

Thomas Weiss
P. O. Box 512
Montpelier, Vermont 05601
February 27, 2023

Senate Committee on Natural Resources and Energy
State House
Montpelier, Vermont

Subject: S.100 - housing opportunities made for everyone

Dear Committee:

I am Thomas Weiss, a civil engineer. My professional experience includes planning and design of water and sewer systems, preparation of flood insurance maps and studies, permitting, and environmental reviews.

These comments apply to S.100 as introduced.

As you should be aware, this bill does not and cannot stand alone. Underlying concepts toward sustainable, affordable housing development must be integrated with all other other bills. Some of these other bills address food security, child care, on-site treatment of wastewater, and reducing Vermont's carbon footprint.

This bill, S.100, and the thermal loads bill, S.5, appear to be in direct conflict with each other. S.100 calls for building lots of new housing without considering their thermal loads. S.5 considers thermal loads without considering whether they are achievable with such a large amount of new housing. The current working number is 40,000 new units by 2030, seven years from now. That means tripling the rate at which housing has been constructed in recent years. The 40,000 units consist of 16,000 units to get our housing to a good state and an additional 24,000 units for immigration and keeping younger Vermonters in Vermont. And that is just to get us out of our present situation. Given immigration driven by quality of life, remote working, and climate change, it is not unlikely that we'll need 30,000 to 40,000 new units in each of the decades until 2050. Our existing housing stock is about 400,000 units. That means something like a 25% to 30% increase in housing units by 2050. The need for affordable housing must not pre empt essential protections of our natural resources - clean water, air, and personal safety protected by democratic and open participation We can add housing and protect our natural resources. S.100 does not do both. This anticipated large growth influences many of my comments.

Expand Act 250 jurisdiction outside the chapter 76A designations.

One of the goals of chapter 117 is to "plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside." (24 V.S.A. §4302(c)(1)).

This bill focuses on getting more housing into our compact centers. That makes this bill unbalanced, because it does nothing to reduce the existing pressure on our rural countryside. This imbalance appears to be based on the misguided assumption that these measures to increase housing in the compact centers will end pressure to convert farms and forests to housing. On the contrary, there will still be many individuals and families who will not want to live in the compact centers. Living in the rural countryside is one of the attractions of living in Vermont. The bill needs to provide balance by increasing protection of farmland and forests.

Housing being built in the rural countryside already has led to significant habitat loss, forest fragmentation, and other negative results. Even if 30,000 of the hoped-for units go into the compact centers, that means the rest, 10,000 new units, will be built in the rural countryside. That means there will be no reduction of the pressure on the rural countryside.

In addition, with thoughtful design, clustered rural housing development can limit waste of natural resources, avoid sprawl, and increase agricultural and economic sustainability, by sharing physical and social infrastructure and resources using whole system regenerative land management techniques on farm- and forestland.

Recommendations:

Amend Act 250 to increase the protections outside the compact centers. These protections could include some or all of the following that have been promoted in recent sessions.

- Have jurisdiction outside the compact centers apply to subdivisions of 2 or more lots
- Add forest fragmentation and/or wildlife corridors to the criteria
- Add provisions for rural clustered development that incorporates regenerative whole system management practices by design to sequester maximum carbon with farmland and forests

Prevent the isolation zones of water and sewer systems from encroaching on a neighbor's property where municipal water and sewer are not available.

Rep. Bongartz has spoken glowingly of his "twofer" in all areas where zoning allows housing. What he neglected to mention is that there is no "twofer" for on-site wastewater treatment and disposal. Twofers mean more bedrooms, which in turn lead to larger on-site wastewater treatment and disposal systems. And of course, larger means more expensive. As I pointed out earlier, this bill does not relieve the pressure to build housing in the rural countryside. There will still be a demand for a thousand or more units in the rural countryside each year.

A major impetus for Act 250 back in 1969 and 1970 was sewage coming out of the ground because the housing density was too high to allow the on-site treatment systems to function properly.

On-site sewage treatment allows uncompensated encroachment on a neighbor's property.

The bill proposes to prevent municipalities from having single-family zoning. Instead the bill appears to propose allowing at least four units per parcel. (That is a duplex with one ADU each side or two single family units with one ADU each).

On-site wastewater treatment requires isolation zones in order to function properly and to protect public health. These isolation zones restrict what can be done inside them. Existing rules allow isolation zones to extend onto a neighbor's property and there is little the neighbor can do about it.

