Comments to Senate Committee on Finance
Re: S.237 - An act relating to promoting affordable housing
Chip Sawyer, Director of Planning & Development, City of St. Albans, Vermont
May 19, 2020

Senator Cummings and members of the Committee: Please consider these comments on S.237. I would welcome the opportunity to provide testimony to the committee. My comments are specific to draft number 9.1 of the bill.

There are many things in this draft of the bill that would enhance the ability of my community to provide much-needed economic development and affordable housing. Conversely the cookie-cutter pre-emptions of local land use regulation contained within the bill fly in the face of the long-standing relationship between the State and communities for finding local solutions to implement our statewide goals. Some of the proposals would also be administratively vexing for local land use regulation.

During testimony to the Finance Committee on May 7, a staff-member from the Department of Housing and Community Development stated that you may "hear from municipalities that maybe don't want to welcome housing and don't want to change anything." I worry that statement could have the troubling implication of labelling any community that may have different local solutions to our affordable housing crisis. I hope that you see my testimony as proof that the situation is not as binary as that staff-member's statement would make it seem. The City of St. Albans has permitted 200 new dwelling units of various types over the past decade, which is significant for our community. In fact, the City is a partner in an effort to build 63 new units of affordable, workforce and market housing in our downtown. We have been able to permit this work with our current land use regulations, and we have made regulatory amendments in the past to enable more housing in our urban center.

In brief, I would like to make the following suggestions concerning this bill:

1. That proponents of this bill take the same initial approach of H.782, which included many of the provisions that would benefit affordable housing and economic development without including the State land use regulatory pre-emptions; and
2. Rather than perpetuate the draw-backs of cookie-cutter legislation, this bill could set goals for increased effective housing density in local land use regulation for municipalities like mine and then provide resources to develop new rules based on the context of our communities; thus
3. Please strike and/or rewrite Section 2 of the bill.

My testimony continues at length. It has been written with the benefit of input from our Planning Commission. I will begin with the sections of the bill we enthusiastically support and finish with the critique of Section 2.

In Sec. 6 of the bill, the exemption of designated downtowns and neighborhood development areas from Act 250 jurisdiction is a powerful recognition of the planning and preparation that communities have put into their designated areas to ensure that they can accommodate development in a manner that implements Vermont's statewide land use goals. I wholeheartedly support this provision and can predict that our programs in St. Albans City will do our part to

continue to bring economic development and housing to our historic population center. However, we cannot support any requirement that a municipality with a designated area must implement the provisions of Sec. 2 of the bill, community-wide.

In Sec. 13 of the bill, adding the ability to use historic tax credits for neighborhood development areas could go a long way toward increasing the affordability, accessibility, safety and energy efficiency of the housing provided in the State's aging stock of historic homes. Provisions like this make it near-certainty that the City of St. Albans will seek a neighborhood development area around our designated downtown. Once again, however, we cannot support any requirement that a municipality with a designated area must implement the provisions of Sec. 2 of the bill, community-wide.

Similar to our support for Sec. 13, we find the housing assistance proposed in Sec. 24 to be a wonderful recognition of the role that our historic housing stock could play in providing more affordable, accessible, safe and energy efficient homes for Vermonters.

In Sec. 15 of the bill, the elimination of redundant State and municipal regulation of water and wastewater connections is a welcome proposal. As a municipality that operates a water and wastewater system, too often have we lamented that fact that a new housing project or business must pay use the connection fees upon which our system relies and then have to pay the State yet again for a permit. We eagerly look forward to complying with the standards necessary to issue water and wastewater permits in lieu of the state permitting.

Concerning Sections 17 and 25 of the bill, we enthusiastically support studies and funding to assess statewide housing needs and support solutions that work within the context of our many different communities across the state. The planning staff and volunteers of our City stand ready to do our part to find more ways to enable and encourage fair and affordable housing in our community.

It is with this spirit that I attended one of the first Zoning for Great Neighborhoods meetings on July 10, 2019. At that meeting we learned about the collaborative effort that VT ACCD and its partners would engage in with the Congress for New Urbanism and example municipalities to assess ways in which municipal zoning codes can impeded affordable housing. The effort would produce new goals and ideas that I looked forward to taking to my City planning commission for amendments to our bylaws.

I was surprised when, 6 months later, I was presented with ACCD's draft "Community Investment Strategy," which included State pre-emptions of fundamental aspects of local land use regulation, especially for those communities that provide water and wastewater service. Instead of looking forward to the recommendations of the Zoning for Great Neighborhoods process, we were now presented with something antithetical to that process. We had discussed at that July 10 meeting how "cookie-cutter" zoning had the unintended consequence of prohibiting much-need affordable housing development in light of today's demographic realities; and now ironically here we were looking at a State proposal for cookie-cutter zoning with no regard for community context or planning.

