2011 Groundwater Protection Ordinance – prohibited gas stations in overlay zone

2015 – UST and gas pumps removed, continued operating as convenience store, sub & pizza shop/2 apartments, laundromat in 3 buildings

2019 – all commercial operations ceased

2021 – new owner proposed gas station/convenience store/2 apartments, convert laundromat to 3rd apartment

CASE STUDY #1

Gas Station/Convenience Store/Apartments

ZBA granted Variance to permit gas station in Groundwater Protection zone

ZBA decided improved UST construction, with double lining and leak sensors, qualified for a variance

On appeal to superior court

Brought by residential abutters, lake association, watershed conservation organization

CASE STUDY #1

Gas Station/Convenience Store/Apartments

ZBA discussed DRI after issue was raised by zoning enforcement officer

ZBA decided against DRI determination

Unlikely to affect the ZBA decision

Size of the project not likely to rise to level of regional impact

CASE STUDY #1

Gas Station/Convenience Store/Apartments

2022 – Planning Board Site Plan application

Residential abutters, lake association, watershed conservation organization filled PB meetings w/requests for DRI determination

PB voted for DRI status following completeness determination

Notified RPC and affected municipalities

Site plan review underway

CASE STUDY #1

Gas Station/Convenience Store/Apartments

Did ZBA decision against DRI status carry over to PB?

Was DRI vote necessary when media coverage has been extensive?

Does the fact that neighboring municipalities haven't requested DRI status relieve PB from review for DRI determination?

Do Maine municipalities have a better status for notice and opportunity for input?

CASE STUDY # 2

60-unit condominium development

Development site is across the road from town line

Town has 4,500 population; neighboring town is 1,050

Nearest emergency services, post office, church, restaurants, shopping, town beach and boat launch are in the smaller town

Issues involve financial impact on smaller town's municipal services; traffic and pedestrian safety; environmental and stormwater runoff

CASE STUDY # 2

60-unit condominium development

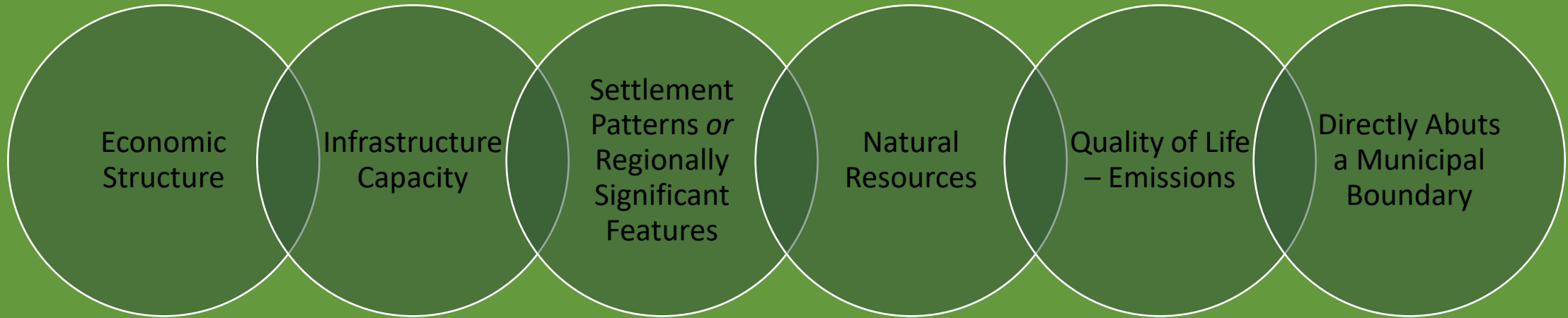
ZBA and PB approvals required

DRI status recommended by larger town's professional planning staff

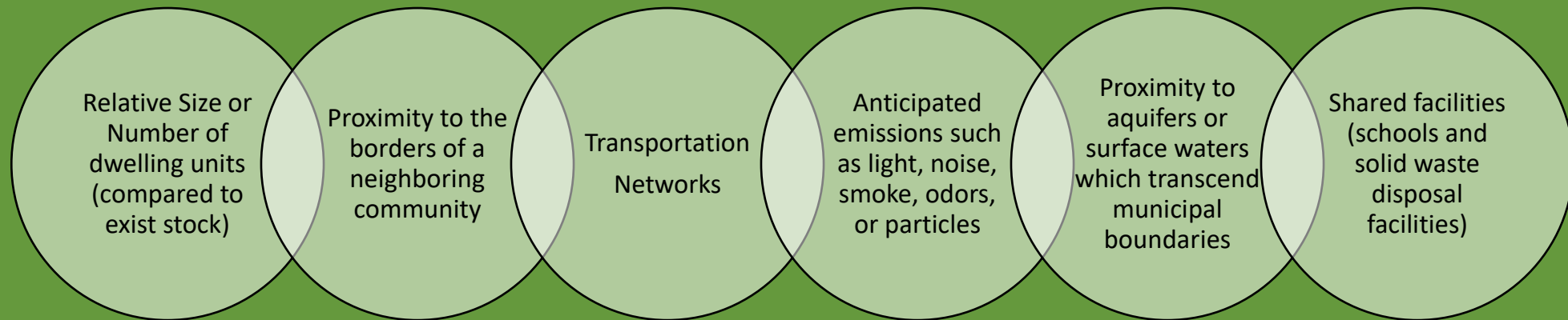
Representatives of smaller town participating in public hearings