The rules for Wastewater System and Potable Water Supply Permits (WW permits) allow a permittee's isolation zone to encroach on a neighbor's property with no compensation to the neighbor. The only requirement is to send the neighbor a form that says, in effect: "The isolation zone for my on-site system will extend into your property. This notice gives you a chance to talk to me before the permit is issued. If I decide to make no changes, you cannot stop the WW permit." The notice indicates that the neighboring landowner can build in the isolation zone. The notice doesn't point out that the isolation zone inhibits other uses on the neighbor's property. If the neighbor builds a cellar in the isolation zone, there is a potential for leachate entering the cellar. The neighbor might be leery of planting a vegetable garden or fruit trees in the isolation zone. And when a system fails, the neighbor could bear the brunt of surfacing sewage.

I am asking that the trade-off for higher density outside the compact centers is to require that all isolation zones remain within the parcel generating the wastewater.

Recommendations:

- Amend the bill to prevent the isolation distances of water and sewer systems from encroaching on a neighbor's property where municipal water and sewer are not available.

Remove the concept of enhanced designations

The whole concept of creating and administering enhanced designations is not well developed. As presented in S.100, the concept is not ready to go. It appeared late in draft 8.1 with only two days to go before the committee voted on the bill. There was insufficient time to provide meaningful testimony and for the committee to react and revise.

The minutes of the meetings of the Natural Resources Board show that the members do not appear to be engaged with Act 250 in a meaningful way. The median duration of the 14 meetings in 2022 and 2023 is 17 minutes. The meeting minutes show that the board members make no presentations. The Board did engage in two executive sessions (10 and 27 minutes). A summary of the minutes and attendance is at attachment 1.

Members of the municipal staff and the Development Review Boards will need to be trained before they can apply the model bylaws to cases that come before them. They will need to be trained to the same extent as district environmental commissioners. There have been criticisms in past years that training provided by the Natural Resources Board to the District Environmental Commissioners has been inadequate. Those criticisms questioned the consistency of the district commissions. The need for training even a few municipalities, likely will be about equal to the need for training commissioners. And if training is a problem now, it will be even more of a problem when needing to train the municipal people.

One of Act 250's strongest points is the right of members of the public to participate in the development of a permit. I acknowledge that right is limited. For those with a particularized interest, it is an important right. The enhanced designation is set up to provide almost no public involvement. The model bylaws will be developed by the Board with no public input. That means the proposed transfer of Act 250 criteria in the enhanced delegations will be done through the model bylaws developed by the Board (members, not staff). Members of the Board are political appointees of the current governor. A governor whose actions over the last five or more years indicate a lack of support for Act 250. The "experience, expertise, or skills relating to the environment and land use" of the Board appears mostly to be with the development side of environment and land use. This is troubling, given that the development of the model bylaws excludes participation by members of the public and by individuals on the protection side of development and land use. A summary of the background of the Board members is at attachment 2

Recommendation: Remove sections 18 through 21 until more thought can be given to the concept.

Provide access to sunlight for gardens.

Food security is of concern at all times. Problems of food security increase during periods of economic travail, recently the COVID pandemic. One way to improve food security is for housing to provide access on site to land and sunlight for the residents.

A housing bill should integrate sustainability and food security. This can be done by requiring each lot to have an area designated for gardening with access to sunlight. The gardening space should be large enough to allow residents to grow a significant portion of their own fruits and vegetables, if they choose. New lots and new construction would need to preserve access to sunlight on those lots and on neighboring lots. Dimensional standards, setbacks, and orientation need to allow sunlight onto the garden spaces and onto neighboring properties.

Recommendation: Require gardening space with access to sunlight, perhaps 1,000 sq. ft. per resident. New lots and new construction need to preserve access to sunlight on their lots and on neighboring lots.

Amend the definition of "Area served by municipal water and sewer infrastructure"

The definition of "served by municipal water and sewer" seems to be running roughshod over good planning by negating good planning.

Specifically, the proposed 24 V.S.A. §4412(15)(A)(ii)(I) reads:

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality. As used in this section, an area "served by municipal water and sewer infrastructure" means areas established by the municipality by ordinance or bylaw that exclude flood hazard or inundation areas as established by statute, river corridors or fluvial erosion areas as established by statute, shorelands, and wherever year-round residential development is not allowed.

This requires districts with flood hazard areas, flood inundation areas, river corridors, fluvial erosion areas, shorelands, and seasonal dwelling areas, and conservation areas to allow four units plus four accessory dwelling units per acre. This is not right. Some of those areas should not be developed at all. Others are unable to have housing at such high densities.

