

Legislative History for Connecticut Act

HB5857 PA105 1988

House 1865-1872, 2035-2046 (20)

Senate 1426-1427, 1437-1438 (4)

Planning & Dev. 609-615, (616-619) (11)

35p

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

Connecticut State Library

Compiled 2020

H-492

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1988

VOL. 31
PART 6
1758-2115

kfh

108

1865

House of Representatives

Tuesday, April 5, 1988

CLERK:

Calendar 256. House Bill 5857. AN ACT CONCERNING AN INCREASE IN THE TIME FOR COMPLETION OF WORK IN CONNECTION WITH CERTAIN COMMERCIAL, INDUSTRIAL AND RETAIL SITE PLANS. Favorable Report of the Committee on PLANNING AND DEVELOPMENT.

DEPUTY SPEAKER CIBES:

Representative Benjamin DeZinno.

REP. DEZINNO: (84th)

Okay, Mr. Speaker, I move for adoption and the passage of the bill, sir.

DEPUTY SPEAKER CIBES:

Questions on acceptance and passage. Will you remark, sir?

REP. DEZINNO: (84th)

Yes, I will, Mr. Speaker. Mr. Speaker, this addresses the commercial, industrial, site plans similar to the residential area where presently we see on board the ability to work within a ten year plan instead of only five. Presently in the commercial area we are talking only five years and this bill allows them going to a period of ten years. I move for adoption of the bill, sir.

DEPUTY SPEAKER CIBES:

Will you remark further on the bill? Will you

kfh

109

1866

House of Representatives

Tuesday, April 5, 1988

remark further on the bill? Representative Richard Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. Mr. Speaker, I believe most of the members of the Chamber feel this is a very good bill before us in that substantial commercial developments could very well take in excess of five years to complete and under the current law it could be under considerable duress to finish their project which might be in the multi-million dollar category within the time frame.

However, after some discussion with some of the planners and in an effort to try to give the maximum latitude to our individual Planning and Zoning Commissions I have an amendment that I'd like to offer. If the Clerk would call LCO 3263 and I'd be allowed to summarize.

DEPUTY SPEAKER CIBES:

The Clerk is in possession of LCO No. 3263, designated House Amendment Schedule "A". Will Clerk please call?

CLERK:

LCO 3263 designated House "A" offered by Representative Belden.

REP. BELDEN: (113th)

kfh

110

1867

House of Representatives

Tuesday, April 5, 1988

May I be allowed to summarize, sir?

DEPUTY SPEAKER CIBES:

Gentleman has requested permission to summarize.
Is there objection? Hearing none, sir, please proceed.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. The amendment does a couple of things and they are fairly substantial so I would hope that the Chamber would follow along with me because we are dealing with a rather significant matter here. Currently the law allows for any development in excess of 400 residential units that the developer may have up to ten years to complete his actions after site plan approval. The file would have added to that commercial development as well from five to ten years when it meets certain qualifications.

What the amendment does it says that for residential over 400 units or the commercial developments Planning and Zoning can allow any where from five to ten years from the point of site plan approval and if in fact the Planning and Zoning were to allow seven years when they approve the site plan they could later on extend that by one, two, or three years to a cumulative aggregate of ten years if it was so necessary.

But it leaves the authority with your local

kfh

111 1868

House of Representatives

Tuesday, April 5, 1988

Planning and Zoning. It gives them the option to go from five to ten years on these major developments. Mr. Speaker, I believe that concludes my summarization. I move adoption.

DEPUTY SPEAKER CIBES:

Questions on adoption. Will you remark, sir?

REP. BELDEN: (113th)

Yes, thank you, Mr. Speaker. Very briefly, I think this does the same thing that the file copy wanted to do but it does in the process give the local Planning and Zoning the authority on these very large projects to give site plan, or a time limit to complete the project from five to ten years based upon their particular requirements in their town.

DEPUTY SPEAKER CIBES:

Will you remark further on House "A"?

REP. DEZINNO: (84th)

Mr. Speaker?

DEPUTY SPEAKER CIBES:

Representative Benjamin DeZinno.

REP. DEZINNO: (84th)

Just a question, Mr. Speaker, just for clarification.

DEPUTY SPEAKER CIBES:

Please proceed, sir.

kfh

112

House of Representatives

Tuesday, April 5, 1988

REP. DEZINNO: (84th)

Mr. Speaker, through you to the proponent of the amendment. I want to make sure it's clear in my mind, Representative Belden you are saying that when the developer goes before the local zoning committee they may grant anywhere from a five year to a ten year period of time not exceeding that ten year?

DEPUTY SPEAKER CIBES:

Representative Belden would you care to respond, sir?

REP. BELDEN: (113th)

Yes, thank you. Through you, Mr. Speaker. As I understand the question that is correct. It could be a five up to a ten.

REP. DEZINNO: (84th)

Okay, and one more question, Mr. Speaker, please. The other question, Mr. Speaker, through you, sir, to Representative Belden is, if by chance the local zoning board wants to grant only seven years and later the developer feels that he needs additional time may he then go once again, before the local zoning board to ask for that additional two or three years up to the maximum of ten?

