

VERMONT ECONOMIC PROGRESS COUNCIL

Application for Authorization to Utilize Incremental Municipal Property Tax and Incremental State Education Property Tax Revenue for a Tax Increment Financing District:

TOWN OF Killington

Type of Review: **Interim Review**

Note to Board: All documents for this TIF District application are available on the Sharepoint site.

Disclaimer: This is an Interim Review, not a decision. Any and all descriptions, interpretations, and recommendations herein are VEPC Executive Director recommendations and are subject to presentation to the VEPC Board and review, consideration and determination by the VEPC Board.

TIF Application Analysis: On behalf of the Council, VEPC Executive Director has engaged Economic & Policy Resources to review certain aspects of this application. Specifically, the analysis will focus on fiscal viability, market viability, proportionality, and the Project Criteria addressed: Need, Affordable Housing creation, and Transportation Improvements as appropriate. Other resources, such as VTrans analysis of transportation infrastructure, ANR analysis of water infrastructure costs, and DHCD consultation be requested as necessary. Results of these analysis will be incorporated into future the write-ups available for the Board.

Public Comment: The Council received a virtual tour of the TIF District, the Town of Killington provided a presentation and took public comment on January 27, 2022. Written public comment continued to be received until February 22, 2022, and those documents area posted in the March 3 meeting folder.

Write-up Contents:

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I. TIF Debt and Revenue

[TIF Data Workbook – \(unapproved\) February 4, 2022](#)

[ANR Evaluation](#)

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As of the February 4, 2022 revision to the Financing Plan (not yet approved by the Killington Select Board), the town estimates the cost of improvements at \$66.9 million (and including soft costs, contingency, and inflation factor). This number could change as cost estimates become more concrete.

None of the proposed improvements will directly serve or are being built to serve other municipalities, therefore, none of the costs need to be allocated to other municipalities.

Killington notes that a water distribution line will be installed to serve the Killington Elementary School, which is outside of the TIF District, and which they will finance with non-TIF sources. The water wells and much of the service line to the storage tank is also outside of the TIF District and is being installed to serve the TIF District. The town is proposing 100% proportionality for most improvements, with the exception of “Water System – Phase 2,” which the town is proposing 82% proportionality. EPR is reviewing proportionality of the projects as part of their evaluation of the TIF District.

The municipality has not identified other resources of revenue that could be potentially used to help pay for improvement costs, but they have stated that they are actively pursuing other sources of funding for the improvement projects, particularly for the water system project. A potential source of funding that has been identified is The American Rescue Plan Act (ARPA) through the Agency of Natural Resources to assist in the first phase of the water system.

As of the February 4, 2022 Financing Plan revision, the approximate debt principal to be financed will be \$66.75 million, which is less than the total estimated improvement costs. At this time, the municipality plans to issue four bonds, starting in 2023, with total interest costs of \$21.09 million and a total debt service of \$87.84 million.

Killington estimates the grand list will increase by \$297.45 million due to the projected private sector developments, which is estimated to generate \$118.68 million in incremental property tax revenues during over the life of the District (\$27.23 million municipal and \$91.45 million education).

The municipality has pledged 85% of the municipal increment to the TIF District debt and is requesting the maximum 70% of the education increment. If approved, these

retention percentages will yield incremental revenues of \$89.9 million over the life of the District. To accomplish retention of the total amount of tax increment needed to retire all debt and related costs, Killington is proposing to continue retaining municipal tax increment an additional 2 years.

These projections result in a difference of \$1,194,784 between revenues and debt. This is a 97.7% debt to revenue ratio, which is tight. While this is enough revenue to cover potential debt, the municipality will have deficits in the first few years due the timing of debt versus improvements and development, which cause a delay in revenue generation.

State Agency Reviews:

The Vermont Agency of Natural Resources (ANR) has reviewed the cost estimates provided by the town but noted that Construction Cost Index has the inflation rate for 2021 at more than 7% which may affect both costs and schedules for projects. ANR also notes that the current labor shortages, supply chain issues, and changing federal requirements are likely to continue to cause volatile construction costs. The water system project is eligible for the Drinking Water State Revolving Fund (DWSRF) due to the contamination from Perfluoroalkyl and polyfluoroalkyl substances (PFAs).

The Vermont Agency of Transportation (VTrans) is currently reviewing the scope and project costs for the proposed transportation improvements along Killington Road. Information on that review will be provided for the next meeting.

II. TIF Revenue and Debt Summary:

Town of Killington TIF District Summary of Revenue and Debt As of February 4, 2022 (unapproved) Financing Plan	
Original Taxable Value (2022):	
Total Base Taxable Value (Original Taxable Value)	\$83,133,043
Homestead	\$1,734,710
Non-Homestead	\$81,398,333
Total Base Annual Property Tax Revenues	\$1,957,391
Municipal	\$424,267
Education Total	\$1,533,124
Homestead	\$31,409
Non-Homestead	\$1,501,715
Projected Revenue:	
Total Estimated Incremental Property Tax Revenue	\$121,880,791
Municipal Increment	\$30,432,504
Total Education Increment	\$91,448,287
Homestead	\$22,287,074
Non-Homestead	\$69,161,213
Incremental Revenue Split	
Total Incremental Revenue to Service TIF Debt	\$89,881,430
Municipal to TIF (85%)	\$25,867,629
Education to TIF (70%)	\$64,013,801
Total Incremental Revenue to Municipal General Fund (15%)	\$4,564,876
Total Incremental Revenue to Education Fund (30%)	\$27,434,486
Projected Improvement Costs	
Total Estimated Costs	\$67,226,884
Estimated Improvement Costs	\$66,867,892
Less: Estimated Non-TIF Sources of Revenue	(\$491,158)
Related Costs	\$850,150
Total Debt Service	\$87,836,495
Total to be Financed (Principal)	\$66,750,000
Total Estimated Cost of Financing (Interest)	\$21,086,495
Potential Excess Revenue (End of Life of the District)	\$1,194,784

