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Hon. Robert Hartwell, Chair
Senate Natural Resources and Energy Committee
Vermont State House
Montpelier, VT 05633-5301

Dear Senator Hartwell:

Although I have not been able to join the committee every time testimony was being taken on H.823 – the bill to revise Act 250 and incentives for locating in designated downtowns, village centers, new town centers, growth centers, Vermont neighborhoods or neighborhood development areas – VLCT does have some concerns with the bill.

We also take under advisement the concerns expressed by Steve Reynes last week regarding unintended consequences. He has a tremendous amount of experience with Act 250.

H.823 would repeal 10 V.S.A. § 6001 (16), the definition of rural growth areas (page 7 of the House-passed bill). The 2013 Natural Resources Board rules define rural growth area as follows:
(22) "*Rural growth areas*" For purposes of 10 V.S.A. § 6086(a)(9)(L), a "*rural growth a*rea" means an area or areas within a rural tract proposed for development or subdivision where the natural resources referred to in 10 V.S.A. §§ 6086(a)(1)(A) - (F), (8)(A), (9)(B) - (9)(E), and (9)(K) are either not present or minimally present. For purposes of this definition, "rural" means sparsely settled country, or open, farmed, forested or undeveloped country, even if contiguous to an existing settlement. Consistent with appropriate densities, development and subdivision should be concentrated within "rural growth areas" in order to lessen growth pressures on adjacent natural resources.

The proposed definition of "existing settlement" (also on page 7 of the House-passed bill) is not a replacement for that of a "rural growth area." In fact, it seems to us to be a completely different but not necessarily conflicting type of area. We believe the definition of rural growth area should be retained – the rule's definition could be included in the law – and the proposed definition of existing settlement should also be included.

In the rewrite of criterion (9) (L), reference to rural growth areas should be retained. The new language on page 13 could read:

"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 an existing settlement **or in a rural growth area** when it is demonstrated ~~by the applicant that in addition to all other applicable criteria~~ the development or subdivision will make efficient use of land, energy, roads, utilities, and other supporting infrastructure; is designed in a manner consistent with the planning goals set forth in 24 VSA 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 VSA section 2791 (20). *(Note: We did not see a definition of "compact site design" in 24 VSA section 2791.)*

"Strip development" is defined very broadly in H.823. We oppose the absolute statement in the proposed definition of existing settlement that "strip development outside an area described in subdivision (a)(i) or (ii) of this subdivision (16) shall not constitute an existing settlement" (page 8 of the House-passed bill). While we do not believe municipalities should encourage strip development, how strip development would be defined varies in different communities and different parts of the state. If it is defined differently in a municipal plan and bylaw, what affect will that have in the Act 250 permit process?

We are concerned that Section 3 of H.823 – providing a streamlined review of developments in downtown development districts – might *not* be streamlined if an applicant had to secure and provide letters from six different agencies or departments determining if the proposed development has a significant impact on the resources under his or her jurisdiction.

The bill could instead simply require that projects in downtown development districts be reviewed under the current minor permit process, which is established in Rule 51 of the Natural Resource Board Rules:

Any development or subdivision subject to the permit requirements of 10 V.S.A. § 6081 and these rules may be reviewed in accordance with this rule as a "minor application" if the district commission determines that there is demonstrable likelihood that the project will not present significant adverse impact under any of the 10 criteria of 10 V.S.A. § 6086(a).

Thank you for considering these comments.

Sincerely,

Karen B. Horn

Karen Horn, Director
Public Policy and Advocacy