



House Committee on Natural Resources and Energy
H.823 Designation Benefits Bill

[Draft No.1.1, 4/15/2014]

Supplemental Comments: April 16, 2014

As stated in our earlier testimony on this bill, *VPA strongly supports the intent and scope of H.823 to provide additional incentives to meet state planning and development goals, and we also believe the majority of changes in this four-page set of suggested revisions will help to clarify and strengthen the legislation.*

VPA, however, opposes deletion of language in H. 823, as passed by the House, under Criterion 9(L)(iii) that reads:

(iii) will conform 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;

We urge the Committee to consider that:

1. Criterion 9(L) should continue its historic role to provide a planning context for review of development applications relative to settlement patterns, by also referencing conformance with local and regional land use plans and maps and resource protection policies as applicable. Per our previous testimony, in the absence of the land capability map and land use map referenced under Criterion 9, adopted local and regional land use plans and associated maps provide the only publicly vetted context for determining the existing and planned “settlement pattern” for a particular location within a community.

While some argue that this is redundant with the more generally stated plan conformance requirement under Criterion 10, we strongly believe that specifically referencing the plans under criterion 9(L) will gain specific scrutiny in order to make findings relevant to location and design of the development outside of existing settlements and rural resource protection policies. The Criterion 10 submittal under most applications has become a rote exercise -- a general comment on meeting the wide range of goals in the plans.

2. In addition, Criterion 9(L)(ii) will not be particularly relevant or useful, and could result in circular discussion, unless it is revised to add 4302 goals (5),(8),(9) and (10).

Only the first goal, 4302(c)(1) is currently referenced in the bill draft under 9(L)(ii), which is our familiar “to plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside”. **This is the one state planning goal that applies to existing settlements/growth centers - and *not* to those planning goals that apply to development outside of existing settlement/growth centers that address natural resource protection, farm and forest land fragmentation.** There is nothing provided in proposed Criterion 9(L)(ii) about how to review development outside of an existing settlement

so as to determine that it has been planned to protect and preserve important natural and historic features or the long-term viability of agricultural and forest land. It should be noted that Act 250, Section 248 and court decisions have viewed these goals as overly general and discretionary. If 9(L)(ii) is included, it should at least refer to goals related to uses outside existing settlements.

In sum, Vermont Planners Association urges you to maintain the 9(L)(iii) reference to municipal and regional plans. It is not redundant in this context – in the absence of the land capability plan (and state land use map) as referenced under 9, *the plans would provide needed context* for evaluating the suitability development outside of an existing settlement. **In addition, the relevancy of 9(L)(ii) needs fixing by adding reference to 4302 goals (5)(8)(9) and (10).**

Again, thank you for this opportunity to provide input!

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