

Summer 2014

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## *Agribusiness in Connecticut*





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## PRESIDENT'S MESSAGE



I hope you are all enjoying some rest and relaxation this summer! We here at CCAPA are still hard at work on some ongoing initiatives to improve Chapter services and communications.

First, it was great to see so many Connecticut members at the Annual Hot Topics program in June. We also had a good turnout for our reception in Atlanta at the National APA Conference.

About 20 Chapter members from across the state joined in the event.

Thanks to all who voted in the By-Law amendment ballot put out in May. The amendment to expand the membership of the Executive Board was overwhelmingly approved. As the Board takes on its multi-year work plan, additional volunteers will help with implementation and bring in fresh ideas and improve the longevity of CCAPA as an organization. We will be introducing more by-Law amendments — stay tuned.

Since the By-Law amendment, Ben Henson, a Bridgeport City Planner, has been appointed as another At-Large member to the CCAPA Executive Board. Prior to joining the Bridgeport City Planning Department in 2009, Ben worked in regional planning both in Connecticut and Delaware. He also is a founding partner in B:Hive

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*On the cover: 18th Century Purity Farm selling produce at the Coventry Farmer's Market. Photo: Liss Flint*

## CONNECTICUT PLANNING

is published quarterly by the Connecticut Chapter of the American Planning Association. Contributions are encouraged. Submissions must include the name and contact information of the contributor. Material may be edited to conform to space or style requirements. Please address submissions to Executive Editor Rebecca Augur, AICP (contact information below).

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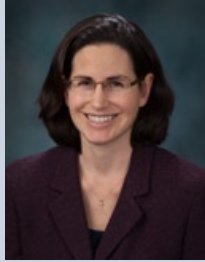
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## FROM THE EDITOR

As you're nibbling on some Connecticut-grown produce this summer, I hope you will consider how we as planners can best support agribusiness in our communities and state. This issue highlights a wide variety of ongoing programs and initiatives at the local, regional and state level that seek to bolster agriculture as a viable economic activity. From the Governor's Council on Agricultural Development to recent planning efforts in Windsor Locks, and from the Eastern CT Resource Conservation & Development Council's AGvocate program to local farmers' markets, these initiatives seek to support agribusiness, while reaping the side benefits of successful farms in the form of land conservation and improved community sustainability and health.

I hope you will find some food for thought on ways that you might foster a supportive climate for farm businesses in your communities. Enjoy the rest of your summer! 🍷

— Rebecca Augur



## PRESIDENT'S MESSAGE, CONT

Bridgeport, a collaborative co-working space. Please join me in welcoming Ben to the Board, and be on the lookout for more information on a fall event to be hosted at B:Hive.

This will be another event co-sponsored by CEDAS.

We are still working with a new web design firm on a revamped website. We are excited about the improvements that are coming, including a new events calendar and a new membership database where you can update your information and search for colleagues, among other things. Stay tuned, as we expect the new site to go live before the SNEAPA conference.

As always, I welcome your ideas and suggestions for Chapter events and initiatives. Enjoy the rest of your summer. Happy Planning! 🍷

— Emily (Moos) Hultquist, AICP



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# AGvocate!

by John Guszowski, AICP, LEED® AP, ENV-SP

**This program seeks to bring resources to local planners, zoning officials, commissioners, and selectmen in understanding how to better support and promote their local agricultural sector.**

Several years back, a retired Thompson dairy farmer and community activist spoke up at a meeting of the nonprofit Eastern CT Resource Conservation & Development (RC&D) Council and asked “why do towns have such a tough time dealing with farms?” She was referring to the relatively odd position that agriculture holds in the land-use regulatory sphere, and the fact that the municipalities in Connecticut that have the most farmland tend to be the ones that have the least resources, in terms of professional staff resources. [The RC&D Council](#), along with several key partners, have long had both agricultural promotion and bringing resources to local land-use decision-makers as priorities. After a relatively short discussion, the partners decided to do something about answering that excellent question.

Thanks to the thoughtful dedication of the RC&D Council and its partners (including USDA and The Last Green Valley) and a grant from the Connecticut Department of Agriculture, the AGvocate

Program was created. This program is dedicated to “advocacy for local agriculture,” and seeks to bring resources to farmers in understanding municipal policy and regulation. Just as importantly, it seeks to bring resources to local planners, zoning officials, commissioners, and selectmen in understanding how to better support and promote their local agricultural sector. Over the ensuing half-decade, the AGvocate Program has helped establish nearly 20 local Agricultural Commissions (and one Regional one!) and bring numerous programs, publications, and ongoing training resources to communities and farmers. Initially focused on the rural communities of Northeast Connecticut, the Program is slowly moving westward across the State. In January 2014, thanks to another Department of Agriculture grant, the Program held a “Train the Trainer” program targeted at land use planners to give them a boot camp on agricultural uses and regulatory policy approaches.



*AGvocate Train the Trainer workshop.*

# Farm-Friendly Towns

by Jocelyn Ayer, Community & Economic Development Director,  
Northwest Hills COG

What town wouldn't want to be more "farm friendly?" Okay, we can all think of a few outliers, but really — who can be against local strawberries, maple syrup, and cows? And yet there are so many ways in which our towns could and arguably should be more proactively supporting agricultural related businesses as part of a robust economic development strategy, especially in the more rural parts of the state. This winter (with strawberry season months away) I attended an AGvocate Training session. Below is what I took away from this training session summarized as a set of actions town economic development, agriculture, planning, zoning, and/or conservation commissions could take to proactively support their farm businesses.

## Ideas for how towns can proactively support agriculture:

- Send town-wide mailer/brochure once a year to residents explaining the fiscal and other benefits of farmland and open space. Consider including a list of local farms, what they produce, and how residents can support them. (Many samples/templates available)
- Add information about local farms to the town's website.
- Lease town-owned land for farming. (See the [Community Farm of Simsbury](#))
- Start a farm to school program. (See [www.farmtoschool.org](http://www.farmtoschool.org) for more information)

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**Publications/Resources**  
(check out these resources for much more information on many of these action steps and ag-friendly zoning regulation recommendations):

[Planning for Agriculture: A Guide for Connecticut Municipalities \(2012\)](#)

[Zoning Regulations for Livestock: Guidance and Recommendations for Connecticut Municipalities \(2012\)](#)

[Grow Connecticut Farms: Developing, Diversifying, and Promoting Agriculture \(December 2013 Update\)](#)

[Conservation Options for Connecticut Farmland: A Guide for Landowners, Land Trusts, & Municipalities \(2010\)](#)



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...there are so many ways in which our towns could and arguably should be more proactively supporting agricultural related businesses as part of a robust economic development strategy, especially in the more rural parts of the state.