These cookie-cutter proposals have survived in Sec. 2 of S.237, draft 9.1. Rather than allow our community to actually engage in local planning to achieve statewide affordable housing goals, these provisions would force fundamental changes to our land use regulation without any consultation.

As a community that provides water and wastewater service, the proposal unilaterally eliminates our ability to limit development on lots that are too small under the "small lot rule." This proposal would apply this rule across our entire community without any local planning to support it. The development of a lot that is less than 1/8 acre in size or that is less than 40 feet wide is out of character with many of our community's neighborhoods, which otherwise provide many different housing opportunities. Furthermore, the provision opens up the possibility that even our local-adopted setback and lot coverage rules could be challenged when a property wishes to force development onto a lot that functionally is too small for development in compliance with our other rules.

I realize that there may be areas elsewhere in the U.S. or even Chittenden County where the proposals to require allowance of 5,400 sq. ft. lots and allowing any single-family home to become a duplex might be seen as community-sensitive solutions to a housing shortage. But I cannot see how they are appropriate for the City of St. Albans, without the ability to engage in a local planning process, and I do not see that the State has put any effort into translating what these proposals may mean for the context of our community.

The proposed requirement to allow residential lots as small at 5,400 sq. ft. would be a substantial change to our community's residential regulations. It would impose a reduction of size of minimum lot size for single family homes by as much as 43%. When combined with other proposals being made by this bill, it would impose a reduction of minimum lot size for duplexes by as much as 55% without any local planning process to support it. Furthermore, I am worried that someone could read this proposal to prohibit any other development standards that could *effectively* prohibit development on a 5,400 sq. ft. lot, such as lot coverage.

Minimum lot size based on density of use is a key component of our City's land use regulation across. Since we encourage infill development, we do not require a certain frontage for all lots. Therefore, we do not have frontage width rules as a means to ensure the viability of lots.

Please consider that the City of St. Albans has water and sewer service throughout, already allows single family homes on lots less than a ¼ acre, and we have no residential zone that prohibits duplexes. If further solutions are needed specifically in our community to address the State's shortage, we have not yet been given the time to address it through our local planning process. It is very possible that our City already has a functional *average* minimum lot size of 1/8 acre per unit when you consider residential districts and the denser mixed-used districts in our community. It is also possible that more could be done to match our land use regulations to existing land use densities or to allow increased residential densities when developers commit to rehabilitating the many historic homes that fill our neighborhoods. But these proposals are not giving us the chance to address these issues ourselves or to adjust changes to the many neighborhoods across our City. These proposals will also use up valuable

administrative/planning resources as we are forced to pivot to a role of reacting to the State's pre-emptions rather than being able to focus on our local planning solutions.

The proposed requirement the municipalities record and monitor all leases that provide parking spaces separate from rent is an unfunded mandate that goes too far in requiring our permitting office to oversee and regulate civil arrangements. The requirement to monitor every instance when a tenant has changed at an apartment, get a copy of the new lease and verify that the lease specifically does not include a parking space and that it prices a parking spaces "reasonably proportional to the production, operation, and maintenance cost of the space" would be burden that puts inordinate costs on administration and would likely require an additional fee structure. Also, this proposal does not provide a definition for what constitutes a "transit stop" in a community like the City of St. Albans. As a community that has a few GMT bus routes that allow route diversions based on phone calls, nearly anywhere is a transit stop in our City. Not to mention the fact that the GMT routes change periodically. This could potentially put a property out of compliance with parking minimums if they are no longer within ½ mile of a stop. This is another example of how the bill is taking a solution unique to Burlington and Chittenden County and forcing it upon very different areas across the state.

The opt-out provision provided by the "Substantial Municipal Constraint Report" is a false salve. It completely reverses the long-standing partnership between the State and communities for achieving the statewide land use vision and forces concerned communities to devote precious staff and volunteer time to explaining why they can't comply with State pre-emptions, rather than what we should be doing to come up with local solutions to statewide issues.

Our Planning Commission and staff recognize that Vermont has an affordable housing crisis. But cookie-cutter zoning is part of the reason for the crisis, it is not a solution to it. Our City Planning Commission was discussing this bill yesterday evening and is extremely troubled by Section 2. They worry that the regulatory pre-emptions will have immediate and lasting consequences without the benefit of a local planning process. Furthermore, they feel that Section 2 will result more in the "chopping up" of our community's large historic homes, than the creation of more "missing middle" housing. Our Planning Commission and I strongly urge this committee to remove the local regulatory pre-emptions from Section 2 the bill and to replace them with regulatory goals that should be addressed through local planning processes. Our Planning Commission welcomes a dialogue with legislators and DHCD staff on this issue.

Thank you for your time.