REP. BELDEN: (113th)

Through you, Mr. Speaker. The gentleman is

kfh

113

House of Representatives

Tuesday, April 5, 1988

absolutely correct. That is, I believe very explicit in the amendment wherein it says which date shall be not less than five nor more than ten years from the date of approval and the agency of official approving such plan may extend the date of completion for an additional period or periods not to exceed an aggregate, ten years in aggregate. So if it was a seven year approval by the approving body initially the developer could come in and ask for an extension of up to three years.

REP. DEZINNO: (84th)

Okay. Thank you, Mr. Belden. Just a comment, Mr. Speaker, it looks like this particular amendment would make our file copy a better bill and we move for adoption of the amendment too.

DEPUTY SPEAKER CIBES:

Will you remark further on House "A"?
Representative Alex Knopp.

REP. KNOPP: (139th)

Thank you, Mr. Speaker. I agree with the Chairman of the Committee, Mr. DeZinno that the amendment as explained by Representative Belden does make it a better bill. However, what concerns me is the drafting of the amendment in which there appears to be an ambiguity. In that beginning on line 27, it appears to read that the extension of the date of completion for

kfh

114

House of Representatives

Tuesday, April 5, 1988

an additional period or periods could be interpreted to read an additional ten years. I realize that's not the intention of the sponsor of the amendment but the way it is written it says that the agency may extend the date of completion for an additional period not to exceed ten years in the aggregate.

I think that, although I agree with the intention of the amendment, the language does create an ambiguity and I wonder if it would be possible to attempt to PT the bill while we try to remove that ambiguity from the amendment so that we are not extending the period for a possible 20 years which is how I believe the amendment could be interpreted at this time. I wonder if the sponsor of the amendment would consider that request.

DEPUTY SPEAKER CIBES:

Representative Belden I believe the question has been directed to you sir.

REP. BELDEN: (113th)

I think the gentleman is asking if I would have objection to PTing it, the amendment at this point in time. I certainly would have no objection to make the amendment meet everybody's feelings.

DEPUTY SPEAKER CIBES:

Thank you, Representative Belden. Representative Bertinuson.

kfh

115

House of Representatives

Tuesday, April 5, 1988

REP. BERTINUSON: (57th)

Mr. Speaker. I move that this item be passed temporarily.

DEPUTY SPEAKER CIBES:

Motion is to pass the amendment temporarily. Is there objection? Is there objection? Hearing none, the amendment is passed temporarily and thus so is the bill. Clerk please continue with the Call of the Calendar.

CLERK:

Same page, Calendar 257. House Bill 5959. AN ACT CONCERNING THE INNOVATIVE HOUSING FOR THE HOMELESS PROGRAM. Favorable Report of the Committee on PLANNING AND DEVELOPMENT.

DEPUTY SPEAKER CIBES:

Representative Bertinuson.

REP. BERTINUSON: (57th)

Mr. Speaker, may this item be referred to Committee on Finance.

DEPUTY SPEAKER CIBES:

Is there objection to referring this item to Committee on Finance, Revenue and Bonding? Item No. Calendar 257. Is there objection? Hearing none, the bill is so referred. Clerk please continue with the Call of the Calendar. Calendar Number 258.

abs

60

House of Representatives

Wednesday, April 6, 1988

voted, and is your vote properly recorded? If all the members have voted, the machine will be locked, and the Clerk will take a tally.

Representative Schlesinger.

REP. SCHLESINGER: (114th)

Yes, in the affirmative.

SPEAKER STOLBERG:

Representative Schlesinger of the 114th, in the affirmative.

Will the Clerk please announce the tally?

CLERK:

House Bill 5852, as amended by House "B"

Total Number Voting	146
---------------------	-----

Necessary for Passage	74
-----------------------	----

Those Voting Yea	146
------------------	-----

Those Voting Nay	0
------------------	---

Those absent and not Voting	5
-----------------------------	---

SPEAKER STOLBERG:

The bill, as amended by House Amendment Schedule
"B" is passed.

Will the Clerk please continue with the call of the Calendar?

CLERK:

Continuing on Page 5, Calendar 256, House Bill
5857. AN ACT CONCERNING AN INCREASE IN THE TIME FOR

abs

House of Representatives

Wednesday, April 6, 1988

COMPLETION OF WORK IN CONNECTION WITH CERTAIN
COMMERCIAL, INDUSTRIAL AND RETAIL SITE PLANS.

Favorable Report of the Committee on Planning and
Development.

SPEAKER STOLBERG:

Representative DeZinno.

REP. DEZINNO: (84th)

Yes, Mr. Speaker. Mr. Speaker, just a
clarification to the members of the Chamber. Yesterday
we had accepted House Amendment "A". If you'll bear
with me, Mr. Speaker.

SPEAKER STOLBERG:

Representative DeZinno, the Chair would review that
yesterday the item was called House Amendment Schedule
"A". LCO 3263 was called, I believe the amendment
carrying the bill was passed temporarily in the course
of debate on that amendment, so what we need to do is
recall the bill which has been called. If you could
move adoption of the bill, and then again, move
adoption of House "A", 3263, I think we'll be in
sequence, sir.

REP. DEZINNO: (84th)

Mr. Speaker, I move for the adoption, acceptance of
the Joint Committee's Favorable Report and passage of
the bill?

abs

62

House of Representatives

Wednesday, April 6, 1988

SPEAKER STOLBERG:

Will you remark?

