Chip Sawyer Written Testimony on Bill S.100
For VT House Committee on Environment and Energy

April 20, 2023

Representative Sheldon and members of the Committee: Thank you for the opportunity to provide written testimony on bill S.100, as passed the Senate. I am testifying in my capacity as the Director of Planning & Development for the City of St. Albans. My testimony also includes a statement from Carl Watkins, the Vice Chair of the St. Albans City Planning Commission, with the support of our entire P.C.

S.100 is an ambitious bill, and the overall goal to address Vermont's housing crisis in an immediate and equitable way is laudable. There is much to support in the bill, as well as some sections that I find problematic for local implementation. I am going to focus my testimony on proposed language changes.

General Comments and Context:

- The City of St. Albans has permitted more than 220 dwelling units throughout our community in the past decade; from multi-family projects to "missing middle" homes. Another multi-dwelling project of more than 70 units has been approved by our DRB and will be filing for its building permits shortly.

- In addition, our City administration has a stated goal of ensuring that another 200 dwelling units are built in the next several years; an endeavor that will likely require the municipality's direct involvement in order to overcome the market challenges common to development in a historic urban center.

- Franklin County is not like more urban areas of Vermont. We do not have frequent regional public transit, and a high degree of our residents commute, even out of and into the City of St. Albans. Our land use regulations need to be able to provide the direction and guidance needed to ensure the viability of residential uses and community services.

- When the Vermont legislature adopts preemptive local land use rules that are paired with municipal water and sewer service areas, please be aware that you are rezoning our ENTIRE community; neighborhoods, historic homes, everywhere; not just our downtown area.

- In general I lament the fact that Montpelier is proposing preemptive local zoning reforms while at the same time removing beneficial Act 250 reforms from the bill.

Sec. 1., page 1, lines 11 through 17, Parking:

The proposed rule as written does not provide for adequate parking for many "missing middle" properties in our community. It also potentially precludes a municipality's ability to regulate parking based on number of bedrooms, as many do. In our City, low-

moderate income households are more likely to suffer from inadequate residential parking capacity through the burden of parking tickets, having to pay to park elsewhere, etc. The unintended consequences of this proposed rule are illustrative of the Vermont Planners Association's suggestion to allow for a richer process of stakeholder involvement for parking solutions in a local context.

Please consider this statement submitted by Carl Watkins, Vice Chair of the St. Albans City Planning Commission:

I, Carl Watkins, as a black, low income, renting member of the community in Saint Albans, Vermont would like to take the time to express how my family would be negatively impacted by some of the provisions in S.100.

My main concern is around parking. I live in a two bedroom apartment and at times, for financial stability, we were a three income family. I, my wife, and my now 20 year old daughter have simultaneously worked in order to provide the needs of our 4 person household (including a five year old who has his own transportation needs). Without the ability to have three vehicles, we would not have made it.

I understand how important housing is because we may move at some point, but we will lose our quality of life if our city is unable to require 2.5 vehicles per dwelling unit. It's just not feasible at a low income level for us to increase our finances with just one vehicle for the unit. We have to get to work!

I hope that there are some adjustments made to look out for the low income families that require more than one person to work in a state where resources are spread out, including job availability, and public transportation is limited at best.

In light of Carl's experience, which affects many households in our community, we would suggest the following revisions to the bill language, highlighted:

For residential uses, a municipality that requires parking spaces per dwelling unit shall not require more than 2 parking spaces per dwelling unit or accessory dwelling unit for any property with less than 20 dwelling units and no more than 1.5 spaces per dwelling unit for any property with 20 or more dwelling units. Municipalities that require parking per bedroom may not require more than two parking spaces for studio dwellings or one-bedroom dwellings or more than 1 parking space per bedroom for dwelling units with two or more bedrooms. Municipalities may round up to the nearest whole parking space.

Some members of the Vermont Planners Association have also suggested some language[1] that would allow a municipality to require parking based on specific needs, which our City could also support.

Sec. 2., page 2, lines 16 through 20, use of the word "Allowed:"

Please maintain the use of the current word "allowed," rather than "permitted" in these sections. Permitted by right would preclude a community's ability to apply Conditional Use Review to a residential development. This type of review has the benefit of taking into account the ability of community services, traffic management, and other functions to handle the additional development. Permitted by right typically does not. **Please keep in mind that current state statute already does not allow a development of four or less dwelling units to be denied based solely on Character of the Area.**

Sec. 2., page 2, lines 16 through 18, Duplex Preemption:

Proposed language highlighted:

In any district that allows year-round residential development, duplexes shall be an allowed use with the same dimensional standards as a single-unit dwelling, unless that district allows development of at least two dwelling units on a lot at a density of seven or more dwelling units per acre, either via conditional use review or permitted by right

Sec. 2., page 2, lines 18 through 20, Multiunit Dwelling Preemption:

In any district that is served by municipal sewer and water infrastructure that allows residential development, multiunit dwellings with four or fewer units shall be an allowed use, unless that district specifically requires multiunit structures to have more than four dwelling units.

