

The “DIRTY DOZEN” Zoning Bills

Good intentions are not a valid excuse for enacting poor public policy. The affordable housing crisis in CT is really due to the lack of good employment opportunities in CT and poor economic and business public policy. Lack of good jobs leads to lower income and less residents can afford to buy or rent existing market value homes in the region. The greatest challenge for CT is increasing the vitality of our state by bringing back industry, new jobs and higher paying salaries through business-friendly public policy. Transit oriented development should be focused on revitalizing all of our cities, where density development, adequate public transportation and infrastructure already exists. Cities receive significant State funding for infrastructure and education from the state’s coffers in PILOT and ECS grants, while the targeted suburban communities targeted by these bills rely almost entirely on local property taxes to fund their schools and infrastructure.

General Concerns (Some is not in the current bill language, but can easily be added back in again):

- 1) **As-of-right Development and Removal of public hearings** - The loss of public voice is a major concern. Those that are closest to a project and live in a neighboring property deserve to discuss the potential impacts to their own properties. **See more details under “As-of-Right Development Concerns”.**
- 2) **Not enough affordability required in these bills.** 10% affordability is only required on projects with 10+ units in SB1024. The other bills do not even have any language on affordability. Providing affordable housing is very costly to builders, so builders will apply for under just 10 units without building even one affordable unit. They may even subdivide one acre lots with 15+ unit requirements to stay below 10 units. This can lead to predatory overdevelopment while driving down ratios of affordable units to total units in a town, taking towns farther and farther away from 10% affordable requirement under 8-30g. Flooding high-cost areas, like Fairfield County with housing supply will not drop home prices enough to make them affordable by low-income earners or provide middle housing. For example, a builder will buy and tear down one single family home that cost \$1 million and build 9+ luxury units selling at \$750K or more each or charging \$6000+ a month for rent on a 2BR apartment. Low-income earners (60% of Median Income) can only afford up to \$1,200 per month for a 2BR. Even if home prices are reduced by 50% driven by increase in supply, it is still not affordable by workforce or low-income earners.
- 3) **Reduction or Elimination of minimum parking requirements in TOD buildings.** Many suburban towns were settled over a century ago. The local roads are often not wide enough to allow for on-street parking with two-way traffic. Eliminating parking requirements results in residents parking on-street or taking downtown lot spaces that local businesses rely on desperately. Forcing cars to park on-street will make the roads and sidewalks more dangerous for pedestrians, cyclists and cause unwanted congestion and resulting in the need for pay garages.
- 4) **Unfettered As-of-right overdevelopment is a free option to the state but not to the towns** - exponential growth stresses the town’s infrastructure, i.e. as builders max-out the property coverage on each lot, resulting in greater stormwater runoff. The towns’ existing drainage and wastewater treatment systems will be overwhelmed. There is actually language in the legislation that mandates the expansion of sewer and other infrastructure. Many of the towns being targeted, in particular in Fairfield County, receive little to no funding (of ECS, PILOT grants, school construction funding, housing development) from the state to address any such impacts. Those costs are not incurred in a linear line, but can instead step-up, like when you need to build a new fire station, expand existing sewer systems capacity or build extra cafeteria for schools so kids are

not eating lunch at 10:30am. Those costs will all be incurred by the local municipalities and passed on to the residents through a reduction in local services or an increase in mill rate/property taxes. Local P&Zs must decide where and how “as-of-right” ADUs, Accessory Apts, Multi-family, mixed use are best zoned locally.

