

P. O. Box 512  
Montpelier, Vermont 05601  
June 3, 2020

Senate Committee on Natural Resources and Energy  
State House (in theory), in reality, who knows  
Montpelier, or perhaps anywhere in the world

Subject: Act 250 in S.237, promoting affordable housing

Dear Committee Members:

I am a civil engineer with many years experience in permitting of projects at the local, state, and federal levels.

S.237 is about promoting affordable housing. Act 250 does not inhibit affordable housing in downtown development districts and in neighborhood development areas. Removing act 250 jurisdiction from downtown development districts and in neighborhood development areas will do nothing to increase the supply of affordable housing. So please do not remove the jurisdiction of act 250 from downtown development districts and in neighborhood development areas.

I ask that you remove sections 5, 6, 7, and 8 from this bill.

Act 250 has a valuable role in shaping projects in downtown development districts and in neighborhood development areas. That is because act 250 is a comprehensive review. All other permits focus on a specific issue and do not consider the effects of a project in their entirety. Another advantage of act 250 is the way it invites citizens to become parties to an application. None of the other permits treats citizens with the same respect as does act 250. In my experience, municipal review and permitting is an inadequate substitute for act 250.

I researched act 250 permits for the year 2019. I found that act 250 had almost no effect on either downtown development districts or neighborhood development areas. And I found act 250 had no effect on housing in either the districts or the areas. That does not mean that there is no need for act 250 in downtown development areas or neighborhood development areas. It is still essential for act 250 to have a presence in those districts and areas. That presence is needed for those larger projects which need the comprehensive review provided by act 250.

The bill proposes taking act 250 out of downtown development districts and out of neighborhood development areas. The bill does not propose to make the municipal permitting process or the combined municipal and state permitting processes as comprehensive as the review required by act 250. Thus, in the future, a project that would be reviewed now under act 250 in a downtown development area or a neighborhood development area would not benefit from the comprehensive review provided by act 250.

Thus, there is no benefit in removing act 250 jurisdiction from either downtown development areas or from neighborhood development areas. And there is a detriment to removing that jurisdiction.

I searched the act 250 database for projects that appeared on an agenda in 2019. My search turned up 219 projects. Two were located in a downtown development district. Both were located in Winooski. One was a new 16-space parking lot. The other was a covered structure with retractable sides to expand the season of an existing outdoor dining area. Both permits were classified as minor, meaning no hearing was held. One permit was issued in 28 days; the other in 30.

A third project was partly in a downtown development district and partly in a neighborhood development area in Burlington. This will merge 5 lots, demolish most structures, build a hotel, build senior housing, and build

underground and surface parking. One hearing was held and a recess order was issued. The action then moved out of act 250 and to the City's development review board. Seven months after the recess order, the development review board issued its permit. Action then returned to act 250, which granted its permit 15 days later with no additional hearing. So act 250 did not delay or hinder this project. Most of the time between act 250 application and permit was at the City's development review board with act 250 on hold.

If there are permit problems within downtown development districts or within neighborhood development areas, act 250 is not the cause. The Burlington project is an example: 71 days at act 250, waiting over seven months for a permit from the Development Review Board.

Sections 5, 6, 7, and 8 of this bill relate to act 250.

Section 5 proposes to remove mixed income housing or mixed use in a downtown development area or certain neighborhood development areas from jurisdiction of act 250. It also removes mixed income housing within a Vermont neighborhood or neighborhood development area from act 250 jurisdiction.

Section 6 of this bill proposes to remove all subdivisions and development in downtown development districts or in neighborhood development areas from Act 250 jurisdiction. This section also proposes a mechanism to extinguish existing act 250 permits in those districts and areas.

Section 7 of this bill proposes to remove act 250 fees for projects in neighborhood development areas. It also proposes to remove the simplified, alternative process for act 250 in downtown development districts.

Section 8 of this bill proposes a mechanism to extinguish existing act 250 permits in downtown development areas and neighborhood development areas.

These four sections (5, 6, 7, and 8) are not needed when retaining act 250 jurisdiction in downtown development areas and neighborhood development areas.

In summary

- Act 250 provides a comprehensive review of a project. Municipal permits, other state permits, and federal permits in their collective entirety do not provide that same comprehensive review of a project. Some projects in downtown development districts and neighborhood development areas will benefit from act 250's comprehensive review, such as the Burlington project.
- Few of act 250's projects occur in downtown development districts or in neighborhood development areas. So act 250 is not hindering projects in those districts and areas.
- Act 250 had almost no effect on either neighborhood development areas or downtown development areas, in 2019.

For these reasons, please remove sections 5, 6, 7, and 8 from S.237. Please retain jurisdiction of act 250 in downtown development districts and in neighborhood development areas.

Thank you for taking the time to read this testimony.

Sincerely,

Thomas Weiss, P. E.  
resident of Montpelier

P. S.

I am also sharing my observations on the remote process. I find that the remote process has made it more difficult for me (and others like me) to participate in a meaningful manner. I hope that you have already recognized these problems and are working to resolve them.

I acknowledge that some people are praising the ability for people to listen on a stream. They fail to mention the darker side: reduced ability to participate meaningfully. There is a huge gap between observing and participating. Our democracy needs meaningful participation, and that has been diminished. Some specifics:

- People no longer submit documents, so I can no longer follow what is happening by reading the documents.
- I can no longer participate in committee hearings. I do not accept the terms and conditions of either Zoom or Google. (YouTube's terms and conditions are Google's.) The general assembly now requires participants in committee hearings to give personal information to those two companies. That is an improper trade-off.
- Topics on agendas can be obscure. Yours are easier to follow than many others.
- Committee schedules have little advance notice. Yours have been pretty good about that this week.

The remote process in the Senate also has reduced the ability for meaningful participation by people. Too many bills are handled irregularly by suspending the rules. Some of the issues:

- Texts of bills are not published in calendars.
- Too many bills are introduced and taken up without actually having appeared in a calendar.
- Too many bills are rushed through second reading, and third reading, and moved out, all in a few hours. That does not allow time for anyone watching to react or provide input. (It is hard to tell how long the Senate spends on its work because of a long-standing rule to not publish times in its journals. That is one rule whose suspension or revision would actually help. I have a feeling from times given in house journals that not much time is spent on most of the bills and that there is little debate.)

T.W.