## Farm-Friendly Towns, cont'd

- Hold a farmer input session to listen to concerns of farmers and ask what proposed actions could help them.
- Create a town agricultural committee to advocate for the needs of farm businesses and pursue farmland preservation strategies.
- Adopt a local right-to-farm law to express support for agriculture and reinforce protections already provided by the State right to farm law.
- Establish a fund for land preservation which can be used as the “local match” to State or private land preservation funding.
- Consider local tax incentives (beyond P.A. 490) such as property tax abatements (up to 50%) for farm businesses such as dairy farms, orchards, and vineyards or a property tax exemption of up to \$100,000 for farm machinery (example: Woodstock, CT)

## Planning & Zoning changes that support agriculture:

- In the “purpose” section of your zoning regulations list “promotion and protection of agricultural land uses and important farmland soils” as an important reason to have zoning regulations.
- Use the State definition of agriculture in your zoning regulations which is a broader definition than those in many town regulations.
- Require agricultural buffers for all new lots that abut farmland.
- Allow adequate and effective signage to direct people to farms and farm stands.
- Consider creating an agricultural zone in which farming is the preferred use.
- Do not require a minimum acreage for farms.
- Set goals for preserving farmland in your Town Plan of Conservation & Development (example: the Town of Lebanon called for preserving an additional 2,000 acres over the next 10 years) 

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# CCAPA Membership News

by Alan L. Weiner, AICP, Chairman, Member Services Committee

## ■ Current CCAPA Membership

As of June 1, 2014, CCAPA had a total enrollment of 399 members, categorized as follows: AICP – 191 members; FAICP – 5 members; APA – 134 members; students – 43 members; officials – 19 members; Chapter-only – 7 members.

## ■ Welcome to Our Newest Members!

The following are the newest members of CCAPA (March 1 - May 31, 2014):

Maureen Brady, New Haven  
Tilly Hatcher, Norwalk  
Tida Infahsaeng, Fairfield  
Matthew Straub, Hartford  
Stephanie Upson, Branford

## ■ Members in the News

**Kelly Murphy, AICP** reports that she is now the Director of Planning for VHB, based in the firm's White Plains (NY) office. Her territory includes Connecticut, New York City, Westchester County to Albany, and Long Island. Kelly previously served as the (non-elected) Deputy Mayor for Economic Development for the City of New Haven, where she oversaw more than \$2 billion worth of new development. Kelly can be reached at: 5 Main Street, Suite 360, White Plains NY 10606. Tel.: (914) 467-6621. Email: [kmurphy@vhb.com](mailto:kmurphy@vhb.com)

**Steve Sadlowski, AICP**, formerly the Land Use Administrator for the Town of Canterbury, is now the Zoning Officer for the Town of New Hartford. He can be reached at: 530 Main Street, PO Box 316, New Hartford CT 06057. Tel.: (860) 379-7677. Email: [ssadlowski@town.new-hartford.ct.us](mailto:ssadlowski@town.new-hartford.ct.us)

After serving more than 25 years as the Director of Planning, Conservation, and Development for the City of Middletown, **William Warner, AICP** is now the Town Planner for the Town of Farmington. Bill's new address is: 1 Monteith Drive, Farmington CT 06032. Tel.: (860) 675-2325. Email: [warnerw@farmington-ct.org](mailto:warnerw@farmington-ct.org). Bill was succeeded by Michiel Wackers, AICP, who was named Director of Planning, Conservation, and Development in early May. Michiel was previously Middletown's Deputy Director. He can be reached at: 245 DeKoven Drive, Suite 202, Middletown CT 06457. Tel.: (860) 638-4840. Email: [michiel.wackers@middletownct.gov](mailto:michiel.wackers@middletownct.gov)

## ■ Changing Jobs?

Share the big news about your latest career move with your fellow CCAPA members! Contact me at [membership@ccapa.org](mailto:membership@ccapa.org) with the particulars (including new job title/ address/phone and fax numbers/email address) and we'll announce it in the next issue of *Connecticut Planning*.

## ■ Need to Update Your Member Profile?

Please advise APA's Chicago office of any updates to your APA member profile (e.g., your mailing or email address). You can do so at APA's website ([www.planning.org](http://www.planning.org)) by logging into My APA and clicking "Edit" under your contact information. Or you may submit your update by email to [customerservice@planning.org](mailto:customerservice@planning.org). ■



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## A Plan for Preservation of Open Space and Agriculture in a Largely Developed Small Town

by Jennifer Valentino Rodriguez, Town Planner, Windsor Locks



**In the late 1940s and early 1950s, Windsor Locks and the region saw a substantial increase in the sale of farms for single-family residential developments.**

In the early 1900s in Windsor Locks, the Wippel and Williams families owned Winlox Farm, where they raised livestock and grew vegetables in abundance. Winlox was one of many farms in the area, rich with a variety of crops, including tobacco. In the late 1940s and early 1950s, Windsor Locks and the region saw a substantial increase in the sale of farms for single-family residential developments. In 1952, the 10-acre Winlox farm was sold to the Ginocchio family. “The Ginoccios were my grandparents.” Jimmy Pearce, a farmer, and lifelong resident explained. “The farm has been in my family now for 3 generations. When I

was 14 years old, in the 70s, I started my own vegetable stand. Over the years we’ve grown strawberries, pumpkins, sweet corn.”

Jimmy came to us at the Department of Building, Planning and Zoning over a year ago, wondering if there might be any staff support for preserving his farm for future generations. “I don’t want to sell it to a developer” he said, “I just don’t.” There are very few farms left in town, and the town is largely paved. Think of the airport, supporting commercial and industrial areas, and residential subdivisions. Still, Windsor Locks maintains some of its charming historic character within

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## A Plan for Preservation, cont'd

its neighborhoods and to some extent downtown. Full of history, lying along the Connecticut River; the Town got its name from the canal and locks once used to navigate around the Enfield river rapids. "It's like an icon for Windsor Locks...a picturesque old time New England farm." He's right about it being an icon, an example of what used to be and how the Town was defined "back when."



Mr. Pearce, along with a few members of the Farmers Market (formed in 2012) gathered with staff to form what would soon become a working group to explore the need for agriculture and open space preservation. Around this same time, the amount of requests to keep chickens, have community gardens, and sell crops from hobby gardens in the front yards of residential properties were growing. There was a need being communicated to us. It was evident that the time was right to focus on sustainability and to start defining what that meant for Windsor Locks.

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*Jimmy Pearce, farmer and lifelong resident of Windsor Locks.*

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**Residents participating in this interactive workshop discussed preservation efforts in the context of what makes Windsor Locks unique and what is important to community members.**

## A Plan for Preservation, cont'd

Our Town Plan of Conservation and Development (POCD) acknowledges the need for a system of hiking trails and interconnected public spaces available to Town residents and preserving natural features, watercourses, wetlands and flood plain. These needs can be partially met through farm preservation, creation of community gardens and special attention to historic sites. Though there is not a specific recommendation for farm preservation, there is mention of the reduction of agricultural and vacant land from 1,596 acres in 1986 to 530 acres in 2006, less than half of which is truly farmland.