III. Timeline to Date:

Municipal Notice of Intent to Apply Filed:	November 5, 2021
Earliest Date Application Could be Filed:	January 4, 2022
Municipal Notice of Hearing on TIF District Plan:	November 22, 2021
Municipal Hearing(s) on TIF District Creation and Plan:	January 4, 2022
Municipal Legislative Body Vote on TIF District Creation:	January 4, 2022
Municipal Legislative Body Vote on TIF District Plan:	January 4, 2022
TIF Plan Filed and Recorded with Town Clerk:	January 5, 2022
Assessed Values Certified by Town Assessor:	January 4, 2022
Life of TIF District Starts:	April 1, 2022
TIF District Application Filed with VEPC:	January 5, 2022
Application Certified as Administratively Complete:	January 7, 2022
Preliminary Review by VEPC	January 27, 2022
Public Comment	January 27, 2022
Continued Review of Application	Scheduled For: March 3, 2022
Final Review of Application	Expected to occur: March 31, 2022

IV. TIF District Application Review Criteria:

A. Purpose: 24 VSA §1893

“...to provide revenues for improvements that serve the district and related costs, which will stimulate development or redevelopment within the district, provide for employment opportunities, improve and broaden the tax base, or enhance the general economic vitality of the municipality, the region, or the state.”

Evidence:

[TIF District Plan](#)

[TIF Data Workbook – \(unapproved\) February 4, 2022](#)

[TIF District Maps](#)

Determination to be made:

Will the District generate incremental revenues sufficient to finance public infrastructure that serves the District and which stimulates real property development that will add jobs, broaden the tax base, or enhance the general economic vitality of the municipality, region, or state?

“provide revenues:” As of the unapproved February 4, 2022 Financing Plan, the municipality projects that during the 20-year Education Tax Increment Retention Period (estimated to be 2024-2042), the development that is expected to occur will generate a total of \$91.45 million in incremental Education Property Tax revenues. The municipality proposes to split the incremental Education Property Tax revenues 70%/30%. The municipality proposes to retain incremental Municipal Property Tax Revenues for 22 years (estimated to be 2024-2044), the development that is expected to occur will generate a total of \$27.23 million in incremental Municipal Property Tax revenues. The municipality proposes to split the incremental Municipal Property Tax revenues 85%/15%. With these shares, the retention periods, and based on the projected build out schedule, \$87.16 million in incremental property tax revenue would be generated to service TIF infrastructure debt and pay related costs. Total infrastructure costs are estimated at \$66.87 million and the town projects about \$491,158 in non-TIF revenue. Total principal debt will be \$66.75 million, plus \$21.09 million in interest for total debt of \$87.84 million to be covered by the expected TIF revenue with a margin of \$1.19 million.

“improvements that serve the District:” The majority of all of proposed public investments are located entirely within the TIF District and serve the District. Town officials, developers, and others providing comments to the Council have stated that the investments are necessary to encourage and enable, the projected private developments within the TIF District.

The Town states that a portion of Phase 2 of the Utilities project will serve the Killington Elementary School. The cost associated with the portion of the project will not be funded by TIF, and the Town is proposing 82% proportionality for this project. The water wells and much of the service line to the storage tank is also outside of the TIF District and is being installed to serve the TIF District.

“stimulate development and redevelopment within the District:” The expected development includes a mix of retail, service, commercial, and residential. The application includes letters from developers, a cross-reference of the infrastructure that is required for each project and testimony was also provided at the January 27, 2022, hearing regarding the need for public infrastructure to stimulate and encourage these projects to occur.

“provide for employment opportunities:” According to data provided by the applicant (See Table 7K in the TIF data Workbook), there are currently about 24 businesses within the TIF District with about 578 full-time, primarily in the ski industry, hospitality, tourism, education, retail, and real estate. The development projects will provide additional jobs primarily in hospitality and tourism.

“improve and broaden the tax base and enhance general economic vitality of the municipality, the region, or the state.” As a result of the implementation of the TIF District and the resultant private real property development, the tax base will expand considerably over the next twenty years. Killington and the State will realize incremental tax revenues. Prior to the TIF, the annual base of property tax revenue from the TIF District going to Killington and the Education Fund is \$1.957 million per year (\$424,267 municipal and \$1,533,124 education). During the 20-year TIF retention period, because of the 70/30 share of the increment, the 30% share of the education increment will send an estimated \$27.43 million in total incremental property tax revenues to the Education Fund. After the retention period, the annual property tax revenue to the municipality and the education fund will increase by \$6,976,996 annually. The TIF Plan describes three major development opportunities: Six Peaks Killington and two housing development projects. The Six Peaks Killington project is anticipated to include 31,622 sq. ft. of commercial/retail spaces, 193 residential units, 9 single-family lots, and 46 duplex units. The added commercial and retail activity will also provide additional state tax revenues through income, sales and use, and payroll taxes. Housing Project A could add as many as 111 new housing units, and Housing Project B could add 55 units. Killington projections estimate that 33% of the housing units in Project A and B will be affordable housing, and the remainder market rate housing. The TIF Plan also notes a few key undeveloped parcels along Killington Road, but they lack an uncontaminated water source. The installation of a water system makes development of these sites much more likely.

Killington's TIF Plan notes that there are about 50 individual water systems along Killington Road. Installation of a public water system would eliminate the need for those individual systems, and eliminate monitoring by the State of those systems.

B. But For Criterion: 32 VSA §5404a(h)(1)

“(1)(A) Review each application to determine that the infrastructure improvements proposed to serve the tax increment financing district and the proposed development in the district would not have occurred as proposed in the application, or would have occurred in a significantly different and less desirable manner than as proposed in the application, but for the proposed utilization of the incremental tax revenues.