REP. DEZINNO: (84th)

Yes, Mr. Speaker. Mr. Speaker, point of clarification. I'm a little bit in doubt. You say to call LCO #3263, which was previously designated as House "A"?

SPEAKER STOLBERG:

My records indicate that 3263, offered by Representative Belden was designated House "A". The item was passed temporarily in the midst of the discussion on House Amendment Schedule "A", sir.

REP. DEZINNO: (84th)

Okay, thank you, Mr. Speaker. I think that does answer it, because in conversations with Representative Belden, he does plan to offer another amendment probably which will be designated House Amendment "B". As I also recollect, Mr. Speaker, we never did vote on House Amendment "A". Is that correct?

SPEAKER STOLBERG:

We did not and if you would like to yield to Representative Belden, if his intention to withdraw House "A", it would be appropriate to do so.

REP. DEZINNO: (84th)

I would certainly like to make that recommendation,

abs

63

House of Representatives

Wednesday, April 6, 1988

Mr. Speaker. I yield to Representative Belden.

SPEAKER STOLBERG:

Representative Belden, do you accept the yield?

REP. BELDEN: (113th)

Yes, Mr. Speaker, thank you. At this time, Mr. Speaker, I would like to ask that House Amendment Schedule "A" be withdrawn.

SPEAKER STOLBERG:

Is there objection? Seeing no objection, House "A" is withdrawn. Will you remark further on the bill?

REP. BELDEN: (113th)

Mr. Speaker?

SPEAKER STOLBERG:

Representative Belden.

REP. BELDEN: (113th)

Mr. Speaker, I believe we have an amendment now which clarifies some of the concerns that were expressed yesterday and I would like to have the Clerk call LCO 3513.

SPEAKER STOLBERG:

The Clerk has an amendment LCO 3513, will be designated House Schedule "B". Will the Clerk please call?

CLERK:

LCO 3513, designated House Schedule "B" offered by

abs

64

House of Representatives

Wednesday, April 6, 1988

Representative Belden.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none,
Representative Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. Just to kind of start from
the beginning very briefly, the file before us allows
and has allowed for the past year any residential
development over 400 units to be completed over a
period of ten years.

The revision to the file for this year would have
added any commercial, industrial or retail project
going from five years to ten years. This amendment
before us modifies that change to allow the granting
authority the right to set any time frame between five
to ten years for completion of the project, either a
commercial, industrial or retail project, and then, if
in fact, the project is not completed, they can extend
the time period additionally up to ten years in the
event they have not initially given that time period.
Mr. Speaker, I move adoption.

SPEAKER STOLBERG:

Will you remark further?

REP. BELDEN: (113th)

Yes, thank you, Mr. Speaker. This amendment will

abs

65

House of Representatives

Wednesday, April 6, 1988

give some flexibility to your planning and zoning authorities or whomever in the town approves site plans in that they can or they would, upon approval of this amendment for commercial, industrial or retail projects having an area greater than 400,000 square feet the ability to give them anywhere from five to ten years for approval, and for an example, if supposing they gave them a seven-year time period to complete, the amendment would allow an extension to that time period at a later point in time if there were difficulty and the approving authority so felt it wanted to give that extension.

Mr. Speaker, I believe it gives a great deal of flexibility to our planning and zoning authorities, and hopefully with the flexibility to reduce the time period to six, seven, eight or nine years, it might bring a project on line sooner, which might increase the revenues, tax revenues to the municipality.

SPEAKER STOLBERG:

Will you remark further on the amendment? Will you remark further? Representative Meyer of the 135th.

REP. MEYER: (135th)

Thank you, Mr. Speaker. I wholeheartedly support this amendment. We need some flexibility when there are large commercial developments. With financing

abs

66

House of Representatives

Wednesday, April 6, 1988

sometimes so difficult, we realize that there is a problem facing some of our developers. However, this instead of giving everyone the mandated ten years, will give some discretion to planning and zoning. It is certainly great for local control and I urge all of you to accept this amendment and then vote for the bill.

Thank you.

SPEAKER STOLBERG:

Will you remark further? Representative Knopp of the 139th.

REP. KNOPP: (139th)

Thank you, Mr. Speaker. Again, for the purposes of legislative intent, let me just ask the proponent of the amendment. Is it the intent of the amendment that the total length of time, including all periods of extension, may not in the aggregate exceed ten years from the date of original approval of the site plan?

SPEAKER STOLBERG:

Representative Belden, will you respond, sir?

REP. BELDEN: (113th)

Yes, through you, Mr. Speaker, that is truly the intent and I have had several attorneys look at this and they all agree that that's exactly what it says.

REP. KNOPP: (139th)

Thank you, Mr. Speaker.

abs

67

House of Representatives

Wednesday, April 6, 1988

REP. BELDEN: (113th)

And I concur with that as well.

REP. KNOPP: (139th)

Mr. Speaker, I think the amendment does a lot to improve the bill. I do want to let the Chamber know that in the Planning and Development Committee there was not a single piece of testimony that any developer had ever been prejudiced by the existing statute, and I think the reason why the amendment saves the bill is that it gives towns flexibility and doesn't require an additional five-year extension, and therefore, lets towns retain local control over land use to the maximum extent that those towns deem necessary.