The same definition also requires four-plus-four zoning in each of the following areas that:

- (II) reflect identified service limits established by State regulations or permits, identified capacity constraints, or municipally adopted service and capacity agreements;
- (III) exclude areas served by water and sewer to address an identified community-scale public health hazard or environmental hazard;
- (IV) exclude areas serving a mobile home park that is not within an area planned for year-round residential growth;
- (V) exclude areas serving an industrial site or park;
- (VI) exclude areas where service lines are located to serve the areas described in subdivisions (III)–(V) of this subdivision (ii), but no connections or expansions are permitted; or
- (VII) modify the zoning provisions allowed under this chapter in areas served by indirect discharge designed for less than 100,000 gallons per day.

Recommendation: Remove the proposed addition of 24 V.S.A. §4412(15)(A)(ii) from the bill.

Retain existing Act 250 jurisdiction over housing projects.

Perhaps 80,000 to 100,000 people could reside in 40,000 units, representing a 15% increase in population. That potential growth exceeds that of Vermont's two highest growth decades, 1960 to 1980. The first is the decade whose growth led to Act 250 and the second is the decade during which Act 250 became established. Permitting for these 40,000 units needs to be comprehensive and robust. Act 250 does that. Other permits (zoning and State) do not provide a comprehensive review. And collectively these other permits do not address many of the Act 250 criteria.

Act 250 has minimal effect on the duration of the pre-development phase.

Permitting is an interrelated process: municipal permits, ANR permits, and Fire Safety Division building permits. Obtaining all these permits typically occurs in parallel, not in series.

"How long does it take to get an Act 250 permit?" is not the relevant question. The relevant question is "How much time is saved if the project is exempt from Act 250?" Removing Act 250 from the permits to be obtained has minimal effect on the duration of the pre-development phase.

The Natural Resources Board provided a list of housing projects to SNRE early in 2022. The list had 64 housing projects that had applied for an Act 250 permit in the years 2017 through 2021.

5 applications were decided by the district co-ordinator (administrative amendments)

48 applications were decided without a hearing (minor application in Act 250 jargon)

11 applications were decided after hearings (major application in Act 250 jargon)

The duration between Act 250 application and Act 250 permit is often determined by issues outside the district commission's control: how long it takes an applicant to get other permits and to resolve issues with other agencies. Act 250 needs to evaluate those documents for compliance with the Act 250 criteria. The median time between receipt of the last document and issuing a permit is six days. Depending on other simultaneous actions, the pre-development phase might not be shortened at all. Those last documents were from ANR, historic preservation, municipalities, AOT, and the applicant itself.

The five administrative amendments were issued within 3 days of the receipt of a complete application.

There were 44 projects without hearings that received permits. I looked at the time between receipt of the last document and when the Act 250 permit was issued. The median time between a complete application and issuing the Act 250 permits was 60 days. I then looked at the 25 permits where the time between a complete application and the Act 250 permit exceeded the median. Projects where the decision is issued in less than the median time are unlikely to delay a project.

The Act 250 database has insufficient information to evaluate the flow and timing of projects with hearings. The database lacks key documents needed for that evaluation. So I can make no informed comment on projects with hearings. Most of the projects (75%) were without hearings.

The median time between receipt of the last permit or document needed by the district commissions was six days for the projects without hearings. The maximum time was 34 days. Only seven of the projects had a time more than 10 days. This shows that Act 250 does not delay housing projects.

The majority of last document or documents received in the cases studied were: ANR documents or permits.

stormwater permit	8
historic preservation letter	4
Wastewater System and Potable Water Supply Permit	5
construction waste reduction plan	3
water system construction permit	2
development review board	2
erosion prevention and sediment control plan	2
One time each for: wetlands permit; municipal comments; revised site plans; resolution of location of bus stop with VTrans; ANR comments, planting plan, flood hazard area and river corridor, and sign diagram.	

Removing Act 250 does not save time, in general. The median time of six days between the last needed permit and issuing the Act 250 permit is too short to be considered a delay.

Retain Act 250 jurisdiction on housing projects.

10 V.S.A. §6001 (3)(A)(xi) will exempt all housing projects and mixed use development within any of the Chapter 76A designations from jurisdiction under Act 250. That is because it is almost physically impossible for 25 or more units of housing to be constructed or maintained within a period of three months. Therefore all projects of 25 or more units will be exempt from Act 250.

All priority housing projects and all housing projects less than 25 units will be made exempt from Act 250 by proposed amendments to 10 V.S.A. §6001 (3)(A)(iv); §6001 (3)(D)(viii)(I); and §6081 (y).