(B) The review shall take into account:

(i) the amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(ii) how the proposed development components and size would differ, if at all, including, if applicable to the development, in the number of units of affordable housing, as defined in 24 V.S.A. § 4303, without education property tax increment financing; and

(iii) (I) the amount of additional revenue expected to be generated as a result of the proposed development;

(II) the percentage of that revenue that shall be paid to the education fund Education Fund;

(III) the percentage that shall be paid to the municipality; and

(IV) the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the tax increment financing district.”

Evidence:

[Narrative 4-But For TIF Data Workbook – \(unapproved\) February 4, 2022](#)

Determination to be made:

The Council must determine:

- Whether the infrastructure development would occur without the utilization of the incremental property tax revenues; and
- Whether the real property development would occur without the infrastructure development.

A positive “But For” determination means that the state is getting infrastructure and development, and more importantly, the resulting incremental revenues, which would

not have occurred without the ability of the applicant to utilize incremental property tax revenue. Both findings can also be met if the development would occur in a significantly different and less desirable manner.

Review Questions:

Can the Town build this level of infrastructure without the incremental property tax revenues?

Would the private development and redevelopment occur without the proposed infrastructure?

EPR is conducting a review of this criteria.

C. Nexus: VSA 24 §1897

*“ The legislative body may pledge and appropriate in equal proportion any part or all of the state and municipal tax increments received from properties contained within the tax increment financing district for the **financing for improvements and for related costs in the same proportion by which the infrastructure or related costs directly serve the district at the time of approval of the project financing by the council, and in the case of infrastructure essential to the development of the district that does not reasonably lend itself to a proportionality formula, the council shall apply a rough proportionality and rational nexus test...**”*

Evidence:

[TIF District Plan](#)

[TIF Data Workbook – \(unapproved\) February 4, 2022](#)

[TIF District Plan Maps](#)

[Form 7: Project Criteria](#)

[Affordable Housing Map](#)

[Transportation Improvements Map](#)

Determination to be made:

The actual location of expected infrastructure improvements does not matter. Infrastructure can be located outside the TIF District, providing the Council determines that there is nexus to the projected real property development and/or the purpose and goals of the TIF District. However, the portion of the infrastructure costs that can be paid with TIF revenues must be in proportion to the extent that the infrastructure *serves* the District. There must be nexus or connection between the proposed infrastructure and the development that is expected to occur.

Nexus can be viewed from several perspectives:

First, from the infrastructure perspective: What areas within the TIF District are being served by which proposed infrastructure projects? If there is infrastructure proposed that does not serve the TIF District or would not have anything to do with causing the development to occur, the Council should question whether it be financed, in any proportion, by TIF revenues.

Second, from the TIF area perspective: Are there areas (parcels) included in the TIF District that apparently are not being served by any of the infrastructure projects? Or are there areas that are already developed to their full market potential?

Finally, from the development perspective: Are there private development projects that are expected to occur regardless of the infrastructure improvements? If so, there may be an issue with the “But For” and the Council should ask whether there is truly any nexus between the infrastructure and the development project if the project is already developed or started.

Background:

The transportation improvement project is located entirely within the TIF District. Sections of the water system project are located outside of the TIF District. These sections include the wells and service lines to the reservoir, as well as a water distribution line to the Killington Elementary School. The wells and the service lines to the storage tank are essential pieces to the water system. Killington’s TIF Financing Plan shows that the water distribution line which will serve the Killington Elementary School will be paid for with non-TIF sources. The application details the relationship between each infrastructure improvement, the expected private development and includes details on the dependence of the private development on the infrastructure improvements.

EPR is conducting a review of this criteria.

D. Proportionality: 24 VSA §1897

*“ The legislative body may pledge and appropriate in equal proportion any part or all of the state and municipal tax increments received from properties contained within the tax increment financing district for the **financing for improvements and for related costs in the same proportion by which the infrastructure or related costs directly serve the district at the time of approval of the project financing by the council, and in the case of infrastructure essential to the development of the district that does not reasonably lend itself to a proportionality formula, the council shall apply a rough proportionality and rational nexus test...**”*

Evidence:

[TIF District Overview](#)

Determination to be made:

What proportion of proposed infrastructure costs can be financed with TIF revenue based on the portion that serves the TIF District? Remember that the proportionality you are determining is what proportion *serves* the TIF District, regardless of the non-TIF revenue that might be available to the municipality. The proportionality determined by the Council is the maximum level of total project cost that can be financed with TIF revenue.

Background:

Killington has proposed that all but one phase of the infrastructure improvements be approved with 100% proportionality. Phase 2 of the Water System improvements is proposed to be approved with 82% proportionality since a portion of this phase will be dedicated to providing a water distribution line to the Killington Elementary School, which is outside of the TIF District.

EPR is conducting a review of this criteria.

E. Process Criteria: 24 VSA §1892

*“(a) Upon a finding that such action will serve the public purposes of this subchapter, the legislative body of any municipality may create within its jurisdiction, special district or districts to be known as tax increment financing districts. They shall describe the district by its boundaries and the properties therein and shall show the district boundary on a plan entitled “Proposed Tax Increment Financing District (municipal name), Vermont.” The legislative body shall hold one or more public hearings, after public notice, on the proposed plan.
(b) When adopted by the act of the legislative body of that municipality, the plan shall be recorded with the municipal clerk and lister or assessor.”*

And...

32 VSA §5404a(h)(2)

“Process requirements. Determine that each application meets all of the following four requirements:

(A) The municipality held public hearings and established a tax increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

(B) The municipality has developed a tax increment financing district plan, including: a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax

increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(C) The municipality has approved or pledged the utilization of incremental municipal tax revenues for purposes of the district in the same proportion as the utilization of education property tax revenues approved by the Vermont economic progress council for the tax increment financing district.

(D) The proposed infrastructure improvements and the projected development or redevelopment are compatible with approved municipal and regional development plans, and the project has clear local and regional significance for employment, housing, and transportation improvements."