Residents, community organizations like the Girl and Boy Scouts and 4-H clubs, teachers and students have responded to planning opportunities and shown support for open space and agriculture by attending trainings and workshops, and researching similar efforts in adjacent communities. In January of 2014 a small group of staff and residents attended the AGvocate "Train the Trainer" Boot Camp followed by the CT Main Street Center event "Main Street as Greenest Street: Sustainable Strategies for Your Town." Both of these events provided excellent foundations for a preservation effort that includes farmland preservation.

## Community Workshop

Windsor Locks was fortunate to gain support from the Capitol Region Council of Governments (CRCOG) and the U.S. Environmental Protection Agency (EPA) to host a community workshop in May 2014 to discuss community values and explore "farming for business or hobby, community gardening, and opportunities to experience nature." Residents participating in this interactive workshop discussed preservation efforts in the context of what makes Windsor Locks unique and what is important to community members. This workshop was the fourth in a series of five community workshops held around the nation, contributing to EPA's research on identifying values that are important to various communities.

The workshop was facilitated by a team from SRA International. Invited participants represented a cross-section of Windsor Locks, including lifelong residents and those newer to the community, farmers, those interested in the farmers market, community gardening, hobby hens, and a high school student. The workshop led participants through a series of exercises to identify how farm preservation, community gardening, and open space planning are critical to the long-term health and wellness of town

*(continued on page 11)*





## A Plan for Preservation, cont'd

residents. Along the way, workshop participants identified three priority community values: social cohesion, health and connectedness to Nature.

The group's discussion then focused on the unique historic and physical characteristics of Windsor Locks that bolster those community values and those that pose threats to them:

- **Community cohesion** — Windsor Locks is one of the smallest towns in Connecticut, in terms of land area, and is conducive to walking. The streets have good sidewalks and are safe, and there are parks in almost every neighborhood. This fosters social interactions with neighbors and helps support a strong sense of community.
- **Industrial and agricultural history** — Windsor Locks has a rich industrial and farming history. The locks and canal along the Connecticut River are historic, and the town's past is reflected in historic buildings like Memorial Hall and Town Hall and in the older industrial buildings along the river. West of West Street was historically farm land, where tobacco was the main crop. The farms used to hire the children of Windsor Locks during the harvest. Buses would come through the neighborhoods and pick them up.
- **Open space** — Participants noted that despite its relatively high residential density, there is a wealth of valuable open space in Windsor Locks. Participants described open space as serving multiple purposes for residents and the community, including recreation (e.g., hiking and biking), places for families and the community to gather, and a way to connect to nature.
- **Threats** — Participants noted that the community had lost some of its character when the downtown was redeveloped and older buildings were torn down. They noted that the two remaining farms in town were under threat of being lost. Participants also noted that use of on-line media and other factors that draw families' attention to activities outside of the community are threatening community cohesion. Attention to creating a more at-



tractive downtown, with places for people to gather, programs where adults can socialize, and better maintained and accessible open space could help address these threats. (U.S. Environmental Protection Agency Office of Research and Development Community Report May 3, 2014)

It was interesting to find that preserving open space and agriculture, at least with this group of participants, had to do with a healthy lifestyle, and feeling connected in general, whether with other adults, family, or nature. This expression of needs beyond sanitary sewer, roads, and education shows how important the planner's role can be in health and well-being, whether through fostering support of local food systems, incorporating green space in the built environment or providing ways for intrinsic social interaction.

### The Windsor Locks workshop resulted in the following final report/recommendations:

#### ■ Establish a framework and plan for agricultural and open space, including:

- An agricultural and open space preservation committee that includes a broad, representative cross-section of the community to identify agricultural and open space resources, and establish the authority of the committee in reference to existing ordinances (e.g., as a subcommittee to the existing Conservation Commission) or through a new Town ordinance.

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## A Plan for Preservation, cont'd

- Identify other communities in Connecticut with active agricultural and open space preservation programs, and seek advice from these communities and other organizations that have supported them (e.g., CRCOG and state or national land trusts).
- Develop an agricultural and open space plan based on public input, identifying overarching goals for preservation and other community-supported activities, and seek public approval of the plan, for example, at Town Meeting or through adoption in the Town's Plan of Conservation and Development.
- Establish and maintain partnerships with other decision-making bodies and departments in the community, including the Board of Selectmen, Board of Finance, and Parks and Recreation, all of whom could play an important role in preservation and related processes.

### ■ Pursue an agricultural and open space preservation program, including:

- Inventory existing farmland, Town-owned open land, and other privately-owned open land that includes significant acreage or connects to existing or potential agricultural or open space land; establish criteria for ranking resources based on their preservation value, where preservation value is defined in terms that reflect core community values identified during the workshop; and apply the criteria and establish preservation priorities.
- Work with local farmers to help them understand resources available to support continued farming and/or preserve their land as farmland, for example, by conducting research into available programs, facilitating discussions with preservation organizations (e.g., State of Connecticut Farmland Preservation Program, Connecticut Farmland Trust), pursuing public acquisition of development rights, supporting local markets, and establishing other policies (e.g., associated with property taxation) that facilitate land preservation.
- Inventory land that could support community gardens, including publicly-

*(continued on page 13)*

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## A Plan for Preservation, cont'd

owned land and, if liability issues can be resolved, land made available by local farmers; identify criteria for establishing priorities (e.g., accessibility, proximity to high density residential development, neighborhood interest, etc.); work with CRCOG to develop ordinances in support of community gardening; and pursue of community garden development plan.

- Identify public funding needs for agricultural and open space preservation, consider sources of revenue and develop ordinances, as necessary, to administer a land preservation fund, and pursue grant opportunities, for example, through the State of Connecticut Open Space and Watershed Land Acquisition Grant Program.

### ■ Ensure that farms, community gardens, and preserved open space remain an important part of the community fabric by:

- Improving existing and future open space land to support use of the land by the community is ways that support core community values expressed during the

workshop, including ensuring safe and visible access and trail development to safely support multiple uses

- Develop physical connections between agricultural and open space lands, neighborhoods, and the downtown, including walking paths between parks, publication of maps, and installation of signs and other wayfinding resources in the community.
- More fully integrate agricultural and open space resources into the everyday lives of community residents and workers, for example, by incorporating field trips into school curricula; engaging scout troops in trail blazing or bridge-making; developing adult programs in areas such as food preservation, birding, or outdoor recreation; hosting harvest events; hosting annual trail maintenance activities, etc.
- Reflect the importance of agricultural and open space resources as part of the identity of Windsor Locks in other community development activities. For example, include in downtown revitalization plans visual links to a community

*(continued on page 14)*



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## A Plan for Preservation, cont'd

“greenway,” elements that highlight the community’s industrial-agricultural history, open areas, and infrastructure that supports markets for local farmers.

