

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred  
3 House Bill No. 823 entitled “An act relating to encouraging growth in  
4 designated centers and protecting natural resources” respectfully reports that it  
5 has considered the same and recommends that the Senate propose to the House  
6 to amend the bill as follows:

7 First: In Sec. 1, 10 V.S.A. § 6001 (definitions), in subdivision (16)(A)  
8 (existing settlement), in subdivision (ii), after “an existing”, by striking out  
9 “community”.

10 Second: In Sec. 1, 10 V.S.A. § 6001 (definitions), by striking out  
11 subdivision (36) in its entirety and inserting in lieu thereof a new subdivision  
12 (36) to read:

13 (36) “Strip development” means linear commercial development along a  
14 public highway that includes three or more of the following characteristics:  
15 broad road frontage, predominance of single-story buildings, limited reliance  
16 on shared highway access, lack of connection to any existing settlement except  
17 by highway, lack of connection to surrounding land uses except by highway,  
18 lack of coordination with surrounding land uses, and limited accessibility for  
19 pedestrians. In determining whether a proposed development or subdivision  
20 constitutes strip development, the District Commission shall consider the

1 topographic constraints in the area in which the development or subdivision is  
2 to be located.

3 Third: By striking out Sec. 2 in its entirety and inserting in lieu thereof a  
4 new Sec. 2 to read:

5 Sec. 2. 10 V.S.A. § 6086 is amended to read:

6 § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

7 (a) Before granting a permit, the ~~district commission~~ District Commission  
8 shall find that the subdivision or development:

9 \* \* \*

10 (5)(A) Will not cause unreasonable congestion or unsafe conditions with  
11 respect to use of the highways, waterways, railways, airports and airways, and  
12 other means of transportation existing or proposed.

13 (B) Will incorporate transportation demand management strategies  
14 and provide safe access and connections to adjacent lands and facilities and to  
15 existing and planned pedestrian, bicycle, and transit networks and services,  
16 unless the District Commission affirmatively finds that such a strategy, access,  
17 or connection does not constitute a measure that a reasonable person would  
18 take given the type, scale, and transportation impacts of the proposed  
19 development or subdivision.

20 \* \* \*

1           (9) Is in conformance with a duly adopted capability and development  
2           plan, and land use plan when adopted. However, the legislative findings of  
3           subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria  
4           in the consideration of applications by a ~~district commission~~ District  
5           Commission.

6   \* \* \*

7           (L) ~~Rural growth areas. A permit will be granted for the~~  
8           ~~development or subdivision of rural growth areas when it is demonstrated by~~  
9           ~~the applicant that in addition to all other applicable criteria provision will be~~  
10           ~~made in accordance with subdivisions (9)(A) “impact of growth,” (G) “private~~  
11           ~~utility service,” (H) “costs of scattered development” and (J) “public utility~~  
12           ~~services” of subsection (a) of this section for reasonable population densities,~~  
13           ~~reasonable rates of growth, and the use of cluster planning and new community~~  
14           ~~planning designed to economize on the cost of roads, utilities and land usage.~~  
15           Settlement patterns. To promote Vermont’s historic settlement pattern of  
16           compact village and urban centers separated by rural countryside, a permit will  
17           be granted for a development or subdivision outside an existing settlement  
18           when it is demonstrated by the applicant that, in addition to all other applicable  
19           criteria, the development or subdivision:

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

1                   (ii) is designed in a manner consistent with the planning goals set  
2                   forth in 24 V.S.A. § 4302(c)(1);

3                   (iii) will conform to the land use element, map, and resource  
4                   protection policies included in the municipal and regional plans applicable to  
5                   the proposed location of the development or subdivision; and

6                   (iv)(I) will neither establish nor contribute to a pattern of strip  
7                   development along public highways; and

8                   (II) if the development or subdivision will be located in an area  
9                   that already constitutes strip development, will incorporate infill as defined in  
10                  24 V.S.A. § 2791 and is designed to avoid or minimize the characteristics  
11                  listed in the definition of strip development under subdivision 6001(36) of this  
12                  title.

