

Senate Commerce Committee

Aaron Jones 271-2609

SB 90, allowing high-density residential development on land zoned for commercial use.

Hearing Date: March 4, 2025

Time Opened: 10:00 a.m.

Time Closed: 10:20 a.m.

Members of the Committee Present: Senators Innis, Ricciardi, Murphy, McGough, Fenton and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill authorizes high-density residential development on commercially zoned land.

Sponsors:

Sen. Murphy
Rep. Osborne

Sen. Innis

Sen. McGough

Who supports the bill: Senator Keith Murphy, Senator Tim McGough, Natch Greyes (BIA), Jack Ruderman (NH Housing), Matt Mayberry (NH Home Builders), Alex Koutroubas (AGC-NH), Tom DeRosa (Housing Action NH), Dawn McKinney (NH Legal Assistance), Hilary Hamer, Krista Chamberlain, Leonard Campbell, Jillian Dubois, Brandon Dubois, Jordan King, Linda Burnap, Amy Erickson, Haley Demers, Kent Hackmann, Mary Grace Allen, Alicia Manion, Curtis Howland, Sandra Allen, Caitlin Edwards-Appell, James Gardner, Timothy Finney, Taylor Barry, Rose LaRochelle-Colby, Oliver Matte, Hannah Willcutt, Bill Alleman, Laura Sokoloski

Who opposes the bill: Brodie Deshaies (NHMA), Paul Deschaine (Town of Newington), Roy Schweiker, Janice Mathews, Daniel Richardson, Francesca Heap, Alan Conklin, Karen Santoro, Bruce Woodruff, Roger Murray, James Henderson, Rosina Lis, Timothy Lis, Larry Major Jr. (Pike Industries, Inc.), Megan Haffner

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Keith Murphy

- Historic town centers allow individuals to work and live close together. Senator Murphy said this would be healthier for individuals, it would lower housing costs, and it would be better for the environment.

- As zoning developed, there became a strict separation of uses resulting in long commutes and sprawl.
- Since most malls are not doing well, Senator Murphy asked why they could not be used for housing. It would drive customers back to the stores on the lower levels, while also encouraging adaptive reuse.
- High-density residential use would be permitted in areas with commercially zoned land or mixed-use development. At the request of the New Hampshire Home Builders Association, Amendment 25-0610s would clarify that commercially zoned land means traditional commercial uses, such as retail, office, medical offices, and technology parks, not factory zones.
- **Senator Ricciardi** said this bill would reverse a warrant article that had been placed on the ballot in Bedford in 2019.
 - **Senator Murphy** said he did not believe this bill would contradict the warrant article because it was limited to the zone along the Route 3 corridor, which is largely commercial. This bill would encourage more high-density residential development in commercial zones, but it would not force commercial development in high-density residential zones.
- **Senator Ricciardi** said the Committee received an email from the Derry Planning Board, which stated, “Derry currently allows up to 40 units per acre on certain lots in our downtown, with the zoning ordinance structured to ensure that local infrastructure can accommodate the increased traffic, waste generation, and overall activity. Also, our land use boards have been very consistent with allowing multi-use development, with no residential units on the first floor. Local communities and the State cannot inadvertently create a future crisis by replacing all commercially zoned areas with residential units.”
 - **Senator Murphy** said if it was already allowed and encouraged, he did not see the problem.

Matt Mayberry, CEO, New Hampshire Home Builders Association

- The Association helped to narrow the scope of the bill because they did not want to see a big box distributor next to a 20-unit subdivision next to a truck stop.
- Mr. Mayberry imagined biotech companies might expand in the state, and workers could walk or bike to work or lunch.
- Mr. Mayberry said they were excited about this concept, and they would continue to work with the Committee to help solve the housing crisis.

Alex Koutroubas, representing Associated General Contractors of New Hampshire

- Initially, Mr. Koutroubas said they were concerned about heavy use manufacturing near residential units because it could have unintended consequences; however, the amendment alleviated their concerns.

Tom DeRosa, Deputy Director, Housing Action New Hampshire

- This bill would allow housing development in infrastructures that already exist, which would help to bring down costs.
- Mr. DeRosa loved the idea of homes being near jobs where individuals could walk or carpool.
- This bill would expand property rights, reduce regulations, and allow property owners to develop as they see fit.
- Similar legislation has been successful in Arizona, Florida, Montana, Hawaii, and other municipalities.

Summary of testimony presented in opposition:

Brodie Deshaies, New Hampshire Municipal Association

- This bill would allow 20 units per acre in areas that permit commercial uses.
- This bill would lead to disagreements over definitions because municipalities have variations among their zoning districts. Most municipalities do not designate zones as strictly commercial or residential.
- The definition of commercially zoned land would create ambiguity.
 - If a town allowed home offices, but they did not allow standalone offices in a particular district, Mr. Deshaies asked if it would qualify as commercially zoned land.
 - He also asked if it was commercially zoned land if certain services were allowed, such as a barbershop or a beauty salon, but it did not allow others like pet boarding.
- Mr. Deshaies said this bill would mandate 20 units per acre in most agricultural districts.
- Mr. Deshaies said there is disagreement over what would constitute adequate infrastructure, and who would decide when it has been satisfied. As a result of potential confusion, there could be litigation between towns and developers.
- Lines 12 through 14 would create an unfunded mandate by requiring adequate infrastructure, including roads, water and sewer, that are necessary to support high-density.
- Given the numerous technical issues, and that most zoning districts would be mandated to allow 20 units per acre, Mr. Deshaies emphasized that they were opposed to this bill.

Paul Deschaine, Project Manager, Town of Newington

- Mr. Deschaine opposed this bill because it would create issues with local control.
- Newington has had a long history of ensuring business and commercial areas are east of the Spaulding Turnpike and residential areas are in the west.
- Mr. Deschaine said a one-size-fits-all solution would not be an appropriate way of addressing ongoing issues.

- In Newington, the mall and the surrounding strip generate noise, odors, congestion, and lighting that are incompatible with residential use.
- Mr. Deschaine said their tax base was solid, and it would be shortsighted to mix with it.
- Similar legislation, HB 631, has been introduced. It focused on urban areas based on the Census Bureau. Historically, larger communities have the infrastructure and the ability to deal with mixed-use development.
- **Senator Murphy** asked if it was their policy to have everyone drive to work or to shop.
 - **Mr. Deschaine** said there is a lot of infrastructure and sidewalks due to the upgrades made to the Route 16 area. They also have a scattering of non-conforming residential uses in that area. Most of the retail designed for this area accommodates mall and employee traffic off of the Spaulding Turnpike. This strategy has worked for Newington, and he emphasized one size does not fit all.
- **Senator Ricciardi** asked if he was concerned with mandates because everyone's situation is different.
 - **Mr. Deschaine** said they receive their water services from the City of Portsmouth. While their sewer services support commercial activity, he was not sure what capacity would be needed to support additional residential uses. Primarily, they are concerned with the impact on fire and police services. Despite being a small town with a population of 800, they have a full-time police and fire department along with other full municipal services. He was unsure if added residential uses would upset the apple cart.
- **Senator Ricciardi** asked if the Town of Newington could do a master plan to decide what would best suit them.
 - **Mr. Deschaine** replied correct.

Neutral Information Presented: None