NCC Guidelines

to assist land use boards in determining if a project is a DRI



DRI Statute (36:55 definition)



Within each of the 6 areas of interest the guidelines recommend our communities ask:

Might the proposed development affect the economic structure of neighboring municipalities by:

Economic Structure:

- Costs of energy (or other utility) service
- Adversely effect availability of affordable housing
- Increase the need for housing such that it impacts affordability
- Construct 50 or more dwelling units where the development within 1,000ft of a boundary
- Construct non-residential development exceeding 50,000sqft within 1,000ft of a boundary
- Or non-residential construction greater than 100,000sqft?

Infrastructure Capacity:

- Create access through a neighboring town
- Substantially affect traffic-carrying capacity or regional transportation networks
- Create a new road or access between towns
- Generate 100 + vehicle trips/day into another town
- Requiring new or significant additional utility service not already available
- Produce excess solid waste or require significant increases in capacity of facilities
- Impact student populations that impact capacity in neighboring towns
- Require capital outlay beyond town borders for additional utility transmission lines or other public services
- Or generate demand for emergency response personnel?

Settlement Patterns or Regionally Significant Features:

- Requiring alteration, degradation, or destruction of designated regionally significant historic, cultural, natural or scenic features
- Being located in geographic areas that have not supported that size and type of proposed development in the past
- Or being incompatible with the architectural or design features of nearby existing structures?

Might the proposed development affect the economic structure of neighboring municipalities by:

Natural Resources:

- Produce excessive pollutants or degrade air or water quality/quantity beyond boundaries or in watershed
- Require large water withdrawal within 1,000ft of a town boundary
- Storage or use of significant supplies of chemicals or pollutants large supplies of 1,000ft of an aquifer or surface waters that cross boundaries
- Alter, degrade, or destroy habitat and natural municipalities of plants and animals identified as worthy of protection
- Substantially reduce the area or productive capacity of regionally significant forested and agricultural lands
- Development in flood hazard areas in such a way to negatively impact downstream properties outside town

Quality of Life - Emissions:

- Produce or have anticipated emissions such as light, noise, smoke, odors, or particles that may impact a neighboring municipality
- Produce or have anticipated visual impacts such as, but not limited to cell towers and wind farms, that may impact another municipality?

Directly Abuts a Municipal Boundary

BEA

New Hampshire Department of
BUSINESS AND
ECONOMIC AFFAIRS

North Country Examples:

Cell tower adjacent to Franconia Notch Parkway

About the example:

- Adjacent to scenic byway
 - Adjacent to abutting natural resource area
 - Visibility from prominent natural viewshed
- NCC attended hearing and provided written comments (*context of guidelines*)
 - Methods/sites to assess visual impact (balloon tests)
 - Quality and maintenance of buffer from scenic byway
 - Exchange regarding broadband and service expansions

2 – Lot Commercial Subdivision

About the example:

- Existing commercial area
 - Centrally located in municipality
 - No development proposed at present
- NCC did not attend hearing and provided written acknowledgement
 - Future comments may be provided when development is proposed

Panel Discussion

1. Application needs approvals from the ZBA & Planning Board, should both boards declare a DRI?
2. Which comes first, declaration of DRI or accept the application as complete?
3. Should neighboring communities wait to be notified by the subject municipality?
4. What is the role of the RPC in the DRI determination process?
5. What is the difference between the notification process for RSA 12K and for a DRI?
6. What is the difference between notification for a DRI & RSA 674:53 Land Affected by Municipal Boundaries?

Questions and Answer Section

- If you would like to ask a question, please either raise your hand and unmute yourself or type your question in the Chat box. If on the phone, lines have been unmuted



Additional Resources

Lakes Region Planning Commission

[Lakes Region Planning Commission \(lakesrpc.org\)](https://lakesrpc.org)

North Country Council

[North Country Council – Regional Planning Commission and Economic Development District \(nccouncil.org\)](https://nccouncil.org)

Rockingham Regional Planning Commission

- [Rockingham Planning Commission :: Regional Impact Developments \(therpc.org\)](https://therpc.org)

[Southern NH Regional Planning Commission](#)

- [Developments of Regional Impact | SNHPC](#)

[Strafford Regional Planning Commission](#)

- [Regional Impact Committee – Strafford Regional Planning Commission](#)

Additional Resources cont'd & Best Practices

Upper Valley Lake Sunapee Regional Planning Commission

- [Upper Valley Lake Sunapee Regional Planning Commission \(uvlsrpc.org\)](http://uvlsrpc.org)

NH Office of Planning and Development

- [developments-regional-impact.pdf \(nh.gov\)](http://developments-regional-impact.pdf)

Best Practices

1. Be a good neighbor- be considerate, be cooperative, avoid confrontation
2. Be proactive and aware of surrounding communities' meeting agendas and public hearing notices
3. When in doubt-declare! (RSA 36:56.I) **“Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.”**

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THANK YOU!