



TESTIMONY ON SB 1024
AN ACT CONCERNING ZONING AUTHORITY, CERTAIN DESIGN GUIDELINES, QUALIFICATIONS OF
CERTAIN LAND USE OFFICIALS AND CERTAIN SEWAGE DISPOSAL SYSTEMS

via email to pdtestimony@cga.ct.gov

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Dear Chairman Cassano, Chairwoman McCarthy-Vahey, Vice Chairman Needleman, Vice Chairwoman Goupil, Ranking Member Senator Hwang, Ranking Member Zullo, and Distinguished Members of the Connecticut General Assembly Joint Planning and Development Committee:

Thank you, members of the committee, for taking the time to consider our testimony and that of others on this crucial matter. On behalf of the Desegregate Connecticut coalition, I am testifying in full support of SB 1024, which we believe puts Connecticut – and the values we all share in common - first.

Leading this effort has been an incredible privilege. As a law professor and architect who has written books and treatises on land use law, I have seen how, all over the country, people have abused the land use process for bad ends. But having chaired my own town's Planning & Zoning Commission for nearly seven years, I also understand that zoning can be a force for good. I hope that our coalition and the many, many people who support zoning reform will convince you that you, as legislators, have an opportunity to ensure that zoning is in fact used for good.

BACKGROUND: CONTEXT AND PROCESS

Desegregate Connecticut is a coalition of individuals and 64 organizations who believe in creating abundant, diverse housing in service of equity, inclusive prosperity, and a cleaner environment. We have hosted and participated in dozens of educational events attended by thousands of people. Our team of professional planners, lawyers, students, architects, and GIS technicians have conducted extensive research on zoning reforms nationwide and in Connecticut. We have produced a series of videos showing how ordinary people are affected by zoning. We have assembled a first-in-the-nation interactive Zoning Atlas map detailing all 2,622 zoning districts in our state and highlighting Connecticut's lack of affordable, diverse, and multifamily housing.

Most importantly, we have spent the last nine months conducting extensive outreach about our proposals, working with municipal leaders, planners, charitable organizations, social workers, community activists, and others to refine them. The feedback that we received – from individuals spanning the political spectrum – is that we need to ease our restrictive zoning laws. Among the many groups with whom we have collaborated, I want to particularly note that we spent hours meeting with a bipartisan working group of the Connecticut Conference of Municipalities, including chief elected officials from Fairfield County to the Quiet Corner. We have also worked hand in hand with the statewide association of planners and the statewide association of zoning enforcement officials who serve our towns and are extremely knowledgeable about regional zoning disparities. They have provided critical technical knowledge to ensure that these proposals are both legally sound and effective in addressing these disparities.

These collaborations – and our intentional listening to many other different ideas and opinions – have made our proposals stronger. We recognize that towns have different ways of doing things: in our research, our team reviewed in painstaking detail over 32,000 pages of zoning codes. We have used the unique knowledge we have acquired about the nuances of Connecticut’s zoning regime to identify data-driven strategies that we think will make a difference. Far from a one-size approach, our proposals empower towns to grow their communities by following a common foundation for inclusive zoning. Towns continue to decide where development occurs within certain zones; to articulate architectural standards; and to determine the types of buildings that appear in their towns.

It is within this context of collaboration, adaptation, and refinement that we enthusiastically submit this testimony, for we believe that SB 1024 reflects the most politically-feasible, data-driven policies to achieve three primary goals: expand housing diversity, increase housing supply, and improve the development process.

BACKGROUND: THE NEED FOR CHANGE

The status quo of our zoning regime has locked in economic stagnation, contributed to irreversible environmental harms, and caused deep racial and income-based segregation in our state. Reform of our zoning laws can reverse these three harmful realities.

