

Analysis of Impediments to Fair Housing and Affirmatively Furthering Fair Housing

A Report to the Bristol Development Authority

I. Introduction

The City of Bristol Development Authority, which houses the Community Development Block Grant (CDBG) program, requested a review and analysis of the City's Plan of Conservation and Development (POCD) and its zoning regulations to identify, and recommend alternatives to, any potential barriers to affordable housing and affirmatively furthering fair housing. The Authority's Request for Proposal requested this review in relation to HUD requirements as well as the State's Analysis of Impediments to Fair Housing.

II. Background

As an entitlement community under the CDBG program, Bristol receives a set amount of CDBG funds annually based on a formula. The CDBG program is focused on addressing the housing and community development needs of low and moderate-income persons or households or areas. The former are defined as earning less than 80% of the area median income. The latter are census tracts or block groups within which a majority of the residents are low or moderate income. CDBG funds can be spent on a broad range of activities so long as those activities address the needs and primarily benefit low and moderate-income persons or areas.

The CDBG program requires grantees to identify barriers to affordable housing (referred to as an analysis of impediments), and recommend actions or strategies to address identified barriers. This report, as requested in the RFP, will focus on Bristol's POCD and zoning regulations. There may be other impediments to affordable housing such as the amount of available Federal or State housing funds, tax credits, rental subsidies, or local development capacity. Other local regulations, such as building, fire or health codes, may also affect affordable housing availability or development. These other potential barriers are not the subject of this report.

III. General Observations

An examination of barriers to affordable housing should start from an understanding of the context of the community's development pattern, history, and current housing. Bristol is a developed community that over the years has experienced successive periods of growth. Significant housing growth occurred during the late 1880's through the 1920's; from the 1940's through the 1960's to the early 1970's; and between 1980 and 2000. Development during each of these periods reflected the styles and types of housing, building technology, transportation and the economy of the time. Generally, development patterns evolved from more compact, dense, mixed-use pedestrian and transit oriented development to more dispersed, single use, less dense, auto-dependent development. This pattern is typical for most urban and small cities in Connecticut and is not unique to Bristol.

One result of this development pattern is that the housing supply in the older, denser mixed-use areas include more multi-family housing, more rental housing, and less costly housing. Where the development pattern dispersed and single-family homes on larger lots came to dominate, housing costs are generally higher. Bristol has a diverse housing stock in terms of price and type, and overall the housing is more "affordable" than in many communities in the market area.

Recognizing that all housing is affordable to someone, the housing that is the focus of this analysis is housing for which those earning less than 80% of the area median income pay no more than 30% of that income for housing costs. A commonly used measure of a community's affordable housing supply is the Affordable Housing Appeals List Inventory compiled by the State of Connecticut Department of Housing. This is used to determine which communities in the State are exempt from the provisions of CGS 8-30g, the Affordable Housing Appeals Act. This act states that if 10% of the housing stock in a municipality is affordable that community is exempt from the provisions of the Act. While often interpreted as a goal, this threshold was set to define which communities would be deemed to have enough affordable housing to be exempt from the Act.

Bristol has always been an exempt community. The most recent (2015) Affordable Housing Appeals list shows Bristol at 14.22% affordable. Of the 3840 units defined as assisted and

affordable, 1913 (49%) are government assisted (i.e. public housing, publicly financed, etc.); 1142 (30%) are CHFA mortgages; and 780 (20%) are rental subsidized units. Nonetheless, this analysis indicates there are opportunities to amend the zoning regulations to eliminate barriers to affordable housing development. Many of these amendments would also support Bristol's POCD development goals around the revitalization, redevelopment, or repositioning of certain areas or corridors.

IV. State Analysis of Impediments to Affordable Housing

Part of the study scope was to compare Bristol's POCD to the State's Analysis of Impediments, which the State must conduct since they are also a recipient of CDBG funds. The State report takes a broad statewide look at how zoning and POCD at the municipal level may affect affordable housing. The following excerpts from the State report describe typical barriers to affordable housing and deficiencies in POCD plans.

Zoning Barriers to Affordable Housing. Impediments to affordable housing can result from a variety of land use regulations and rules, but some of those most frequently cited by zoning scholars are: Restrictions in zoning ordinances on multifamily or affordable housing. If affordable or multifamily housing is either not permitted in a municipality or restricted to a handful of already densely developed zones, developers need to obtain a "Special Permit" in order to build new affordable housing and such permits are often denied.

