Supporting Testimony from Beth Della Valle, AICP
March 7, 2022

LD 2003 section reference	Element	Concern	Proposed Amendment
Section 5 §4360.C.4.	Growth caps prohibited	Federal case law requires that "A zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body." Proposed amendment conflicts with §§5.C.A., which requires growth caps to be consistent with Comp Plan.	If want to exempt growth caps from required basis in Comp Plan, edit proposed amendment to 1) clarify that "growth caps" and rate of growth ordinances, which is the term used elsewhere in the statute, including in §4314.3, are the same thing and 2) amend §4314.3 to exempt rate of growth ordinances from requirement to be supported by a Comp Plan (similar to text in §4314.2 re shoreland and floodplain zoning).
Section 7 §4364	Management of program, technical assistance, and grant program	Proposal to delegate these responsibilities to DECD, duplicates jurisdiction/charge to the remnants of SPO's Land Use Program (Municipal Planning Assistance Program or MPAP) at DACF	1) Shift proposed management and funding to MPAP at DACF and require interagency coordination with DECD, MSHA, and infrastructure funding agencies (DOT, Maine Bond Bank, etc.). 2) Compare proposed §4364.3 to §4346, especially §4346.2. 3) Eliminate proposed §4364.3 and §4364-A and shift relevant sections to §4346. Incorporate all new rulemaking into amended Growth Management Act's (GMA) rules.
Sections 7, 9, 10 §4364 §4364-A	Posits most authority in DECD, not MPAP, including providing Planning Assessment Grant and Incentive Program	Though many proposed amendments involve the GMA, there is lack of acknowledgement/significance of the "location" of new housing development in "designated growth areas" under the GMA; many provisions are duplicative of, muddy, create overlapping jurisdiction, and undermine the anti-sprawl/smart growth provisions in the GMA, and disconnects the proposal from statues connecting local planning to growth related capital investments (§4349-A). DECD does not have the expertise in intricacies of land use planning and regulation to provide this	1) Move administrative authority and funding to MPAP at DACF and, through MPAP, to the regional planning commissions. 2) Include funding for Comprehensive Planning as well as ordinance changes (§4352.2) and incentivize regional housing plans to realize efficiencies. 3) Allocate funding in DECD for housing construction.

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		assistance; creating this capacity at DECD duplicates the capacity in the MPAP at DACF, which has been starved for staffing and grant resources.	
Section 9 §4364-B	Limits on off-street parking	If there is no public transportation available to those living in the new units, residents will need a vehicle and this provision could force additional parking onto neighboring streets that may not have space to accommodate them.	Limit this mandate to areas where public transportation is available.
Section 10 §4364-C	Permitting 4 dwelling units everywhere housing is permitted	Applying this standard everywhere housing is permitted will promote sprawl, in direct contradiction with the core of the GMA and generate unnecessary costs for state and locate dollars to upgrade/extend/expand roads, utilities, and school bussing throughout the community and condemn future residents to having to drive everywhere to access jobs, goods and services. Proposing action without planning, as required in the GMA, including designation of "growth" and "rural" areas in local Future Land Use Plans is a prescription for costly mistakes.	1) Limit 4 dwellings/structure to "designated growth areas" and outside of "designated rural areas". 2) Adjust language to reflect minimum lot size requirement of 20,000 square feet for onsite septic. 3) Integrate Priority Development Areas into "designated growth areas" to better link this strategy to current land use framework and state funding of growth related capital investments (§4349-A), both in statute.
Section 10 §4364-C	Specifies standards for dimensional requirements, water and wastewater, and local implementation	A number of these elements are already dealt with in other sections of statute and building codes and micromanages municipal implementation/action. For example requiring written verification re water/waste disposal should be at the building permit stage rather than at the occupancy permit stage to avoid costly surprises for developers. Preventing requirements for larger setbacks and frontages for larger structures ignores the fact that taller buildings reasonably may require larger	Revise to provide a "framework" to separate NIMBY responses from well thought out provisions and integration into existing local systems that regulate construction. Either limit this mandate to locally "designated growth areas" or provide more specific detail in rulemaking, not statute, and provide technical guidance on dimensional requirements that address more than just density increases to avoid a one-size-fits-all approach while prohibiting NIMBY responses.

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		setbacks/frontages to address quality of life, good neighbor, and sometimes safety issues/standards.	
Section 10 §4364-C. 3. C. §4364-D. 5. C.	Variances for dimensional standards	It is virtually impossible for local Boards of Appeal to "legally" grant these variances under State law.	Do not prescribe dimensional standards but provide constraints on local adoption of NIMBY standards. See comments immediately above. Establish "framework" in statute then allow towns to come up with creative solutions within that "framework".
Section 11 §4364-D. 1 through 5	Requirement for Accessory Dwelling Units (ADUs)	Reasonable requirement of local ordinances, but goes too far in prescribing standards like whether the units have to be attached or detached, some concerns re parking standards.	Firm up the "framework" for requiring ADUs to establish a reasonable basis to support/not allow obstruction of ADUs, including connection, or lack thereof, to public transportation, but let towns figure out how to implement this within the State "framework" (to my knowledge there no fiscal impact on economic feasibility of developing ADUs that are attached/ detached to existing structure).
Section 12 §4364-E	Municipal Housing Development Permit Review Board	Creates a political body to replace local Boards of Appeal and Superior Court as to whether a community is violating the "framework" established in the bill.	Firm up the "framework" for elements in the bill, hold towns' feet to the fire in review of local GMA plans/ordinances then let the existing legal appeals process continue under local Boards of Appeal and Superior Court.
Section 13 §5250-U	Priority Development Zones (PDZ)	Good concept but ignores/duplicates existing framework for designation of growth areas (§4326. 3-A.A.(1)) and linkage to State funding of growth related capital investments.	Create new category in GMA rules to allow designation of PDZ with "designated growth areas" and make sure it is closely tied to existing statute on growth related capital investment (§4349A). While DECD oversight of local ordinances is cumbersome, expensive, and duplicates MPAP's role in administering the GMA, the standards in definition of "community resources" in section 1(A-B) and in section 3 (A-D) are good and should remain with delegation of interpretation to rulemaking.