The only housing subject to Act 250 will then be 25 or more units outside the compact centers. In order to provide the balance between encouragement in compact centers and removing pressures on farmland and

forestland, the number of units subject to Act 250 needs to be much lower than 25. This does not provide the comprehensive and robust review of projects that is needed for the projected 40,000 units.

Recommendation: Remove sections 16 and 17 from the bill.

Retain State oversight over connections to municipal water and wastewater systems

Wastewater infrastructure received the worst grade, D+, on the 2023 report card on Vermont's infrastructure. The Vermont Section of the American Society of Civil Engineers issues this report card every four years. The grade of wastewater infrastructure in the previous report card, 2019, was also a D+. No improvement over the last four years. Our wastewater infrastructure needs massive investment in order to handle existing demands. Additional demands will be placed on that infrastructure by concentrating 30,000 or so units of housing into the compact centers that have municipal sewer systems. It is irresponsible to remove this additional point of State oversight.

During the summer of 2021, I looked into the effect of the Wastewater System and Potable Water Supply Permits (WW permits) on housing projects. I looked at 16 housing projects in Montpelier (where I live), Northfield (nearby), Brattleboro, and Rutland (both because of testimony to the general assembly). Montpelier and Northfield had few multi-family projects. These permits are issued by the regional engineers at the Department of Environmental Conservation's regional offices. My investigation shows that the WW permits are not a barrier for housing that connects to municipal water and sewer systems. Eliminating the WW permits in these cases typically will not shorten the pre-development period, will not make housing affordable, and will lose the benefits provided by the State's oversight. My report can be found at

<https://legislature.vermont.gov/Documents/2022/WorkGroups/Senate%20Natural%20Resources/Bills/S.234/Public%20Comments/S.234~Thomas%20Weiss~Housing%20and%20Smart%20Growth~1-26-2022.pdf>

Cost of the WW permits

It is surprising that assertions have been made that the cost of the WW permit is an impediment to new housing.

On the contrary, the report shows that the cost to the applicant for the WW permit is a few hours time and an application fee that generally is small for each unit.

The median permit fee per unit of these projects was \$175. The maximum was \$750 (4 units added to 9 existing units). Total fees were \$270 to \$3,000.

The information needed for the WW permit is needed by other permits and for the project design itself. The only time involved in the WW application is to transfer already available information to the application and some time to co-ordinate with the regional engineer assigned to the project. This should amount to no more than a few hours of time. It is inappropriate to allocate the cost of developing the information to the WW permit. Even if the WW permit is eliminated, the cost of developing that information is not eliminated.

Time to obtain the WW permits

It is inappropriate to make blanket assertions that the WW permit program delays projects. This report shows that the WW permit program does not lead to project delays.

Different municipalities require different permits under different conditions. All four municipalities require zoning permits and allocate capacity. Some issue building permits; others rely on the construction permits of the Department of Public Safety's Fire Safety Division. Some issue connection permits, others wrap them into the zoning permit. I looked into the timing of the WW permit compared to the timing of other permits needed for a project. Other approvals that may be required are: allocation of capacity (15 projects); zoning permit (15),

building permit (8), connection permit (3), Act 250 permit (3), flood permit (1), and public works permit (1). Developers determine the order and timing of applications for these various approvals. The WW permit was the last to be received on 8 projects. One project was abandoned after the permit was issued. One was for a lot subdivision and the lot had not been sold many months later. The WW permit application was withdrawn on one project. That leaves five permits where the time between last permit and the WW permit might have been caused by the applicants' choices on timing (delay not caused by the WW program) or they might have been caused by the WW permit process. I did not have enough information to determine which.

Value of the WW permits

Review by the regional engineer does indeed find errors. One of the projects had requested an incorrect allocation from the municipality. The municipality allocated the amount requested. The same incorrect flow was included in the application for the WW permit. The review by the regional engineer caught that error. In addition the State review found that the water service needed to be in a different location because it was proposed to be too close to the sewer service. It was easy to change the location on the design drawing. If that had not been caught by the regional engineer, the pipes might have been installed too close to each other. That would have endangered the health of the building occupants. If the error had been found during construction, it would have delayed construction.

Other benefits of retaining the WW permits for systems connecting to municipal water and wastewater systems.

The WW program provides a single repository for permits and the supporting documents.

The proposed registration program means that records for some projects will be maintained by the State. Records for other projects will be maintained by the municipalities.