This proposed language would preserve our City's new multi-dwelling overlay district, which is meant for the redevelopment of former commercial/industrial areas and specifically requires structures to have ten or more dwelling units. The current proposed language in S.100 would have the ironic effect of precluding this housing development tool. (Another example of how state-level preemptions of local zoning can have unintended consequences.)

[1] VT Planners Assoc. proposed parking language: For residential uses, a municipality shall not require more than one parking space per one-bedroom dwelling unit. For dwelling units with more than one-bedroom, a municipality shall determine parking requirements based on the context and specific needs of the residential use. This determination shall include factors that allow for less parking, including but not limited to: unique residential uses (e.g., senior housing), public transit, on-street parking, public parking, shared parking. Minimum residential parking requirements in municipal bylaws shall be advisory only, and shall be secondary to a determination based on demonstrated need. For both residential and non-residential uses, a municipality may limit the amount of parking (e.g., parking maximums) based on demonstrated need, site constraints, or vehicle reduction provisions outlined in the municipal bylaw (e.g., transportation demand management, transit-oriented development, etc.).

Sec. 2. page 4, lines 4 through 8, Residential Density Preemption:

(12) In any district served by municipal sewer and water infrastructure that allows residential development, bylaws shall establish lot and building dimensional standards that allow four or more dwelling units per acre for ~~each allowed~~ residential uses, and density standards for multiunit dwellings shall not be more restrictive than those required for single-family dwellings.

This language would match the density mandate with what is already required for Neighborhood Development Areas in statute. This language is also supported by other members of the VT Planners Association.

Sec. 2. page 4, lines 9 through 15, Density/Floor Height Bonus Preemption:

(13) In any district served by municipal sewer and water infrastructure that allows residential development, any affordable housing developments, as defined in subdivision 4303(2) of this title, including those in mixed-use developments, may exceed ~~building height limitations by one additional habitable floor beyond the maximum height, and using that additional floor may exceed~~ density limitations for residential developments by an additional 40 percent, provided that the structure complies with the Vermont Fire and Building Safety Code.

We and other members of the VT Planners Association oppose the application of the density bonus to mixed used developments without the affordable housing trigger, because "mixed use development" is not clearly defined in 24 V.S.A., Ch. 117, and this could lead to confusion and lack of clarity on a community-by-community basis. Affordable housing is clearly defined in statute, however.

We also oppose the allowance of the extra floor for affordable housing developments, because this could fly in the face of the ability to provide local public safety services, even if a building complies with the VT Fire and Building Safety Code. Local public safety officials have better insight into whether or not they can safely extract residents from higher floors during an emergency before bodily harm occurs. This provision could have the effect of communities lowering the height of all allowed residential development for fear that otherwise an affordable housing development could gain an extra floor that is unsafe.

Sec. 2., page 4, beginning on line 18, Definition of "served by municipal water and sewer infrastructure":

Add a new paragraph: (15)(A)(ii)(VIII) requiring any other potential excluded sewer-served areas to be justified in the community's municipal plan reviewed and approved by the municipality's regional planning commission.

This change would exclude areas where higher residential development densities would run counter to the municipality's comprehensive plan and smart growth strategies. Such

areas must be identified by the municipality, and approved by the municipality's regional planning commission.

Sec. 17b, beginning on page 24. Water/wastewater requirements for Neighborhood Development Area Designation:

Please strike this section from S.100. The water/wastewater requirements for NDAs were wisely removed in a prior legislative session and should not be added back in. We have heard from other communities that seeking NDA designation is an optimal first step to then implementing a public water/wastewater solution. The NDA designation should be allowed to occur first.

Finally, please add Section 15 of H.68 back into S.100. Authorization for Municipal Wastewater System and Potable Water Supply Connections:

Please return this, or similar, language to S.100. This provision would allow municipalities that already operate and permit connections to water/wastewater systems to eliminate duplicative state regulation and thus reduce the costs of housing development.

I would appreciate any questions or comments and further opportunities to provide input. Thank you.

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