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Testimony of the Lake Champlain Regional Chamber of Commerce and the Greater Burlington Industrial Corporation (GBIC)  
H823  
Senate Natural Resources & Energy Committee  
Katie Taylor, Government Affairs Specialist

Thank you for the opportunity to testify on H.823. The Chamber and GBIC appreciate the work done by the Department of Housing and Community Development and by the many stakeholders involved in this process of working toward providing more incentives in designated centers. We agree that further incentivizing development in designated areas is one of the best ways to promote the state's land use goals, which we support. We think this bill begins taking steps in the right direction.

We strongly support several sections of the bill, including off-site mitigation at a 1:1 ratio in designated centers; the move to on the record review, which will save time and money for project proponents and for the state; the language in Section 1 that ensures that discrete projects within a designated center will not be aggregated for purposes of Act 250, a provision that will hopefully encourage developers to focus their projects inside designated centers; and the change from the 60% to 80% of median income for the affordable housing definition, a change that will incentivize the creation of more housing to address an increasing demand for quality workforce housing. And we support the bill's attempts to lessen the Act 250 burden by raising jurisdictional thresholds for priority housing projects and by providing an alternative Act 250 process for projects in designated downtowns.

However, we think that these incentives can and should go further. The legislature has determined at each step of the road that it wants to create opportunities for these designated centers and incentivize development in them. There now exists a rigorous, complex process, including state agencies as stakeholders, by which municipalities could become designated centers. The process provides for municipal planning, a vote by the municipal legislative body, and consideration of a number of environmental and land use factors. Several proponents of the bill have testified that the areas chosen for designation are often places where significant development has already occurred and where there are limited natural resources present.

The issue of whether an area is appropriate for development should be dealt with in that designation process, not piecemeal as each developer comes forward with a new project. As such, we believe that it makes sense from a policy perspective for the review of development projects going into certain designated centers to rely primarily on the local and regional permitting process, rather than on Act 250 review. If we want development in designated centers, then we should really incentivize putting it there. For those who are concerned about development without meaningful review, it is important to remember that designated downtowns, as well as many of the other designated centers, must have zoning in place, and much of the same review occurs during the zoning application process as does during the Act 250 process. There will be some difference in the level of review carried out by different towns and regions, but any lack of review could be addressed by specific provisions in the designation at the municipal level rather than in state statute. The House Natural Resources Committee heard testimony from a number of developers (primarily residential, including affordable housing) who spoke about the

redundancy of the process and stated that it is difficult to build anywhere in Vermont and make it financially feasible, even sometimes in designated centers.

And to be clear, this bill offers an alternative Act 250 process only in designated downtowns, not in any other designated areas. That alternative process, while it is a good start and would reduce the *cost* of development, still requires developers to get letters from multiple agencies, to wait for decisions, and to potentially have their project delayed by hearings and appeals. The process may not be any quicker than under a traditional Act 250 permitting process, which doesn't just delay development but also delays businesses that are waiting to open and renters and homeowners that are waiting to move into their homes. The process can also be redundant, particularly in communities with significant zoning requirements.

Because we do not think the incentives in this bill go quite far enough to meaningfully incentivize development in our designated centers, we are particularly concerned with the changes to the 9(L) criteria. The new criterion is overly restrictive and would insert additional uncertainty into the Act 250 process. The definition of strip development is so broad (and with many currently undefined phrases) that many projects could be open to denial of a permit or appeals of granted permits based on questions about whether they had "avoid[ed] or minimize[d]" the many characteristics of strip development. We are also concerned that it might limit the likelihood of in-fill in places where there is already existing strip development because it will open up projects to increased costs and scrutiny. More and more projects in recent years are moving in the direction of utilizing compact site design and smart growth principles because that is where the market is going. Changing Act 250 by adding in additional restrictive criteria is not only unnecessary, but it also subjects projects to additional costs and delay. And we would like to emphasize again the importance of offering meaningful incentives for development in those areas where we as a state have decided that we want development so that there is simply less reason to develop in those places and in those ways that are not in line with these land use goals.

Finally, the broadening of Criteria 5 would apply to all projects requiring an Act 250 permit, not just those in designated centers. Again, the market is heading in the direction of providing greater access to pedestrian walkways and alternative transportation. However, for smaller projects, the cost of constructing some of this infrastructure could be prohibitive. If the "as appropriate" language at the beginning of that section is meant to address that concern, we would ask that specific language about considering economic burden and the size of the project be put into the bill.

In short, we think the incentives in this bill are a good start and we appreciate the work done, but overall the bill does not strike the appropriate balance between incentivizing development in the places we want it and discouraging development in the places we don't want it.