Zoning reform can bring tremendous **economic** benefits for municipalities and their taxpayers. There are significant benefits associated with increasing the number of housing units created in Connecticut, which SB 1024 aims to do. We are issuing fewer building permits annually, by far, than we were prior to the Great Recession. But if SB 1024 is adopted, towns would benefit immensely because more housing grows the tax base, stimulates local economies, and attracts new jobs. The National Association of Homebuilders (NAHB) conducted a study of Connecticut in 2019 showing that with just 1,500 new multifamily housing units, the one-year tax revenue increase for state and local government would be \$39.8 million, and the annual

impacts thereafter would be \$16.4 million. Our outdated zoning laws hurt existing taxpayers, because they prevent the construction of new housing that can reduce existing tax burdens. The NAHB study also suggests that 1,500 new multifamily housing units would create 3,198 jobs in the first year and 921 jobs thereafter, generating \$65.6 million annually of income for our residents.

Housing supply comes with other important benefits. Studies, including from the NYU Furman Center, have shown that more housing will actually improve affordability. One in six families in our state pays more than 50% of their income on housing. This burden is totally unacceptable, but it endures in part because zoning constrains the supply of housing. We need more affordable *and* market-rate housing to improve affordability; inclusive zoning policies help us achieve both of those goals.

SB 1024 can also reduce other costly liabilities. Connecticut taxpayers are currently spending millions of dollars annually defending town zoning officials in lawsuits. In 2020, there were 159 active lawsuits against town zoning officials, often because commissioners made erroneous or biased decisions that could have been avoided with training. Discretionary decision-making based on subjective criteria further invites litigation. Clear, as of right rules produce predictable outcomes that keep zoning decisions out of the courts.

Aside from the economic benefits, zoning reform has tremendous **environmental** benefits. SB 1024 would help to ensure new housing is located where development already exists, meaning that housing is not located . Our current zoning codes require us to sprawl and build outward; to consume farmland and forest; to build more roads, which costs more money and results in more polluted runoff in our waterways.

Furthermore, many current zoning laws require us to build communities that are not walkable. SB 1024 would change that by enabling the creation of walkable neighborhoods where small-scale housing of between two and four units is located in proximity to train stations, small businesses, restaurants and shops. Studies show an increasing demand for this type of neighborhood – one that is not being met by many of Connecticut’s outdated zoning laws. A walkable community means people do not have to rely on cars to get around, which in turn means fewer greenhouse gas emissions and cleaner air.

While the economic and environmental benefits are well-tested, the driver of zoning reform is the moral imperative to ensure **a more equitable state**. SB 1024 does that explicitly in some places, for example, in lines 323-326, which bar zoning officials from denying applications on someone’s “immutable characteristics, source of income or income level.” It also does that in less direct ways, including by codifying the *Builders’ Service* decision of the Connecticut Supreme Court, which bars towns from setting minimum floor areas beyond what is required by health code. In our Zoning Atlas research, we found hundreds of zoning districts that violated this decision. Minimum floor areas drive up the cost of housing, which can put it out of reach of some people.

The Atlas now confirms what we already knew: segregation occurs in part because of extremes in the way we zone. Our Zoning Atlas data starkly confirms the dominance of as of right zoning for single-family housing (90.5% of zoned land) over three-or-more-family zoning (2.5% of the state), and the correlation of multi-family housing with the prevalence of people of color. About half of the land zoned for three- and four-family housing is located in cities of more than 40,000 people, which are on the whole more racially diverse and poorer than smaller towns. The data also confirms that many zoning jurisdictions impose significant parking requirements for new housing, which drives up housing costs and reduces the availability of land for housing. I have written a [lengthy research paper](#) about the additional findings, and I invite you to read it.

The truth is that our whole state suffers from the way we have separated ourselves from each other. For anyone who thinks racism is gone, or that Connecticut's segregation is innocuous, I encourage you to read some of the testimony already posted in opposition to this bill. Some express concerns we think are easily addressed by pointing to examples from other states. But others express racism that many Connecticut residents would like to believe does not exist.

Please also review the testimony, though, in support of zoning reform, including: the story of a girl witnessing racism in her school; a grandmother whose young black grandson told her he did not belong in her neighborhood, because of the color of his skin; people who have borne witness to racism at a public zoning meetings; and adults who feel that growing up in largely-White towns meant they lacked a fundamental understanding of diverse views.