13   \* \* \*

14                  Fourth: By striking out Secs. 3, 4, and 5 in their entirety and inserting in  
15                  lieu thereof new Secs. 3, 4, and 5 to read:

16                  Sec. 3. 10 V.S.A. § 6086b is added to read:

17                  § 6086b. DOWNTOWN DEVELOPMENT; FINDINGS

18                  Notwithstanding any provision of this chapter to the contrary, each of the  
19                  following shall apply to a development or subdivision that is completely within  
20                  a downtown development district designated under 24 V.S.A. chapter 76A and

1 for which a permit or permit amendment would otherwise be required under  
2 this chapter:

3 (1) In lieu of obtaining a permit or permit amendment, a person may  
4 request findings and conclusions from the District Commission, which shall  
5 approve the request if it finds that the development or subdivision will meet  
6 subdivisions 6086(a)(1) (air and water pollution), (2) (sufficient water  
7 available), (3) (burden on existing water supply), (4) (soil erosion),  
8 (5) (traffic), (8) (aesthetics, historic sites, rare and irreplaceable natural areas),  
9 (8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary  
10 agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy  
11 conservation), and (9)(K) (public facilities, services, and lands) of this title.

12 (2) The request shall be complete as to the criteria listed in  
13 subdivision (1) of this subsection and need not address other criteria of  
14 subsection (a) of this section.

15 (A) The requestor shall file the request in accordance with the  
16 requirements of subsection 6084(a) of this title and the requestor shall provide  
17 a copy of the request to each agency and department listed in subdivision (3) of  
18 this section.

19 (B) Within five days of the request's filing, the District Coordinator  
20 shall determine whether the request is complete. Within five days of the date  
21 the District Coordinator determines the request to be complete, the District

1 Commission shall provide notice of the complete request to each person  
2 required to receive a copy of the filing under subdivision (2)(A) of this section  
3 and to each adjoining property owner and shall post the notice and a copy of  
4 the request on the Board's web page. The computation of time under this  
5 subdivision (2)(B) shall exclude Saturdays, Sundays, and State legal holidays.

6 (3) Within 30 days of receiving notice of a complete request:

7 (A) The State Historic Preservation Officer or designee shall submit a  
8 written recommendation on whether the improvements will have an undue  
9 adverse effect on any historic site.

10 (B) The Commissioner of Public Service or designee shall submit a  
11 written recommendation on whether the improvements will meet or exceed the  
12 applicable energy conservation and building energy standards under  
13 subdivision 6086(a)(9)(F) of this title.

14 (C) The Secretary of Transportation or designee shall submit a  
15 written recommendation on whether the improvements will have a significant  
16 impact on any highway, transportation facility, or other land or structure under  
17 the Secretary's jurisdiction.

18 (D) The Commissioner of Buildings and General Services or  
19 designee shall submit a written recommendation on whether the improvements  
20 will have a significant impact on any adjacent land or facilities under the  
21 Commissioner's jurisdiction.

1           (E) The Secretary of Natural Resources or designee shall submit a  
2           written recommendation on whether the improvements will have a significant  
3           impact on any land or facilities under its jurisdiction or on any important  
4           natural resources, other than primary agricultural soils. In this subdivision (E),  
5           “important natural resources” shall have the same meaning as under 24 V.S.A.  
6           § 2791.

7           (F) The Secretary of Agriculture, Food and Markets or designee shall  
8           submit a written recommendation on whether the improvements will reduce or  
9           convert primary agricultural soils and on whether there will be appropriate  
10           mitigation for any reduction in or conversion of those soils.

11           (4) Any person may submit written comments or ask for a hearing  
12           within 30 days of the date on which the District Commission issues notice of a  
13           complete request. If the person asks for a hearing, the person shall include a  
14           petition for party status in the submission. The petition for party status shall  
15           meet the requirements of subdivision 6085(c)(2) of this title.

