

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**
18 **highway**, limited accessibility for pedestrians, and lack of coordination with
19 surrounding land uses in terms of design, signs, lighting, and parking. In
20 determining whether a proposed development or subdivision constitutes strip
21 development, the District Commission shall consider the topographic

1 constraints in the area in which the development or subdivision is to be
2 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 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: *PLACEHOLDER FOR RECONCILING SEC. 6, RE PRIMARY*
11 *AGRICULTURAL SOILS MITIGATION, WITH H.448 AMENDMENTS*
12 *ON SAME STATUTE (10 V.S.A. § 6093)*

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

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

16 § 8003. APPLICABILITY

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

21 * * *

1 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE