



### **Testimony of Matt Marks in Support with Modifications of LD 2003**

*An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions*

Committee on Labor and Housing

March 7, 2022 10:00 AM

Senator Daughtry, Representative Sylvester, and Distinguished Members of the Committee on Labor and Housing. My name is Matt Marks; I am a resident of Scarborough and testifying on behalf of AGC Maine.

I want to thank the Commission members who worked on this issue last year. AGC Maine has been a vocal advocate for affordable housing and zoning reforms that allow greater density, especially in proximity to public transportation and near medical and social service amenities.

*Within the bill, there are a few changes, comments and suggestions;*

- **§4364-C. Residential zones, generally;** up to 4 dwelling units permitted Notwithstanding any provision of law to the contrary, for any zone in which housing 40 is permitted, a municipality shall permit structures with up to 4 dwelling units.

***AGC Comment:** If we understand and read the intent correctly, this would allow a current single-family residential dwelling to be torn down and replaced with a structure to accommodate up to 4 units. How would the town accommodate the additional occupancy concerning the increased traffic counts, utility usage (water/wastewater), and transportation? We are not clear on the mechanisms a town could use given the structure of this bill to meet those needs. Typically those adjustments are made and the developer is responsible for all or a portion of the costs associated with improvements including items like traffic signals, signage, and sidewalks.*

*While this isn't a concern of AGC Maine, it's essential to consider that this might work in some neighborhoods; others would be dramatically altered where the area's design might not meet the demand increases. One of the advantages of selective placement of housing density is providing those services. This could have the potential of spreading benefits to outlying areas. What state assistance could be provided to offset the additional costs associated with this transition? Would this permit a developer to purchase an entire mobile home park, remove those units and replace them with four units?*

- **8 §4364-C. Residential zones, generally;** up to 4 dwelling units permitted Dimensional and setback requirements. Municipal ordinances may not establish dimensional size requirements or setback distances for multifamily housing structures greater than dimensional or setback requirements for single-family housing structures.

AGC Comment: *The intent makes perfect sense; perhaps an alternative to accommodate the greater use of space should be a percentage basis of the single-family home setbacks.*

- **4364-D. Accessory dwelling units**

AGC Comment: *The rules proposed on ADUs could use further clarification or parameters. Setting the limit of 30 days minimum for rental seems to allow short-term rentals often associated with companies such as Airbnb. Knowing that controversy has sparked local discussions, it could be challenging to implement. We are not clear who or how the lease would be enforced.*

*It's supportive of development in coastal towns or high tourist areas but less likely as written to address the bill's intent. It's also worth thinking about some of the challenges that might develop without guidelines. We believe more work should be done with this measure, but we support the concept of allowing landowners greater flexibility in using their personal property.*

*The proposed law references the Maine Uniform Building Code, which might be more appropriate to reference the Maine Uniform Building and Energy Code.*

- According to "**Section 7 4. Growth caps prohibited**" a municipality may not adopt an ordinance that caps the number of building or development permits each year for any kind of residential dwellings, including but not limited to building or development permits for affordable housing.

AGC Comment: *As you can imagine, we've encountered situations where the growth caps have limited housing and commercial development that we asserted are valuable and needed in specific communities. This language, however, is vague, including the term "but not limited to" provides little guidance and would undoubtedly lead to disputes and legal challenges. The policy should encourage the mixed-use in this section.*

- Listed in **Section D**, the number of building or development permits for new any kind of residential dwellings, including but not limited to building or development permits for affordable housing, allowed under the ordinance, is recalculated every 3 years not restricted.

AGC Comment: *We support the increase in permits to develop residential dwellings, but we are concerned about the ability of towns to calculate the impact to services to ensure the capacity of local roads, water/sewer, schools, and other critical services such as fire and police. In some areas, development is happening rapidly, and some tools must exist for that planning. According to this bill, assistance will be provided for meeting the demand in growth. Still, we are curious to learn more from municipal partners on the capacity that will be needed to evaluate needs properly. Additionally, it isn't clear from reading this bill that funding will assist additional growth. In that case, towns will likely create developer fees that could be substantial to offset any oversight in a high growth process to meet those needs.*

**Some additional considerations might provide value to the development of this bill and desired outcomes;**

**Mixed Use/Form Based Zoning Opportunities**

During the hearing that established the Commission, we testified on the opportunity to fast-track projects that promoted mixed-use of a property that provided affordable housing and businesses where residents could work and recreate. Zoning changes could incentivize areas like downtown main street neighborhoods where services exist. Creating an expedited permit process for projects that meet those conditions at local and state levels would also be beneficial. Several developments have happened recently outside of publicly financed programs. The state should work with municipalities to identify areas where those unique live and work buildings could be built. Creating incentives to have mixed-use development that offers working and living opportunities would be beneficial to the residents, the environment, and our economy. The creation of a mixed use and or form based zones that specifically addresses areas where mixed-use could be best suited in a community with conditions outlining a qualifying project that might inspire the growth needed.

**Utility and Use Concerns**

The bill recognizes the need to address water and wastewater needs, but it doesn't directly deal with the system needs that will occur by greater density placing pressure on both underground facilities and their treatment and distribution facilities. As you know, both need substantial funding to meet the growing backlog. For stormwater additional development and increases in the frequency of storms will require additional funding too.

One item to keep in mind, with a private well, the law in Maine states that 15 service connections or serving at least 25 individuals daily for least 60 days out of the year is considered a public water supply. That would have to be addressed, as the zoning changes are not restrictive to the number of people that could be housed in multi-units on a single-family lot or accessory dwelling units.

We appreciate the time today to share our comments and hope work continues to address the housing crisis.

Respectfully submitted by,



Matt Marks, AGC Maine

*AGC Maine is a commercial construction trade association and a Chapter of AGC America. Members are diversified businesses: open shop, union, employee-owned, general contractors, construction managers, specialty contractors, service providers, and developers. AGC Maine provides safety, management, and technical training. AGC Maine is a liaison member companies with federal, state, and local regulatory agencies.*