Large Lot Requirements. Zoning ordinances usually prescribe the size of lots for different zones. The larger the lot, the more expensive the development. When large minimum lot requirements apply to the entire municipality, the result can be that affordable housing becomes financially infeasible.

Low Density Requirements. Ordinances can limit the number of units permitted per acre. If this number is set low in all areas of the municipality, for example no more than one or two units per acre, affordable housing throughout the municipality becomes financially infeasible.

Municipal POCDs must “consider” affordable housing. Even with this low threshold, 14% of the 115 municipal POCDs reviewed for this report did not mention affordable housing at all. An even greater number of POCDs mention the need for affordable housing and the need to address it, but outlined no clear meaningful strategy for doing so.”

V. *POCD*

Connecticut Statutes require municipal planning commissions to complete and adopt a POCD every 10 years. The POCD is intended to be a policy and planning document to guide the growth, development and conservation of a community. Among the specific requirements of the statutes is that the POCD shall “promote housing choice and economic diversity in housing, including housing for both low and moderate-income households, and encourage the development of housing which will meet the housing needs identified in the state's consolidated plan for housing and community development...”

The current Bristol POD was adopted in 2015. It briefly notes on page 84 that the 2010 median sale price of a single-family home was \$192,000 compared to the statewide median of \$246,000, and that in 2014, 13.5% of Bristol’s housing stock was designated “affordable” on the statewide housing appeals list. An explicit mention of affordable housing appears in Section 10.3.3, Housing Policies, stating that Bristol should “Strive to encourage the provision of affordable housing for the elderly who need it, and affordable housing for families and individuals who need it.”

While there were no specific recommendations in the POCD on how to encourage affordable units, there are several recommendations to encourage a mix of housing in appropriate locations to meet the “needs of current and future residents” (See Section 10.3.3 – 1, 2, and 3). These are identified as young adults (age 25-35); families with children (35-55); mature adults (55-70); senior citizens (70 and over). The POCD also suggest providing multi-family housing in downtown Bristol, along major transportation corridors such as Rte. 72 and Rte. 6, and Forestville.

One recommended policy in the plan that would seem to reduce the supply of affordable housing is at 10.3.1 #3 which calls for encouraging the conversion of existing 2 or 3 unit buildings to single-family homes if feasible.

Although not explicit in the plan, the POCD encourages maintaining neighborhood stability, in part by discouraging multi-family development in established single-family neighborhoods. The POCD recognizes that multi-family and mixed-use development may be appropriate as a transitional land use between established single-family neighborhoods and commercial development or otherwise along higher volume commercial or mixed-use corridors, or when multi-family development preserves historic buildings. Bristol can combine the desire to encourage affordable housing to meet the needs for affordable housing and the goal of providing housing for identified target populations in areas targeted to create economic opportunity and promote redevelopment and revitalization.

The POCD suggests there are some developed neighborhoods with some land available for development in which the current zoning regulations require larger lot sizes, lot areas or yard requirements different than the existing development pattern. Changing zoning to allow in-fill development in these areas at current, existing development standards as opposed to more recent zoning regulation standards may be appropriate.

The POCD recommended a special study of the Rte. 6 corridor to investigate current land uses there and recommend ways to promote compatible redevelopment. This study was conducted by the firm Fitzgerald and Halliday, and recently the final plan recommendations were made available for review and comment. While the Rte. 6 Corridor Study does not specifically address affordable housing, it does make several recommendations regarding zoning regulation amendments around accessory apartments, transition zones, and approval processes that could encourage affordable housing. These recommendations may also be applicable to other corridors such as Rte. 72, Forestville, and perhaps other appropriate locations.

VI. Zoning Regulations

The following section reviews the zoning regulations as they relate to the ability to create affordable housing. This review takes into account the relevant sections of the POCD, the

context of Bristol's current housing supply, and the relevant recommendations from the Rte. 6 Corridor Study.

In general, there are three ways zoning regulations affect development and land use:

- Designating geographic areas on a zoning map showing the land to which zoning each district applies;
- Establishing the processes and procedures governing how approvals for development can be obtained.
- Establishing zoning district regulations that identify the types of uses permitted in specific zones including development standards for those uses.

