

15. Criterion 7 (Municipal services)

I. Requirements for Issuance of Permit

Criterion 7 requires that, before issuing a land use permit, the board or district commission shall find that the proposed project “[w]ill not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services.” 10 V.S.A. § 6086(a)(7).

The inquiry under Criterion 7, therefore, focuses on the reasonableness of the burdens imposed by the project on the local government. *In Re Wal*Mart Stores, Inc.*, 167 Vt. 75, 83 (1997). And see, *Re: Green Meadows Center LLC, The Community Alliance, and SEVCA*, #2W0694-1-EB, Findings of Fact, Conclusions of Law, and Order at 30 (Dec. 21, 2000); *Re: Finard-Zamias Associates*, #1R0661-EB, Findings of Fact, Conclusions of Law, and Order (Nov. 19, 1990).

II. Burden of Proof

The burden of proof is on the opponents under Criterion 7 to show an unreasonable or adverse effect. 10 V.S.A. § 6088(b); *Re: Green Meadows Center LLC, The Community Alliance, and SEVCA*, #2W0694-1-EB, Findings of Fact, Conclusions of Law, and Order at 30 (Dec. 21, 2000). However, the applicant must provide sufficient information for the Board or district commission to make affirmative findings.

A permit may not be denied under Criterion 7, but conditions may be imposed.

III. Analysis

Criterion 7 covers a wide range of services, including fire protection (both voluntary and paid), police, solid waste disposal (landfill or other), sewage treatment, water systems, rescue (both voluntary and paid), and road maintenance. *Re: Barre Granite Quarries, LLC and William and Margaret Dyott*, #7C1079 (Revised)-EB, Findings of Fact, Conclusions of Law, and Order at 77 (Dec. 8, 2000),

Criterion 7 has in common with other fiscal criteria (6, 9(A), 9(H), and 9(K)) the protection of government finances from burdens imposed by new development, and a Project’s competitive effect on existing businesses is relevant since Act 250 protects the tax base of the relevant localities. *St. Albans Group and Wal*Mart Stores, Inc.*, #6F0471-EB (Altered) (June 27, 1995), *aff’d, In re St. Albans Group and Wal*Mart Store, Inc.*, 167 Vt. 75 (Aug. 29, 1997). Relevancy of fiscal impacts on public entities does not mean that Act 250 protects existing businesses from new competition. *Id.*

In making its determination, the Commission considers the likelihood that the proposed Project will (1) place an undue, uneconomic or excessive burden on the ability of local and regional governments or public utilities to provide the services needed for the Project or other Projects, or accommodate growth and (2) endanger public

investments in, or jeopardize or interfere with, adjacent public facilities under Criteria 7, 9(A), 9(H), 9(J), and 9(K). *Re: Barre Granite Quarries, LLC and William and Margaret Dyott, #7C1079 (Revised)-EB, Findings of Fact, Conclusions of Law, and Order at 78 (Dec. 8, 2000), citing Re: Finard-Zamias Associates, #1R0661-EB, Findings of Fact, Conclusions of Law, and Order (Nov. 19, 1990).*

As noted, a permit may not be denied under Criterion 7, but the Commission may impose conditions (such as impact fees) to alleviate any burden created by the proposed project. 10 V.S.A. § 6087(b).

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