I think the amendment saves the bill and I intend to support it.

SPEAKER STOLBERG:

Will you remark further?

REP. DEZINNO: (84th)

Mr. Speaker?

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "B"? Representative DeZinno.

REP. DEZINNO: (84th)

Yes, Mr. Speaker, just for clarification to the members of the Chamber. Mr. Speaker, the House "B"

abs

68

House of Representatives

Wednesday, April 6, 1988

certainly does make the file copy a better bill, only certainly approve of the amendment and wish that our members on both sides of the aisle would vote for the amendment as well as the bill as amended. Thank you, sir.

SPEAKER STOLBERG:

Will you remark further on the amendment? If not, all those in favor of the amendment, please indicate by saying aye?

REPRESENTATIVES: Aye.

SPEAKER STOLBERG:

All those to the contrary nay? The amendment is adopted, ruled technical.

House Amendment Schedule "B".

In line 164, strike out "(1)"

Delete lines 167 to 169, inclusive, in their entirety

In line 170, strike out "AFTER THE EFFECTIVE DATE OF THIS ACT,"

In line 172, after the period insert the following: "IN THE CASE OF ANY COMMERCIAL, INDUSTRIAL OR RETAIL PROJECT HAVING AN AREA EQUAL TO OR GREATER THAN FOUR HUNDRED THOUSAND SQUARE FEET APPROVED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT, THE ZONING COMMISSION OR OTHER MUNICIPAL AGENCY OR OFFICIAL APPROVING SUCH SITE PLAN SHALL SET A DATE FOR THE COMPLETION OF ALL WORK IN CONNECTION WITH SUCH SITE PLAN, WHICH DATE SHALL BE NOT LESS THAN FIVE NOR MORE THAN TEN YEARS FROM THE DATE OF APPROVAL OF SUCH SITE PLAN, PROVIDED SUCH COMMISSION, AGENCY OR OFFICIAL APPROVING SUCH PLAN AND SETTING A DATE FOR COMPLETION WHICH IS LESS THAN TEN YEARS FROM THE DATE OF APPROVAL MAY EXTEND THE DATE OF COMPLETION FOR AN ADDITIONAL PERIOD OR PERIODS, NOT TO EXCEED TEN YEARS IN THE

abs

69

House of Representatives

Wednesday, April 6, 1988

AGGREGATE."

In line 174, insert an opening bracket before
"ten-year"

In line 175, insert a closing bracket after
"expires" and after the closing bracket insert "WORK
SHALL BE COMPLETED"

In line 176, insert opening and closing brackets
around "ten year"

SPEAKER STOLBERG:

Will you remark further on the bill? If not, will
members please be seated? Representative Maddox.

REP. MADDOX: (66th)

Mr. Speaker, the Clerk has an amendment, LCO 3265.
Would she please call and may I be allowed to
summarize?

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 3265, designated
House Amendment Schedule "C". Will the Clerk please
call?

CLERK:

LCO 3265, designated House Schedule "C", offered by
Representative Maddox.

REP. MADDOX: (66th)

Mr. Speaker?

SPEAKER STOLBERG:

Representative Maddox, would you wait just a
moment. Representative Maddox, let me explain the
situation. The Chair is going to recommend that we

abs

70

House of Representatives

Wednesday, April 6, 1988

accept the motion to pass this temporarily, recess for thirty minutes and come back.

The Senate is in the midst of the Martin Luther King ceremony. Some of our members have expressed a desire to attend that, and if there is no objection, perhaps the Majority Leader can move we recess for approximately twenty minutes. When we come back, we will take this item up again where we left off.

REP. MADDOX: (66th)

That's fine.

SPEAKER STOLBERG:

Representative Maddox, would you yield to Representative Balducci?

REP. MADDOX: (66th)

I shall, Mr. Speaker.

SPEAKER STOLBERG:

Representative Balducci, do you accept the yield?

REP. BALDUCCI: (27th)

Yes, Mr. Speaker, I would at this time just echo your comments that we recess for approximately thirty minutes so that some of the folks that would like to attend that ceremony upstairs in the Senate Chamber may, and at this time, I would like to pass temporarily on this particular bill.

SPEAKER STOLBERG:

abs

71

House of Representatives

Wednesday, April 6, 1988

The motion is that the item be passed temporarily.
Is there objection? Seeing no objection, it is so
ordered. Representative Balducci.

REP. BALDUCCI: (27th)

Mr. Speaker, I make a motion that we recess for
thirty minutes.

SPEAKER STOLBERG:

The motion that the House stand in recess for
thirty minutes. Is there objection? Seeing no
objection, it is so ordered. The House is in recess.

On motion of Representative Balducci of the 27th,
the House recessed at 2:27 o'clock p.m., to reconvene
at the Call of the Chair.

The House reconvened at 2:58 o'clock p.m., Speaker
Stolberg in the Chair.

SPEAKER STOLBERG:

The House of Representatives will come to order.
When we concluded Calendar 256, House Bill 5857, was
passed temporarily. I believe Representative Maddox is
still locating some information. Without objection, we
will continue to pass this temporarily until the
appropriate material is present in the Chamber, and
will return to it at that time.

