

March 14, 2023

Esteemed Chairs Kavros Degraw and Rahman,
Members of the Planning and Development Committee:

The Western Connecticut Council of Governments (WestCOG) appreciates the opportunity to comment on Raised Bill 6893, *An Act Establishing a Task Force to Study the Exemption of Vacant Lots from Conformance with Zoning Regulations*.

WestCOG does **not** support a blanket exemption of vacant lots from zoning, as lots may be vacant for manifold reasons – some of which serve important public interests. These reasons include:

Environmental constraints

1. Protected open space. Ecologically sensitive areas and open space in a subdivision are protected through the creation of parcels that are subject to conservation easements and/or conveyed to a municipality or land trust.
2. Physically unbuildable lots. In some areas, vacant lots consist of land that should not or cannot be built on (e.g., endangered species habitat, ledge, wetlands, flood zones) but were never legally protected nor conveyed to a responsible party for stewardship.
3. Well and septic inadequacy. Undeveloped parcels in areas without public water and sewer may lack safe drinking water, have poorly drained soils, or be too small to provide the required separation between wells and septic systems or to fit septic leach fields.
4. Lack of physical access. Lots may be inaccessible due to obstacles (cliffs, waterways).

Legal constraints

5. Lack of legal access. Lots may be landlocked without a deeded right-of-way.
6. Reserved for transportation or utility infrastructure. Vacant land in a subdivision may be reserved for streets, power lines, and pipelines.
7. Legally unbuildable lots. Lots may be dimensioned in such a way that makes it impossible to meet requirements under local zoning regulations.
8. Legal proceedings. Lots may be tied up in probate court, foreclosure, or other litigation.

(In)action of property owners

9. Nonbuilding use. Landowners may keep parcels ‘vacant’ for personal reasons, including as lawn or garden, for storage and parking, and as campsites and woodlots.
10. Personal and business decisions. Property owners may change plans regarding building for a variety of financial and nonfinancial reasons.
11. Effective abandonment. Owners have disappeared, or ownership is unclear.

WestCOG is concerned that, in only studying the exemption of vacant lots from zoning, **the bill is unduly narrow** and presupposes that a) vacant lots are a problem, b) zoning is the only cause of this problem, and thus c) exemptions from zoning are needed. As the above list should make clear,

zoning accounts for only a fraction of vacant lots; furthermore, vacancy is not always problem but, depending on the land in question, may serve the public interest.

That said, the issue of vacant lots may merit study. WestCOG recommends that your Committee **amend Bill 6893 to inventory vacant lots, determine the proportion of vacant lots where vacancy is not the result of environmental constraints or actions of the property owners but rather arises from legal constraints, and identify strategies to address these legal constraints.**

WestCOG suggests that the bill specifically consider developing pathways to:

- **Merge undersized vacant lots with neighboring lots** (#3 on the preceding page). Merger of vacant lots will reduce the number of neglected (and often tax-delinquent) properties in a municipality; alternately, merger of several undersized lots together may produce a lot that is large enough to develop responsibly and safely. Some zoning regulations merge adjacent nonconforming lots when they are held by the same owner; however, it is unclear how often such common ownership comes to pass.
- **Protect as open space vacant lots that are unprotected but are ecologically valuable** (#2). Particularly in older subdivisions, such areas lack formal legal protection despite their importance to the environment.
- **Protect as open space vacant lots that are inaccessible** (#4 and #5). These properties, which may not have much market value, are not inaccessible to flora and fauna – in fact, steep and wet areas and interior forest are often biodiversity hotspots – and may represent excellent (and cost-effective) opportunities to expand protected open space.
- **Facilitate development of lots that are legally (but not environmentally) unbuildable.** Some zoning regulations in Connecticut already allow for the construction of a single home on any building lot, even if nonconforming, provided that relevant public health and environmental standards are met (#7).
- **Identify effectively abandoned lots and bring them onto the market** (#11).

Given the myriad causes of lot vacancy and the range of its impacts, negative and positive, study of the issue must take a multipronged approach, with strategies calibrated to address the types of vacancy that are undesirable, and to protect those that are desirable. Bill 6893 is not there yet, but with some refinement to its language, it could be.

Should you have questions or require additional information, please do not hesitate to contact me. Thank you for your consideration.



Francis R. Pickering
Executive Director