



February 9, 2024

Vermont Senate Committee on Economic Development, Housing, and General Affairs
Sen. Keshia Ram Hinsdale, Chair

Dear Chair Ram Hinsdale and Committee Members:

I understand the Committee is continuing its review of DR 24-0067 this week. Broadly speaking, the bill presents a number of exciting and ambitious tools to address the affordability crisis in our communities and to advance good planning practice in doing so. In considering the draft bill, I offer the following feedback based on draft 6.

- **Appeals of local zoning: Section 12, 24 VSA 4465 [Page 16]**

The bill creates a new section that limits appeal authority for residential and mixed use projects of certain scales.

- a. **Clarity on entity being appealed.** 24 VSA 4465 is the appeal of the Administrative Officer (though it also contains the interested persons criteria). Is it not clear, given the placement of subsection (d), whether the proposed limitation on appeals applies only to decisions of the Administrative Officer (such as for a zoning permit or for site plans delegated from the DRB to the Administrative Officer), or whether it is meant to be a limited on appeals of a DRB decision. If the intent is to limit appeals of the DRB to the Environmental Court, the section should perhaps be moved to 24 VSA 4471. If it is limited to appeals of the Administrative Officer, the reference to conditional use is confusing as the Administrative Officer is not authorized to issue conditional use determinations.
- b. **Scope of limitation.** The language appears to prohibit all appeals of decisions for residential or mixed use projects of up to 25 units in all areas served by water/sewer, all residential and mixed use projects that are not conditional uses, and all residential and mixed-use projects with a designated center zoning district that allows housing. These thresholds are aggressive, especially for those outside designated centers. The conditional use component, further, could have the effect of municipal officials being pressured to make most or all of these projects mandatory conditional uses, a tool that I and others have advocated for very limited application in our communities.
- c. **Interested Person Threshold.** I support raising the threshold for participation by those not in the immediate neighborhood of a project from the current 10 persons. I would recommend a threshold number below 10% of the residents, however, as in large municipalities this can reach to over 1,000 persons. The Committee may wish to look to other areas of statute, such as the threshold of 5% of registered

voters enumerated in 24 VSA 4442, or the greater of 10 persons / 1% of population or proposal advocated by Chip Sawyer in his February 8 testimony. In South Burlington, this would be ~200 persons.

2. Parking Bylaws: Section 14, 24 VSA 4428 [page 18]

- a. **Parking Space size.** The language would limit parking space size to 8' x 16'. While I support tools that reduce the amount of land area dedicated to parking in our communities, this parking size limitation is problematic as many current vehicle types effectively do not fit in these dimensions. I support the recommended alternative language provided by Chip Sawyer.
- b. **Adjacent lot parking.** This language implies that a resident of a building will have the right to use the adjacent property's parking. That is problematic both because the resident may not have the permission to use that area, and because there is no guarantee that that adjacent lot will continue to exist. I would recommend that the provision either be removed, or if this provision is retained, the applicant would need to obtain approval from the adjacent lot owner and that such approval is binding on the adjacent lot owner.

3. Multi-Unit Housing: Section 19, 24 VSA 4412 [pages 21-23]

- a. **Duplexes.** I support the clarification to 4412(1)(D).
- b. **Choices for multi-unit housing.** Among the options, I prefer the first option, with an addition that a municipality may allow smaller lot sizes. The other options are more problematic. Option 2, does not allow for any "transitions" of lot scale and size, and does not give the municipality the ability to incentivize single & two-unit homes on very small lots. The following language in (12) presents a difficult-to-determine mix lot sizes and ratios. Option 3's language could be read to mean the opposite of what appears to be the intent, and does not define applicable multi-unit housing as being up to 4 units only.
- c. **Affordable housing on land owned by a religious non-profit.** This is an oddly-specific carve out. If this exemption is to be retained, it should be extended to all non-profit owned land.

4. State and community facilities, Section 20, 24 VSA 4413 (page 23-34)

- a. **Added term of "or funded".** The added term of a state or community "funded" institution or facility is undefined and open to very broad interpretation. Would partial funding qualify? Would a grant qualify? Moreover, with this added term, the terms "institution or facility", which are also undefined, become problematic. For example, if the state issued a grant to support a new commercial building, an argument could be made that this is a "facility". I would recommend great specificity.
- b. **Privately held with a Public Function.** The added qualifier of a facility or institution or facility that may be privately held but serve a public function is undefined and

problematic. "Public function" is very broad. Would a grocery store that had a small conference room that can be used by the public for events and meetings be considered to serve a public function?

Both of the above add a great deal of complexity to determining applicability of 4413. I would recommend the Committee review this section and be more specific in implementing the objectives

5. Lot Coverage: Section 23, 24 VSA 4429 (pages 24-25)

- a. Under subsection a, the Committee may wish to add "building coverage" or something similar to the language. Allowing lot coverage of 50% does not guarantee that a building may occupy any more of the lot than it could otherwise.
- b. Under subsection b, the language is not clear on whether the 20% bonus is "50% plus 20% = 70%" or "50% x 1.2 = 60%"

6. Act 250

- a. There are several instances within the draft bill that appear to apply the thresholds differently, whether numerically or by residential or mixed use. I would recommend the committee review to ensure that the thresholds are not overlapping and either be consistent or higher within designated centers / for priority housing.
- b. The Tiers in the later portion of the bill appear under-defined in terms of what would be a Tier 1A and Tier 1B. In considering these areas, and the section referring to "transportation corridors" I would recommend being inclusive of areas that are ripe for re-development such as along the roadways that were built as strip development / sprawl in the last half century and more.

Should the Committee or Committee have any questions, I would be more than happy to further discuss any of these items either one-on-one or as testimony to the Committee.

Sincerely,

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Director of Planning & Zoning
City of South Burlington