

HB 6107 “Myths vs Facts” (SPIN FROM THE DEMOCRATS) VS. THE REALITY

Myth: The Planning and Development Committee’s proposed bills would end our local decision making on zoning and land-use.

Fact (Spin from Democrats): This legislation empowers local communities to plan for the future. Nothing in any proposed Planning and Development Committee bill eliminates local decision making on zoning and land-use. Instead, these changes add clarity, transparency and consistency to local zoning regulations.

- a. CT law (8-2) gives the authority to regulate land use to the 169 towns and cities in our state.
- b. These bills move CT’s law, written almost 100 years ago, into the 21st century, providing tools and frameworks for municipalities to create their own goals, plans and processes.

The Reality:

- HB 6107 passed in the house and the language changed significantly and cobbled together concepts within 13+ different bills raised in 4+ different committees. Some original zoning bills would have ended local decision making on zoning and land use, this bill instead is an incremental first step with an appointed working group, which will likely create future mandates seen in the original bills from earlier in this session.
- While CT’s law, 8-2 may have been written almost 100 years ago, municipalities routinely review and update their own zoning regulations, so they are already in the 21st Century. Towns already create their own goals, plans of conservation and development and processes. Towns are already mandated to create an affordable housing plan. Towns are best suited to write the regs most applicable to their own unique town.
- HB6107 MANDATES towns to accept ADUs “as of right” everywhere in the municipality and limits maximum parking requirements to 2 parking spaces for all units with 2 or more bedrooms. It does permit towns to opt out should they not want to follow these mandates by a 2/3 vote of both the local zoning board as well as the local voting body of the town.
- If towns do not opt out by set date or add any additional ADU restrictions, like allowing ADUs only in certain zones within a town, the local zoning policy is made NULL AND VOID. **This is a loss of local decision making.**
- The bill also MANDATES any developer fees must be returned to the builder and cannot charge any fee that is calculated in a different way for a developer from any other project. This may prevent the ability of towns to collect fees for seed capital to create affordable housing projects.
- The bill deletes from 8-2 provisions which state: “prevent overcrowding of land,” “avoid undue concentration of population,” “conserving value of buildings”
- The bill deletes “character” and replaces it with “physical site characteristics” and cannot deny a project “unless such character is expressly articulated in regs by clear and explicit physical standards for site work and structures.”
- The bill allows cottage food industry & mobile manufactured homes in residential areas.
- The bill requires towns to consider the impact of building on neighboring municipalities and the planning region, to address disparities in housing needs and access to educational, occupational and other opportunities and promote efficient review of proposals but does not state how, this will likely be expanded in future sessions.
- The bill prohibits a maximum cap on the number of multifamily over four units, mixed use or middle housing and local towns cannot set a minimum floor area requirement.

Myth: HB 6107 would eliminate local control over accessory dwelling units (ADUs).

Fact (Spin from Democrats): These bills would streamline and clarify local control over ADUs. The current language in these bills would allow what’s called “as-of-right” development of an ADU anywhere there is a single-family dwelling. As-of-right means that through public input to local zoning boards, regulations would be created and a local administrative review would assure compliance. Though

public hearings will no longer be needed for an ADU that meets regulations (reducing the burden on a local homeowner's time and cost), local boards and commissions remain in control. Towns may opt out by a 2/3 vote.

The Reality:

- Section 6 of the bill requires towns and cities to allow accessory apartment (also known as accessory dwelling units - ADUs), "as of right" – meaning that any home owner can build accessory apartment separate from the main home on any property by going to town hall and just getting the project signed off as written in the zoning regulations (similar to the process for a single-family home).
- This bill MANDATES towns to accept ADUs "as of right" everywhere in the municipality. The ADUs can be attached or detached but local property coverage requirements will remain in place, with the provision that the accessory units cannot have any more restrictive provisions i.e. height, setbacks, etc. than on the main unit on the property.
- With "as of right," there is no longer a special permit or public hearing requirement, so any concerns or input from neighbors and the public is no longer part of the process.
- It does permit towns to opt out should they not want to follow these mandates by a 2/3 vote of BOTH the local zoning board as well as the local voting body of the town. This was intentional, and may be a high bar for some towns in CT to reach rather than a simple majority given the overwhelming 2/3 majority control by Democrats hold at the state level.
- If towns do not opt out by set date or add any additional ADU restrictions, like allowing ADUs only in certain zones within a town, the local zoning policy is made NULL AND VOID. **This cannot be seen as anything else but a loss of local decision making.**
- Many, if not most, towns already allow ADUs "as of right" or by special permit by local P&Zs in designated zones within the municipality. P&Z chairs have stated that roughly 90-95% of special permits are granted, so a special permit does not seem to be a true hindrance while still allowing for input by neighbors through a public hearing.

