

Date: April 28, 2022

To: Members of the House of Representatives

From: Karen Horn, Director, Public Policy & Advocacy

Re: S.234 and the Housing Crisis

Today, according to the online real-estate marketplace company Zillow, there are six built houses for sale in Middlebury, Vermont, seven in Manchester, zero in Waitsfield – but four in the surrounding area starting at \$575,000 – and six in Williston. We urge you to look up real estate listings in your own town for perspective on the housing crisis.

S.234 – as voted out of the House Natural Resources, Fish and Wildlife Committee – misses significant opportunities to ease the permit process for building housing in Vermont in several important respects.

1. S.234 increases the number of housing units that may be constructed without triggering Act 250 for priority housing projects in one of the 23 designated downtown development districts, three new town centers, nine neighborhood development areas, or six growth centers. The bill fails to eliminate Act 250 jurisdiction in those designated areas, despite demonstrated capacity to address the planning and permitting of projects by the professional staff in Vermont’s most sophisticated communities where the state goal is to concentrate growth.
2. The bill fails to eliminate the arbitrary requirement in Act 250 that establishes jurisdiction over housing projects with ten or more housing units “constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point, on any involved land, and within any continuous period of five years” (10 V.S.A. § 6001 (3)(A)(iv)). The language is also found at 10 V.S.A. § 6001 (19)(A)(i) for purposes of subdividing for resale, “within a radius of five miles of any point on any lot, or within the jurisdictional area of the same District Commission within any continuous period of five years”. Instead, the bill would extend that jurisdictional trigger to the construction of improvements on tracts of land controlled by a person involving more than one acre of land within a radius of five miles of any point on any involved land in a municipality without both zoning and subdivision bylaws.
3. Today, if a person wants to develop or renovate a housing unit and connect to a municipal water or wastewater system, they must secure a permit from the municipality that owns and operates the system in compliance with federal and state regulations. The owner must then secure the same permit from the Agency of Natural Resources, thus burdening a developer with unnecessary expense and time delays. Vermont’s stated goal is to build in compact settlement areas – those places served by water or sewer. The committee failed to eliminate that expensive and redundant state permit.

4. S.234 also incorporates the language from H.492, which eliminates Environmental Court jurisdiction of appeals of Act 250 decisions. It moves that jurisdiction back to a five-member Natural Resources Board renamed the Environmental Review Board. Appeals of local zoning decisions would remain at the Environmental Court. Thus, the legislation divorces appeals of local zoning decisions from appeals of Act 250 decisions on the same project, resulting in doubled appeal processes for zoning and Act 250, a much higher likelihood for conflicting decisions, and removing the significant legal analysis now applied to appeals of Act 250 decisions by the court.

Please [click this link](#) to read an April 5, 2022, letter to the Senate Committee on Natural Resources and Energy opposing H.492. Its 30 signatories include seven of Vermont's eight mayors.

Before passing this legislation, we strongly urge you to correct the significant deficiencies in S.234 that will continue to contribute to the difficulty in developing the housing we all agree is critically needed in Vermont.