One of the projects had requested an incorrect allocation from the municipality. The municipality allocated the amount requested. The same incorrect flow was included in the application for the WW permit. The review by the regional engineer caught that error. In addition the State review found that the water service needed to be in a different location because it was proposed to be too close to the sewer service.

Municipalities already have a procedure to issue permits

A municipality may request now authority to issue permits for service connections. Thus there is no need for sections 24 and 25 of this bill. Let the municipalities use the alternative procedure that now exists. That alternative procedure is at 10 V.S.A. §1976. The procedure in § 1976 requires a municipality to follow the provisions of 10 V.S.A. chapter 64 (potable water supply and wastewater system permit).

I acknowledge that my study is limited. I presented my report and testified before the relevant committees in 2022. No one has yet presented other data to refute my findings.

Recommendations:

- Remove sections 24 and 25 from the bill. This means retaining Wastewater System and Potable Water Supply permitting at the State for all projects involving connections to municipal water and sewer systems.
- Discourage new housing connected to wastewater systems that discharge into or upstream of impaired waters.

Retain the right of ten persons to appeal decisions of the administrative officer. Require public notice for certain decisions of the administrative officer, including those on enforcement.

This bill proposes to eliminate the ability of any 10 voters or property owners to appeal decisions of the administrative official. While this means of appeal is rarely used, it should be retained.

The ability to appeal is an important check on the power of the administrative officer. This check should not be reduced. Very little of what an administrative officer does is subject to public notice. So, if ten persons are disturbed enough about an official's decision, they should retain the ability to appeal. This is an important function of democratic process in local governance.

The only decisions of an administrative officer that require public notice are permits issued by the officer. Decisions that do not result in permits are not made public. (§ 4449(b)(2)) All other public notice requirements in development review apply only to applications being acted on by an appropriate municipal panel. (24 V.S.A. § 4464(a)).

Enforcement is an important part of an administrative officer's responsibilities. A decision not to enforce should be subject to appeal. The ability to appeal that should not be diminished by reducing who is eligible to appeal.

Recommendations:

- Remove sec. 6 and retain the right of ten persons to appeal decisions of the administrative officer.
- Require public notice for certain decisions of the administrative officer, including those on enforcement.

Require bylaws to define the character of the area in districts or portions of districts.

Section 9 proposes to expand the prohibition of appeals based on a finding of no undue adverse effect on the character of the neighborhood. Statute now places that prohibition on findings of no undue adverse effect on conditional use permits. S.100 proposes to expand that to all permits.

Instead of prohibiting appeals, require zoning bylaws to define the character of each neighborhood. Then require the appropriate municipal panel to refer to that definition when writing its decision relating to the character of the neighborhood. Having a written definition makes it clear to all parties what is expected in order not to have an undue adverse effect on the character of the neighborhood.

Montpelier's zoning defines the character of the neighborhood. For example,

Neighborhood Character. The Residential 1500 District includes the following neighborhoods:

(1) **Blanchard Park.** This neighborhood west of Hubbard Street is a densely built residential neighborhood characterized by large historic homes on small parcels with narrow setbacks. Some of these residences have been converted to multi-unit occupancy, while others remain single-unit. Proposed development should maintain the historic development pattern in this neighborhood. Modest increases in density may be accommodated in this neighborhood through ongoing, incremental conversion of single-unit residences to multi-unit buildings, further division of multi-unit buildings to add additional units, conversion of outbuildings for residential occupancy, or similar approaches that do not significantly alter the physical form of the neighborhood and its historic buildings.

This example gives the development review board the ability to match the project against the standard. Then to write its decision indicating which part of the character was met or not met.

Section 9 would be amended so that subsection (e), would end up being:

(e) Designated areas. Notwithstanding subsection (a) of this section, a determination by an appropriate municipal panel that a residential development will not result in an undue adverse effect on the character of the area affected shall not be subject to appeal if all of the following apply:

- (1) the proposed residential development is seeking conditional use approval under subdivision 4414(3) of this title
- (2) the proposed residential development is within a designated, downtown development district, designated growth center, or designated neighborhood development area;
- (3) the zoning bylaws have a clear description of the character of the area; and

(4) the decision of the appropriate municipal panel makes clear reference to testimony received that leads to the decision of no undue adverse effect.

Other elements of the determination made by the appropriate municipal panel may be appealed.

Recommendation:

- Require a clear definition of character of the area in the zoning bylaws.
- Rewrite Section 9 as recommended above.

Require that new housing does not add to greenhouse gas emissions.