16           (5) The District Commission shall not hold a hearing on the request  
17           unless it determines that there is a substantial issue under one or more  
18           applicable criteria that requires a hearing. The District Commission shall hold  
19           any hearing within 20 days of the end of the comment period specified in  
20           subdivisions (3) and (4) of this section. Subdivisions 6085(c)(1)–(5) of this  
21           title shall govern participation in a hearing under this section.

1           (6) The District Commission shall issue a decision within 60 days of  
2           issuing notice of a complete request under this section or, if it holds a hearing,  
3           within 15 days of adjourning the hearing. The District Commission shall send  
4           a copy of the decision to each State agency listed in subdivision (3) of this  
5           section, to the municipality, to the municipal and regional planning  
6           commissions for the municipality, and to each person that submitted a  
7           comment, requested a hearing, or participated in the hearing, if any. The  
8           decision may include conditions that meet the standards of subsection 6086(c)  
9           of this title.

10           (7) The requestor may waive the time periods required under  
11           subdivisions (3), (4), and (6) of this section as to one or more agencies,  
12           departments, the District Commission, the District Coordinator, or other  
13           persons. Such a waiver shall extend the applicable and subsequent time  
14           periods by the amount of time waived. In the absence of a waiver under this  
15           subdivision, the failure of a State agency to file a written determination or a  
16           person to submit a comment or ask for a hearing within the time periods  
17           specified in subdivisions (3) and (4) of this section shall not delay the District  
18           Commission's issuance of a decision on a complete request.

19           Sec. 4. 10 V.S.A. § 6081(v) is added to read:

20           (v) A permit or permit amendment shall not be required for a development  
21           or subdivision in a designated downtown development district for which the



1 District Commission has issued positive findings and conclusions under  
2 section 6086b of this title on all the criteria listed in that section. A person  
3 shall obtain new or amended findings and conclusions from the District  
4 Commission under section 6086b of this title prior to commencement of a  
5 material change, as defined in the rules of the Board, to a development or  
6 subdivision for which the District Commission has issued such findings and  
7 conclusions. A person may seek a jurisdictional opinion under section 6007 of  
8 this title concerning whether such a change is a material change.

9 Sec. 5. [Deleted.]

10 Fifth: By striking out Sec. 6 in its entirety and inserting in lieu thereof:

11 Sec. 6. [Deleted.]

12 Sixth: By striking out Secs. 7 and 8 in their entirety and inserting in lieu  
13 thereof new Secs. 7 and 8 to read:

14 Sec. 7. 10 V.S.A. § 8003 is amended to read:

15 § 8003. APPLICABILITY

16 (a) The Secretary may take action under this chapter to enforce the  
17 following statutes and rules, permits, assurances, or orders implementing the  
18 following statutes, and the Board may take such action with respect to  
19 subdivision (10) of this subsection:

20 \* \* \*

1 (10) 10 V.S.A. chapter 151, relating to land use, and including findings  
2 and conclusions issued under section 6086b of this title;

3 \* \* \*

4 \* \* \* Nonappeal, Recommendation to District Commission \* \* \*

5 Sec. 8. 10 V.S.A. § 8504 is amended to read:

6 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

7 (a) Act 250 and agency appeals. Within 30 days of the date of the act or  
8 decision, any person aggrieved by an act or decision of the Secretary, the  
9 Natural Resources Board, or a ~~district commission~~ District Commission under  
10 the provisions of law listed in section 8503 of this title, or any party by right,  
11 may appeal to the Environmental Division, except for an act or decision of the  
12 Secretary under subdivision 6086b(3)(E) of this title or governed by section  
13 8506 of this title.

14 \* \* \*

15 Seventh: In Sec. 13 (wastewater rules; amendment), after “the Agency of  
16 Natural Resources shall amend its” by inserting the word application prior to  
17 “form”.

18 (Committee vote: \_\_\_\_\_)

19 \_\_\_\_\_

20 Senator \_\_\_\_\_

21 FOR THE COMMITTEE