The success of the workshop has built momentum for farmland preservation and sustainability planning in Town. The first official meeting of the Open Space and Agriculture Working Group occurred in June. The group is scheduled to meet with the Conservation Commission in July 2014 to discuss becoming a subcommittee. Staff and Working Group members have been reaching out to neighboring towns, gathering a library of information for the local farming community to use, available at Town Hall. Staff is working on inventory and stakeholders lists. Additional near term steps for the group include the creation of a Preservation Plan to be incorporated in the Town’s next POCD, reaching out to the wider community and other Town Departments through a public survey to help prioritize efforts, and seek opportunities

to provide better way-finding for existing open space and farmlands. ■

*Jennifer received her undergraduate degree in Urban Studies at the University of Connecticut, followed by a Graduate Degree in Urban Affairs and Planning at Boston University. She has a professional background in Housing and Community Development in Boston, MA and has worked for the Town of Windsor Locks for nine years, seven years as the Planning Coordinator and two years as Town Planner. Aside from her profession, she is most happy in her garden or hiking in the woods, particularly when her four children are in tow.*

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## CCAPA FY 13-14 APPROVED BUDGET\*

### REVENUE

Dues Revenue (AICP & APA Rebate)	\$ 24,000.00
Conference and Workshop Registration Revenue	13,200.00
Advertising Revenue	8,400.00
Investment Revenue – Interest	75.00
Other Revenue (Transfer from Reserves)	12,026.22

<b>Total Revenue</b>	<b>\$ 57,701.22</b>
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### EXPENSES

Professional Fees – Management (Website)	\$ 6,400.00
Professional Fees – Management (Newsletter)	12,500.00
Professional Fees – Consulting (Legislative Monitoring)	5,500.00
Professional Fees – Consulting (Accountant)	1,000.00
Insurance – Other	1,500.00
Supplies – Office Admin (Executive Committee)	100.00
Supplies – Books & Resources (AICP Materials)	400.00
Supplies – Other (Awards)	1,750.00
Telecommunications and E-cost	860.00
Photocopying & Duplicating Cost	50.00
Postage, Handling and Freight	50.00
Printing Cost	300.00
Travel – Lodging	3,711.45
Travel – Food	562.22
Travel – Transportation	1,682.55
Travel – Other	1,585.00
Admin – Bank Fees	400.00
Advertising	500.00
Sponsorships Paid	3,500.00
Grants Paid (Scholarships)	2,190.00
Mtgs Exp – Meal & Beverage Service	8,800.00
Mtgs Exp – Equipment Rental	250.00
Mtgs Exp – Facilities Rental	3,200.00
Mtgs Exp – Honorarium/Speaker Fees	500.00
Other Exp – (Regional Conference – Strat. Plan)	410.00

<b>Total Expenses</b>	<b>\$ 57,701.22</b>
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\*As Amended 6/6/2014

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# Keys to a Successful Farmers Market

by Philip S. Chester, AICP, Town Planner, Lebanon

It is no coincidence that Connecticut has seen this upward trend as citizens get educated about their diet, become socially conscience of their spending habits and care more about how their food is grown and where it comes from.

Much has been written about the demand for local food — especially in Connecticut where farmers markets are flourishing. According to the USDA, Connecticut saw a 22% increase in the number of farms between 2007 and 2012 — the second highest in the nation!

It is no coincidence that Connecticut has seen this upward trend as citizens get educated about their diet, become socially conscience of their spending habits and care more about how their food is grown and where it comes from. Today, almost 25% of Connecticut's farms market their product directly to the consumer.

Consequently, an inclusive, community-based farmers market can be a desirable land use activity and one a planner can be proud to support. I started my first farmers market in 2000 in Suffield at a time when few municipalities supported, let alone ran, a farmers market. In 2006 I started the Lebanon Farmers Market, and today nearly a third of Connecticut's 130+ farmers markets are supported by municipalities — most notably by allowing them to take place on town land.

A successful farmers market has several key components. First and foremost is the need for a dedicated organizer. In my case I was fortunate that I worked for communities that provided their town planner time to develop a market.

Below are some key elements to help start and retain a successful farmers market.

- **Staff.** As noted, without someone in charge little will occur. Markets need to be well organized, have a chain of command and someone to collect applications, insurance and health approvals. Some markets are vendor run (by committee) while others are not.
- **Timing.** Before choosing a time and date for a market determine where and when other nearby markets take place. No one wants to duplicate effort and dilute success. We tried to branch out by adding a Wednesday
- **Location.** Like any successful site development plan, consider all the items you require of an applicant. Visibility, access, parking, a level selling area, restrooms, trash cans, signage and even internet access for vendor sales need to be considered. Being located on town land will save the market insurance and complaints by neighbors.
- **Funding.** A successful market needs funds to operate. Staff time, advertising and music are the big three ticket items in Lebanon. About half our funds come from Dept. of Ag. grants, with the remaining coming from large agricultural business donations and town coffers.
- **Vendors.** Without vendors there are no farmers markets, and perhaps the trickiest part of organizing a market

(continued on page 17)



afternoon market with disastrous results, i.e., no patronage.



## Successful Farmers Market cont'd

is the relationship you develop with vendors. In Lebanon we established a Steering Committee which I convene when issues warrant and we hold spring and fall vendor meetings to help build consensus. Issues related to how much to charge vendors (it's free in Lebanon), the number of vendors that can attend and the variety of items allowed vary among markets and can be a challenge.

- For further information the Department of Agriculture puts out a [Farmers Market Reference Guide](#).

I continue to be amazed by how many young, bright and educated people choose to go into agriculture. They do this knowing that the labor can be hard and the pay mediocre — but that the rewards of working the land, being one's own boss and marketing their own product can be fulfilling. I believe we owe it to Connecticut farmers and ourselves to con-

sider purchasing locally grown products before choosing products grown far away.

Too often communities focus on developing land versus preserving or promoting agriculture. Both have their pluses, however, only agriculture provides sustainable value in terms of the environment, municipal finance, aesthetics and food security, which can be appreciated by all. As we continue to educate ourselves and directly or indirectly invest in agriculture, planners should consider agriculture as a principle rather than secondary land use in our communities. ■

*Philip holds professional degrees in both architecture and planning. He has served as a Town Planner in Connecticut for the past 14 years and in 2011 was bestowed the Outstanding Planner Award by the Small Town and Rural Planning Division of the APA. As a volunteer, he has served as a Director at Connecticut Farmland Trust, Vice President of Eastern Connecticut Resource Conservation and Development Council, and Bloomfield Town Plan and Zoning Commissioner.*

**I continue to be amazed by how many young, bright and educated people choose to go into agriculture. They do this knowing that the labor can be hard and the pay mediocre — but that the rewards of working the land, being one's own boss and marketing their own product can be fulfilling.**



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For many years, into this fray has waded the Eastern Connecticut Resource Conservation & Development Council (RC&D). This nonprofit group was a long-time partner of the USDA-Natural Resources Conservation Service, and has included in its mission the improvement of local agricultural viability and the health of the local food system.