CLERK:

Please turn to Page 6, Calendar 268, Substitute for

S-281

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1988

VOL. 31
PART 4
1065-1473

WEDNESDAY
APRIL 13, 1988

1426

84
aak

voted? The machine is closed. Clerk please tally the vote.

The result of the vote:

25 Yea

11 Nay

The bill is adopted.

THE CLERK:

Calendar 293, File 275 and 392, House Bill No. 5857,
AN ACT CONCERNING AN INCREASE IN THE TIME FOR
COMPLETION OF WORK IN CONNECTION WITH CERTAIN
COMMERCIAL, INDUSTRIAL AND RETAIL SITE PLANS AND THE
IMPACT OF ZONING REGULATIONS ON AGRICULTURE. (As
amended by House Amendment Schedule "B" and "D").
Favorable Report of the Committee on PLANNING AND
DEVELOPMENT.

THE CHAIR:

Senator Barrows.

SENATOR BARROWS:

Mr. President, I move acceptance of the Joint
Committee's Favorable Report and also concur with the
House Amendments "B" and "D".

THE CHAIR:

Do you wish to remark?

SENATOR BARROWS:

Yes, Mr. President. This bill requires towns to

WEDNESDAY
APRIL 13, 1988

1427
85
aak

adopt zoning regulations with reasonable consideration for their effect on agriculture and two it allows towns to give the developers more time to complete work on certain large scale business development projects. With regard to business projects under current law, towns must give...towns must give current law towns must give business developers 5 years to complete them and the bill allows town zoning commissions or the local authorities responsible for approving site plans to give developers between 5 and 10 years to complete the work.

THE CHAIR:

Do you wish to remark further? Motion is to adopt.
Excuse me. Senator Barrows.

SENATOR BARROWS:

If there is no opposition I would like it to go on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar Page 10, Disagreeing Actions, Calendar 4, File 6 and 364, Substitute for Senate Bill 81, AN ACT PROVIDING THAT VETERANS ELIGIBLE FOR THE ADDITIONAL PROPERTY TAX EXEMPTION FOR VETERANS MAY APPLY FOR THE EXEMPTION BIENNIALY. (As amended by House Amendment

WEDNESDAY
APRIL 13, 1988

1437
95
aak

return to the Chamber. Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Please give your attention to the Clerk who will call the items that have been referred to the 2nd Consent Calendar. Mr. Clerk.

THE CLERK:

The 2nd Consent Calendar begins on Calendar Page 5, Calendar No. 273, Substitute for Senate Bill 402. Calendar Page 7, Calendar 287, House Bill 5865. Calendar Page 8, Calendar 293, House Bill 5857. Calendar Page 10, Calendar 4, Substitute for Senate Bill 81, Calendar 138, Substitute for Senate Bill 92. Calendar No. 139, Substitute for Senate Bill 205. Calendar 150, Substitute for Senate Bill 348. Calendar Page 11, Calendar 173, Substitute for Senate Bill 332. Calendar 230, Substitute for House Bill 5016. That completes the 2nd Consent Calendar.

THE CHAIR:

Any changes or omissions? The machine is open. Please record your vote. Has everyone voted? The machine is closed. Clerk please tally the vote.

The result of the vote:

36 Yea

WEDNESDAY
APRIL 13, 1988

1438
96
aak

0 Nay

The 2nd Consent Calendar is adopted.

We have Senate Agenda #2.

THE CLERK:

Mr. President, the Clerk is in possession of Senate Agenda #2 for Wednesday, April 13, 1988 copies of which have been distributed and they are on the Senators' desk.

THE CHAIR:

Senator Mustone.

SENATOR MUSTONE:

Mr. President. I move that all items on Senate Agenda #2 dated April 13, 1988 be acted upon as indicated and that the Agenda be incorporated by reference into the Senate Journal and Senate Transcript.

THE CHAIR:

Without objection, so ordered.

SENATE AGENDA #2

SENATE BILLS FAVORABLY REPORTED - to be tabled for the
calendar and printing

Government Administration and Elections

Subst. SB 546 AN ACT CONCERNING CANDIDACIES FOR

JOINT
STANDING
COMMITTEE
HEARINGS

PLANNING AND
DEVELOPMENT

PART 2

334-626

1988

33
deb

PLANNING AND DEVELOPMENT

March 21, 1988

WARD MAZZUCCO: That's quite alright, Senator. I'm an attorney in Danbury and the former Zoning Commissioner of the City of Danbury, and I'd like to address today Raised Bill 5857, the bill to permit up to 10 years within which to complete construction of retail commercial or industrial space exceeding 400,000 square feet.

The current law, as you are aware, limits to five years the construction period for all types of development for which a site plan is approved. Last year a bill was enacted raising to 10 years the time period for developing projects pursuant to approved site plans where the number of residential dwellings exceeded 400. The corresponding bill this year is in keeping with the prior approved legislation and I believe has many good reasons for approval as the bill did last year.

I'd like to analyze for a moment the effect of the current five year limit. Law says that if you don't finish building something according to your approved site plan within five years, then the site plan expires. Now if the zoning law has not changed within that five year period, there should be no difficulty in getting your site plan reapproved and finishing the construction of whatever it is that you're building.

However, if the zoning has changed during that five year period, the problem gets more interesting. If no construction has begun in that five year period, and the zoning law changed and then the site plan were to expire, there would be simply the need to find an alternative use of that property, and it may impose some hardship, but at least their resources have not been committed to construction.