Evidence:

- ✓ Copy of municipal [finding of purpose](#).
- ✓ Copy of municipal [public hearing notice](#), [resolution](#), and [minutes](#).
- ✓ [Physical description](#) and a [map of TIF District](#), and [listing of properties](#) within District.
- ✓ Copy of [minutes](#) of municipal legislative body meeting at which TIF District plan was adopted.
- ✓ Copy of [certification of original taxable](#) value including date and time established and certified.
- ✓ [Certification that plan was recorded](#) including a copy of [TIF District Plan](#), which must include:
 - ✓ A map of the municipality with the TIF District indicated.
 - ✓ A description of the district by its boundaries and properties located within the District.
 - ✓ Statement of costs and sources of revenue, including sources other than incremental tax revenues.
 - ✓ Estimates of assessed values within the District.
 - ✓ Estimated tax increments in each year.
 - ✓ Amount of bonded indebtedness to be incurred.
 - ✓ Duration of the plan.
 - ✓ Amount of additional revenue expected to be generated as a result of the proposed development, and:
 - The percentage of that revenue that will be paid to the education fund.
 - The percentage of that revenue that will be paid to the municipality.
 - The percentage of that revenue that will be paid to the municipality and used to pay the municipal tax increment bonds.
- ✓ A general project overview.
- ✓ A detailed project description, including:
 - Bonding and other debt instrument approval and financing schedules.
 - Infrastructure development schedule including description, costs, and build out schedule.
 - Development and redevelopment schedule including description, costs, and information on who will accomplish development.
- ✓ Pro forma projection of related costs that will be paid for by incremental tax revenues including description and amounts. Should include any payments to a designated

coordinating agency and any costs incurred prior to approval that will be recouped by the municipality.

- ✓ Evidence that the municipality is seeking or has obtained other sources of funding and investment.
- ✓ Written [statement](#) from top municipal official stating whether the projected development and/or redevelopment are compatible with municipal plan.
- ✓ Copies of relevant sections of [municipal plan](#) with which project is compatible.
- ✓ A [written explanation](#) from top municipal official describing how the project has clear local significance for employment, housing, and transportation improvements.
- ✓ [Written confirmation](#) by appropriate regional planning commission explaining how the projected development and/or redevelopment is compatible with approved regional plan and an explanation of how the project has clear regional significance for employment, housing and transportation improvements.
- ✓ Copies of relevant sections of the [regional plan](#).
- ✓ Written explanation from top municipal official indicating whether additional local or state [permits](#) will be required for the project, which permits will be required and a timeline for approval of the permits.

Determination to be Made:

Were statutory steps taken by municipality to create a TIF plan and a TIF District, including public input? Are all required elements included in the TIF Plan? Does the TIF Plan adhere to the local and regional plans? Did the municipality propose an appropriate share of municipal increment, and shall the requested level of education property tax increment be approved?

Following the preparation of a TIF Plan and presentation of the plan at a public hearing on January 4, 2022, the municipality voted on a finding of purpose, voted to create the TIF District, certified a municipal share, and approved application to VEPC. The Original Taxable Value and TIF District Plan were appropriately certified and recorded by the Town Clerk.

The TIF District Plan includes all required elements. The municipality has certified that it is pledging 85% of incremental municipal property taxes. Killington is proposing to continue with municipal tax increment retention an additional two years to receive enough tax increment to retire all debt and related costs. The municipality and regional planning commission certify, and the plans submitted support, that the proposed infrastructure improvements and the projected development are compatible with the approved municipal and regional development plans.

Also, the municipality and regional planning commission certify, and the plans submitted support, that the District has clear regional significance for employment, housing and transportation improvements.

Executive Director Additional Comments:

VEPC Executive Director requested the Department of Taxes, Property Valuation and Review (PVR), review the shapefile of the TIF District against the Original Taxable Value and Grand List data. It is noted that the Original Taxable Value is as of April 1, 2022, and the most recent Grand List data available to PVR is as of April 1, 2021. Some discrepancies were noted, and edits were made by Killington which also slightly changed the TIF District boundary.

It should be further noted that the April 1, 2022, Grand List will not be finalized until December 31, 2022. At that time, and in the event VEPC finds a positive determination for the Killington TIF District, PVR will perform an additional review of the TIF District before it is “locked”, and tax increment can be retained following first incurrence of debt.

F. Location Criteria: 32 VSA §5404a(h)(3)

“(3) Location criteria. Determine that each application meets at least two of the following three criteria:

(A) The development is:

(i) compact;

(ii) high density; or

(iii) located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, or new town center, or neighborhood development area.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the municipality in which the area is located has at least one of the following:

(i) a median family income that is not more than 80 percent of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data are available;

(ii) an annual average unemployment rate that is at least one percent greater than the latest annual average statewide unemployment rate as reported by the Vermont Department of Labor; or

(iii) a median sales price for residential properties under six acres that is not more than 80 percent of the statewide median sales price for residential properties under six acres as reported by the Vermont Department of Taxes.”

Determination to be made:

Does the TIF District meet two of the three statutory location criteria?

The Killington TIF District is proposing to meet the Location Criteria under (A) compact and high density and (C) economically distressed area.

Criterion (A) Compact and High Density:

VEPC Executive Director will utilize Act 250 Criterion 9(L) Guidance to help determine if the proposed development is compact and high density:

10 VSA § 6086 (9)(L) Settlement patterns.

To promote Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside, a permit will be granted for a development or subdivision outside an existing settlement when it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision:

(i) will make efficient use of land, energy, roads, utilities, and other supporting infrastructure; and

(ii)(I) will not contribute to a pattern of strip development along public highways; or

(II) if the development or subdivision will be confined to an area that already constitutes strip development, will incorporate infill as defined in 24 V.S.A. § 2791 and is designed to reasonably minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.