*Solar panels at Freund Farm in East Canaan*



## Resource Conservation & Development Agricultural Initiatives

*by John Guskowski, AICP, LEED-AP, ENV-SP, Director of Planning, CME Associates*

Connecticut offers numerous resources to farmers and agricultural landowners. The State's Department of Agriculture and USDA each have many grants and programs promoting farm viability, market expansion, land conservation, and environmental improvement. These same entities, along with the Connecticut Farmland Trust and municipal Open Space groups make funding available for the permanent preservation of farmland and important agricultural soils. Many resources are out there to help grow and promote local farmers' markets. Many of these programs are discussed elsewhere in this publication. At the interface between land-use/planning policy and agriculture in Connecticut, however, there had long been a gap in services.

As Connecticut developed (read: suburbanized), residential and commercial uses encroached more and more into areas that had been traditionally agricultural and where local regulation had been minimal. More recently, the local-foods movement has had the converse effect of spurring small-scale and niche agricultural uses into older urban or inner-ring suburban environments. Either way, the result has often been to leave farmers who wished to establish, transition, or expand their operations facing complicated regulatory paths that threatened the viability of what is already a tenuous fiscal situation. For their part, municipalities struggled in their efforts to simultaneously support local farming and keep a handle on issues like backyard chickens (roosters), manure spreaders on local roads, pesticide application, or high-traffic on-farm events. Farmers also sought to take advantage of the high density of relatively affluent consumers in the New York-Boston corridor

while not being swallowed up by the high cost of production and land in Southern New England.

For many years, into this fray has waded the Eastern Connecticut Resource Conservation & Development Council (RC&D). This nonprofit group was a long-time partner of the USDA-Natural Resources Conservation Service, and has included in its mission the improvement of local agricultural viability and the health of the local food system. While the RC&D Council itself has been an inadvertently very well-kept secret, the programs and partnerships that the Council has established over the last decade continue to make major strides toward meeting that mission. Some of these initiatives have included:

**Connecticut Farm Energy Program:** Struggling with some of the highest energy rates in the nation, Connecticut farmers face significant challenges in keeping costs down and products competitively priced. Unfortunately, that same struggle means major capital funds are not available to invest in solar panels, wind turbines, or energy efficiency upgrades that would help the bottom line (and the environment). To address this, the USDA has established a program called Rural Energy for America Program (REAP) that pays for a percentage of on-farm energy efficiency or renewable energy upgrades. Be-

*(continued on page 19)*



## Resource Conservation cont'd

ing a federal grant program, the up-front analysis and paperwork to apply can be daunting, especially for small or part-time farmers already strapped for time and resources. The RC&D Council, with funding from USDA and based on a Massachusetts model, established the Connecticut Farm Energy Program ([www.ctfarmenergy.org](http://www.ctfarmenergy.org)) to help bring these resources to farmers and rural businesses. The CFEP brings no-cost technical services to farmers seeking to take advantage of REAP funding, as well as numerous programs available through the State of Connecticut or its energy utilities. The Program also serves as a hub for information on energy conservation and renewable energy in general, plus loans, grants, audits, and educational and technical resources.

### Local Beef “Value Chain” Exploration:


Until very recently, Connecticut did not have a single facility open to the public where farmers could avail themselves of USDA-inspected slaughter and USDA-inspected meat processing services. There are several “custom” (non-USDA) facilities in Connecticut where farmers could bring their cattle for slaughter and processing, but that limited their marketing options. There are also several USDA-inspected slaughterhouses and several USDA-inspected processing facilities, but to use both services involved multiple transportation connections, which adds time, cost, and complexity. The “best” alternative for many local beef producers was to truck their cattle out of state to Massachusetts, Vermont, or even Pennsylvania. With many farmers interested in ramping up their beef production, and local consumers clamoring for more locally-produced beef, the slaughter/processing bottleneck had become a problem. Thanks to Department of Agriculture and USDA support, the RC&D has been working with beef producers, distributors, and most importantly a slaughterhouse owner in Stafford Springs to remedy this situation. Long operated as the Home Pride facility, the New England Meat Packing plant in Stafford had a decades-

old tradition of providing local meat. The facility was approved for USDA-inspected slaughter, but had let its processing operation languish for many years. Grant funds and an entrepreneurial owner has recently remedied this, and Connecticut now has a “one-stop-shop” for slaughter and processing in a way that can allow



*New England Meat Packing Plant, Stafford Springs.*

stores, restaurants, and consumers access Connecticut beef. An open house and potential partnerships with farmers and distributors are anticipated for late summer and early fall.

In addition to the initiatives described above, the RC&D Council continues to work on the AGvocate Program described elsewhere in this issue, as well as the CT Environmental Review Team Program ([www.ctert.org](http://www.ctert.org)), and an ongoing series of workshops focusing on Soil Health. At the time of publication, the Eastern Connecticut RC&D is in discussions with its sister Council in western CT, known as King's Mark RC&D, to merge operations. It is hoped that this merger will revitalize membership and participation in the nonprofit organization, which has struggled somewhat since a significant decrease in Federal support in 2011, as well as better serve the communities of CT. The Council welcomes new members and partnering organizations, and is always willing to brainstorm and listen to good ideas or programs that should exist but currently don't. More information is available at [www.easternct-rcd.org](http://www.easternct-rcd.org). 

*John Guskowski, AICP, LEED-AP, ENV-SP is a partner and Director of Planning at CME Associates, Inc. in Woodstock. He is the first planner in Connecticut to have received the Envision Sustainability Professional credential.*

# The Connecticut Department of Agriculture's Programs and Services for Municipalities

by Steven K. Reviczky, Commissioner, Connecticut Department of Agriculture

**Connecticut's local food movement is strong, with nearly a quarter of farms marketing their food directly to consumers.**

The Department of Agriculture's mission is to grow Connecticut's agriculture to foster a healthy economic, environmental, and social climate. Part of this mission includes helping municipalities by providing grants and technical assistance.

I am pleased to contribute to the CCAPA

*Connecticut Planning* magazine. Planners are vital in helping guide a community and state vision — a vision which includes agriculture.

Connecticut's local food movement is strong, with nearly a quarter of farms marketing their food directly to consumers. USDA's 2012 Census of Agriculture shows that Connecticut had the second greatest percent increase in number of farms nationwide over the past five years, and the largest increase in New England. We now have almost 6,000 farms in our state, a 22% increase between 2007 and 2012.

The University of Connecticut has estimated that agriculture is a \$3.5 billion industry in our state, providing nearly 28,000 jobs along with significant social and ecosystem benefits. Cost of municipal services studies have demonstrated that agriculture contributes more to the local tax base than it requires in services, while providing fresh nutritious food and other essential products, working landscapes, open space, and an overall enhanced quality of life for residents.

The Connecticut Department of Agriculture has statutory responsibility for a wide range of programs that include animal health, aquaculture, milk safety, agricultural commodities, licensing, farmland



preservation and significant responsibilities for agricultural development and resource preservation, including the promotion of Connecticut Grown farm products, management of the Hartford Regional Market, and management of grant programs crafted to enhance farm viability

and resource stewardship.

