

Planning and Development Committee Hearing

SB 343- Proposed Amendments to C.G.S. 22a-19

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I want to thank the Chairs for the opportunity to comment in strong support of SB 343. At the outset, I want to emphasize that my comments and opinions are my own. I also want to thank all of you for your commitment to public service. Please excuse the passion. I obviously have very strong feelings about the "real" issues SB 343 is attempting to address.

My name is Matthew Davis. I'm a resident of South Windsor. I am a professional AICP Planner and LEED Green Associate. I have a Bachelors degree in Geography from SCSU and a Masters degree in Public Administration from the University of Hartford. I've spent the last 25 years working in both the public and private sector, primarily here in Connecticut, but also in the southwest U.S. Most of all, I'm a father and a husband, who's family roots in New England extend back to the colonial period. Like many of you, I was born and raised here.

My family is very proud of its record of public service and my comments to you today are motivated by my deep concern for the state of governance here in Connecticut.

I also have two children. When they're old enough to set out on their own, I'd like to encourage them to consider Connecticut as a good place to start a family and to invest the fruits of their hard-earned labor. Right now, I can't do that. Laws like 22a-19 are one reason.

Over the last 25 years, I've had direct and substantial experience with 22a-19. My concerns with the statute began approximately ten years ago when it became clear that the law was mainly being used, not as an opportunity to participate in administrative proceedings in order to make projects better or to raise legitimate environmental concerns, but rather to kill projects by gaining party status and then litigating them to death.

So years ago, I began a conversation with professional cohorts, all of whom have been very kind to endure my rants about the subversive evils of 22a-19. However, while each would agree with me in private, they wouldn't agree to take public action, maintaining that it was "hopeless" to try and fix the problem. Even most legislators seemed loath to take on 22a-19, fearing that if they did, they'd suffer the wrath of powerful special interests, like attorneys who make a living off of litigation and of course the all-powerful "environmental" lobby. Now, to be fair, some people may feel that the status quo is logical, essential and beneficial. I am most certainly not one of them. In this communication, I'll explain why.

Unfortunately, you will no doubt hear from others that you're being forced to choose between the "environment" and "development." This is a gross and perhaps purposeful oversimplification. Please don't fall into this trap. This issue is NOT a choice between "jobs"

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and beetle larvae. These are false choices. You should refuse to have your vote labeled as either "for" or "against" doodle bugs or jobs or property rights or lawyers.

This simple, necessary and long overdue change is about two things: Common sense and governance. As to common sense, when 22a-19 was first adopted into law forty years ago, essentially none of the multiple redundant and very rigorous State and municipal environmental laws, agencies, procedures, regulations, policies, programs or plans existed. Also, in 1971 our water and air were horribly polluted, but as a consequence of forty years of federal, State and local effort, our environment has recovered. Simply put, in 1971, 22a-19 was necessary, but in 2012, it is not. In fact, it is my opinion that 22a-19 could be repealed without any material impact on critical environmental resources. Short of repeal, at the very least, its applicability should be strategically aligned with relevant State, regional and municipal objectives.

But while striking a blow for common sense is reason enough to support the bill, rescuing legitimate governance is an even better reason. As you know, millions of tax dollars and thousands of man hours are spent every year developing, discussing, adopting and implementing land use plans and related regulations. Mind you, this is done in accordance with mandates imposed by this legislature, including mandates for extensive public engagement. Other State mandates address plan content and interagency review and coordination. Also, in terms of regulations, the State mandates consistency with State-developed "model" regulations (developed with public engagement) and even more public engagement is required in the adoption of municipal regulations.

Then, after all the State mandates, the tax money, the time and the layers upon layers of mandatory public engagement, our duly elected or appointed public officials vote to adopt and implement these plans and regulations.

So, given all of this, why are certain groups, (many of whom have already participated in the layers of prior public engagement) permitted to then render absolutely irrelevant the open, collaborative, mandatory, extensive, costly and legitimate efforts of citizen volunteers, by simply submitting a piece of paper to an administrative agency?

With all due respect, in my opinion, this is complete nonsense, it is wrong and it needs to change, now. Not next session. Now.