New housing really needs to be built to best available technology in order to meet our requirements to reduce greenhouse gas emissions. Instead, this bill proposes to prohibit a municipality from adopting energy standards that require fewer greenhouse gas emissions than the Commercial Building Energy Standards and the stretch code of the Residential Building Energy Standards. (The Commercial Standards apply to buildings of four or more stories that have housing units in them.)

The buildings being built now hopefully will be built well enough to last 100 years or more. We have many buildings more than 100 years old in Vermont. Others that are more than 150 years. Some are in the vicinity of 200 years old. Many of them still need expensive weatherization to enable us to meet our emissions reductions under the Global Warming Solutions Act. New housing built to Vermont's present energy standards will be totally inadequate to the needs of the future. In 50 or 100 years, the stretch code will be seen as inefficient and wasteful of energy.

The Department of Public Service is revising both of our energy standards (residential buildings and commercial buildings). The codes are based on the 2021 International Energy Conservation Code. Development on that code began around 2018 and its contents had to be agreed to by a committee. By the time our energy standards are revised, they will already be out of date by three or four years. We need our energy standards to anticipate the future, rather than being out of date on the day they become effective. Our standards should not be less than best available practices. Better yet, new buildings should be real zero. The RBES and CBES that are being adopted are less than best available practices.

Section 13 of S.100 proposes that municipalities may adopt more-restrictive energy standards on dwelling units greater than 1800 sq. ft. This of course reaches only those municipalities with zoning and that also choose to adopt more-restrictive energy standards. In order to avoid a patchwork quilt of differing energy codes, I suggest a statewide standard of best available practices leading to real zero.

I also suggest that there be a cap on thermal loads. A housing unit greater than 1800 sq. ft. would not be allowed to use more energy than a building of 1800 sq. ft. I choose 1800 sq. ft. because that is an area already in S.100

Recommendations:

- Require new housing units to use best available practices leading to real zero.
- Cap thermal loads of housing units at the load of an 1800 sq. ft. housing unit built to the energy standards.

Recommendations

Expand Act 250 jurisdiction outside the chapter 76A designations.

Amend Act 250 to increase the protections outside the compact centers. These protections could include some or all of the following that have been promoted in recent sessions.

- Have jurisdiction outside the compact centers apply to subdivisions of 2 or more lots
- Add forest fragmentation and/or wildlife corridors to the criteria

- Add provisions for rural clustered development that incorporates regenerative whole system management practices by design to sequester maximum carbon with farmland and forests

Prevent the isolation zones of water and sewer systems from encroaching on a neighbor's property where municipal water and sewer are not available.

- Amend the bill to prevent the isolation distances of water and sewer systems from encroaching on a neighbor's property where municipal water and sewer are not available.

Remove the concept of enhanced designations.

- Remove sections 18 through 21 until more thought can be given to the concept.

Provide access to sunlight for gardens.

- Require gardening space with access to sunlight, perhaps 1,000 sq. ft. per resident. New lots and new construction need to preserve access to sunlight on their lots and on neighboring lots.

Amend the definition of "Area served by municipal water and sewer infrastructure".

- Remove the proposed addition of 24 V.S.A. §4412(15)(A)(ii) from the bill.

Retain existing Act 250 jurisdiction over housing projects.

- Remove sections 16 and 17 from the bill.

Retain State oversight over connections to municipal water and wastewater systems.

- Remove sections 24 and 25 from the bill. This means retaining Wastewater System and Potable Water Supply permitting at the State for all projects involving connections to municipal water and sewer systems.
- Discourage new housing connected to wastewater systems that discharge into or upstream of impaired waters.

Retain the right of ten persons to appeal decisions of the administrative officer.

Require public notice for certain decisions of the administrative officer, including those on enforcement.

- Remove sec. 6 and retain the right of ten persons to appeal decisions of the administrative officer.
- Require public notice for certain decisions of the administrative officer, including those on enforcement.

Require bylaws to define the character of the area in districts or portions of districts.

- Require a clear definition of character of the area in the zoning bylaws.
- Rewrite Section 9 as recommended above.

Require that new housing does not add to greenhouse gas emissions.

- Require new housing units to use best available practices leading to real zero.
- Cap thermal loads of housing units at the load of an 1800 sq. ft. housing unit built to the energy standards.

The need for affordable housing must not pre-empt essential protections of our natural resources. We can do both. S.100 needs amendment in order to do both.

I ask that you find these recommendations persuasive and that you amend S.100 as recommended.