The promotion, preservation and expansion of agriculture in your community benefit us all. I strongly encourage municipalities to participate in the following programs.

- Farm Viability Grants of up to \$49,999 are available to municipalities to be used for capital projects, agriculture-planning and/or other initiatives approved by the agency to support local agriculture. These funds have been used to help establish agriculture commissions; community gardens; community supported agriculture; farmland preservation appraisals and surveys; farmers markets; signage; plans of conservation and development; and, consultant studies.
- Farmers Market Nutrition Program vouchers are available for eligible seniors to purchase Connecticut Grown fruits and vegetables at the state's 130 certified farmers market.
- Farmland Preservation Program encourages municipal participation in purchasing development rights on farms with productive soils in order

(continued on page 21)



## CT Dept. of Agriculture cont'd


to help promote a farmland economy and secure a food and fiber producing land base in our state. To date, almost 300 farms and 40,000 acres have been preserved through this program. Municipalities can leverage state funds to purchase permanent conservation easements on active farmland. Preserved farmland has been shown to pay more than its fair share in local property taxes and is considered to be on par with commercial and industrial development when compared with residential development in terms of taxation benefit.

- Joint Venture Grants are used to encourage municipalities to promote use of the Connecticut Grown logo and create demand for Connecticut Grown products. Municipalities may use funds for advertising (print, web, radio, television, signage) that employs the Connecticut Grown logo or slogan and directly markets or promotes Connecticut Grown products.

In addition to these programs, the Department of Agriculture has profes-

sional staff available to provide technical assistance on a number of projects that support agriculture, including farm-to-school initiatives, farmers market development, enforcement assistance and clarification on PA 490 status.

Lastly, if you wish to keep up to date on agriculture throughout the state please sign up to receive the free [Connecticut Weekly Agricultural Report](#), published by the Department of Agriculture since 1920, by sending an email to [Ronald.Olsen@ct.gov](mailto:Ronald.Olsen@ct.gov).

As Connecticut's Commissioner of Agriculture I encourage all planners to take stock of agriculture in your community and state and consider the benefits it plays as a crucial land-use and economic generator. If you are interested in learning more about these or other programs please contact the Connecticut Department of Agriculture at 860-713-2500 or [www.CTGrown.gov](http://www.CTGrown.gov). 

*Steven K. Reviczky was named Connecticut's 19th commissioner of agriculture by Governor Dannel P. Malloy. A former property agent with the agency's Farmland Preservation unit from 1998 to 2006, he served as executive director of the Connecticut Farm Bureau for before returning to the agency as commissioner in 2011.*

**As Connecticut's Commissioner of Agriculture I encourage all planners to take stock of agriculture in your community and state and consider the benefits it plays as a crucial land-use and economic generator.**



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# The Governor's Council for Agricultural Development: Planning to Grow Connecticut Farms

by Linda Piotrowicz, Connecticut Department of Agriculture

Connecticut agriculture contributes between \$2.72 billion and \$4.6 billion in economic activity — \$1,000 to \$1,300 per resident — and employs as many as 28,000 people, according to two recent economic impact studies ([UConn's 2010 Economic Impacts of Connecticut's Agricultural Industry](#) and [Farm Credit East's 2012 Northeast Agriculture: The Overlooked Economic Engine](#)). It is a diverse industry that produces a wide array of products and enhances the quality of life for Connecticut's residents and its visitors.

Recognizing the industry's value and contributions to the state, the Connecticut General Assembly passed [An Act Concerning Agricultural Societies and Establishing a Governor's Council for Agricultural Development](#) in 1991. The act created the Governor's Council for Agricultural Development (GCAD), which was met with enthusiasm and optimism by industry members. Over time, however, the original council's impractically large membership and lack of specifically defined goals resulted in a gradual loss of momentum and activity. The GCAD was resurrected and reshaped in 2011 by the Connecticut General Assembly. This [legislation](#) reorganized the GCAD by reducing its size to a more practical 15 members and tasking it with two specific charges:

1. Make recommendations to the Department of Agriculture on ways to **increase the percentage of consumer dollars spent on Connecticut Grown fresh produce and farm products...by 2020, to not less than five per cent** of all money spent by such residents on food.

2. Make recommendations concerning the **development, diversification, and promotion of agricultural products, programs, and enterprises ...and ... provide for an interchange of ideas** from the various commodity groups and organizations represented.

The newly structured council was filled through appointments by Governor Malloy and legislative leaders, and met for the first time in January 2012. It immediately embarked on its statutory mission by deciding to develop a statewide plan for Connecticut agriculture, *Grow Connecticut Farms*.

This initiative was inspired by state projects elsewhere, but Connecticut's plan is unique. In the absence of financial and administrative resources available elsewhere, the council relies on its members — the majority of whom are farmers and who serve without compensation — to get the job done. Every hour a member spends in or traveling to or from a meeting is an hour spent not farming, so time is at a premium and efficiency is a must. Moreover, the primary focus of *Grow Connecticut Farms* is on increasing agricultural production, rather than social services and food security.

While agriculture in some states is dominated by production of fewer crops on very large farms, Connecticut's agriculture comprises smaller, more diversified farms. (USDA's [2012 Census of Agriculture](#) reports the average farm in Connecticut is 73 acres, compared to an average farm size in Nebraska of 907 acres.) The diversity of these smaller farms requires a holistic, strategic approach that considers all of Connecticut's many agricultural products and sectors.

(continued on page 23)

In the absence of financial and administrative resources available elsewhere, the council relies on its members — the majority of whom are farmers and who serve without compensation — to get the job done



## Governor's Council for Agriculture cont'd

In an effort to better understand the strengths, weaknesses, opportunities, and threats currently at hand, the council gathered input from hundreds of industry stakeholders, conducting 110 hours of in-depth interviews, an online survey, and four regional listening sessions over several months in 2012. After analyzing the information gathered, the GCAD focused on emerging priorities. These included farm-to-institution channels, infrastructure, marketing and consumer education/training, labor, planning and coordination, and the regulatory environment.

