

MEMORANDUM

To: Honorable Tom Stevens, Chair and Members of House Committee on General, Housing, and Military Affairs

From: Mike Miller, Director of Planning & Community Development

Re: Comments on S.237 Zoning and Housing legislation

Date: August 31, 2020

I am writing you tonight to detail my concerns on the proposed S.237 legislation. As the Director of Planning and Community Development for the City of Montpelier I have had the good fortune to work with a community that has made affordable housing a priority for years. Our City has not only removed barriers through our zoning, but also funds more than \$100,000 annually to a Housing Trust Fund to invest in new housing. We understand that housing is a complex issue that requires a nuanced set of rules and approaches to achieve our goals.

I would like to take a moment to outline our zoning that was adopted in 2018 and explain how Section 2 of the legislation will inhibit good planning and creative solutions within and across Vermont's municipalities. Our concern specifically is with the following in section 4412(b) Inclusive Development:

- (A) No bylaw shall have the effect of prohibiting the creation of residential lots of at least:
- (i) 10,890 square feet or one-quarter acre within any regulatory district allowing residential uses served by and able to connect to a water system operated by a municipality; or
 - (ii) 5,400 square feet or one-eighth acre within any regulatory district allowing residential uses served by and able to connect to a water and sewer system operated by a municipality.

For context, most of our neighborhoods have both sewer and water so we would be under a 1/8 acre mandate.

The development of the City's 2018 zoning amendments were the result of a careful balance between protecting the historic character of our existing neighborhoods while increasing the opportunity for new infill housing. This process started with a thorough analysis of the existing built character of each neighborhood, including setbacks, lot sizes, building heights and footprints, and density of dwelling units. We next grouped similar areas into neighborhoods and developed rules to match that character in built form, density, and lot sizes. Importantly we used a "90%

conformity” rule to make sure most structures and uses would “conform” to the new zoning regulations. The 90% conformity work generally resulted in increasing the allowed densities in each neighborhood, as many areas had rules that made the existing development non-conforming.

What we found through this process was a set of neighborhoods close to downtown that have lots less than 1/8 acre (5445 square feet) and densities as high as 29 units an acre. We therefore have set the smallest minimum-lot-size set at 3,000 square feet. As we move out from the core, densities decrease and lot sizes increased until we reached our lowest density neighborhoods. While a small percentage (maybe 25%) of our neighborhoods exceeded 1/8 acre minimum lot sizes, most were between 1/8 and 1/4 acre in size and only one of the neighborhoods had 1/3 acre lots.

After writing rules to protect the character and form of our neighborhoods, our next step was to increase allowable densities in order to facilitate infill. We started by permitting a duplex on every conforming lot (regardless of density) effectively doubling the potential for units in every neighborhood. Because the rules discussed above guiding the built form remained (e.g. the heights, setbacks, lot sizes) the higher density would need to be fit into the existing form and therefore not negatively impact the historic character. So a neighborhood of stately older homes on 1/4 acre lots may have been single family homes in the past but today could have a second unit added as a permitted use. We also added more flexible ADU rules, made more residential uses permitted, reduced parking requirements, and streamlined the permit process.

I point all this out to highlight that even with this very responsible, pro-housing set of zoning changes, less than 25% of the area with sewer and water will conform to the new proposed mandate. Protecting historic character is a primary consideration for many of our neighborhoods. Although our zoning allows for housing density in excess of 8 units per acre (the goal of the proposed legislation) in nearly all of the service area, it does so on lots that are larger than 1/8 acre in order to protect the character. Remember, we allow a duplex on a conforming lot, most neighborhoods are a 1/4 acre or less, and 90% of the lots in every neighborhood are conforming. The proposed state mandate inhibits the good planning that allows creative solutions like this. The proposed rule only allows for more housing while our solution allows for the same or more housing opportunities without sacrificing the character of our neighborhoods.

Further, we currently have public support for infill projects but the mandates of 4412(b)(A) could result in development that undermines that public support. Municipalities across the state are tackling this issue using creative approaches and the mandate will prevent new ideas that could meet the same goal while achieving our other community objectives (limiting development in floodplains/river corridors, protecting historic character, limiting development in areas with environmental constraints like steep slopes, etc.). Not every neighborhood should be developed into 1/8 acre lots and densities. I therefore do not support this type of one-size-fits-all approach to solving the affordable housing problems that we facing. I would ask that you consider other options including allowing a study group to examine alternatives to this proposal. If the Committee feels mandates are necessary then I think a more carefully crafted one could be developed with cooperation of local planners and with input from key groups and set them for

adoption in the next legislative cycle.

Thank you for your time and consideration.

Mike Miller, AICP CFM

cc. William Fraser, City Manager