Designating geographic areas on a zoning map showing the land to which zoning each district applies

A community's zoning regulations may allow for small lot or multi-family development in certain zoning districts. The critical issue is whether there is undeveloped or underdeveloped available land in zones where it is economically feasible to develop housing. If there is no such land, or if the costs of assembly or acquisition are prohibitive, little such development can occur.

With the major exception of the BD zone, it does not appear there is very much undeveloped land in the RM or A-MF zones, or most of the business zones, where multi-family or small lot single family development is permitted. Bristol could look for opportunities where land is available for small lot or multi-family development and consider rezoning that land. Another strategy is to revise the regulations to allow in-fill or redevelopment in existing locations that could support this type of development.

Establishing the processes and procedures governing how approvals for development can be obtained.

Zoning regulations prescribe the process for how land uses are granted development approval. Uses permitted as-of-right are approved administratively by the zoning enforcement officer who verifies the proposal meets the specific requirements of the regulations for that use. This is the

easiest and least risky process from an applicant's perspective and results in a relatively quick decision.

Another avenue is site plan approval. Here, the applicant must submit plans, usually for the site development and the building, to the Zoning Commission (Commission) for an administrative approval. Like an as-of-right use, the site plan must be approved if it meets the specific requirements of the regulations. It is an administrative action and does not require a public hearing process. While this may be a more expensive and lengthy process for an applicant it is still low risk because the requirements are clear and predictable.

A third path involves the special permit process. Here, in addition to the specific development standards, the use must also meet special exception criteria contained in the regulations. The special permit criteria are often broadly worded, allowing the Commission some discretionary judgement as to whether the proposed development is appropriate for the specific location. A public hearing is also required and the Commission takes testimony from interested parties. The Commission must make certain findings against the special permit criteria in order to grant an approval. In some cases, the application must also be sent to the Planning Commission for a binding recommendation.

The special permit process is usually the costliest due to the application more extensive submittal requirements; and need for various experts (e.g. engineers, attorneys, architects, planners etc.); and the time from application to approval which by Statute is greater than an administrative action. It is also the riskiest path since an applicant can't be certain of approval until the PZC makes its findings. The combination of increased cost, more time and greater risk is often a deterrent to development since developers given a choice, would opt for communities where the process is less costly and risky.

If a community wants to encourage certain types of development it is in the community's interest, and the applicant's, to have a timely, reliable, and predictable process. To the extent that special permit uses are limited, development and investment interest will likely increase. The PZC must be comfortable that its design and development standards are adequate to ensure the desired development will occur. If the development standards are sound, then the need for a special permit can be reduced and perhaps limited to very large projects, or institutional, unique, or unusual uses.

Establishing zoning district regulations that identify the types of uses permitted in specific zones including development standards for those uses.

The following sections of the Bristol Zoning Regulations are those that may create impediments to affordable housing.

Single Family Residential Zones

- Section 7 of this section allows the conversion of buildings listed in the City’s Historic Resources Inventory to be converted to professional offices or additional residential units subject to special permit and site plan approval. There are specific provisions governing such conversions in addition to the special permit criteria. While such conversions may allow smaller units in existing buildings, the special permit requirement may discourage applicants and developers.
- Section 9 allows the adaptive reuse of existing non-residential buildings to residential use. Similar to the comments above, a special permit and site plan approval is required.
- Section 11 allows accessory dwelling units, again subject to special permit approval and site plan approval. While this appears to allow in-fill and smaller units in existing neighborhoods, the regulations restrict the occupancy of such units to “children, parents, grandparents, aunts, uncles, or brothers or sisters of the owner”. The combination of the special permit process and occupancy restrictions likely limits the usefulness of this provision for accessory dwellings.

- RM – Mixed Residential Zone

This is an “overlay” zone: a set of regulations that apply and are in addition to the requirements of the underlying zone. In Bristol’s zoning, the RM overlay applies to certain R-10 and R-15 zones. The regulations do not allow land to be zoned RM unless the parcels are adjacent to the existing RM zone.

Section 3 of the RM zone allows, as a special permit use, new construction of 3-unit buildings and the conversion or enlargement of existing 1 or 2 unit buildings to 3 units.

These provisions could allow infill development in established neighborhoods and the densities associated with the standards should support the creation of affordable units.