Myth: HB 6107 would impose new, potentially costly, unfunded mandates for training and assimilating local regulations.

Fact (Spin from Democrats): *These bills will result in long term savings for our communities. Towns will not be responsible for training or code development costs.*

Training - All communities benefit when commissions and boards are well trained on complex land use issues. State and regional groups are willing to provide training, which can be conducted online. Some groups are already offering training to commissioners, and many planning and zoning commissioners already volunteer for these trainings. Municipalities would not bear the burden of these costs.

Saving Tax-Payer Dollars – A state level working group would create model codes that municipalities could CHOOSE to adopt, SAVING towns the cost and the time of creating these codes themselves. These model codes will allow for design and architectural standards that will help to address concerns residents and zoning boards sometimes have with new development.

The Reality:

- The amended bill changed the requirements of hours needed and in which different categories of zoning and will be provided at no additional cost to towns.
- The amended bill changed the working group membership to be appointed by elected state leadership and also includes bureaucrats in the group from different commissions.
- The working group membership will be critical in order to create workable form-based codes that are specifically nuanced to meet the unique needs of 169 cities, suburbs and rural communities.
- Per the current language in the bill, towns may adopt any or all of the codes that will be created by the working group. Later legislative sessions may mandate the regulations.

- Leaders in planning, zoning, etc. from different size towns from different regions in the state are not expressly included in the working group. They have real experience in what works and what does not work with zoning, 8-30g and the nuance needed to create sound planning and zoning policy locally.
- The working group is not explicitly tasked with addressing the shortcomings of 8-30g or to make recommendations that would help create more affordability.
- Other experts in soils, sanitation, conservation and environmental issues must also be appointed to the group to ensure policy will work for all sizes of towns, there is only one environmental specialist being appointed.

Myth: This bill would hurt the environment by overriding the local voice of municipalities who host waterways, open space.

Fact (Spin from Democrats): *This bill offers methods for towns to help protect the environment. The bill recognizes the need to be proactive and provide the tools for planning so we can address changes like rising sea level that will destroy parts of our community if we don't act. Specifically, there is language to protect the Long Island Sound and its main tributaries and encourage towns to promote clean energy options, including freestanding solar and wind energy, as part of development projects.*

The Reality:

- The original bills also provided for clean energy and protected Long Island Sound. We do not recall any specific criticism of that part of the bill. **This is a false myth.**
- The original zoning bills did push for significant high-density development (15+units per acre) in downtowns, transit and commercial areas in SB1024. This leads to greater surface water runoff and concerns with adequate sewer capacity in municipalities. The Fair Share bill also would have doubled the units in many towns if towns adopted a 10% or 20% inclusionary policy, which would also have impact on sewer capacity and other natural resources.
- Provisions from other previous bills made increases to the alternative sewer capacity from 5,000 gallons per day to 7,500 or 10,000 that were removed from HB6107 bill. Those provisions would have had potential environmental impacts.
- In addition, the original bills included significant increases in “as of right” development beyond just ADUs to multi-family and mixed use, which would have removed public hearings on individual projects, where discussion of hyperlocal environmental impacts of such projects on neighboring properties would have no longer been allowed.

Myth: This bill will take away our control over traffic flow and parking.

Fact (Spin from Democrats): *This bill enhances our ability to plan accurately and efficiently.*

1. *Traffic Flow—This legislation would offer the opportunity to measure traffic flow more accurately, so our local boards can make data-driven decisions about local development. Those decisions will be made by town bodies.*
2. *Parking – Parking is one of the most significant costs to building, and also seriously impacts our environment. By limiting artificially high parking minimums, towns can help to control both building costs and the environmental impact of multiple automobiles in limited space. Towns may opt out of this requirement.*

The Reality:

- In evaluating traffic studies required for projects, the original version of SB1024 replaced “level of service” calculation of traffic for the substandard “vehicle miles travelled” in order to allow for much higher density development.
- HB6107 allows for vehicle miles traveled as well as level of service method. Local zoning officials may decide which method they prefer to use.