- 5) **Fairfield County’s land wealth will be eviscerated.** Are there any other reasons the state would force market-value development besides dropping the local property values? Bronin has stated that if you flood the market with housing inventory, the state and towns will get extra revenues that can be used to do "cool stuff with." However, she also states that “with more supply, prices will come down.” When property value is depressed, even with more units, new tax revenues from additional units will not provide enough funding to cover the infrastructure impacts, which impacts the towns, not the state and results in higher local property taxes, making towns even less affordable.
- 6) **State penalizing towns with a State-wide property tax for not meeting 10% affordable housing threshold.** DUE TO THE NUMEROUS ZONING BILLS FLOODING OUR TOWNS WITH MARKET VALUE DEVELOPMENT (density of 15+ units PER ACRE), ratio of Affordable Housing will be driven DOWN relative to the increased total housing stock. State is penalizing towns for the very problem the State would have helped create. For example, SB1024, if passed, will allow developers to bypass towns’ local INCLUSIONARY zoning laws that ensure higher % of affordable housing than SB1024 requires. As towns’ affordable housing percentages goes in the wrong direction, the state-wide property tax mill rate will rise coupled with depressing property values from increase in supply.
- 7) **Courts will play a greater role in determining whether towns are complying with zoning and affordable housing regulations.** They will determine if towns are providing realistic opportunity for development; courts can approve development; courts can give towns more time or reduce goal for public health/land’s characteristics. Provide a private right of action to enforce the Zoning Enabling Act. Allow aggrieved parties (and non-profit advocacy groups) to sue a town for not getting a fair share, vague construct, who decides a town’s honest efforts?
- 8) **Over-arching theme of top down, one size fits all control of zoning and mandating of policies and making certain existing policies of local P&Zs null and void .** Some bills suggest the formation of a working groups to create form-based zoning codes, or to develop guidelines or incentives for municipalities to comply with affordable housing and variety of housing choice through municipal zoning regulations, to allocate “fair shares,” etc. Concerns include 1) whether the codes will be optional or mandated and 2) ensuring the makeup of the committees includes proper representation of all types of municipalities, in particular, suburban and rural communities so their concerns are adequately voiced through the group’s recommendations. Further restricts the ability for towns to get 8-30g moratoriums.
- 6.) **Enable zoning authorities outside a municipality extend their authority in other towns.** Local housing authorities and local P&Zs are best equipped to determine proper siting and infrastructure impacts of any development project.

Drawing comparisons to Massachusetts TOD Bill is a false equivalent. The State of CT lacks cities with a larger population like NYC and Boston. CT suburbs with small populations and lack of adequate public transit routes/frequency, do not meet the criteria for transit-oriented development. CT’s larger cities in contrast do have existing local commuter transit infrastructure in place and should

continue towards local transit-oriented development. Metro North's high fare costs are not an optimal local transit option. Every ride on Metro North during peak, pre-Covid ridership, ran at a deficit. Metro North Rail ridership is down 80% and Governor Lamont is seeking a savings of \$82B in 2022 and 2023 from reduction of Bus and Rail services. So how will the increase in TOD projects reconcile with the Governor's proposed reduction of transit funding, possible reduction in the frequency of existing service on spur lines and less ridership demand in the future?

Environmental Impacts:

- There are bipartisan concerns on the environmental implications of zoning proposals looking to urbanize suburbs and rural Connecticut. Dense development is proposed to center around coastline train stations along Metro North Rail. DEEP, CT's Environmental Protection Agency has a [whole page](#) dedicated to Sea Level Rise in CT and provides its studies to municipalities to assist with better planning of conservation and development. Instead of forcing TOD densification in low-lying, flood-prone areas that are susceptible to storms like Sandy, and we should rely on P&Zs to determine the best locations to build affordable and sustainable housing.
- Takes away the rights of a Conservation Commission or Regional Water Authorities from weighing in on the development of as-of-right multi-family units.
- Loosens septic restrictions to experimental septic systems that have recently had high failure rates in MA, NY and RI, which then become a public health concern and financial cost to the towns or counties.
- Smart growth around transit stations prevent suburban sprawl and public transit can be leveraged to reduce carbon emissions from vehicles. However, suburban residents will continue to require cars for transportation in their daily routines. Few, if any, local residents can use Metro North as a mode of transport between nearby towns. Public schools are often not located near downtowns or transit. Goods and services in Fairfield County are also priced at a premium to offset higher land prices. Low-income earners will need to shop in less expensive areas, but the Metro North fare is very expensive and unaffordable by low-income earners.

Preservation Concerns

- As-of-Right multi-family developments are detrimental for the architectural character of New England, a fundamental element that attracts and distinguishes us from all other States.
- Historic homes are easy targets for developers because they are relatively undervalued compared to new turn-key properties, and the restoration alternative proves more time consuming, and potentially costly (asbestos, lead paint, etc.) which translates to higher costs for developers.
- These structures and spaces give each of our towns a unique architectural fabric and speak to our development, but we will continue to lose our remaining historical properties near our town centers unless we pass laws to protect and incentivize preservation.

More As-of-Right Development Concerns (SB804, SB1024, HB6570):

- As-of-right development takes away public hearings. Those with the most factual, evidenced based information on direct environmental and logistical impacts to the neighboring properties, like water runoff, well limitation issues, etc. no longer have a voice.
- There is no affordability tied to as-of-right market rate development. It allows developers to bypass towns' current INCLUSIONARY zoning laws that have more robust requirements and will lead to towns being flooded by luxury condos. It drives DOWN ratio of affordable units to total units, making it impossible for towns to meet the 8-30g 10% affordable housing threshold.
- As-of-Right development prohibits local P&Z from addressing any infrastructure impacts resulting from an individual project by allowing a local P & Z to impose conditions on approval. In other states, such as MA's recent TOD legislation allows towns to impose fees to address these impacts.