Sincerely,
Thomas Weiss

Attachment 1
Meetings of the Natural Resources Board
Prepared by T. Weiss, February 27, 2023 from Board minutes

Date of meeting	Sabina Haskell	Brad Aldrich term expires 1/31/25	Andrew Collier term expires 1/31/24	Donald Turner term expires 1/31/23	Steven Larrabee term expired 1/31/22	Duration (minutes)
1/11/22	Present	Present	Present	Present	Present	9
2/8/22	Present	Present	Present		Present	13
3/8/22	Present	Present	Present	Present	Present	12
4/12/22	Present	Present	Present		Present	16
5/10/22	Present		Present	Present		12
6/14/22	Present	Present	Present		Present	17
7/12/22	Present		Present	Present		18
8/9/22	Present	Present	Present		Present	23
9/13/22	Present	Present	Present	Present	Present	27
10/11/22	Meeting was adjourned due to a lack of a quorum					0
11/8/22	Meeting was cancelled in advance.					0
12/13/22	Present	Present		Present		19
1/10/23	Present	Present	Present			22
2/14/23	Present	Present	Present	Present	Present	67

Contributions by Board members as recorded in the minutes of the Board meetings.

Members move to approve minutes, to enter executive session, to leave executive session, and to adjourn.

- 1/11/22 Members thanked Mr. Boulbol (counsel) for his service on his last day
- 2/8/22 None
- 3/8/22 "Enforcement Update Mr. Don Turner brought up a concern that landowner wasn't notified that his property was being discussed at a pervious [*sic.*] Board meeting. Sabina clarified that the business in question was brought up by a member of the public during a public comment and the Board listened to the comment but did not take further action. If more discussion requested, the topic will be placed on the agenda for a future meeting."
- 4/12/22 None
- 5/10/22 "Another activity was to brainstorm priorities for the NRB for the next year. The top three priorities were: 1. Staffing; 2. All files scanned; 3. Positive PR and public outreach regarding Act250".
[NOTE: This lasted two minutes and there was no indication whether members participated.]
- "The NRB received a new statement of questions in the Burton appeal, Ms. Stone forwarded these to Vice Chair Aldrich." [NOTE: Later minutes do not indicate that Mr. Aldrich reported back to the Board.]
- 6/14/22 "The NRB is required to do two legislative study reports. The first is on accessory on farm businesses and is due at end of 2022. The second is on modernizing Act250 and is due by the end of 2023. Will be working closely with ANR on both reports. The NRB has not authorized previous studies on Act250, we have just been a participant/ stakeholder.

"Will the board members be involved in these studies? Will have many stakeholders involved including the Board. The Board members will have a chance to review the final study before it gets submitted.

"There was a short discussion regarding confusion that occurs when actions taken by the staff, or the chair are perceived to be taken by members of the Board."

[NOTE: I attended all stakeholder meetings. Board members were not included in the e-mails sent to the stakeholders. The board may have been present. I do not remember any of them participating. This report is available at [https://legislature.vermont.gov/Documents/2024/WorkGroups/Senate%20Natural%20Resources/Reports%20and%20Resources/W~Sabina%20Haskell~250%20Jurisdiction%20over%20Agricultural%20Businesses%20\(%20AOFB\)~1-17-2023.pdf](https://legislature.vermont.gov/Documents/2024/WorkGroups/Senate%20Natural%20Resources/Reports%20and%20Resources/W~Sabina%20Haskell~250%20Jurisdiction%20over%20Agricultural%20Businesses%20(%20AOFB)~1-17-2023.pdf)]

7/12/22	None
8/9/22	None
9/13/22	The Board went into executive session "for the purposes of personnel discussion".
10/11/22	"There was not a quorum of Board members, so the meeting was adjourned. *Please note that the November Board meeting has been cancelled so the next Board meeting will take place on December 13, 2022." The executive session lasted 10 minutes.
11/8/2	No meeting was held.
12/13/22	None
1/10/23	None
2/14/23	"A motion to find that premature disclosure of information would clearly place the Board at a substantial disadvantage was made". The Board went into executive session "for the purposes of discussing this information". The executive session lasted 27 minutes.

Backgrounds of the Natural Resources Board
Information obtained autumn 2022
Prepared by T. Weiss

Shaded experience relates to environment and land use.

Sabina Haskell, Chair

First appointed: 2021 as chair by Phil Scott

Her only campaign donations, going back to 2013, were in 2018 and 2022. They were to Phil Scott, \$150 each time.

<https://www.linkedin.com/in/sabinahaskell>

About

Seasoned communications strategist with expertise at crisis communications and creating positive opportunities both externally and internally. Successful at reputation management with a wide range of stakeholders from government leaders, business executives, employees, media and key influencers. Excellent writing skills across communications vehicles, from executive-level speeches, press releases, opinion pieces and social media. Superb media relations skills.