- This allowance for either method of traffic study can be changed to a mandate to only accept vehicle miles travelled in future legislative sessions, through recommendations by the appointed working group to allow greater density development.
- This bill MANDATES the maximum parking allowed to 2 parking spaces for all units with 2 or more bedrooms everywhere in a town.
- It does permit towns to opt out of the parking requirement should they not want to follow these mandates by a 2/3 vote of both the local zoning board as well as the local voting body of the town. This may be a high bar for some towns to overcome given the dominance of Democrats at the state level that may also exist in many municipalities.
- While parking is a significant cost to development, it must be appropriately considered on a local basis as there are towns with local roads that may not be wide enough to accommodate on street parking that would come with higher density development in downtowns and transit areas.
- Many towns lack jobs, goods and services residents might need, which would necessitate owning a vehicle(s) to access those items and employment. Many towns also lack adequate public transportation to neighboring towns. There are additional issues with frequency of local public transit service and cost of public transit as well.
- If developers do not have to build adequate parking, that burden falls on municipalities and the private sector to create parking lots to accommodate excess vehicles needing parking, which will end up being an additional cost burden to those residents and the towns, which does not help with affordability.

Myth: This bill will drive up residency at a rate which outpaces the local resources and services such as police and fire, and schools.

Fact (Spin from Democrats): This bill will help CT plan how we grow. The latest census numbers show that CT had the 4th smallest gain in population in the US over the past decade. This slow growth is hurting our economy. The pandemic has reversed that trend giving us a new opportunity. The influx of new homeowners and residents is good for our economy. At the same time this influx threatens to drive longtime residents, our parents and our children, out of our town. This bill will help local leaders plan how our town grows, so we can meet the needs of people already here and the new residents we hope will continue to choose Connecticut as their home. Requirements for as-of-right multi-family housing around transit stations and main street / commercial corridors were removed from the bills.

The Reality:

- The “as of right” TOD/Main Streets/Commercial corridor was indeed removed from the bills – the exponential market value overdevelopment in those bills (SB1024 & Fair Share bill) would have in fact overwhelmed local infrastructure, resources and services.
- Towns already have a process to create their own Plan of Conservation and Development to help strategically plan for growth.
- The reason CT had the smallest population gain is due to the poor economic public policy of the Democrats that have an almost 2/3 majority in both the State House and Senate that is driving businesses and their good paying jobs out of our state. (The Democrats allow few if any bills by the minority party to be raised for a public hearing.)
- The new jobs that were created in the state are paying less than the jobs that are being lost. When high paying jobs leave the state and replacement new jobs coming in pay less, living in CT becomes less affordable for all. That is real reason the economy has lagged the rest of the country.
- There has not been significant new housing development in most of the state by builders due to the lagging economy. If there was significant demand and a vibrant economy, there would have been more development in the last decade.

- In general, for every homeowner buying in the state, one homeowner is selling, and the trend may not be sustainable long term as the pandemic recedes and taxes are further anticipated to increase.
- The original zoning bills focused on flooding the state with market value housing supply, to deflate property values, which would not succeed in depressing property values enough to create true affordability. NOTE: HB 6107 does delete the provision for zoning officials to consider: “conserving the value of buildings.”
- The only sustainable way to improve affordability is through better public policy to create a more vibrant economy that brings new businesses with better jobs and more opportunity into CT.
- Southwestern CT, with its proximity to the economic engine that is the NY Metro area has helped to sustain CT. The significant revenues the state garners from these residents that commute 2.5 hours+ daily to NYC to their highly technical jobs which command higher salaries that has helped to sustain the state. In contrast, CT’s business base has contracted and the rest of the state has been slower to recover.
- The majority party focuses on inventing new taxes, user fees as the State’s revenue source which burdens corporations, local businesses and residents. This is not a sustainable model for a vibrant economy in CT.
- The majority party’s focus on increasing tax burden on the higher income earners and not eliminating the inheritance and estate taxes has shown that those higher earners are most able to leave the state and have done so for other states with more favorable tax policy.