Evidence:

[Act 250 Criterion 9\(L\) Guidance \(ANR website\)](#)

[Attachment 6A: Compact and High Density Narrative](#)

[SP Land Company Act 250 Permit #1R0980 \(Altered\)](#)

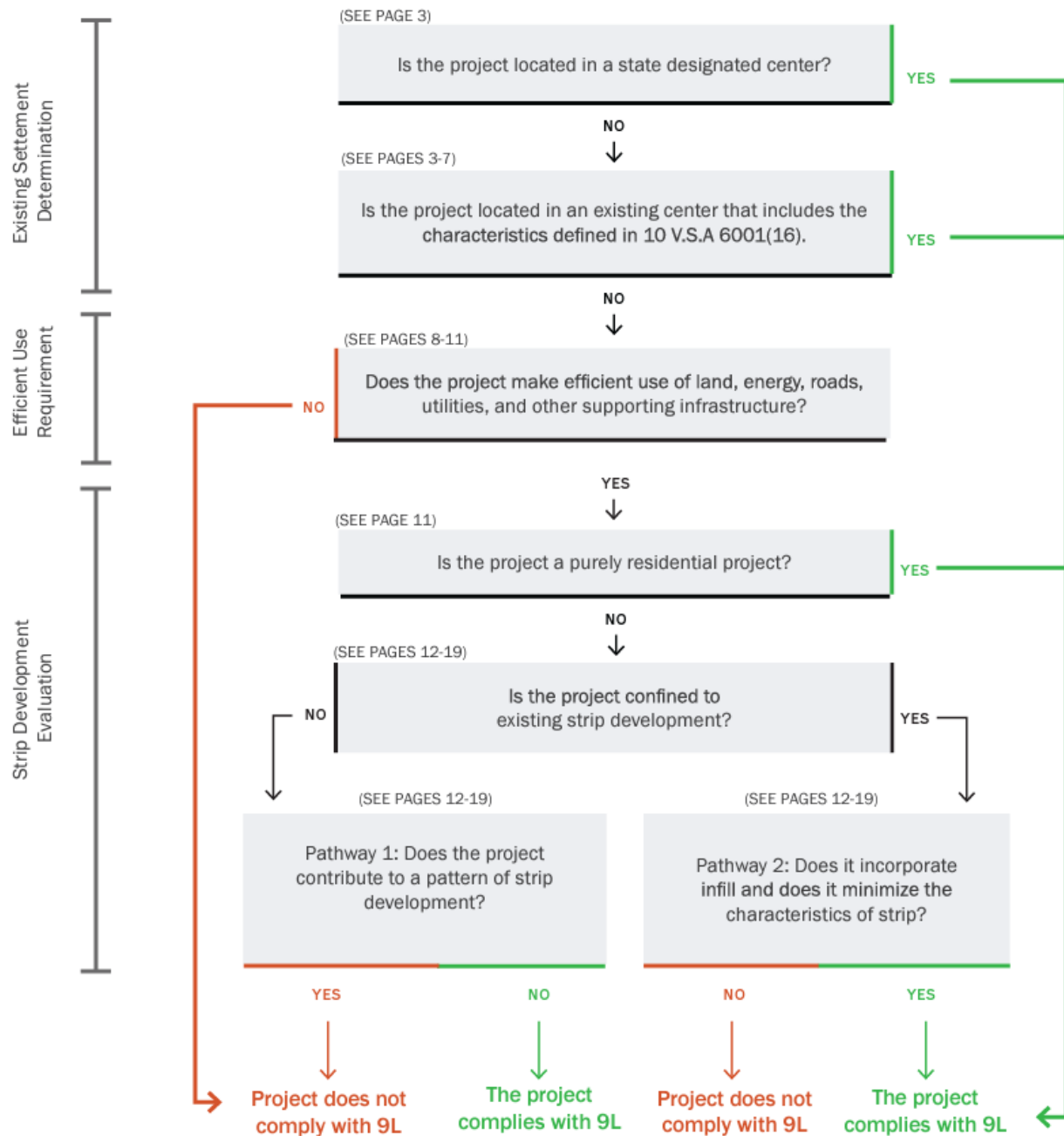
[SP Land Company Act 250 Permit #1R0980](#)

[Density of Habitable Structures Map](#)

[Attachment 8A: Zoning Map](#)

[Killington Zoning Bylaws](#)

To review whether the District meets the Compact and High Density requirement, VEPC Executive Director reviewed Act 250 Criterion 9(L) Guidance from the Agency of Natural Resources website. The guidance is divided into three sections for review: (1) Existing Settlement Determination; (2) Efficient Use Requirement; (3) Strip Development Evaluation, and follows the flowchart, depicted below.



According to the guidance and as depicted in the flowchart, a District would meet the requirement if it “is within an existing settlement, it complies with 9(L) and no further 9(L) analysis is required.”

The District is considered to be within an existing settlement if it is either inside a State designated center or is located inside an area that meets the following definition:

“An existing center that is compact in form and size; that contains a mixture of uses that include a substantial residential component and that are within walking distance of each other; that has significantly higher densities than densities that occur outside

the settlement; and that is typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit and public parks or greens.”

The Killington TIF District *is not* inside a State designated center. VEPC Executive Director reviewed the four elements of the second existing settlement criteria:

Element #1 – compact in form and size

Review of this element looks at the characteristics of the District: relatively high density, mixed land uses, opportunities for social interaction, and contiguous building patterns which encourage walking and cycling. The areas typically feel comfortable for pedestrians, have speed limits of 30 mph or slower, and have streets with clear and consistent edges.

Element #2 – contains a mixture of uses that include a substantial residential component and that are within walking distance of each other

Review of this element looks at the blend of retail, office, civic, institutional, cultural, and recreational uses. The guidance recommends that a ‘substantial residential component’ is 50% or more and identifies that walking distance be between one quarter and one-half mile. The guidance also stresses that if fewer than 50% of structures within a half mile are residential than it is unlikely to be an existing settlement.

Element #3 – has significantly higher densities than densities that occur outside the settlement

The guidance for reviewing this element notes that what qualifies as “high density” will vary considerably. The easiest method for determining high density is use of E-911 point density using the ANR Natural Resources Atlas and the “Density of Habitable Structures” layer. Building densities should be in the “high” or “highest” range.

