

**Chip Sawyer Testimony on S.237 to the House Committee on General, Housing, and Military Affairs
August 27, 2020**

Representative Stevens and members of Committee, thank you for the opportunity to testify on S.237 as it passed the Senate. I am the Director of Planning & Development for the City of St. Albans, and I have substantial concerns with provisions of S.237 that are shared by my City's planning commission, our City leadership, and our appointed representatives to our regional planning commission.

Vermont is facing a critical shortage of fair and affordable housing, and solutions are needed. Many of these solutions will require implementation in our local communities. Purportedly in response to that fact, Section 2 of S.237 contains unprecedented cookie-cutter preemptions of local land use regulation in order to increase housing densities. Unfortunately, these preemptions ignore the strength of the longstanding partnership in Vermont wherein statewide land use goals are created in statute and local planning processes are supported to create solutions that we know will work on the ground in our many communities.

For better or worse, minimum lot sizes and conditional use review continue to be fundamental tools of local land use regulation. They are key components in how a community ensures that new development complies with 24 V.S.A. Chapter 117, municipal plans and community capacity. Unfortunately, Section 2 of S.237 would make across-the-board changes directly to minimum lot sizes, conditional use review, and other regulatory provisions, primarily in communities with water and sewer service, without the benefit of any planning process, certainly not local planning processes.

I understand the feeling that State legislators must take bold action to deal with Vermont's housing crisis, particularly in light of the economic challenges of COVID-19, but there is no way of knowing if the changes proposed in Section 2 of S.237 are the most effective, or even the fastest, paths to increasing housing density in our local communities.

There is still time for the State and local communities to work together to substantially further fair and affordable housing in our State in a time when it is need more than ever. And it should be done correctly with solutions that we know will work in the communities where they are implemented.

Alternate Proposals:

1. I have attached a document with proposed amendments to S.237 to retain the accessory dwelling unit changes in Section 2 but strike out the rest in favor of a state/local planning process that could support and implement solutions that local communities would have more ownership of by virtue of the process.
2. If the members of the committee feel the need to pass some sort of housing density increase before this biennium is over, then I would suggest a statutory target for local communities to amend their regulations to achieve an AVERAGE net dwelling unit

density (not lot size), or a required percentage increase of allowed dwelling unit densities, within appropriate water and sewer service areas within a certain amount of time.

3. Likewise, if the members of this committee wish to keep more of Section 2 intact, I would suggest that the “Constraints Report” opt-out provision be expanded from a binary in-or-out test to a process via which a community can propose alternate ways of achieving the housing density goals of Section 2 with regulatory changes that might not match exactly with the proposed preemptions and receive approval from DHCD for the approach, and still be eligible for the incentives that the bill provides for communities that adopt the “Inclusive Development” provisions.

The problem inherent with cookie-cutter, across the board, preemptions of local regulation, rather than targets that communities can work to meet via their own means, is that instead of having hard conversations about how to implement local solutions to statewide targets and suggestions like Zoning for Great Neighborhoods, we are instead having hard conversations about how S.237 came about in the first place and how to prevent the unintended consequences of these mandates proposed without the benefit of any local planning.

The need to react to S.237 has derailed some local efforts that were already underway. For instance, it has significantly diverted resources from conversations in my City about modernization of residential districts and dwelling unit bonus programs for blighted homes. It has also forced others, like the Vermont Planners Association, to spend their time, energy and expertise on formulating compromise suggestions to S.237 with the fear that the only two paths forward are (1) compromises that improve greatly upon Section 2 but still be may problematic minus the benefits of local planning or (2) passing S.237 as it is currently written.

Passage of S.237 would turn the Legislature into the de facto planning commission for any community arbitrarily chosen because it has water and sewer service. It would be the Statehouse clearly stating that our communities could not plan to address affordable housing targets and Zoning for Great Neighborhoods before we have even had a chance to do so.

S.237 could easily be seen as an affront to communities like mine that have permitted 200 dwelling units of ALL types, throughout our community, in the past decade; communities that already do not have any single-family-only residential district, and already have 1/8 acre (or less) density allowances for multi-family housing and yet also have neighborhood-specific rules that would be rent asunder by the cookie-cutter rules in Section 2. Instead of looking at what is working in communities like St. Albans City, S.237 includes provisions that apparently came from “western states.”

I would like to conclude with points about the public process associated with this bill. Many claims of a stakeholder process leading up to the contents of Section 2 seem to be misrepresented. There are many members of the planning community that never supported the proposed regulatory preemptions in Section 2 as the solution to effective housing density increases.

This spring I heard a lot of talk in the Senate about not hearing from many communities in opposition to Section 2, which would seem to ignore that the stated concerns of the Vermont League of Cities and Towns and the Vermont Planners Association carried with them the weight of hundreds of communities and planners. Frankly I think one of the reasons that many communities have not yet spoken up individually about S.237 is that I have seen no broad-based effort on the parts of DHCD, regional planning commissions or others to ensure that local officials really understand the extent of the mandates being proposed in S.237. We are on our heels at this point, and I worry that there will be unpleasant surprises around the state when planning commissions and selectboards realize what is in Section 2 of this bill. I urge this committee to work on amendments to S.237 that would make these very same planning commissions and selectboards true and equal partners in finding local solutions to increasing allowed housing densities around our state.

Thank you.