

March 12, 2021

Esteemed Chairs Cassano and McCarthy Vahey,
Members of the Planning and Development Committee:

The Western Connecticut Council of Government (WestCOG) appreciates the opportunity to comment on:

- Senate Bill No. 1024, *An Act Concerning Zoning Authority, Certain Design Guidelines, Qualifications of Certain Land Use Officials and Certain Sewage Disposal Systems.*
- House Bill No. 6613, *An Act Concerning Accessory Apartments, Middle Housing and Multifamily Housing*

WestCOG opposes SB 1024 and HB 6613 and urges you to vote against them.

WestCOG understands that these bills are intended to increase the supply of affordable housing. This is a goal that the region shares, and it is a goal that the region's members are delivering on: from 2002 through 2019, the region created 48% of new affordable housing units in Connecticut, despite accounting for 16% of the state's population. The region's adoption of innovative and effective strategies such as transit-oriented development and inclusionary zoning, which requires multifamily housing to include affordable units as a condition of approval, have played a key role in this success.

WestCOG shares the goals of SB 1024 and HB 6613 but disagrees with the assumptions in them that municipalities will not build affordable housing on their own, that state intervention is needed, and that public involvement and equity are in dichotomy. The region's experience, where local governments voluntarily adopted regulations to promote affordable housing production, through a process that included hearings on regulations and proposals, without external intervention, demonstrates these assumptions to be false.

Given false premises, SB 1024 and HB 6613 are likely to prove counterproductive, setting back equity rather than advancing it. These bills would compel municipalities to allow denser housing around transit stations and commercial corridors – places where a car is not necessary and that are ideal for households that struggle with the cost of owning one – by right, at market rate, without any affordability requirements. This would pull the rug out from under the region's successful inclusionary zoning programs. (Given lower profits on affordable units, it is dubious whether any developers would opt into inclusionary zoning if they can build without it.) WestCOG expects that SB 1024 and HB 6613 largely end the creation of affordable units in these central places.

In addition to these objections, SB 1024 and HB 6613 contain several provisions that unacceptable to WestCOG. These are (line numbers are from SB 1024):

1. Creation of a new cause of action for aggrieved persons (ll. 357-364), to the superior court. This bypasses more accessible, lower-cost conflict resolution processes established under

state law, including the Zoning Board of Appeals and mediation. Such escalation would substantially increase costs for all parties involved without any demonstrable benefit. (Notably, the provisions to which the cause of action would apply have not yet been enacted into state law, so the concept proposed here is unripe.)

2. Enabling termination of nonconforming uses (Il. 278-303). A zoning commission could end any nonresidential land use – putting commercial and industrial uses out of business – through rezoning and issuance of a cease-and-desist letter. This is directly at odds with a stable business climate and would negate a law recently passed by the General Assembly (PA 17-39).
3. Replacement of level-of-service (LOS) with estimates of vehicle miles traveled (VMT) and vehicle trips generated (Il. 230-235). Level of service is an engineering standard used in traffic impact analysis; the choice whether to use it alone or in conjunction with additional measures is best left to the judgment of a professional transportation engineer and should not be specified in statute. VMT and vehicle trips do not quantify traffic impacts and are not an adequate substitute for LOS.
4. Changes to wastewater regulations
 - a. Reservation of wastewater treatment capacity for areas “able to be developed for residential or mixed-use buildings containing four or more dwelling units” (Il. 726-729). Water pollution control authorities (WPCA) would have to set aside capacity, regardless whether capacity is available, for specific types of housing that, while technically developable, may never be built, putting hypothetical homes ahead other important and potentially more real uses (e.g., industrial parks). Locking up capacity adds an unnecessary constraint to WPCAs that may burden ratepayers and limit options for economic growth.
 - b. Raising by 50% the size limit for alternative septic/community wastewater systems that are exempt from oversight by the Connecticut Department of Energy and Environmental Protection (DEEP) (Il. 746-748, 681-682). Such systems have not been widely used. It is unclear why this limit is being raised – what is the problem it is addressing? The state has a history of septic failures as well as mismanagement of private utilities (e.g. community wells), with expensive publicly-funded remediation necessitated, so this is concerning. DEEP and the Connecticut Department of Public Health should be consulted on any such proposal.
5. Requirement that zoning “expressly allow” housing to meet needs identified in the state’s Consolidated Plan for Housing and Community Development and its Plan of Conservation and Development (Il. 173-177). These documents, which are largely compliance-oriented, are not ideal for this purpose. The municipal affordable housing plans mandated by CGS §8-30j, which will include detailed data on local housing needs, markets, and strategies, would be a better reference. A requirement that zoning be consistent with such plans, or that 8-30j plans be incorporated into municipal Plans of Conservation and Development may be reasonable.

6. Capping required parking for all homes at one parking space for accessory dwelling units and homes of up to one bedroom, two spaces for a two or more-bedroom home, and zero spaces for homes in by-right mixed-use and multifamily developments (Il. 316-318, 391-392, 436-437) A one-size-fits-all standard is inappropriate for parking because the need for parking at a residence is not consistent across the state but varies based on factors including the home size, its location, transit availability, and the presence and availability, including seasonal parking bans, of on-street parking. Decisions about parking should be made based on local characteristics and actual – and not assumed – need.
7. Accessory dwelling unit (ADU) regulations. **Note that these concerns do not apply to Senate Bill 1027, An Act Concerning Accessory Dwelling Units and Zoning Regulations, which does not have problematic language. WestCOG does not oppose that bill.**
 - a. Prohibition on standards beyond what is set forth in the bill (Il. 432-433), even when they are necessary. For instance, the bill does not allow municipalities to impose:
 - i. Well standards. Many ADUs may be built in areas on private wells. Some of those wells may not be able to support a second dwelling. In this case an ADU should not be allowed without provision of an alternate water source.
 - ii. Environmental regulations. Municipalities prohibit principal dwellings from being built in flood zones, wetlands, steep slopes, etc. ADUs should also be excluded from these areas.

Municipalities should be able to apply the same standards they would apply to a single-family principal dwelling on a property to an ADU.
 - b. Ambiguous wording regarding lot coverage (Il. 382-384), which may result in an unintended overbuilding of affected lots with impervious surface. The footprint of the ADU should be treated as part of the principal dwelling for the purposes of calculation of lot coverage.
8. Failure to update local zoning by June 1, 2022 to comply with the bill’s ADU or mixed use and multifamily sections would render “any noncompliant existing regulation... null and void” (Il. 425-432, 484-491). Such regulations may affect many zoning processes, and their legal suspension could have unintended and negative consequences.

Should you have questions, please do not hesitate to contact me.
Thank you for your consideration.



Francis R. Pickering
Executive Director