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The Planning and Law Division's Case Law Digest presents summaries of recent federal and state court decisions addressing issues at the intersection of planning and law, with takeaway lessons to assist planners and land use attorneys in their practice.

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Connecticut Supreme Court Finds Zoning Enabling Act Permits Planned Development Districts

Tillman v. Planning and Zoning Commission of the City of Shelton, 341, Conn. 117 (2021)

By: [Evan Seeman, Robinson & Cole LLP](#)

In [*Tillman v. Planning and Zoning Commission of the City of Shelton*, 341 Conn. 117 \(2021\)](#), the Connecticut Supreme Court held that planned development districts were authorized by Section 8-2 of the Connecticut General Statutes, the State's Zoning Enabling Act. In 2016, Shelter Ridge Associates, LLC applied to the Planning and Zoning Commission of the City of Shelton (Commission) to create a planned development district (PDD) on a 121-acre parcel, which largely existed in an industrial park zone. The City of Shelton Zoning Regulations authorized the creation of PDDs to "encourage 'unique and desirable' developments that cannot be accommodated by conventional zoning." Under the zoning regulations, PDDs were specifically mapped on the city's official zoning map, incorporated certain uses appropriate to a mixed-use development, and included unique bulk and dimensional standards. If a PDD was approved, the Commission then amended the zoning regulations by adopting a statement of uses and standards that authorized those uses, building structures, and site development for the PDD, in accordance with an initial development concept plan. The Commission also amended its official zoning map to show the creation of the new PDD zone. Here, Shelter Ridge sought to develop the 121 acres into five separate development areas, consisting of a mixture of retail, offices, food services, medical and professional offices, a multistory residential structure, and open space. The Commission approved Shelter Ridge's application to create a PDD, and adjacent property owners appealed, arguing: (a) Section 8-2 does not authorize the creation of PDDs; (b) PDDs violate the uniformity requirement in Section 8-2; and (c) the Commission's decision resulted in an illegal subdivision under Section 8-18 of the General Statutes. The Connecticut Supreme Court rejected each of these arguments. First, the court found that Section 8-2 authorized the creation of PDDs, since it expressly allowed Commissions to both create and alter zones, even though it did not specifically reference PDDs. In so finding, the court cautioned that an excessive use of PDDs could heighten the risk of spot zoning and favoritism in the land use process, particularly for smaller parcels of land that are rezoned to PDDs. Next, the court rejected the argument that PDDs violate the so-called uniformity requirement under Section 8-2, which provides: "All . . . regulations shall be uniform for each class or kind of buildings, structures or use of land throughout each district, but the regulations in one district may differ from those in another district." The court noted that the purpose of this requirement was to protect property owners from improper discrimination; that is, to ensure "all owners of the same class and in the same district [are] being treated alike." The court found that the uniformity requirement applies only to properties within the same zone, not to different zones. It rejected the property owners' argument, which centered not on inconsistencies within the PDD zone but instead on inconsistencies with adjacent areas outside of the PDD. Moreover, the court rejected an argument that the uniformity requirement disallowed mixed-use zoning districts. Finally, the court disagreed with the argument that the creation of the PDD created an illegal subdivision. The property owners contended that a PDD with different "development areas" resulted in an unlawful subdivision. The court was not persuaded, given that the boundaries of the underlying 121-acre parcel had not changed and the Commission's approval was conditioned on any future division of the parcel requiring separate approval.

Practice Significance:

In Connecticut, planning and zoning commissions may properly employ planned development districts as flexible zoning techniques in accordance with state zoning authority.

Submit a Case

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Editor

Meg Byerly Williams, Skeo Solutions, Inc.

Research & Writing Assistant

Lauren Ashley Week, 2023 JD and MURP Candidate, University of Michigan Law School and Taubman College of Architecture and Urban Planning

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