A- Multi Family Residential Zone

Section 2 allows any combination of 1, 2, or 3 family and multi-family housing developments up to a density of 8 dwelling units (du) an acre with site plan approval. This density, depending on the housing type, may provide opportunities for affordable housing.

Section 3a allows similar mixed housing type development up to 12 units an acre, but only as a special permit approval. Eliminating the special permit approval process for multi-family developments up to 12 units an acre may encourage multi-family development, and the increase of 4 du/acre does not seem to warrant a special permit if all other requirements are met.

Section 3d allows the commission to permit an increase in du density or decrease parking requirements for “overriding economic or social reasons.” This provision only applies to developments “owned, operated or sponsored by a government agency or non-profit corporation.” While not explicit, it can be inferred that such entities are providing affordable housing primarily to low and moderate-income persons. Such broad discretion may be beneficial but may also be deemed a vague criterion. Also, limiting this to government or non-profit entities eliminates the possibility of private for-profit entities from building affordable or mixed income housing with public financial assistance (unless public financial assistance is deemed to constitute government sponsorship).

Section 5 permits small lot (6000 sq. ft. lot area) subdivisions at a maximum density of 6 du/acre. If there is undeveloped A-MF land, these requirements should support the development of affordable single family detached housing. These subdivisions require a special permit approval and separate subdivision approval. The PZC should examine whether there is land available for such developments; whether these subdivisions should be permitted as of right; and perhaps create a small lot subdivision zone (R-6?) and zone land for this purpose.

Section 7 requires all A-MF developments to be on a minimum 2-acre site for developments up to 8 du/acre. These minimum lots sizes may, depending on land availability, preclude multi-family development.

BD – Downtown Business Zone

This zone allows “dwelling units” including live-work units as a matter of right with certain first floor occupancy limitations, since the desire is to build mixed use buildings here. Such uses must comply with the building form and parking standards of the BD zone. These standards are quite detailed and also provide for some flexibility in their application. There is no unit density limit.

Unified Downtown Development (UDD) projects are allowed as a special permit use. UDDs must also comply with the building form and parking standards. Such projects must be on a minimum 12-acre site. Again, there are no explicit dwelling unit density limits.

BT – Downtown Transition Zone

The DT Zone is intended to provide transitional development between the BD zone and the adjacent residential neighborhoods. The BT zone allows unified *residential* development (URD as opposed to UDD) and mixed-use developments (MUD) containing dwelling units and at least one non-residential use. Both URD and MUD projects are subject to special permit approval.

The maximum permitted residential density is 22 du/acre. However, if the project meets the required level 1, level 2, or level 3 development standards in the regulations, the density may increase to 32 du, 36 du, or 40 du/acre respectively. The levels are specific dimensional and area requirements in addition to the building form and parking standards. These densities should support affordable housing development.

BHC – Rt. 72 Corridor Business Zone

The BHC zone allows MUD projects; adaptive reuse of existing non-residential buildings; and the conversion of 1, 2, or 3 family buildings to provide additional units.

All of these uses require special permit approval, although they may provide opportunities for affordable housing development.

VII. Potential Barriers and Opportunities for Removal

Based on the review of the Bristol POCD and zoning regulations, and recognizing the context of Bristol’s development pattern, the following are opportunities to eliminate or reduce the potential barriers and encourage housing at densities that would support the creation of affordable housing.

1. As recommended in the Bristol POCD (see page 88 #6), examine zoning districts that require larger lot or area or other dimensional requirements than the existing development existing development pattern exhibits, and revise the regulations to allow new development or in-fill to match the existing development pattern and uses.
2. In the Single Family Residential Zone at Section 7, consider allowing the conversion of buildings listed in the City’s Historic Resources Inventory to be converted to residential use as a permitted or site plan instead of a special permit process, given that there are specific provisions governing the conversion of units.
3. In the Single Family Residential Zone at Section 9, consider allowing the conversion of non-residential uses to residential uses as a permitted or site plan instead of a special permit process, given that there are specific provisions governing the conversion of units.
4. In the A – MF zone consider extending the ability of the PZC to allow increases in density or reductions in parking to private as well as governmental or non-profit sponsors of multi-family housing.
5. Consider amending the regulations governing accessory dwellings to permit persons not related to the owner occupant to reside in these units. (See also the recommendations in the Rte. 6 Corridor Study. A model accessory dwelling regulation is available on the CRCOG website as part of its sustainable zoning project.)
6. Eliminate the requirement that the RM zone can only be established if it is an extension of the existing RM zone. This overlay zone may be applicable to other

areas not currently adjacent to an existing RM zone such as portions of the Rte. 6 and Rte. 72 corridors and certain business areas.