Myth: This bill will overburden the public water and sewer infrastructure.

Fact (Spin from Democrats): *This bill will help us grow our infrastructure responsibly.*

This legislation will give towns tools and guidance to plan strategically for the future, so communities can decide where they allow development and what type. A vital part of planning is infrastructure. If we don’t address septic and sewer capacity in our state, the only places that will be able to grow are where there is existing infrastructure. The Committee will work with DEEP, DPH, environmental advocates and others to assure health, safety and environmental concerns are taken into account before making any changes to regulations.

The Reality:

- The original zoning bills as SB 1024 and SB961 would have changed procedure for alternative sewer systems without first having a carefully detailed study of the expansion, adequate staffing with the proper technical experience to create the regulations and lack of proper staffing for enforcement of such alternative sewer treatment systems.
- The original zoning bills would have encouraged exponential development, which easily could have overburdened existing infrastructure, including town water and sewer. For example, the required Fair Share units would have required significant expansion of sewers and town water for virtually every town as most towns would have had to double their current number of units to meet the threshold mandated fair shares.
- We welcome a new working group that will properly evaluate alternative sewer systems prior to expanding the daily gallons of waste permitted.
- The new Working Group in HB6017 lacks adequate representation of soils, sanitation, wetlands and conservation specialists to create sound planning and zoning policy.
- The allowance of ADUs as of right in entire towns can potentially have an impact on the capacity of public water and sewer, should the towns not opt out of permitting them.
- Areas in lower Fairfield County already lack adequate water capacity, which will need to be pulled from further into central CT to meet the existing need. Considering most plans

were looking to double the size of towns, water capacity will continue to become an issue.

Myth: This bill strengthens the hands of developers who have been exploiting the state's affordable housing statute, 8-30g, to override local zoning laws.

Fact (Spin from Democrats): Zoning reform will clarify and make more equitable the process by which the state sets its housing goals, and give towns guidance and tools to achieve those goals.

The affordable housing appeals process within 8-30g is not being amended within these proposals.

*Zoning and housing are definitely intertwined, and these bills actually give towns greater control over how we grow. **They do not eliminate the 8-30g requirements.** This bill gives towns additional tools and support in reaching an 8-30g moratorium if they have not achieved 10% affordable housing in their communities.*

The Reality:

- Many, if not most, accessory apartments, could be rented at a market value rate that would be considered affordable throughout most of the state, yet these units will not be counted as part of the 10% affordable housing as per 8-30g requirements unless they are registered as “Deed Restricted.”
- The reality is that few, if any homeowners would want to impact the value of their homes by adding a permanent or 30-year “deed restriction” to their personal property.
- Yet again, **towns will not be given credit for any existing naturally affordable housing that is already available (and the new units that will be available through the allowance of accessory apartments)** since they will not be counted (in the numerator) towards the 10% 8-30g affordable threshold.
- On a positive note, the additional accessory apartments will not count against towns as total housing units either (not in the denominator in the 10% calculation.)
- Mandating “as of right accessory” apartments and 2 or less parking spaces per housing unit may lead to additional density development at lower costs and this is a clear benefit to developers. There is no guarantee that those units will actually be considered affordable. While towns may opt out, meeting the 2/3 majority in both the local P&Z and the voting body of many towns could be challenging threshold to reach.
- The Working group is not specifically tasked with addressing the shortcomings of 8-30g, why not?
- Why are affordable housing chairs from towns of different sizes not included on the working group to discuss why 8-30g is not achieving the intended goals of affordability?
- Towns may reserve sewer capacity allocations for multifamily would also be a benefit to developers who would create higher density developments. The “may” could change to “must” in future legislative sessions and working group recommendations.
- The working group is specifically tasked with looking into expanding alternative sewer systems capacity, which would also be a benefit to developers, allowing higher density development.
- Limiting the fees that may be charged to developers for larger projects and having to return excess fees may prevent municipalities from collecting seed funds for affordable housing development. This is a benefit to developers.
- Builders can use vehicle miles traveled if a town chooses to use that method in a traffic study, which would lead to higher density development.