Additional stakeholders and experts on these issues were invited to a full day of topic-focused meetings to develop the first set of proposed recommendations. These were evaluated by the council, refined, and submitted to the Department of Agriculture for consideration and potential implementation in the year ahead (2013), and included recommendations as diverse as create an agriculture-friendly energy policy, developing initiatives to provide an adequate workforce for CT farm businesses, and from study infrastructure gaps and opportunities for the aggregation, light processing, and distribution of Connecticut Grown products to increase weight limits on truck loads to be consistent with surrounding states. In 2013, the GCAD organized into 12 working groups to focus on specific topic areas. The working groups reported back to the whole council which discussed the groups' findings at length, identifying common themes and intersecting issues, eventually developing the following set of 12 recommendations to the Connecticut Department of Agriculture. Many recommendations align with a single group's work, while some are the result of overlapping and/or intersecting challenges and opportunities identified in multiple groups:

- Farm-to-Institution (public and private institutions): Modify Connecticut General Statutes [Section 4a-51\(b\)](#) to include the following: "At least 5 percent of purchases must be Connecticut Grown farm products" and implement a certification process for wholesalers.
- Farm-to-Institution (restaurants): In Connecticut General Statutes [Section 22-38b\(d\)](#), change the name of the program "Connecticut Farm Fresh Restaurant" to "Connecticut Farm-to-Chef Restaurant" to better align with the Department of Agriculture's existing Farm-to-Chef Program, and work with the agency's Farm-to-Chef advisory group to develop criteria for implementation of a one-, two-, or three-fork restaurant certification within that program.
- Consumer Education and Training: Create within the Connecticut State Department of Education a full-time agricultural education coordinator responsible for creating and maintaining a web-based tool kit of curriculum for K-12 educators to use in core subject examples and assignments.
- Research: Create an agricultural innovation initiative that is a partnership among Connecticut's private industry, state government, and educational institutions, including both public and private colleges and universities throughout the state.
- Food Security: Enhance enforcement of Connecticut General Statutes [Section 22-38\(b\)](#), and develop a pilot program to certify Connecticut Grown markets based upon Connecticut General Statutes [Section 22-38b\(c\)](#), changing the program name from "Connecticut Farm Fresh Market" to "Connecticut Grown Market," to better align with the existing Connecticut Grown Program, and revising the 15 percent stocking requirement to one appropriate for Connecticut Grown production.
- Marketing: Conduct research that will enhance the multiyear, state-wide Connecticut Grown marketing and advertising campaign established by Connecticut General Statutes [Section 22-38a](#).
- Agricultural Business Environment: Support on-farm biomass energy projects that do not consume prime and important farmland and explore the carve-out of an AgREC within the LREC system.

*(continued on page 24)*

**In an effort to better understand the strengths, weaknesses, opportunities, and threats currently at hand, the council gathered input from hundreds of industry stakeholders, conducting 110 hours of in-depth interviews, an online survey, and four regional listening sessions over several months in 2012.**

To help gather additional stakeholder input on these priority issues, the council hosted an agricultural town hall meeting at the State Capitol on January 29, 2014, attracting 135 attendees from across the entire state.

## Governor's Council for Agriculture cont'd

- Agricultural Business Environment and Planning and Coordination: Improve coordination among all state agencies with involvement in agricultural issues through designation of an agricultural liaison in each.
- Agricultural Resources and Investments: Inventory state-owned land and put an additional 4,000 acres into leases with farmers for agricultural production by the end of 2015.
- Agriculture and Food Infrastructure: Explore potential at the state-owned Hartford Regional Market for light processing facilities that would enable Connecticut farmers to reduce waste, expand offerings, and augment income through production and sale of value-added products.
- Producer Education and Training: Develop agricultural internship programs through partnerships between Connecticut's farms and educational institutions—including both public and private colleges and universities—and enhance Cooperative Extension focus on programs that educate farmers about continually changing challenges related to climate, insects, and diseases.
- Farm to Institution, Food Security, and Agricultural Business Environment: Assist agricultural producers with Food Safety Modernization Act education and compliance through existing programs; consider development of a new program dedicated to this purpose.

Details about the Working Groups' charge, each recommendation, and the work that led up to it, are provided in the council's *Grow Connecticut Farms December 2013 Update*.


Noting the overlap of many issues that arose during 2013 working group meetings, the council streamlined and consolidated groups and assignments for 2014 as follows:

- Food Safety Modernization: Study proposed rules of the federal Food

Safety Modernization Act (FSMA), gather input from producers on concerns about those rules, and identify gaps/extraordinary costs for producers to comply with them.

- Infrastructure and Wholesale Markets: Gather producer input on wants/needs for processing, aggregation, storage, and associated business models, and identify/study models for co-operatives, nonprofits, public/private aggregation, storage, distribution, marketing, etc.
- Producer Education and Innovation: Gather producer input on education and innovation needs, identify gaps, and identify potential partnerships for providing education, research, and development.
- Marketing: Identify Connecticut Grown sectors and messages and identify potential partnerships for dissemination of those messages.

To help gather additional stakeholder input on these priority issues, the council hosted an agricultural town hall meeting at the State Capitol on January 29, 2014, attracting 135 attendees from across the entire state. The four working groups engaged these stakeholders with thought-provoking questions and conversations. Following careful review and in-depth discussion of the working groups' efforts, the council is now in the midst of developing its 2014 recommendations to the Connecticut Department of Agriculture. It will issue an update on its Grow Connecticut Farms plan later this year.

For more information about the Governor's Council for Agricultural Development and its Grow Connecticut Farms strategic plan can be found at [www.CT-Grown.gov/GovernorsCouncil](http://www.CT-Grown.gov/GovernorsCouncil) and [www.GrowConnecticutFarms.com](http://www.GrowConnecticutFarms.com). 

*Linda Piotrowicz serves in the Office of the Commissioner at the Connecticut Department of Agriculture, where she leads GCAD efforts, contributes to agency planning, assists with the legislative program, and continues to coordinate the Farm-to-Chef Program, which she developed in 2006. Linda.Piotrowicz@ct.gov; 860-713-2558.*



# Government Relations Update — Legislative Session 2014

by Jana Butts Roberson, AICP, Government Relations Committee Chair



While this year's legislative session was dominated by the budget, a few bills passed that affect land use planning in CT.

**PA 14-100, An Act Concerning Liability for the Growing of Running Bamboo** — This act makes it illegal to have running bamboo (genus *Phyllostachys*) on land within 40' of a property line regardless of when it was planted or if it is contained. DEEP, municipal constables, tree wardens, ZEO's, and WEO's may enforce fines of up to \$100 per day. Modification of PA 13-82. Effective: 6-6-14

**PA 14-169, An Act Concerning the Grant of Property Interests in Property Held by DOAG and DEEP and the Establishment of a Public Use and Benefit Land Registry** — This act allows DEEP and DOAG to place conservation restrictions on state lands. Further, DEEP may designate DEEP-owned property as "lands of public use and benefit" meaning that it is used for conservation, public enjoyment, or recreational purposes. The act additionally requires the creation of a publicly-accessible GIS identifying such "public use and benefit" lands and showing ownership, level of protection, deeds, easements, surveys, etc. Effective: 6-11-14

**PA 14-217 Sec. 222, Moratorium on Affordable Housing (CGS § 8-30g) Appeals in Milford, etc.** — This act institutes a one year moratorium on the affordable housing appeals procedure in the City of Milford and potentially other communities. Inserted as a rider in the "Implementer Bill". CCAPA joined many other organizations in opposing this legislation. Effective: 6-13-14.

