

MEMO

To: Members, Senate Economic Development, Housing and General Affairs Committee

From: Karen Horn, Director Advocacy and Public Policy

Date: January 27, 2023

Re: DR Req 23-0091 – Draft 5.1 and Housing Legislation

Thank you for the opportunity to testify regarding housing legislation in your committee. We are grateful for this opportunity to help find ways to make it easier to build housing in Vermont and to take a wholistic approach to that effort. Every town is experiencing housing shortages. We know we need to amend zoning to reduce barriers to housing development. We also need to address party status in permitting and the substantial impediments to housing development imposed by Act 250, permits required by the Agency of Natural Resources and VTrans, costs of land and labor, availability and cost of materials, bank lending practices and more.

Land use planning and permitting are core responsibilities that voters in more than 253 cities, towns and villages have granted their municipal governments. According to the Agency of Commerce and Community Development, 253 municipalities have adopted plans and 242 of those are current and confirmed by regional commissions. There are 207 municipalities with adopted zoning or subdivision bylaws.

This represents a tremendous body of work undertaken by dedicated and volunteer planning commissions, zoning boards of adjustment and development review boards, trying to do the right thing for their communities to implement the many requirements in planning and zoning statutes. The workload is huge, complex, frequently controversial, and stressful. As a result, many volunteers at the local level are calling it quits. We need to be mindful of that reality.

I recommend that the committee hear from the Mayors' Coalition on housing issues. I am attaching the Mayors' Coalition Legislative Agenda for 2023, which focuses on housing for middle, affordable, low income and homeless people.

We are concerned that the first five sections of the draft bill, which mandate how municipalities permit housing developments, will eliminate discretion at the local level for planning commissions, zoning administrators, and development review boards. Municipalities are not one-size fits-all and what may be reasonable in one community will result in exacerbated problems in other communities. We understand at the local level that zoning needs to be redesigned to facilitate residential development. Many municipalities have already amended

bylaws to put in place the kinds of provisions that are contemplated in the zoning sections of the bill.

To the point of heavy workloads on local officials, it would be helpful to provide a more streamlined process for adopting amendments to zoning ordinances when the state prioritizes those changes (such as allowing duplexes in all residential districts, loosening requirements around accessory dwelling units, increasing densities in downtown and village areas). Currently the timeline for amending zoning bylaws can take years – as you heard from Katie Gallagher yesterday.

Parking Spaces

The prohibition on more than one parking space per dwelling unit (Sec. 1) is a good example of where one size does not fit all. In a rural community the prohibition on more than one parking space per dwelling unit may not be an issue. In a city, such as Montpelier, where parking is scarce, streets need to be cleared to facilitate snow removal, and an Act 250 permit to build a parking garage to address the problem was denied, parking is a huge issue. Municipalities can figure out what fits their circumstances, without prohibitions enacted in statute.

Emergency Shelters

Adding emergency shelters to the list of facilities that may only be regulated with respect to provisions in 24 VSA 4413 will exacerbate an already unmanageable reality at the local level (Sec. 3). What is an emergency shelter? Which agency regulates and manages emergency shelters? Are staff there to provide support services? Are there any screening requirements in place that establish who qualifies for housing support?

The governor’s budget calls for “\$26 million for emergency housing including General Assistance and Adverse Weather Conditions, to assure every Vermonter has a place to go for the night”. We agree that every Vermonter needs a place to go for the night.

Yet, at the local level, the hotel program puts local governments in impossible situations, where police and emergency medical service calls to hotels have skyrocketed since the Covid pandemic descended. Local officials have had to meet the public safety and emergency needs of people living in hotels with what we are told are virtually no support services, facility management, or assistance from the state. That is a different situation from those in community or non-profit operated facilities such as COTS, Good Samaritan Haven, and Downstreet where supervision, management, and support services are embedded in the model. Based on the presentation on Wednesday from Sarah Philips, 54 percent of 2450

households experiencing homelessness are in hotels, which would equal 1323 individuals. To be clear, we are asking for help, for support services at the hotels, and for a long-term plan to address these housing needs.

We urge to invite local officials in to discuss this dire situation with you. We have heard from cities and towns around the state that their police and (often volunteer) emergency medical services are reaching the limit of their capacity to meet the multiple health and safety needs of people lodged in hotels in their communities.

Reports

The requirement to file reports Sec. 5) needs to account for those places still without sufficient internet to electronically file all the information that would be required. Who does this if there is no staff at the local level?

Municipal Land Use and Zoning 24 VSA Chapter 117

Thank you for proposing granting discretion to the town to allow the zoning administrator to approve minor subdivisions. This is a measure that will ease the local permit process for smaller subdivisions.

Section 9 of the bill is concerning for local governments and will not achieve the desired results unless legislation also addresses duplicative permitting and abuse of the appeals process in both zoning and Act 250. We propose allowing local boards and commissions to initially tailor a project to the particular circumstances at hand – such as water quality issues, setbacks and neighboring properties, viewsheds, and density. We believe the more transformative change would be to establish that a person appealing a permit decision should not be able to appeal so as to reduce the number of units below the number of units allowed in the district.

Thank you for eliminating the provision for any ten people to appeal a zoning permit. Still able to appeal will be a person owning title to the property, a host municipality, adjoining municipality or solid waste district, a person in the immediate neighborhood who can demonstrate a physical or environmental impact on the person's interest, any department and administrative subdivision owning any interest in property, and the Agency of Commerce and Community Development.

Act 250

We are very concerned that the bill does not sufficiently revise Act 250 jurisdiction of residential and mixed-use developments, which often serves to give project opponents multiple

bites at the apple and reduce the size of proposed housing developments. Several such provisions are in Representative Sims bill, H. 111, which has 50 co-sponsors. We urge you to:

- Eliminate Act 250 jurisdiction in designated downtowns, new town centers, neighborhood development areas, and growth centers. Alternatively, define state standards for administration of Act 250 criteria and eliminate Act 250 jurisdiction in municipalities that meet those standards.
- Eliminate altogether the language in Act 250 that establishes jurisdiction based on “construction of housing projects...” 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 VSA 6 001 (3)(A)(iv)). Likewise, amend section (19)(A)(i) for purposes of housing, to remove the language regarding “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”.

Connections to Municipal Water and Wastewater

We strongly support Section 15, which would eliminate duplicative permits and permit fees, which can be substantial. The municipality, which finances, owns and operates the facility is the appropriate entity to determine permits for connections.

Tax Increment Financing (TIF)

Thank you for including language that would enact the Project Based TIF and provide extensions of time to incur debt for the Hartford and Barre City TIFs. TIF is one of the very few economic investment and growth tools that a municipality may use to build infrastructure that helps to revitalize municipal centers. We would welcome the opportunity to discuss the TIF program with you at more length at your convenience.

Funding For Housing Programs

We support the proposals to fund housing programs.

Thank you for the opportunity to testify.

