House Committee on Natural Resources and Energy
H.823 Designation Benefits Bill [Draft No.1.6]
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The Vermont Planners Association (VPA) has been helping guide, promote and implement Vermont's land use policy since the statutory goal "to plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside" was added to the Vermont Planning and Development Act (24 VSA Chapter 117) in 1989. We have actively participated in DHCD working groups to amend and improve related designation programs under Chapter 76A.

VPA strongly supports the general intent and scope of H.823 to provide additional incentives to meet state planning and development goals. Vermont has little wealth beyond its land and people. Financial, regulatory and infrastructure incentives must be carefully focused to help guide development in a manner that is consistent with longstanding state policy.

VPA supports:

- **Proposed changes to Act 250 thresholds for mixed income housing development, under the proposed definition of "priority housing development,"** as well as related provisions intended to ensure the protection of historic properties.

- **Expanding the definition of "affordable" rental housing to also include households earning up to 80% of the median household income.** This is consistent with related "affordable housing" definitions under 24 V.S.A. § 4303.

- **Regulatory benefits represented by proposed Act 250 "off-ramp" provisions for designated downtown development districts (under Section 3)** – and potentially other designated areas where the associated impacts of new development have been adequately identified and addressed in the planning and designation process, in advance of development.

- **Expanding priorities for state infrastructure investment to include all designated centers as defined (Sections 10, 11) –** to also, in the future, include priority funding for stormwater management infrastructure

- **Expanding the types of transportation facilities considered in Act 250 under Criterion 5 (Traffic); *and* allowing District Environmental Commissions to accept lower Levels of Service (LOS) under this criterion for transportation infrastructure within designated areas –** particularly where a lower LOS has been specified in a municipal or regional plan based on supporting studies, recognizing that more traffic congestion is anticipated and planned for within these areas. LOS standards should not be a barrier to development density in designated centers. We were sorry to see that a version of this provision was deleted from current draft.

- **Allowing inclusionary zoning to apply to multi-unit or multi-family development (in addition to subdivisions and planned unit developments.** We view Burlington's requested language a technical correction to address an oversight in section of statute.

We do not however, recommend the definitions of "multiunit development" and "housing unit" as proposed to be added to 24 V.S.A. § 4303, given that these are not entirely consistent with other housing sections of the planning statute **(Section 14)**. The more common terms used in the Planning

and Development Act –especially under the "equal treatment of housing" (§ 4412), include "multiunit or multifamily dwellings" – most commonly understood and applied as three or more dwellings per building (opposed to single or two-family dwellings)– and accessory dwellings, which are also defined as having "facilities for independent living, including sleeping, food preparation, and sanitation…" If statutory definitions are needed, we recommend using standard zoning definitions of "dwelling unit" and "multiunit" or multifamily dwelling" that would apply in all contexts. For example:

> **Dwelling Unit**: A building, structure or portion thereof designed or intended for occupancy as a separate, permanent living quarter, to include one or more rooms and cooking, sleeping and sanitary facilities for the exclusive use of a single household.
>
> **Multiunit or Multifamily Dwelling**: A building containing three or more dwelling units.

VPA generally supports, but also has some concerns, about the proposed change to 9(L) with regard to deleting references to" rural growth areas" (Section 2). "Rural growth areas" as addressed under 9(L) –were once defined spatially in relation to the "land capability map" referenced under Criterion 9 (and still on the books)– to exclude rural resources identified for protection in Act 250. As such, they are in sense more limiting with regard to the regulation of development outside of existing settlements than the language proposed for substitution. That said, we understand that, in the absence of the land and capability map, this criterion has been difficult to apply; and the intent is to provide language that offers much clearer guidance.

We strongly believe, however, that Criterion 9(L) should continue to be considered within a planning context, *by also referencing conformance with local and regional land use plans and maps and resource protection policies as applicable*. State planning goals, as currently referenced, do not provide specific guidance relevant in a regulatory context – as presented consistently throughout the Planning Act – regulations (bylaws) are specifically intended to conform to and implement plans, for the purposes established under the state planning goals. Development must also conform to plans under Criterion 10; but specifically referencing plans under this criterion provides additional context specific to the review of development outside of existing settlements. The location and design of any proposed development outside of an existing settlement (or designated area as included in the definition) should conform to local and regional land use plans and maps specific to the site in question. In the absence of any larger planning context, it will continue to be difficult to identify and address the cumulative impacts of rural development. **VPA suggests the following amendments to currently proposed language**:

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 of an existing settlement when it is demonstrated by the applicant that, in addition to **meeting** all other applicable criteria, the development or subdivision:

> **conforms to the land use element, map and resource protection policies included in the municipal or regional plan as applicable to the proposed location of the development or subdivision;**
>
> will make efficient use of land, energy, roads, utilities and other supporting infrastructure; and
>
> ~~Is designed in a manner consistent with the planning goals set forth in 24 V.S.A. § 4302(C)(1)~~;
>
> will not establish, extend, or contribute to a pattern of strip development along public highways; and, if the development or subdivision is to be located in an area that already constitutes strip development, incorporates compact site design and infill as defined in 24 V.S.A. § 2791.