7. In the RM zone, allow new construction of three family dwellings as permitted as-of-right uses instead of special permit uses since the standards are clear and presumably the overlay zone was placed in neighborhoods that could support these compatible housing types.
8. In the A-MF zone, allow small lot subdivisions as-of-right instead of special permit uses. The development standards for small lot subdivisions are specific and a subdivision plan approval is required. The lot sizes for these subdivisions are amenable to affordable housing development. The PZC should examine whether there is land available for such developments, and perhaps create a small lot subdivision zone (R-6?) and zone land for this purpose.
9. Consider reducing the minimum lot sizes for A-MF zone developments. The current minimum 2 acres for up to 8 du and 4 acres for greater than 8 du may be too limiting given the land supply in the A zone. Smaller minimum lot sizes, and perhaps only a single minimum for any multi-family development, would make more sites potentially viable for development. Instead of a large minimum lot size the ZPC could consider building form and other design standards to ensure compatible and appropriate development.
10. The BD zone allows UDD projects in the BD-1 area. In this area, the PZC has flexibility in terms of building form standards. There is no density limit. Since the UDD must meet all other standards of the zone consider allowing UDD throughout the zone (i.e. both BD-1 and BD-2), and consider reducing or eliminating the 12-acre parcel size minimum. Rely instead on the detailed development standards of the BD zone to ensure development compatible with its surroundings.
11. In the BT zone consider the following:
 - a. Allowing 1 or 2 family conversions to 3 family as a matter of right or by site plan approval rather than special permit.
 - b. Consider combining the BD-1, BD-2, and BT zones into a single zone, allowing unified residential and mixed-use developments and combining

the development standards of both zones. Also, consider distinguishing between major and minor developments and allowing more as-of right or site plan approvals as opposed to special permit approvals. (A similar recommendation regarding major and minor projects was recommended in the Rte. 6 Corridor Study.)

12. As recommended in the Rte. 6 study, create a mixed-use transition zone that permits multi-family housing in appropriate areas along the corridor. This transition zone may be applicable to other areas as well, such as Forestville or portions of RT 72. If the PZC decides to pursue this recommendation, it may want to look at other existing regulations including the RM or BT zone for transferrable standards and uses.
13. To the extent possible, work to move away from special permit uses either by developing new or improved development standards or distinguishing between major and minor projects, using some appropriate threshold such as total square feet of development, total number of units, etc.
Also consider distinguishing between minor and major projects as suggested in the Rte. 6 Corridor Study. The minor to major thresholds may be based on a total number of units, anticipated traffic generation, or total gross square feet of development among others. The intent is to allow more as-of-right or site plan approvals to encourage development and investment.
14. Most of the above recommendations are predicated on the assumption that allowing a variety of housing types and increasing the number of units allowed per acre are essential to create a favorable environment for affordable housing development. Greater housing density should translate into more economies of scale, lower per-unit development costs, and thus lower housing costs. However, this may not be the case. The private sector may take advantage of the increased densities but, if housing market conditions allow, price the resulting units at market price that precludes low and moderate-income households from securing affordable units. To address this issue there are two other options:

Analysis of Impediments to Fair Housing and Affirmatively Furthering Fair Housing

- a. Consider adopting inclusionary zoning provisions, especially in the BD, BT and for multifamily dwellings, unified residential development, and mixed-use development projects. Inclusionary zoning would require a certain percentage of units (10% or 20% for instance) to be priced so that persons earning less than 80% of the area median income would pay less than 30% of their income for housing costs.
- b. Consider participating in the State Incentive Housing Zone program administered through the State Office of Policy and Management. Bristol could seek technical assistance to identify properties or areas that could support mixed income housing projects with 20% of the units being affordable based on the Home CT model, and draft zoning regulations to comply with the incentive housing zone program and Bristol's POCD goals.

Prepared by Mark Pellegrini AICP

Delivered August 2017