



Connecticut

Connecticut Chapter of the American Planning Association

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PLANNING AND DEVELOPMENT COMMITTEE

SB – 39: AN ACT CONCERNING RESPONSIBLE GROWTH

OVERVIEW: CCAPA has worked closely with the Planning and Development Committee for several years to establish effective statutory guidelines for coordination of planning efforts across State, regional, and local levels. We believe the progress represented by PA 05-205 and PA 07-239 has set a sound foundation for responsible growth management. SB-39, the Governor's Responsible Growth Bill, includes several provisions intended to continue that progress. However, to do so, the bill requires several clarifications and should also be enhanced to improve other land use planning and regulatory processes.

SUMMARY: This Bill would define "responsible growth principles," create a Responsible Growth Cabinet, define "development of regional significance," mandate that zoning, subdivision, and wetlands regulations are "consistent" with the local Plan of Conservation and Development, authorize "community benefit agreements," establish an impact fee for projects receiving State financial assistance, and allocate funds for the Responsible Growth Incentive Fund.

ANALYSIS: These proposals are apparently intended to promote implementation of the growth management principles now embodied in Connecticut General Statutes §8-23, §8-35a, and §16a-27, pertaining to local, regional, and State plans respectively. However, several provisions of the Bill require clarification or revision if their implementation is to achieve the desired effect.

1. In Section 2(b), the term "sound land use" is nowhere defined. This reference should be to "land use policies conforming to the growth management principles..."
2. Section 3 requires the Responsible Growth Cabinet to report on "developments of regional significance." Since cabinet members are in many cases the same officials responsible for issuing permits and funding approvals, the bill should make clear the extent of potential pre-determination conflicts and how they are to be resolved. Further, such reports appear to be merely advisory. The time and expense associated with this process could be better applied to professional staff reviews and consistency reports at the agency level.
3. Section 4 establishes a procedure requiring legislative body approval of any zoning, subdivision, or wetlands regulation that is "inconsistent" with the local Plan. While of course consistency is an appropriate goal, this undefined criterion creates tremendous potential for confusion, obstruction, and delay. Who defines "inconsistent?" How can a wetlands regulation, which must be approved by the DEP as compliant with the implementing statutes, or a subdivision regulation, which implements of-right subdivision of land, be "inconsistent" with a Plan?

4. Section 7 defines a “community benefit agreement” concept, which is apparently a voluntary impact fee, with no clear process for quantification, negotiation, or implementation. Is the agreement to be with a land use commission, the chief elected official, or the legislative body and would it be binding on land use agencies if negotiated by another municipal official? What is the incentive for a developer to enter into such an agreement? Negotiation of such an agreement could add considerable time to the approval process as well as create opportunities for obstruction.

CCAPA strongly urges the Committee to address these issues before acting on this proposed bill.

RECOMMENDATIONS: In addition to the above concerns, CCAPA notes that this bill and the recently prepared Report of the Responsible Growth Task Force do not recognize another opportunity to help ensure effective and efficient growth management by the State and its municipalities.

The 2005 – 2010 State Conservation and Development Policies Plan represented a distinct and groundbreaking departure from previous State Plans, by organizing economic, environmental, social, structural, and resource considerations around six basic growth management principles. Unfortunately, current regulatory and policy decisions by certain State agencies appear to be focusing only on the second part of the State Plan, the Locational Guide Map. South Windsor, East Windsor, and Wallingford are three towns encountering State agency objections to necessary approvals and funding, based largely on interpretations of the State Locational Guide Map, for local development goals that are consistent with local plans and zoning.

Application of the “Locational Guide Map” as a de facto State zoning map is unfair and illogical and fails to recognize the importance of the detailed policies articulated in the growth management principles of the State Conservation and Development Policies Plan. While useful in the proper context, the Location Guide Map is based on historic aerial photographs and outdated land use information. It does not represent local conditions and goals and the application of the growth management principles at the municipal level.

The Governor’s Responsible Growth proposal provides an opportunity to address the potential for misapplication of the Locational Guide Map to State agency decisions affecting local plans and goals. Such actions have the effect of constraining, rather than promoting, responsible growth by applying outdated, arbitrary, and inappropriate land use information to decisions on funding and permitting, instead of relying on actual conditions, local goals, and responsible growth principles at the local level.

CCAPA recommends that this bill be amended to add a procedure for ensuring that the criteria applied to State agency decisions on permitting and funding consider the complete State Plan and recognize local goals and parcel-level conditions.

CCAPA POSITION: CCAPA strongly recommends that the Planning and Development Committee carefully consider refinements, definitions, and clarifications of SB-39 before any further action. These considerations should include an evaluation of the current review procedures being applied by State agencies to development proposals requiring State permitting or financial support.

CCAPA will be pleased to assist the Committee in any way possible to address these concerns.