We must enable equitable communities by reversing land use rules that cause segregation. SB 1024 will not make this change overnight, but it is an important start.

THE BILL

SB 1024 takes several important steps to reform our outdated land use system. It does not change the inherent structure of local zoning, adopted a century ago by the legislature. But it does create modest changes that will ensure our communities grow more equitably and become more economically prosperous, all while maintaining local authority over architectural standards and other features.

It is important to start with a definition critical to this bill: "**as of right.**" This means that the public sets out in the zoning regulations - after public hearing and discussion - exactly how they want property to be developed. After that public process, each individual application can be approved by staff. The community sets the rules, and then the property owner submits an application that complies with them.

It is also important to point out how **towns are empowered** by SB 1024 to improve their communities in ways that were off-limits before. For example, Section 2 expressly allows towns to establish reasonable consulting fees and provides a mechanism for refunds of unused fees

to applicants. Section 4 empowers towns explicitly to require or promote renewable energy or combined heat and power. Section 4 also allows towns to provide for floating zones, overlay zones, and planned development districts – a privilege that under current state law is only expressly granted to the City of New Haven. And perhaps most importantly, Section 4 empowers towns to amortize nonresidential nonconformities in residential neighborhoods – meaning towns can, through zoning, phase out nuisance or incompatible uses. Towns in other states, most notably New York, have long had this power, but Connecticut towns have been hamstrung.

Beyond these new tools for towns, the first major proposal of SB 1024 legalizes accessory apartments, otherwise known as **accessory dwelling units, or ADUs**. These small, independent living units cater to seniors, young adults, and multigenerational families. Section 5 of SB 1024 would allow as of right ADUs on the same lot as any single-family home. ADUs are a free-market housing solution that enables the creation of new units without transforming existing neighborhoods. In size, they could be up to 30% of the floor area of a principal dwelling unit, or 1,000 square feet, whichever is less. Studies show that ADUs increase property values, while providing rentable, naturally affordable housing.

While 92% of municipalities allow ADUs somewhere within their jurisdiction, the requirements vary greatly from town to town, including vastly different requirements in neighboring towns. The restrictions can significantly limit who can live in an ADU or can be very onerous: some towns say only a blood relative can live in an ADU, while others require costly applications and a full public hearing. Only 7% of land allowing ADUs allows them as of right, with no elderly or familial occupancy restrictions, no bans on rentals, of a size of 1,000 square feet or more, attached or detached, and without a minimum parking requirement.

SB 1024 would allow anyone to live in an ADU, not just a family member or employee, and would allow ADUs to be attached or detached from the principal dwelling. Towns could still create architectural design guidelines, ban short-term rentals like AirBnB, and require owner occupancy.

As with Section 5 on ADUs, Section 6 of SB 1024 takes proactive measures to increase diverse, naturally-affordable housing near our transit and main streets.

SB 1024 requires that housing of two to four units be allowed as of right and without minimum parking requirements within 50% the area within a quarter mile of a “**main street**” in towns over 7,500 people or with “concentrated development” as defined by the U.S. Census. The main street chosen by the town can be anywhere from a quarter mile to three-quarters of a mile. If the town chooses to zone for higher densities near its main street, 10% of any development with 10 or more units would have to be designated affordable under specific criteria. About 1/2 of 1% of land in the State would be affected by this proposal; but because of the location of the land, this effort would have a significant positive ripple effect for our main streets and local businesses.

SB 1024 also requires that housing of at least four units be allowed as of right on 50% of the lot area within 1/2 mile of one **transit station** (like a train station or CTfastrak station) within any town. The town selects the type of housing this would be: live-work units, mixed-use developments, or stand-alone multifamily housing. Identical to the main streets provision, if the housing is 10 or more units, 10% of the units would have to be designated affordable under specific criteria. Investing in housing near transit will attract more workers to our state, make access to jobs possible, and lower rents naturally by increasing the housing supply.