To support 22a-19 in its present form is to defend an outdated and completely unnecessary practice, one that should have been abolished many years ago. And to continue to endorse the usurpation of legitimate citizen volunteers, wastes millions of taxpayer dollars, tax payer dollars that communities spend in large part because you mandate these expenditures. Tax dollars that absent these mandates, could be used for other public purposes or remain with struggling Connecticut businesses and families.

In fact, the situation has become so completely absurd that 22a-19 is being used to kill "smart growth" projects, in direct contradiction to official State policy, recently codified as "growth management principles." I know of at least two projects which were proposed on lands that the

municipal, regional and the State's own C&D Plans endorsed as most desirable for "growth" in the form of moderate density residential or mixed used development. Complete vertical policy agreement resulting from extensive good faith collaboration between professionals, citizen volunteers and a broad range of interested cohorts. Just the type of behavior and outcome the State claims it wants to see.

Why was this "cross acceptance" so easy to achieve? Simple. The lands in question are located on a State arterial, have water and sewer, are on a public transit line, have direct access to public recreational trail systems, and are proximal to services, employment, shopping, and public facilities. Both tracts had developable "uplands." The classic no-brainer, right?

Accordingly, in these two instances, land owners engaged developers whose professionals worked with regulators to design two projects with development clustered on the most developable portions of the sites with each project having about 50% open space. Public trails would have been provided and all sensitive resources would have been permanently protected.

Had the projects been allowed to go forward, they would have helped the town, region and State achieve official shared "smart growth" objectives. VMT would have been reduced. Local merchants would have been supported. Public health would have been enhanced by access to recreational trails. Tax payers would have been able to leverage existing costly infrastructure. Jobs would have been created. And housing. And tax revenues. And community.

But none of that was allowed to happen, because of intervention. In one case, although the town prevailed in both the zoning and wetland lawsuits, by the time these were decided, the project financing had gone away. In the other case, to add insult to injury, the intervenors won on a contract issue and then the State DEP gave them hundreds of thousands of tax dollars to preserve the land for open space. The very land the State says should have been developed for smart growth! And as if this were not screwy enough, this was done at a time when the DEP itself and the CEQ were publically admitting that the State has no idea how much open space it already has, but that its likely we have far more than we think we have!!!

If this type of willful negligence was not so damaging to the State, it would make a great script for a new T.V. sitcom. But its not funny. Its tragic.

So thanks to 22a-19 and a complicit DEP, the tax payers suffered a triple whammy. Or maybe it's a quadruple whammy. But we are told our taxes have to be raised. We are admonished to accept "shared sacrifice." And well educated young adults, jobs, businesses and well off retirees continue to leave the State in droves. And after the latest highest two billion tax increase, we are STILL in the red. Solution? Don't fix 22a-19. Don't fix our Open Space grant program. No. More taxes, more spending, more debt. And the slow but sure death spiral continues unabated. The lunatics truly are running the asylum.

But most importantly, in a time when it has become is increasingly difficult to convince busy citizens to volunteer on a board or agency (or to even register to vote), our State legislature should be doing whatever it can to support legitimate local governance. Your support for SB

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343 will show duly elected and appointed civic volunteers that the State believes in them, supports their decisions and appreciates their contributions. It will also show taxpayers that their government really does want to eliminate costly and unnecessary waste and bureaucracy. And despite hyperbolic warnings to the contrary, approving SB 343 will not lead to a cataclysmic environmental crisis, or deny persons with valid concerns timely and appropriate opportunities to influence land use decisions. It will not dismantle our complex, redundant and extremely rigorous system of land use controls.

Approval will however deny the cabal the ability to usurp legitimate governance. It will require that they and their views prevail in the legitimate arena of democratic government. Like everyone else. No more special status. No more veto power. No more strong arming developers and land owners even before an "as of right" application is submitted.

And no more allowing business competitors to hide behind shills and straw men as a way to frustrate the other guy.

Lets show people that we are concerned enough, intelligent enough and courageous enough to make this change. Lets begin down the path towards a future governed by reason, logic, fiscal sanity and basic fairness. Support for SB 343 is one small step in that direction.

Give me a reason to tell my kids to stay. Give me some hope that you "get it" and that we're moving in the right direction. Please, support SB 343 not just here at P&D, but with leadership and with other committees. Get it done this session. Thank you.

Matthew J. Davis AICP

LEED Green Associate

South Windsor, CT