If, however, zoning has changed during the five year period and construction is already underway and then the site plan expires at the end of five years, what happens. I don't know that anyone has developed a satisfactory answer or resolution for the problem. When a site plan expires and construction is still incomplete and the bill under consideration today would minimize the risk of that problem by increasing construction periods to ten

34
deb

PLANNING AND DEVELOPMENT

March 21, 1988

years, at least for large projects for which the risk of non-completion is somewhat greater.

Of course there's no way when a landowner begins developing to know whether zoning laws will be changed in the upcoming five years, and finding another use might pose a true hardship if the site plan expired before any construction happened, but I think the real problem is what happens when the site plan expires and there is partial completion.

Not only are we talking about a financial disaster for any landowner, but we're talking about an eyesore for the community. I'm sure it would take years to sort out the litigation that would certainly ensue and meanwhile the community is looking at a partially complete structure.

Now I recognize that landowners and developers are not always the most sympathetic constituents, but I think it's important to look at the affects of current legislation on other parties involved in the development process, namely lenders. If lenders face a higher risk, then they tend to charge higher interest rates. Lenders also are charged with safeguarding the money that their depositors have entrusted to them, and if lenders cannot be assured that a large commercial retail or industrial project will be completed within five years, it will be quite reluctant to lend at all.

It's important too to note who many of the large lenders are. Our own insurance companies here in Connecticut, many insurance companies, as you know, are based in the state and would probably prefer to lend within the state to our larger scale proposals, but if the risk exists that a large proposal may be left at an unbuilt state after five years, I think they may choose to do their lending elsewhere.

There is also the effect on the communities which they need to look at partially completed project while the landowner sorts out the problem, but finally there's a tax impact because the municipality will not be able to realize property taxes to their fullest and the state will not be able to realize sales taxes to the fullest while something is held in an incomplete state.

35
deb

PLANNING AND DEVELOPMENT

March 21, 1988

The trend in other zoning laws seems to be longer periods of grandfathering. I would note in particular Section 8-26 A pertaining to subdivisions. It initially provided a three year grandfather period against future zoning changes. Then that was increased to five years, and then I believe in 1984 the time limitation was relieved entirely, so now the subdivisions in Connecticut are permanently grandfathered from changes in the zoning law.

One difficulty in determining compliance with the current statute or even as it might be amended is to determine what it means for a project to be complete at the end of a given period. If a large shopping mall or industrial complex is missing a few shrubs when that deadline passes, or if the striping of the parking lot hasn't been completed, does that mean that if a zoning change has taken place in the meantime that it simply cannot be completed and occupied.

Additionally, the law protects for a time the initially approved site plan. What if a minor change such as ledge or an unexpected field condition requires a revision to the site plan? Is it impossible to revise a site plan if the zoning laws have changed during the five or ten year period? So, in conclusion, I'd like to note that my area, Danbury has been blessed with the Danbury Fair Mall and Union Carbide, two large typical retail and industrial projects.

This has been good for the sales tax revenues of the state, for the property tax revenues of the municipality and it has, they've done wonders for the economy of our area and to eliminate expiration dates for all site plans, I think, would be the best medicine, but I think to encourage the economic growth that we've experienced so far, it would at least be desirable to lengthen from five years to ten years the building period for retail, industrial or commercial projects of the large size. I thank the committee for the opportunity to present these remarks and would be happy to answer any questions.

REP. DEZINNO: Any questions? Representative Meyer.

36
deb

PLANNING AND DEVELOPMENT

March 21, 1988

REP. MEYER: I'm certainly in agreement that when you have large developments they're not these days not going to be able to be done probably in the short period of time. However, one of the problems that we can foresee in this is getting a permission to do this, then sitting on it for four or five years and never getting started at all just to make certain that they have grandfathered, the requirements that existed at that time, and that if anything new is changed that they will not have to live up to those. Would you be adverse to some sort of language in here that would say providing the project had been started at least before the five year period was over?

WARD MAZZUCCO: If I may say, Danbury itself had a zoning regulation that took exactly that approach, and the difficulty that I observed was that there was a flurry of activity by landowners to get activity started frequently just putting in footings or maybe portions of a foundation and the community had to look at these unsightly structures for quite a while until the landowner was able to go on from there.

I sympathize and understand the need to keep someone from sitting on his approvals, but I saw first hand the unsightliness caused by a premature starting of those, of construction and I think also the desire to keep the landowners from sitting on their approvals needs to be balanced against the risk of what happens when the site plan expires in the midst of construction and for whatever reason cannot be renewed.

I don't know of that happening first hand. I have seen people get variances of the time period so that they would be sure that they could finish in an adequate time, but I think this is any kind of time limit is effectively a ticking time bomb that is going to cause hardship for some landowners and some municipalities sooner or later.

REP. MEYER: Thank you.

WARD MAZZUCCO: Thank you.

REP. DEZINNO: Representative Knopp.

37
deb

PLANNING AND DEVELOPMENT

March 21, 1988

REP. KNOPP: Yes, I just want to make sure I understood you correctly. Did you mean to say that you think there's a legal possibility that if someone is building a 400,000 foot shopping center and doesn't complete the shrubbery as required that you're saying there's a serious possibility that that shopping center may not be able to be occupied?