Element #4 – typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit, parking areas, and public parks or greens

The guidance on this element notes that areas without at least some municipal infrastructure are unlikely to qualify as existing settlements.

Putting the Elements Together

There are components of the District that appear to meet the characteristics of 10 VSA 6001(16). The District contains a mixtures of lodging, commercial, restaurant, offices, services, and residential. There are recreation opportunities nearby. The District is serviced by a wastewater system and the Public Safety Department building is located within the TIF District. Sections of Killington Road contains a sidewalk, although the portion along Route 4 does not.

However, the speed limit along the section of Route 4 is 40 mph, and Killington Road is 35 mph. Most of the District that does not appear to contain at least 50% residential property within a half mile radius when viewing 911 maps. The map of Density of Habitable Buildings¹ shows that most of the residential development is outside of the TIF District and all density appears to be primarily medium density, with one area of high density. These components make it challenging to affirmatively find that it is located in an existing center as defined in Criterion 9(L).

According to Criterion 9(L), if a project is outside an existing settlement, it must make efficient use of land, energy, roads, utilities, and other infrastructure. To determine that, the following questions are considered:

- *Does it make efficient use of land, energy, roads, utilities, and other supporting infrastructure?*
- *Is it purely residential?*
- *Is it confined to existing strip development?*
- *Does it incorporate infill and does it minimize the characteristics of strip development?*

Killington's TIF Plan has identified three development projects. The Six Peaks Village component of the TIF District has received Act 250 permitting previously and, when looking at that development individually, it appears to meet the criteria for compact and high density. Looking at the two proposed housing projects individually, both of which are identified as multi-family dwellings, the first question to be reviewed is whether the project makes efficient use of land, energy, roads, utilities and other supporting infrastructure. Being a Tier 3 project, with no clear plan, makes it very challenging to affirmatively find that there is an efficient use. One test of efficient use is to review zoning setbacks. The two involved areas are in Killington's Commercial and Business Zoning Districts. Reviewing the Killington Zoning Bylaws, adopted June 25, 1979, and amended through November 3, 2020, the setbacks for **multi-family dwellings** in the Business Zoning District for Housing Project A are large, requiring 50' front setback, and 100' side and rear setbacks. The setbacks for Housing Project B are less, with 50' setbacks for planned unit developments. These setbacks make it challenging to find positive support for efficient use.

Another challenge, when looking at compact and high density of the TIF District as a whole, is that the TIF Plan does not identify other potential developments along Killington Road. The plan does note that there are undeveloped parcels along the road. Their development was too speculative to include in the TIF District Plan, but with the

¹ VEPC Executive Director found that the ANR Density of Habitable Buildings map no longer appears to exist online. ACCD worked with the GIS team at the Agency of Digital Services to add this to the DHCD Planning Atlas and to create the Killington Density of Habitable Buildings map based on updated 911 data.

proposed public improvements, the municipality states that it becomes more likely that those parcels will be developed.

The size and the linear shape of the District makes it challenging to find an affirmative determination that the District is compact and high density. The proposed developments are at opposite ends of an approximately 4+ mile TIF District. For additional context, the largest TIF District VEPC has previously approved was the Milton Town Core TIF District at 846 acres:

District	Acres	Year Created
Killington	1256.05*	2022
Milton Town Core	845.84	2008
St. Albans City	304.45	2012
Montpelier	176.6	2018
Hartford	129.11	2011
So. Burlington	103.37	2012
Barre City	90.57	2012
Bennington	70.49	2017
Burlington Downtown	61.27	2011

* 790 +/- acres without 466 parcels that are not proposed to be developed

Criterion (C) Economically Distressed Area:

To meet this criterion, the municipality in which the TIF District is located must meet at least one of the three distress criteria for the year in which the TIF District application is submitted to VEPC. The data is updated annually whenever the most recent data are available to the source agencies (Vermont Department of Taxes and the Vermont Department of Labor).

Evidence:

[Location Criteria C Town List \(VEPC website\)](#)

- ✗ **Median Family Income:** Killington’s median family income is \$82,748, which is **not** equal to or below 80% of the statewide median family income (\$60,758 for 2019).
- ✓ **Unemployment:** Killington’s unemployment is 22.2%, which **is** at least 1 point higher than the statewide average (6.6% for 2020).
- ✗ **Property Values:** Killington’s median sales price for 6 acres or less is \$410,250, which is **not** equal to or below the 80% of the statewide median sales price for 6 acres or less (\$180,000 for 2020).

Killington **meets one of three economic distress indicators**, having an annual average unemployment rate that is at least 1 percent greater than the statewide average. VEPC Executive Director made an additional review of historical unemployment rates for the Town of Killington as compared to the statewide average. The table below shows the Town has a history of having unemployment rates that are at least 1 percent greater than the statewide average.

Year	Killington	Statewide
2020	22.2%	6.6%
2019	6.5%	2.3%
2018	6.5%	2.6%
2017	7.6%	3.0%
2016	7.1%	3.1%

G. Project Criteria: 32 VSA §5404a(h)(4)

“Project criteria. Determine that the proposed development within a tax incentive financing district will accomplish at least three of the following five criteria:

(A) The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.

(B) The development includes new or rehabilitated affordable housing as defined in 24 VSA §4303.

(C) The project will affect the mitigation and redevelopment of a brownfield located within the district. For the purposes of this section, “brownfield” means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

(D) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the department of labor.

(E) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.”

Killington is addressing Project Criteria A (Need), B (Affordable Housing), and E (Transportation).

Evidence:

[Project Criteria Narrative](#)

[Narrative 4-But For](#)

[TIF Data Workbook – \(unapproved\) February 4, 2022](#)

[Housing Project Map](#)

[Rutland Housing Trust Housing Needs Assessment](#)

[TIF Data Workbook – \(unapproved\) February 4, 2022 \(See Table 7C\)](#)

[Transportation Map](#)

[Killington Road Corridor Study Report](#)

[January 26, 2022 Email - Killington TIF -- Road and Water Cost Estimate Calculations](#)

[Road and Water Estimate Calculations Workbook](#)

Project Criteria A: “The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.”