One important bill that did not pass was promoted by CCAPA as a legislative fix to [MacKenzie v. Monroe](#), a recent CT Appellate Court decision indicating that zoning commissions have no statutory authority to enact flexible zoning regula-

tions. While many zoning regulations currently authorize flexible zoning standards, CGS 8-2 specifies that zoning regulations shall be uniform within a district.

**SB 117, An Act Authorizing Municipalities to Modify Zoning Standards**, would have inserted a new subsection (d) in CGS 8-2 outlining that bulk or dimensional standards could be modified with a  $\frac{3}{4}$  vote of the Commission (a process currently authorized under CGS 8-26 for subdivision waivers). There are strong feelings for and against this kind of flexibility in zoning. For more information on SB 117, see the Spring 2014 issue of *CT Planning*. CCAPA will likely pursue further legislation in the future.

(continued on page 26)



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## Gov't Relations Update cont'd

### The following bills tracked by CCAPA did not pass:

**SB 40/SB 94, Two Acts Concerning the Publication of Municipal Legal Notices in Newspapers** — These bills would have allowed municipalities to publish a brief summary of a matter being noticed in a newspaper with a reference to the municipality's website. This cost-saving legislation was opposed by the newspaper lobby.

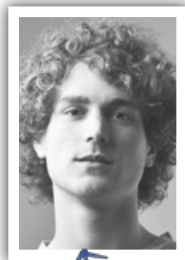
**SB 405, An Act Concerning Public Hearings on Subdivision Applications** — This bill would have prohibited municipal planning commissions from holding a public hearing on a subdivision proposal. CCAPA provided testimony in opposition to this bill.

**HB 5507, An Act Concerning the Appointment of Zoning Enforcement Officials, Building Officials and Fire Marshals** — This bill would have required the chief executive officers of municipalities to appoint zoning enforcement officials

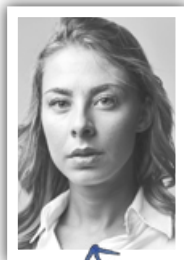
in consultation with the zoning commission and would have changed the statutes regarding appointments and terms for Building Officials and Fire Marshals. While the impetus for this change came from a desire to regionalize municipal services, many feel that CEO's could have conflicts of interest that might inappropriately influence zoning enforcement actions. CCAPA provided testimony in opposition to the changes to Sec. 8-3(c) but supports regional service delivery.

**HB 5511, An Act Granting a Moratorium from the Affordable Housing Land Use Appeals Process upon Completion of an Existing Incentive Housing Development** — This bill would have allowed a municipality that has completed a sixteen unit incentive housing development to enact a two year moratorium on all affordable housing appeals. CCAPA echoed the comments of the CT Partnership for Strong Communities in opposing this bill.

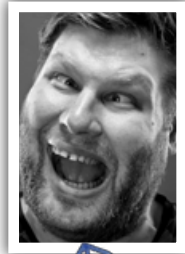
As always, CCAPA members are encouraged to monitor legislative developments by watching for the Government Relations Committee email alerts and updates and by checking the Connecticut General Assembly webpage. Please forward questions, concerns, or comments on legislative matters to [janaroberson@outlook.com](mailto:janaroberson@outlook.com). ■



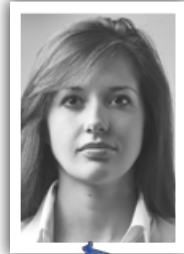
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# From the Bench



by Christopher J. Smith, Esquire, Shipman & Goodwin, LLP

## Mackenzie: Initial Fallout

Everyone is familiar with *Mackenzie v. Planning and Zoning Commission*, 146 Conn. App. 406 (2013), released last fall. In *Mackenzie*, the Appellate Court invalidated a number of broadly written special exception zoning regulations in the Town of Monroe. The Court held that the contested regulations exceeded the scope of authority vested with a municipal zoning commission, and that under our current statutory framework only a zoning board of appeals has the authority to vary zoning regulatory requirements. The decision is the subject of a prior *From the Bench* column.



The reaction from the planning community generally was one of surprise. Many felt that this authority was inherent in Connecticut's zoning enabling legislation, Section 8-2, and provided important flexibility in the zoning process to avoid unfair results attributed to strict regulatory adherence in certain circumstances. Many planners felt that this was the basis for special exception or special permit authority.

This past General Assembly session the Connecticut Chapter of the American Planning Association initiated a legislative fix to address *Mackenzie*. CCAPA reached out to a number of stakeholders in the land use process. However, a consensus was not reached.

A few months ago, a trial court revisited and reversed its prior decision released just before *Mackenzie*. In its pre-*Mackenzie* decision, the

trial court had dismissed claims that certain special permit regulations in Newington improperly delegated "variance" authority to the zoning commission. The case is *Modern Tire Recapping Company, et al. v. Newington Planning and Zoning Commission*. The initial *Modern Tire* decision upholding the subject regulations was released on August 13, 2013 and can be found in 2013 Conn. Super. LEXIS 1736. *Mackenzie* was released by the Appellate Court on October 15, 2013. The *Modern Tire* trial court's modified decision was issued on January 21, 2014. (A copy of these decisions may be obtained by requesting a copy from the author of this column at the email address listed below. Also, for full disclosure, the author's law firm represents the plaintiffs in *Modern Tire*.)

The *Modern Tire* regulations were more restrictive than those involved in *Mackenzie*. Specifically, the Newington regulations provided for a minimum one hundred foot distance between the exit and entrance for an auto-related use and motor vehicle service use, and the same distance requirement between any portion of any use related to motor vehicles and a residential zone. The provisions also provided that the zoning commission may "alter" these requirements "when, in its [the zoning commission's] opinion, the natural, topographical, or manmade utilities of the site clearly indicate that this requirement is inappropriate." The regulations further provided that "[t]he distance may not be increased to more than double nor decreased to less than half the requirement

herein, and any such action shall require a two-thirds vote of the Commission."

When revisiting its prior decision that upheld the validity of these regulations, the *Modern Tire* Court held "that for the first time the *Mackenzie* court made it clear that the flexibility which the legislature conferred on zoning authorities to grant special exceptions under G.S. Section 8-2 does not include the authority to vary the requirements contained in the regulations pursuant to which it acts...[After *Mackenzie*] [i]f the regulation confers the authority to vary, modify, or alter the requirements or accept other uses, it impermissibly assigns to a zoning commission a power which it cannot validly exercise...Thus, the commission overreached when it conferred upon itself authority to approve 'other uses' and 'alter' several separate requirements of the regulations."

With *Mackenzie* and its first progeny *Modern Tire*, the courts have clearly indicated that our zoning enabling legislation prohibits the delegation of "variance" authority in the special exception or special permit process to any municipal board or commission, but the zoning board of appeals.

It remains to be seen whether land use stakeholders decide that a legislature response is necessary.

— For a copy of the *Modern Tire* case discussed in the column, please contact Chris Smith at [cjsmith@goodwin.com](mailto:cjsmith@goodwin.com) or (860) 251-5606. ■