WARD MAZZUCCO: Yes, and the, let me just elaborate on the fact data. If the zoning laws have not changed since the site plan was originally approved, then it would be a very simple matter for that landowner to go back and get his site plan reapproved and then he can take another five years or ten years to finish the striping, the shrubbery or whatever, but the problem arises when there's been a change in the zoning regulations or the zoning districts themselves, so that what was originally approved could no longer take place in that location.

For example the shopping center that we used in our hypothetical, if that zone was changed to a residential zone, for example, while construction was underway and the five year period expired, and the project wasn't fully complete, such as if the shrubs were left out or maybe some paving had yet to be done or whatever the case may be, then I believe that the site plan could not be reapproved and the landowner would be absolutely unable to occupy the building.

I think it strikes people as a harsh and bizarre result of perhaps that's what generates some of the questions on this but, I think that's exactly what would happen if these facts presented themselves in real life situation.

REP. KNOPP: I agree. I think it is a bizarre situation. It's like saying that we should somehow make public policy based on fact that the moon may hit the earth. It's a theoretical possibility probably, but so bizarre and extraordinary that I'm not sure we'd want to use it as a basis for making public policy. Do you know of any example in this state of any site plan construction that was substantially completed when the site plan period terminated in which that developer was required to cease all further construction on that project?

38
deb

PLANNING AND DEVELOPMENT

March 21, 1988

WARD MAZZUCCO: No, but I do know of situations where the developers went to get variances and were fortunate to get variances to prevent the lapse of time from halting their construction.

REP. KNOPP: But you don't know of a single example where lapse of time forced a halt of a substantially completed project in the State of Connecticut.

WARD MAZZUCCO: No, I don't.

REP. KNOPP: Okay, thank you.

REP. DEZINNO: Representative Hartley.

REP. HARTLEY: Thank you. Representative Hartley from the 73rd. Let me just ask you a hypothetical which perhaps may be real and not bizarre. In a for instance where a developer realizes the time restraints imposed upon him and he is working on a major development, 400,000 square feet plus whatever, and feels that there are legitimate reasons for approvals or whatever, the why for that they would not be able to complete it within this time period, and so then strategizes and goes in for a portion of the piece that they are going to develop.

Therein giving perhaps a different message to the municipality who was working on the infrastructures that are supporting this particular piece, only later to go in and ask for the development in the approval of perhaps the second adjoining piece, then causing a municipality to have to go back and do enhancements, roadwork, sewer work, or whatever. Is that a likelihood?

WARD MAZZUCCO: Well, yes I've seen that happen where a developer will take a piecemeal approach to the application process so as now to overwhelm the municipality the full scope of what is intended and also to avoid the effects, the harsh effects of the five or ten year time limitation, and I think that having the ten year time period would benefit municipalities by bringing out at the outset the full scope of the proposed activities and, if I can expand a little bit on my previous answer also, I

39
deb

PLANNING AND DEVELOPMENT

March 21, 1988

think landowners have bent over backwards to avoid the threat of not being able to finish something that they've already begun.

This is not to say that the number of landowners have not experienced hardship from being unable to build what they thought they had approval for when they did not start the structure at all. I admit that the circumstances are infrequent where construction might need to cease in process, but a great many of the landowners have had to cancel plans entirely when for circumstances beyond their control they were unable to get started and finished within a five year deadline.

REP. HARTLEY: Just a followup then. In the hypothetical of perhaps dividing up the project, then would you believe that we end up with a project of lesser quality whereby the entire development cannot be presented. Therefore to attract those Class A kinds of tenants in there and rather we don't end up with a major anchor which obviously we now can see as beneficial to a development and to an entire area.

WARD MAZZUCCO: Yes, following the old adage that any whole is often greater than the sum of the parts when the parts are brought in separately for approval, and there is no mechanism for the municipality to take a comprehensive look at the whole project, I think it does result in an overall lower quality proposal and I think it is unfortunate for the municipality as well as the landowner to be forced to bring things in on a phased basis when really the overall impact should be looked at.

REP. HARTLEY: Thank you.

WARD MAZZUCCO: Thank you, Representative Hartley. Again I thank the committee for time to present these remarks. Unless there are any further questions.

REP. TESTA: Thank you sir.

WARD MAZZUCCO: Thank you.

REP. TESTA: The next speaker will be Lee Loveridge.

40
deb

PLANNING AND DEVELOPMENT

March 21, 1988

LEE LOVERIDGE: Representative Testa and honorable (HB 5857) members of the Planning and Development Committee, my name is Lee Loveridge, and I am the Director of Marketing for a real estate developer in Waterbury. I would like to begin my remarks by thanking the members of this committee for opening this review process to members of the public for their comments on the proposed amendment.

I am here today to speak in favor of this amendment because I believe the amendment is a good idea in that it provides municipalities and developers with the opportunity to plan projects and growth in a more orderly and rational way. Section 8-3 of the General Statutes currently provides that site plan approval has a life of five years from the date of the original approval, with an exception for site plan approvals for residential projects of over 400 units which have a ten year life.