Determination to be made:

Does the proposed infrastructure development within the TIF District clearly require substantial public investment over and above the normal budget of the municipality or the normal bonded debt service of the municipality?

Killington states in their application, “The Town cannot afford not to make the public infrastructure improvements which are estimated at \$66.5 million (updated to \$66.89 million). In the past ten years, the Town’s Grand List value has decreased. Funding these investments would effectively double the Town tax rate, which is too much for taxpayers to bear. The upfront cost of the municipal water system is not something that can be supported by normal municipal operating or bonded debt expenditures.”

“The Town developed a sustainable capital budget plan in 2014 that utilized lifecycle costs to project a stable tax rate structure to replace all existing infrastructure with minimal borrowing required. As a result, the capital appropriation has changed from \$654,727 (.0828 tax rate) in 2014 to \$1,650,537 (.2086 tax rate) in 2022. This represents a 252% increase in the capital funding. The capital appropriation does not account for any new investment in infrastructure and only maintains and/or replaces existing. In 2019, the Town voted to build its first Public Safety Building a cost of about \$5.6M. The Bond issue results in \$285,961 in annual bond payments or another .0361 on the tax rate. This brings the total increase to .1619. The capital appropriation increases plus the increased cost of operations over the 8-year period have created a tax rate increase from .3087 to .5425. These increases occurred during a time when the Town saw a net decrease in the Grand list. The Town needs the TIF District and subsequent

financing so that it can construct the necessary infrastructure improvements required to move the Town forward without placing an undue burden on the taxpayers.”

EPR is conducting a review of this criteria.

Project Criteria B: *The development includes new or rehabilitated affordable housing as defined in 24 VSA §4303.*

Determination to be made:

Will the real property development result in the new construction or rehabilitation of affordable housing as defined by 24 VSA 4303?

Killington states in their application, “The TIF District development will provide needed affordable and workforce housing. The TIF District includes 2 parcels that will be suitable sites for multifamily housing once public water is available and Killington Road is reconstructed. The two sites can be developed for a total of 167 units – projections include 56 units (33%) of affordable housing and 111 units will be constructed as market rate housing designed to meet the needs to full time residents.”

“In addition to the development of the two housing parcels within the TIF District, the creation of a municipal water system will serve as a catalyst for other sites within the TIF District to be developed or redeveloped, some of which could be for housing. There are several older hotel properties that would be suitable for conversion to housing, but they need access to a safe and reliable water source. Similarly, several of the sites that contain commercial uses could be redeveloped with residential on upper floors, but access to a municipal water system is required.”

EPR is conducting a review of this criteria.

Project Criteria E: *“The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.”*

Determination to be made:

Will the public infrastructure projects and the overall TIF development create improved traffic patterns and flow or create improved public transportation systems? What is the likelihood that the transportation projects will enhance transportation? What is the relationship to regional and statewide transportation improvements?

Killington states in their application, “The proposed TIF District infrastructure improvements include the reconstruction of Killington Road. Killington Road is a

major traffic collector that connects US Route 4/VT Route 100 from the north to East Mountain Road and the Resort to the south, providing access to most of the business and residential neighborhoods in Town. In 2020, the Town retained VHB to prepare a master plan for Killington Road. The VHB study identified issues with the roadway that are hampering the Town's ability to move forward with key development projects. These issues are outlined on Page 14 of the TIF District Plan. According to the Vermont Department of Transportation, Killington Road has one of the highest fatalities and equivalent property damage only ("EPDO") in the Region. The intersection of Route 4 and Killington Road is included in the list of the 650 worst segments of roadways in the State of Vermont. The steep grade at the base of Killington Road and the lack of "landing pad" has resulted in numerous accidents over the years."

"The VHB study included a conceptual plan that contains specific corridor-wide enhancements that will increase capacity, improve the operations and safety for all users, and maintain efficient travel through the corridor. These improvements will enhance pedestrian, bike, and bus travel through the addition of an 8-foot shared use path along the west roadway, a 5-foot sidewalk along the east roadway, bus pull-offs, pedestrian crosswalks, intersection improvements and lighting and landscaping improvements. The lower portion of the roadway will be reconstructed to eliminate the unsafe grade which is one of the key issues with the road."

"As part of the reconstruction of Killington Road, upgrades will be made to the stormwater management system to better control flows and provide for enhanced treatment. This will address existing drainage issues at the base of the road but also result in upgrading the road to meet current standards for managing storm flows. These improvements will make the road more resilient and better able to withstand impacts associated with climate change."

"Additionally, the intersection of Killington Road and East Mountain Road will be redesigned to include a roundabout. Road H and Old Mill Road will be upgraded to provide secondary access in the event the roundabout is blocked. The Town will assume ownership from the Resort and SP Land the portion of Killington Road from the Lookout/Glazebrook intersection to Vale Road and East Mountain Road from its intersection with Killington Road to the Killington Grand Hotel plus the two secondary Roads know as Road H and Old Mill Road."

"These improvements will significantly improve the safety of Killington Road while at the same time make the road more pedestrian and bike friendly. The inclusion of bus pull offs and bus shelters will be significant upgrade to the public transportation system."

The Vermont Agency of Transportation (VTrans) is currently reviewing the scope and project costs for the proposed transportation improvements along Killington Road. Information on that review was not available in time for the March 3 VEPC meeting but is anticipated to be available for the March 31 VEPC next meeting.

H. Market and Fiscal Viability:

While not a criterion directly required in statute for the application to meet, determining if the TIF District has market viability is an implied and prudent task for VEPC.

Evidence:

[TIF Data Workbook – \(unapproved\) February 4, 2022](#)

[Six Peaks Killington Letter](#)

(See also confidential files)

Determination to be made:

Does the TIF Plan have fiscal viability? That is, will the proposed private sector development generate sufficient tax revenues to cover the costs of infrastructure? Does the TIF Plan have market viability? That is, what is the likelihood that the proposed development /redevelopment will occur at the scope and on the timeline presented, thereby generating sufficient incremental revenue during the retention period?

