VNRC Vermont Natural Resources Council

COMMON SENSE SOLUTIONS FOR A CHANGING VERMONT

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Testimony to the Senate Committee on Natural Resources and Energy
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S.138: An Act Relating to Promoting Economic Development
Sections 30-34, pertaining to land use and Act 250

VNRC has long advocated for smart growth solutions that support our downtowns and villages and take development pressure off of farm and forest land. We were involved in the passage of Criterion 9L last year, as well as in numerous smart growth study committees in the years before that.

VNRC would like to comment on sections 30-34 of S.138 – those sections pertaining to land use and Act 250.

Section 30 – Requirements for New Town Centers

The New Town Center is a designation created for towns that lack a traditional center. The purpose of the designation is to help towns build a center more easily, using incentives.

Civic and public buildings are an important part of *traditional* town centers, so it makes sense that to have a *New* Town Center, a municipality needs to provide evidence that civic public buildings do or will exist there. The area should then be used by the town as a priority area for developing town buildings. If towns simply built town buildings where land was the least expensive, then town buildings might not contribute to a cohesive village with sense of places as envisioned by the New Town Center program.

The change proposed in S.138 would allow for "publicly owned *structures or facilities* devoted to community use" as an alternative to "civic and public buildings" (which are what's currently required by statute for a New Town Center.). This new language could include a building, but it could also be a sidewalk, or even a garbage can - there's a broad range of what could be a publicly owned structure or facility.

VNRC thinks it is appropriate for the New Town Centers statute and program to maintain an emphasis on civic and public buildings, in order to maintain the underlying intent of the designation. The language should remain as it is in statute, without the change proposed in S.138.

Section 31 – Industrial Parks and Act 250 "Umbrella" and Master Permits

This section says that if an existing industrial park has an umbrella permit, then improvements in the industrial park do not need to obtain Act 250 permit amendments if certain factors are met. Those factors include that the town must have zoning and subdivision regulations, and that ANR permits have been issued.

This seems to leave open the possibility that some Act 250 criteria not otherwise covered by the master permit could be ignored, because of the exemption from the permit amendment process. There has

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been no evidence provided that Act 250 is the primary or only obstacle to the development of industrial parks. Furthermore, if industrial uses are not compatible with downtowns and villages due to their impacts, they should hardly be subject to *less* review.

In addition, by having only local and ANR review, changes to industrial parks with umbrella or master permits are not reviewed for regional and cumulative impacts, nor for aesthetics – something Act 250 accomplishes, but that other review processes don't always do.

It's VNRC's position that this change would be harmful to the environment and Act 250, and that the language should be struck from S.138.

Section 32 – Enterprise Zones

Enterprise Zones are an idea that was discussed, and rejected, last year. The proposed designation is a problem for several reasons:

- Enterprise zones are not defined, except that they must be "a list of properties contiguous or adjacent to each other" and be served by infrastructure.
- There are no criteria by which to evaluate whether a site itself is suitable, nor whether the location of the zone makes sense in relation to other development.
- There's no required public process for designating them – even when it comes to the town, all that's required is that the RDC "consult" with the town.

Despite these major issues, once these zones are designated by the Regional Development Corporations, the Agency of Natural Resources is required to expedite permits, and the Natural Resources Board is not allowed to do any review beyond the criteria in the master plan – their hands are tied on reviewing the impacts of something that's vaguely defined and informally designated.

Even if these zones were defined, met certain criteria, and had a robust review and approval process, they still have the same problems as above: this designation would remove Act 250 from the process, and with it, the ability for Act 250 to review impacts that are unlikely to be covered by other review processes.

As above, it is VNRC's position that this language should be struck from S.138.

Section 33 – Developing Guidance and Education for the Criterion 9L, "Settlement Patterns"

Developing comprehensive guidance for Criterion 9L, "settlement patterns," and then following it up with outreach should help everybody become more familiar with 9L, clarify what different terms mean, and help remove some of the uncertainty around it. We support those goals.

We would add that it's very important that the guidance and training help people understand that achieving compliance with Criterion 9L – *settlement patterns* – is about more than the project's design and aesthetics. In 9L, a project's "settlement pattern" is about how development relates to existing, smart growth locations. Well-designed projects are important, but making sure projects

end up in the right places is essential given what 9L is meant to achieve: reinforcing existing settlements, redeveloping existing strip development, and preventing new strip development.

I would add that it is also extremely important that the guidance must help implement the existing law, and not weaken its interpretation. The development of this guidance document should not be about revisiting or re-legislating 9L, but about interpreting it so that all can use it more effectively and predictably.

VNRC supports the development of clear guidance that upholds the intent of Criterion 9L, "settlement patterns," and does not weaken the statutory language enacted last year.

Section 34 – Extending Exemption from Requirement to Adhere to Underlying Act 250 Conditions

This language expands an Act 250 exemption from just state designated downtowns, to state designated growth centers as well. The exemption is limited to a certain category of mixed use and mixed income housing project. Growth centers involve more undeveloped land than downtowns, and their boundaries are much larger – sometimes overly large – which means they contain more properties that potentially have existing Act 250 conditions.

While these are certainly projects that should be encouraged in downtowns and growth centers, we are concerned that this expands the exemption too much, and that established permit conditions would be erased. This could have negative consequences for the natural resources those conditions were meant to protect, but also to neighbors of the project who relied on those conditions.

S.138 suggests the inclusion of "small scale, low-impact manufacturing" in the definition of "mixed use," but the term is not defined.

VNRC suggests that this language be removed from S.138, and that the statute remain as is.

Thank you for the opportunity to testify. I appreciate your time and am happy to answer any questions.

Founded in 1963, the Vermont Natural Resources Council (VNRC) is Vermont's oldest conservation organization. With the support of over 4,000 members and activists, VNRC has worked to protect, restore and promote Vermont's surface and ground waters, viable communities, forest and wildlife resources, working lands, and energy independence.

Questions?
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