



Making The State More Competitive

LAND USE SECTION OF REPORT FOCUSES ON HOUSING AND TRANSPORTATION

By **CHRISTOPHER J. SMITH**

Public Act No. 07-239, now codified as C.G.S. § 32-1o, provides that on or before July 1, 2009, and every five years thereafter, the commissioner of the Department of Economic and Community Development (“DECD”), prepares an “economic strategic plan for the state.” This plan is to consider a number of “responsible growth” strategies that may be applied in Connecticut land use law and practice. In September, the DECD released the state’s first Economic Strategic Plan (“ESP”), which comprises 541 pages.

The ESP addresses a number of land use issues with an emphasis on housing and transportation. Specifically, in a section entitled “Land Use in Connecticut,” the ESP discusses incentive zoning measures to encourage development along existing transportation corridors, and the need to provide a more regional approach to land use decisions.

This article provides an overview of the ESP relative to Connecticut land use practice.

Competitive Disadvantage

The ESP recognizes that “[l]and use is crucial to economic development and transportation is crucial to land use law.” As with many land use professionals, the ESP understands that this “critical linkage” is essential to implementing effective growth management principles.

The ESP finds that housing “directly impacts Connecticut’s economy and af-

fects the state’s ability to attract and retain a skilled labor force ...” The ESP further finds that the existing supply of housing is constrained, especially for new single-family starter homes. The ESP concludes that “[h]ousing affordability, whether it is via ownership or rental, can be an obstacle to attracting and retaining workers.... Connecticut does seem to have a competitive disadvantage in this sector.”

First, the ESP provides an overview that emphasizes the importance of the state’s Plan of Conservation and Development (“POCD”), and the POCD’s listed growth management principles. These principles include: (1) redeveloping and revitalizing regional centers; (2) expanding housing opportunities to “accommodate a variety of household types and needs”; (3) concentrating development along transportation corridors; (4) conserving and restoring the natural environment, cultural and historical resources, and traditional rural lands; (5) protecting the integrity of environmental assets; and (6) promoting an “integrated planning process across all levels of government to address issues on a statewide, regional and local basis.”

Second, the ESP discusses how land use decisions are currently made at the municipal level without substantial input from any state agency or board. The ESP addresses the need for coordinated decisions between municipal and state agencies on transportation issues with an emphasis to prioritize infill development near existing transportation corridors.

The ESP recognizes the need to promote mixed-use development. As most land use practitioners know, the concept of a mixed-use development is novel to many municipal land use boards that

are, because of this novelty, often reluctant to approve mixed-use development proposals. Indeed, most municipal zoning regulations don’t permit mixed-use developments. The ESP also discusses open space, local fiscal issues, and provides a description of Governor M. Jodi Rell’s Office of Responsible Growth established in October 2006.

School-Age Children

Third, the ESP finds that the belief that young families generate significant numbers of school-age children is a “myth.” The ESP cites favorably to a study by the Rutgers University Center for Urban Policy Research that establishes a series of school-age multipliers associated with residential development for Connecticut. The ESP notes “common themes” in the multipliers, in particular, that all single-family units with less than five bedrooms generate fewer than one public school-age child per unit, there is little difference between the number of school-age children between one and two bedroom units, and that three bedroom units produce on average less than one pub-



Christopher J. Smith

Christopher J. Smith is a Partner in Shipman & Goodwin’s Hartford office and represents real estate developers, lenders, businesses, manufacturers, neighborhood associations and municipalities in land use matters. He served on the 2003 State of Connecticut Blue Ribbon Commission on Property Tax Burdens and Smart Growth Incentives.

lic school-age child per unit. The ESP concludes that “[c]ontrary to popular belief, there is not a one-to-one ratio of number of housing units created and school-age children in the school system.”

Fourth, the ESP addresses incentive housing zoning measures, in particular, the measure established pursuant to C.G.S. § 8-13n which is also known as HOMEConnecticut. Section 8-13n provides for greater densities within such zone, and requires that any development within such zone include affordable units that meet certain criteria. The ESP advises that “DECD anticipates that the higher densities allowed for within the [incentive housing] zones will encourage developers to create more affordable housing within the state.”

Recommendations

The ESP makes a number of recommendations that are intended to be implemented in the near future. These recommendations provide an insightful roadmap as to where, at least at the state level, the current administration is focusing its efforts to address economic growth in the state, and

how such efforts may impact Connecticut land use practice.

As to housing, the ESP envisions housing “clustered around pedestrian-friendly areas, and in close proximity to employment and commercial centers, schools, and public transportation.” The ESP foresees the state revitalizing its urban and regional centers with mixed-use and mixed-income development.

A critical component of the ESP’s recommendations concerns implementing responsible growth measures. Some of the more pertinent proposals are: (1) modify the membership of the state Traffic Commission to include the DECD as a voting member; (2) allow municipalities to participate in the decision-making process (presumably at the state level) if a proposed development exceeds \$5 million and the municipality is making a “defined investment” which may, by definition, include a “local capital improvement”; (3) provide additional monies for developments that qualify as “responsible growth projects” and for the HOMEConnecticut incentive housing zoning program; (4) lump bond allocations for

shovel-ready projects; (5) expand Connecticut Development Authority gap financing; and (6) implement a Green Tax Credit for housing developments that meet or exceed LEED Green Building Rating System Certification. Another interesting recommendation is to “[d]evelop legislation that allows municipalities to enact an ordinance to allow a petition with no less than 40 percent of the voting residents of the municipality to bring decisions of the planning and zoning entity to referendum.”

Conclusion

Although the ESP’s primary focus is on promoting economic growth in Connecticut, such effort, by necessity, involves an analysis of land use law especially as applied to housing and transportation issues. The ESP represents an excellent effort by the DECD to satisfy its statutory charge. The ESP is required reading for Connecticut land use practitioners, and for anyone interested in how the state may effectively promote responsible growth while seeking to revive the state’s economy during the current recession and into the future. ■