As the members of this committee are aware, the ten year exception for a large residential project was made law last year by Public Act 87-371, Section 2. Except for these large residential projects, the current law provides that all work authorized by site plan approval right down to the last shrub or sidewalk must be completed within five years after the local commission approves the site plan application. On a small or medium sized project the five year time limit does not present a serious problem.

However on large projects the fact is that each aspect of the project is generally more complicated and therefore time consuming. I would like to take a minute to walk the committee through a typical large project as a method of illustrating the problems that arise in these cases.

In this scenario which draws upon actual experience I will begin with the date of local site plan approval which I am randomly setting as January 1, 1988. Please accept my apologies for covering steps which are obvious. Thus on January 1st, the developer receives his local site plan approval. Typically the developer must now seek a number of additional approvals from state and federal agencies.

41
deb

PLANNING AND DEVELOPMENT

March 21, 1988

The State Traffic Commission approval pursuant to CGS 14-311, the Department of Environmental Protection approval pursuant to Section 402 of the Federal Clean Water Act, the Army Corps of Engineers approval pursuant to Section 404 of the Clean Water Act. Because the local site plan approval process generally results in modifications being made to a developer's application and plans, it has been our experience that state and federal agencies generally are only prepared to review final and approved plans.

That is the State Traffic Commission or the Department of Environmental Protection generally ask that all local approvals be obtained prior to applications being filed for a state agency approval. The reason being that it would be a waste of taxpayers money for the agencies to begin reviewing a set of plans that will most likely be modified on the local approval level.

Thus the local site plan approval must come first. Upon receipt of local site plan approval the developer now possesses a plan which serves as the basis of applications to state and federal agencies. Bearing in mind that we are discussing large projects, typically it takes 3 to 6 months to prepare applications and plans which meet the standards that the state and federal agencies require.

The process of approval can then take up to 18 months with the state agencies and two years or more with federal agencies. For example, a large project which I have been intimately involved recently took 18 months to receive its state traffic commission approval. The Army Corps of Engineers can consume two or more years in the project review phase depending upon the level of review which the project triggers. Again this purely the result of the Corps carrying out its statutory review duties and does not suggest any dilatory actions on the part of that agency.

In my example it has now been anywhere from two to two and a half years since local site plan approval. It is now June of 1990 and the developer is fully approved. Does he begin construction?

42
deb

PLANNING AND DEVELOPMENT

March 21, 1988

Generally not. He will probably spend at least some time marketing commercial, industrial or retail project now that he can represent to tenants that the project is real. Very few tenants or would be tenants will waste their time considering an unapproved plan, but armed with real plans, actual approvals and the knowledge that the project is a reality the developer can do his marketing.

Except in a stampeding bull market, no project will be built on speculation. Therefore, prior to construction time must be spent lining up Class A tenants or the development will not be economically feasible or attractive to conventional lenders. Without a conventional lender, there is no project.

Within the marketing phase, the developer will usually set a target rental income minimum which will be the trigger for moving to the next stage. That is once the project is say 50% leased, the developer will commission full working drawings and specifications for the entire project.

In a large project the 50% lease out level may be achieved in six months, one year or two years. To spend \$200,000 or \$300,000 for plans and specs prior to minimum lease up would not be economically rational. Once commissioned plans and specs usually take 6 to 12 months to produce. Thus it would be quite typical to spend from one to two years in the marketing and working drawing stage.

In my example by the end of the marketing and working drawing stage, 3 1/2 to 4 1/2 years have passed since initial site plan approval from the town and it is now any time from June 1991 to May 1992. Construction can now commence. On a project this large construction can run from 24 to 30 months. For example, I believe that the Danbury Fair Mall ran in excess of two years to construct just the building, and it is my understanding that off site road construction is just now being completed.

Again this is not a poor reflection on the developer, but merely points up the massive scope of the project and lengthy time periods which are consumed in bringing such projects through fruition. Thus by the time construction is

43
deb

PLANNING AND DEVELOPMENT

March 21, 1988

completed in my example, it could be the end of 1994 or early 1995.

The example I have just given ran a time period of four to six years from site approval to project completion and I left absolutely no contingency time periods in the example. The actual time could easily be longer which would necessitate reapplying for various approvals and which would cast a cloud of uncertainty over the entire project.

The proposed ten year approval for large projects would be an excellent response to this problem. It would enable both the town and the developer to take a more rational approach to large scale development and would help the state to attract the types of large employers and taxpayers it needs to continue its record of success in the coming years. I thank you for this opportunity to speak before you today and respectfully request that this committee vote unanimously to support this amendment.

REP. DEZINNO: Questions? Okay, thank you very much Lee.

LEE LOVERIDGE: Thank you.

(cass 3)

REP. DEZINNO: The next speaker we have is, is there is Miller. C. Miller. C. Milner?

MRS. MILNER: Good morning. I'm here on behalf of the Bill 6097 to support the Connecticut-Israel Exchange Commission, the Commission within the Department of Economic Development. I represent Innovations Video Production Company and also the people of color, the Jewish heritage.

The people of Jewish heritage also should participate in the groundwork interracial connection. The connection should represent presence of color that is Black Jews of Ethiopian ancestry, the lost tribe that's representative here in the USA, offspring of Hamm and those from the house of Chosen, ask them to return and participate in the building and economic development of this country, Israel, created out of a promise to Abraham and established in the 1960's after the