The efforts to ease zoning restrictions near our main streets and transit is imperative to meet the growing demand for housing near places where people increasingly desire it. It also enables us to diversify our housing stock – thus attracting young and elderly generations who may no longer desire to live in a detached, single-family home. Environmentally, these proposals and the ADU proposal would legalize housing where it already exists and prevent further sprawl out into our farmlands and forests.

The **parking** components of the bill would cap how much parking zoning regulators can require property owners to build. Our zoning research shows that a handful of towns mandate as many as three parking spaces for a studio apartment—which drives up costs for builders that are passed onto future residents. High costs have an exclusionary effect and thwart housing production and economic growth. Moreover, excessive parking requirements can limit site layouts and building size, and can result in unnecessary destruction of our natural landscape. We support SB 1024’s provisions on parking, including: capping regular parking requirements at 1 space for a studio, 1-bedroom unit, or ADU; 2 spaces for a 2-or-more-bedroom unit; and no minimum parking requirements for housing in transit-oriented development and main street areas.

We support the provisions of SB 1024 that zoning regulations not be required to be based on the “**character**” of a community, and that state law instead prioritize the “physical site characteristics and architectural context,” as is done in line 156 of the bill. We also support a parallel clarification on the manner that zoning regulations are actually applied. The term character has historically been written into zoning codes as an avenue for discrimination against newcomers and has been inconsistently applied by zoning officials.

SB 1024 aptly modernizes certain outdated technical standards related to **sewer and traffic measures**. We support the provisions of Section 4 of the bill that expressly empower towns to use a “vehicles miles traveled” standard instead of the dated “level of service” calculation that has contributed to wider roads being developed to justify development. We also support revising sewer standards, with guidance from DEEP and DPH, that allow ADUs to be considered with the principal dwelling as a single residence and increase the sewage gallons per day standards to appropriately account for modernized sewer systems.

Section 8 of SB 1024 requires the State to create, at no cost to towns, **a model form-based code** that applies to both buildings and streets. Cities and towns all over Connecticut, including Hamden, Canton, Simsbury, and Hartford have adopted such codes. Form-based codes provide homeowners, commissioners, and prospective developers with greater certainty as to what can be built and ensures that new development matches the town's architectural feel. It also eliminates the likelihood of inconsistent or arbitrary decisions, which ensures more equitable outcomes. The bill would create a task force of planners, architects, municipal officials, construction trade members, affordable housing experts, and others to draft an optional model form-based code. Towns could select portions of the model code for their own use, without the substantial administrative and financial costs that towns would incur to develop them individually.

Additionally, by requiring **annual training** for land use commissioners, and certification for zoning enforcement officials, we can save towns money in the long run and ensure better land use decision-making. Land use decisions involve complex engineering, technical, and legal matters, yet volunteer board members do not necessarily receive any training. SB 1024 proposes that land use officials receive at least six hours of training each year in: legal processes and procedure; maps and architectural interpretation; the impact of zoning on the environment, agriculture, and historic resources; and affordable and fair housing policies. As noted above, better training for commissioners and enforcement officers will save taxpayers money over the long run and make our communities better off.

CONCLUSION

In conclusion, the proposals in SB 1024 will lift barriers to housing creation, create generational wealth for Black and Brown families historically excluded from creating it, generate economic prosperity, promote sustainable environments, and foster equal opportunity. For too long, racial minorities and low-income families have been constrained in where they can live and prosper. This bill reforms antiquated zoning laws that have contributed to inequality and spurs the crucial progress our state requires to attract new residents and allow Connecticut to remain home for all those that love it.

You have voluminous testimony based on published research, and you have testimony directly from multiple independent researchers, from the Brookings Institute to Smart Growth America to university professors. There is no myth that you have heard about zoning reform that we have not debunked, or cannot debunk.

Beyond the research, I truly do hope you spend some time reading the testimony on both sides. I'm grateful so many members of our community decided not to stay silent today. They're speaking on behalf of the disabled, immigrants, low-income people, people of color, children, families, and neighbors who live in our state and who we can lift up, at no cost to the State. Please put Connecticut first and support the entirety of SB 1024, without modification. Thank you.