

To: Amy Sheldon, Chair, House Natural Resources Committee
From: Beth Humstone, Urban Planner
Regarding: H. 120 Testimony
Date: April 23, 2021

Thank you for the opportunity to appear before your committee to testify on H. 120. At the meeting I was asked to follow up on two things: 1) any further changes to the bill regarding the Capability and Development Plan and 2) other sections of the bill that I have comments on.

First, let me say that I am glad that the committee is taking a hard look at current issues of climate change and equity and inclusion and how they relate to implementation of Act 250.

Changes in H. 120 Related to the Capability and Development Plan

In my testimony I made the following recommendations:

1. Direct state agencies to update the Capability and Development Plan maps
2. Review the Capability and Development Plan policies in light of climate and other contemporary challenges and amend them.
3. Readopt revised C&D Plan policies
4. Direct state agencies to comply with the C&D Policies
5. Review Ch 117 to insure that goals and policies as well as criteria for plans are consistent with C&D Policies.
6. Finally, Vermont should have a State Planning Office to coordinate implementation of these policies, prepare population and economic projections, and insure that the state is making progress in achieving its climate action goals.

I would amend this testimony to add that Criterion 9 should be amended to delete the statement that the legislative findings of the Capability and Development should not be used as criteria in Act 250 reviews and to add that they should provide guidance to understanding the subcriteria under 9 and other Act 250 criteria as applicable.

With respect to item #1 above, H. 120 has language about studying whether C&D Plan maps should be required (Sect. 8 (a) (3)). While it makes sense to identify what additional or amended information should be included in the maps, I recommend that updating the maps be required and not just studied. The data is most likely available in the GIS maps at ANR and the regional planning commissions. In the absence of a State Planning Office, ANR should coordinate the production of these maps. They could be required to submit a report to the Legislature in 2022 on the recommended content and use of the maps. (See also comments below on Resource Maps.)

With respect to items #2, 3, and 4 above, you have new language in the bill related to climate change (Sect. 1 – see comments below) and ecosystem protection (Sect. 2). The 1973 adopted C&D plan legislative findings should be reviewed for other important issues Vermont is confronting today as well. Is the housing language strong enough and does it address current housing issues, for example? Have transportation priorities changed over the past nearly 50 years? The bill addresses this recommendation in Sect. 8 (a)(1) and (2). I recommend that the bill clarify that the amended policies will be proposed for adoption by the Legislature and that state agencies and departments will be required to follow them, when adopted, in their public capital investments. This relates to H. 120 Sect. 8 (b) and (c) as well. H. 120 is a cautious bill and there may be a good reason for that, but my recommendation is to be more directive of what the committee wants to accomplish in the bill by requiring certain outcomes and not leaving so much up to studies.

With respect to item #5 above, this step would insure that C&D Plan policies are coordinated with policies that direct the preparation of local and regional plans. There is no language to this effect in H. 120 currently.

Item #6 speaks for itself. It is not addressed in H. 120.

Comments on Other Sections of H. 120

Section 1 (20): Greenhouse gas emissions and climate change.

- This is a welcome addition to the act. However, it does not recognize the role that the location of development can play in the minimization of greenhouse gas emissions. I would amend it to say, “Vermont should minimize its emission of greenhouse gases through the location and design of development and, because....”

Interchange Development:

- Section 3. Definition of Development (xi)(IV). I recommend you add a definition of “principal (sic) retail,” which is referenced in this section of the bill, to the definitions section. This is a term that some may not understand although most planners do!
- I am supportive of the language that is proposed for interchange development as it will help to address the incremental pattern of strip commercial development that is often found around interstate interchanges. I would be supportive of similar language for development at interchanges on limited access highways, such as Route 7 in Rutland County and Bennington County and the Circumferential Highway in Chittenden County.

Natural Resources Board and Approval of Regional Plans

- As an interim measure, I welcome the added authority of the NRB to approve regional plans. I say “interim” because the NRB jurisdiction covers Act 250, a Land Use and Development Control Law. Regional plans cover more than

land use and development, and I am concerned that the NRB may lack expertise in such matters as housing, economic development, energy and public health which may also be covered in regional plans. However, currently there is no other state entity that exists to assume this responsibility, so I support this. This is particularly important as the bill states that regional plans will only be used in reviews if they are approved, which is also language that I support.

- I am supportive of the language in the bill that says only approved municipal and regional plans will be applicable under Criterion 10.

Forest Fragmentation and Connected Habitat: Criterion 8(B) and (C)

- From a planning standpoint, the recommended language seems appropriate to me.

Section 127: Resource Maps

- As the Capability and Development Plan includes maps, the section on Resource Maps needs to be coordinated with any references to the Capability and Development Plan maps. They should be one and the same. Section 127 refers only to maps of natural resources. Capability and Development Plan maps would include additional information such as Downtowns, Growth Centers, Neighborhood Development Areas, historic districts, archeological sites, public water and sewer service areas, stormwater service areas, etc. If the 1973 maps are any indication, the C&D maps would also provide interpretation of data by, for example, delineating areas with limitations for development.

Please let me know if I can clarify any of these comments.