



I. VNRC Position on Act 250 Changes in S.100

VNRC's position is Act 250 changes should be done comprehensively next year after legislatively commissioned studies are finished by the NRB by ACCD, in conjunction with an outside consultant. We believe it is a mistake to move forward with changes to Act 250 this year while these studies are underway, but we support efforts to focus on zoning improvements during the current session.

However, if the Committee insists on moving forward with any Act 250 changes, below are VNRC's recommendations for minimizing the harm done by the Act 250 changes in S.100. Also included are targeted changes to a few of the Title 24, Chapter 117 changes.

II. Specific Language Changes – S.100

Density Provision - Sec. 2 - Page 4, Line 15

Increase from 4 to 5 or more dwelling units per acre for each allowed residential use, as originally proposed. 5 units per acre is still a relatively large lot size for publicly served areas.

Water & Sewer Service Area Definition - Pages 5-6, Starting on Line 6

To accommodate municipalities with water and sewer service in areas that are inappropriate for growth (such as the Hinesburg example provided to the committee), we recommend adding the following provision, per Charlie Baker/VAPDA's suggestion.

Add to (15)(A) (ii): (VIII) that are established for a reason not listed above, as submitted to and approved by the regional planning commission.

Any Ten Person Appeal Removal – Page 11, Line 14 of the Bill

If the any ten person appeal provision is removed from Title 24, Chapter 117, it should be replaced with something that allows affected persons to address impacts, such as:

a person who alleges an injury to a particularized interest protected by Title 24, Chapter 117 may appeal a decision of the appropriate municipal panel to the Environmental Division of the Vermont Superior Court.

10 Units to 25 Units – Page 20, Line 17 of the Bill

If the Committee does not agree to eliminate this provision it should be limited to the number of units that go towards the 5 and 5 calculation – the number of units built by a single entity within a 5 mile radius within 5 years. The provision should be changed as follows:

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 ~~25~~ or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years. Notwithstanding this provision the threshold for triggering Act 250 jurisdiction in Designated Downtowns, Neighborhood Development Areas and Growth Centers is 25 or more housing units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years.

PHP Changes - Page 21, Line 3, Page 22, Line 2-6, Page 22, Line 11, Page 23, Lines 1-5 and Page 23, Lines 11-12

These PHP changes are ill conceived and should be deleted from the bill. As discussed and set forth in our testimony, these proposed changes would have significant adverse impacts on smaller villages with limited tools and capacity to address the impacts from these larger projects that include a significant commercial component without reforming the designation programs. If a compromise is absolutely needed on this issue, VNRC recommends only removing the cap on the number of units in a PHP in communities with populations of 6,000 or more.

Page 23, Lines 14-15

We have significant concerns about this provision that provides “no permit amendment is required for the construction of improvements for 24 units or fewer of housing.” It would allow a permit holder to alter an existing project and permit conditions that other property owners and the community may have relied upon to protect their interest when the initial permit was granted to build up to 24 units of housing. We do not believe that allowing projects already under Act 250 jurisdiction to add 24 units without a review to determine

how the project would affect conditions in an existing permit is sound policy. VNRC strongly recommends that this provision be eliminated.

Enhanced Designation, Starting on Page 23, Line 20

The bill proposes a new Enhanced Designation administered by the NRB that would allow Act 250 jurisdiction to be lifted in these areas. VNRC recommends that the Committee leave this provision in the bill as an alternative to significantly expanding the PHP exemptions if the Committee believes it needs to move forward with one of these policies now.

We believe that the Enhanced Designation provision is consistent with the type of changes that ACCD will review in its study and report on improving the designation programs. Enacting a robust designation program that ensures a municipality can handle the increase in development review is consistent with Act 250 Commission report and the analysis of reforming Act 250 that has occurred over the last several years. However, we recommend delaying implementation of the Enhanced Designation Program until January 1, 2025 in case the ACCD study and report recommend more efficient and effective ways of replacing Act 250 review in certain designating areas through updating Vermont's designation programs.

If the Committee moves forward with this provision, the Committee should add to the list of appellants of a proposed designated area someone with a particularized interest – consistent with appeal rights for ANR and Act 250 permits.

In addition, we recommend that the Enhanced Designation provision includes a requirement that the NRB address how existing Act 250 permits will be administered if an Enhanced Designation is granted. Other property owners and the community in an Enhanced Designation Area may have relied upon conditions in existing permits to protect their interest when the initial permit was granted. These permits should not disappear if a designation is granted and the process needs to account for this.

As an alternative to this provision, VNRC also supports the use of Act 250 Master Plan Permits to pre-approve locations for housing in certain designated areas as set forth in S.200 introduced by Senator McCormack last year. See <https://legislature.vermont.gov/bill/status/2022/S.200>.

[MOU₁]10 units is the current law.