EPR is conducting a review of this criteria.

I. TIF Financing Plan: 24 VSA §1894(d)

“(d) Approval of tax increment financing plan. The Vermont Economic Progress Council shall approve a municipality’s tax increment financing plan prior to a public vote to pledge the credit of that municipality under subsection (h) of this section. The tax increment financing plan shall include all information related to the proposed financing necessary for approval by the Council and to assure its viability and consistency with the tax increment financing district plan approved by the Council pursuant to 32 V.S.A. § 5404a(h). The tax increment financing plan may be submitted to and approved by the Council concurrently with the tax increment financing district plan. If no indebtedness is incurred within five years after the creation of the district, the municipality may submit an updated executive summary of the tax increment financing district plan and an updated tax increment financing plan to the Council to obtain approval for a five-year extension of the period to incur indebtedness; provided, however, that the updated plan is submitted prior to the five-year termination date of the district. The Council shall review the updated tax increment financing plan to determine whether the plan has continued viability and consistency with the approved tax

increment financing plan. Upon approval of the updated tax increment financing plan, the Council shall grant an extension of the period to incur indebtedness of no more than five years. The submission of an updated tax increment financing plan as provided in this subsection shall operate as a stay of the termination of the district until the Council has determined whether to approve the plan.

[TIF Data Workbook – \(unapproved\) February 4, 2022](#)
[January 26, 2022 Email - Killington TIF -- Road and Water Cost Estimate Calculations](#)
[Killington Water Total Project Cost Summary – 10/18/2021](#)
[Road and Water Estimate Calculations Workbook](#)
[Email - Additional Information Provided](#)

Determination to be made:

Is the TIF Financing Plan viable and consistent with the TIF Plan.

Killington has requested that the Council consider the TIF Financial Plan concurrent with the TIF District Plan.

Since the application was submitted on January 5, there have been the municipality has submitted revisions to that plan, and additional revisions are anticipated.

Communications with Killington’s consultant indicated that there is the potential that Killington will return to VEPC with a Substantial Change Request before their first bond vote and when cost estimates are more concrete.

EPR is assisting VEPC Executive Director with a review of Killington’s TIF Financing Plan.

V. Executive Director Recommendations

TIF Financing Plan:

VEPC’s Executive Director has concerns regarding the need for potential additional revisions in the immediate future to the current Killington TIF Financing Plan based on the uncertainty of current project phases as outlined in the application. Additionally, the Financing Plan anticipates retaining municipal tax increment for more than 20 years. TIF Statute and Rule require that municipal tax increment be retained until all debt and related costs are retired, which means that municipal tax increment can (and must) be retained beyond the 20-year period to meet that requirement. However, the Executive Director believes this is better suited as a contingency plan, rather than a component of the initial TIF Financing Plan. As the current Financing Plan is laid out, the town would need to retain 95% to 100% share of municipal increment to retire all debt and related costs within the 20-year retention period.

The Financing Plan relies heavily on TIF as the primary tool to finance the \$66.9 million in infrastructure improvement projects. Although the town has indicated they are seeking ARPA funding for the first phase of the water system project, it is recommended that the town shall identify other potential funding sources for all phases of their projects.

Considering the degree of uncertainty that remains with project costs, and the timing of debt incurrence, VEPC Executive Director recommends that the Council consider a partial determination and require the town to file project phases under the Master TIF Determination procedure. The viability and reasonableness of non-bonded debt will be determined as subsequent project phases are filed by the Town of Killington. With a Master Plan Determination, ambiguities in cost estimates for construction phases, debt incurrence, and debt repayment schedule are clarified as the municipality is ready to proceed with a project. It also allows the VEPC Board another opportunity to review viability of the TIF Financing Plan. It is possible that other potential funding sources will also be identified by the municipality with each Phase Filing.

Compact and High Density:

The other primary concern is that it is challenging to find a clear positive determination that the TIF District meets the compact and high-density location criterion.

- The District does not appear to meet the requirements of being located within an existing center.
- Speed Limits within the District are greater than 30 mph.
- Most of the District does not appear to contain at least 50% residential property within a half mile radius when viewing 911 maps.
- The Density of Habitable Buildings map shows most of the residential development is outside of the TIF District and is primarily medium density.
- Housing Projects A and B have large setbacks.
- Additional potential developments along Killington Road are not identified, and for those parcels that are undeveloped, their development was too speculative to include in the TIF District Plan.
- The size and linear shape of the District, with the primary developments being on opposite ends, with the total acreage of Killington making it the largest TIF District by over 400 acres, if approved.

It is possible to find a positive determination on compact and high-density for the portion of the TIF District that is associated with the Six Peaks Village. With a TIF District that incorporates such area, it is possible to find Nexus for the portion of the water system that it would serve. It is also very likely to find Nexus for all the proposed Transportation Improvements. The TIF Plan advises, regarding infrastructure barriers for the Six Peaks Village, that “it is unwise and unsafe...to have an investment of this

scale at the end of such an insufficient and unwelcoming travel connector like the current Killington Road.”

The development at Six Peaks Village is providing the majority of the increase in property value in the TIF District – approximately \$285 million for SP Land developments, while the two proposed housing developments are estimated to provide \$12 million in increased value. While it is understood that workforce housing is needed to support the TIF District, there are sources outside of TIF that may be more suitable to provide full build-out of the water system, such as Community Development Block Grant (CDBG) Funding through the Agency of Commerce and Community Development. Additionally, it is very likely that Killington would be able to provide funds for full build out of the water system using the 15% municipal increment they would receive from the Six Peaks Village developments.

At this time, based on the analysis completed as provided in the current Killington application, the Executive Director recommends that the VEPC Board discuss with Killington a reevaluation to the town’s proposed TIF District boundary and components of the TIF Financing Plan.