Experience

Vermont Natural Resources Board, Montpelier, chair, Dec 2021 – Present

Vermont Department of Liquor and Lottery, Berlin, Deputy Commissioner, May 2021 - Dec 2021

Vermont Student Assistance Corporation, Winooski, Director of Public Affairs, Dec 2013 - May 2021

FairPoint Communications, South Burlington, Director of Regional Public Relations, Feb 2010 - Dec 2013

Agency of Natural Resources, Deputy Secretary, Oct 2007 - Feb 2010

Brattleboro Reformer, Brattleboro, editor, 2005 - 2007

Bennington Banner, Bennington, editor, 2002 - 2005

Education: University of Wisconsin - Madison, BA Journalism

Brad Aldrich, vice chair, exp. 1/31/25

First appointed: 2017 as member by Phil Scott

His only campaign donations, going back to 2013, were in 2016 to Jonas Rosenthal (\$250) and Phil Scott (\$400).

<https://aeengineers.com/our-team/>

Brad Aldrich, PE, Senior Associate

Brad is a founding partner of Aldrich + Elliott, PC which was formed in 1995.

A proud graduate of UVM, he began his engineering career in the construction industry working for Pizzagalli Construction Company. He moved from construction into consulting engineering in the late 1980's and has been here ever since.

<https://aeengineers.com/our-services/>

Aldrich + Elliott, PC (A+E) is a water resource engineering firm specializing in sustainable water, wastewater and stormwater engineering solutions for communities in Vermont and New Hampshire. If your community (large or small) needs water, wastewater or stormwater engineering, we do it!

To learn more about our engineering services, click on one of the links below:

- Drinking Water Systems
- Wastewater Systems
- Stormwater Systems
- GPS/GIS and Asset Management
- Green Technology

sos.vermont.gov - Brad Aldrich's P. E. registration, 5254, expired July 31, 2022.

Andrew Collier, exp. 2/29/24

First appointed: 2020 as member by Phil Scott

He has made no campaign contribution, going back to 2013.

<https://www.linkedin.com/in/troopercollier>

Andrew Collier

Experience

Deputy Commissioner, Vermont Department of Liquor and Lottery , Dec 2021 - Present

State Trooper, Vermont State Police, Williston, Jan 2010 - Dec 2021

Education: Westfield State University, BA Business/Corporate Communications, Activities and Societies:
NCAA DIII Equestrian Team

Volunteer Experience

Development Review Board, Town of Westford, 2019 - Present

Natural Resources Board (NRB), Sep 2020 - Present

Board Of Trustees, Howard Center, Burlington, Nov 2021 - Present

Donald Turner, exp. 1/31/23

First appointed: 2019 as member by Phil Scott

He has made no campaign contribution to Phil Scott, going back to 2013.

<https://legislature.vermont.gov/people/single/2018/14583> (2017-2018 session)

Occupation: Fire and Rescue Chief, real estate broker, developer and investment properties.

Serves on the Supervisory Board of the Vermont Federal Credit Union, the Milton Board of Civil Authority, as a Justice of the Peace, Notary Public, and is a Vermont certified fire instructor.

Organizations: Seneca Lodge #40, Milton Republican Committee, Vermont State Firefighters Association, International Association of Fire Chiefs, Milton Firefighters Association, Northwest Vermont Board of Realtors, Vermont Association of Realtors, and the National Association of Realtors.

Member of the House since 2006 (seated January 23, 2006). Served on the following committees: Human Services (2006), Institutions and Corrections (2007), General, Housing and Military Affairs (2008), Commerce and Economic Development (2009-2012) and Education (2013-2014). House Minority Leader 2011-present.

Steven Larrabee, exp. 1/31/22

First appointed: 2018 as member by Phil Scott

He has made no campaign contribution to Phil Scott, going back to 2013. Larrabee's Building Supply donated \$500 to Phil Scott in 2016.

<https://www.ourcampaigns.com/CandidateDetail.html?CandidateID=25797> [Last updated, October 8, 2004]

Occupation: Owner, Larrabee's Building Supply, Inc.

Member of: Masons; Shriners; Danville Chamber of Commerce; Northeast Kingdom Chamber of Commerce; Northeast Retail Lumber Dealers Association; Northeast Kingdom Board of Realtors; Vermont Association of Realtors; Caledonia County Forest and Stream Club; Regional Planning Commission.

He has served as a selectman and planning commission member.

Member of the House: 1995-2002.