EX#45

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Land Use Department

Wrap-Up
7.10.25

Distribute **Exhibit #40-2 (Suggested Revision to Change #22)**

Before I begin, I have to correct a mistake I made on June 26 regarding the extension of time I granted to continue this hearing.

The hearing was opened on June 12 and was required to be closed within 35 days, which would be on or before July 16. As a result, the extension was unnecessary, and I apologize for the mistake.

Before I conclude, I would like to address two comments made by a member of the public on June 26. The first concerns notice requirements. He suggested that my application may not comply with the notice requirements in §11.6 of the zoning regulations. §11.6 is titled "Procedural Requirements." He specifically referenced § § 11.6.8, titled "Notification to Abutting Municipalities," and 11.6.9, titled "Notification to Water Companies."

§11.6.8 only applies to a proposed project within 500' of the boundary of an adjoining municipality, or to a proposal that will create traffic or drainage that will impact an adjacent community. §11.6.9 only applies to a proposed project that is within an aquifer protection area. §11.6.8 and §11.6.9 do not apply to proposed changes to the zoning regulations unless they change one or more of the uses that are permitted in a particular zone and the zone is within 500' of the adjoining municipality.

I am not proposing any use changes to any zoning district.

He also referenced §11.6.11, which states that the Southeastern Connecticut Council of Governments is required to be notified of changes to the zoning regulations. This requirement is imposed on the Commission, not the applicant. Exhibit 8 confirms that the Council of Governments received the required notice. As such, the record is clear that my application fully complies with both the statutory notice requirements and the notice requirements specified in §11.6 of our zoning regulations.

He also stated that change 22 does nothing and was an attempt to put lipstick on a pig. He did not provide any statutory, case law, policy, or other reason in support of his opinion. Change #22 addresses the issues identified by Attorney Avena and Attorney Smith in **Exhibits 13 and 20-2**. It is fair, necessary, and consistent with the land use statutes. Please note that the suggested revision to Change 22 in the handout is not an amendment to my application. It is only a suggested variation to change 22 for you to discuss during your deliberations.

I initially did not consider the possibility that applicants *might prefer* their applications to be subject to the current zoning regulations rather than to the regulations that were in effect when they submitted their applications to the wetlands commission.

To accommodate this possibility, the handout suggests that you discuss revising change #22 to allow a Wetlands-approved application, ***at the discretion of the applicant, to be subject to either*** the zoning regulations in effect when the application was submitted to the Wetlands Commission or to the zoning regulations in effect at the time the application is submitted to the Planning and Zoning Commission.

I must also respond to several of the assertions in the letter I received from Attorney Smith at noon today. The bottom of the first paragraph states that I filed an untimely amendment to my original application. He is presumably referring to Exhibit #40-2, which is the handout. If you look at the handout, its blue title, centered in the middle of the page, states, *"Suggested Alternative Change #22 For Consideration."* It is not an amendment to the application, but is only a suggestion for you to discuss, at your discretion, during your deliberations.

The last sentence of Attorney Smith's second paragraph suggests that you should consider how approval of my application would discourage market-rate multifamily housing developments.

As I have shown, reducing the height from 65' to 35' will have little or no effect on the development of multifamily housing developments. The zoning regulations in effect from 1963 to 2024 had height limits that were essentially identical to the 35-foot height limit in my application, which did not prevent the development of large multifamily developments, as shown in Exhibit 7. The proposed height limit will result in multifamily developments that are more consistent with the rural low-density residential character of our town and the protection of the quality of life goals in the POCD.

In the top paragraph on page 2, Attorney Smith stated that I said on June 26 that the height reduction does not need to be that draconian. I never made that statement. What I said is that the application is not a take-it-or-leave-it application, and you can make reasonable adjustments to any of its 22 amendments because each was discussed during the hearing. There is a difference. The key phrase is reasonable adjustments. You can even reduce the proposed height limit, within reason, if you wish

Attorney Smith also said that Chairman Wood asked if a 60' height limitation would be acceptable? According to the Zoom recording, that is not true. Chairman Wood asked if a 60-foot building would be a tall building, and I answered that it would be less tall.

~~The second paragraph on page 2 states that Law Student Associate Contreras noted that the Gales Ferry Fire Department has a 107-foot ladder truck. However, according to the recording, it is a 75' ladder truck.~~

The last sentence in the paragraph is the most important. It states that, quote, *"developers and property owners of real property in the commercial districts that currently allow multifamily housing by right would instead likely file applications under CGS §8-30g to avoid the more restrictive measures he is seeking to impose solely upon market rate multifamily residential developments."* (unquote)

Presumably, Attorney Smith is referring to the height, footprint size, and special permit requirements proposed in the application as the more restrictive measures compared to the current regulations.

CGS §8-30g has been in existence since July 1990. It has been used to construct a multifamily development on a non-conforming lot in a residential district, but there are no examples in Ledyard of 8-30g being used to avoid the multifamily height, footprint size, or special permit requirements that have been in our regulations between 1990 and when they were removed in January 2024. As such, there is no evidence, at least not in Ledyard, that supports Attorney Smith's assertion that, if this application is approved, developers will be more likely to use 8-30g for multifamily developments.

Please remember that, except for Attorney Smith, ***no member of the public spoke in favor*** of retaining the existing multifamily and mixed-use regulations. Also, remember that you can make reasonable adjustments to the proposed changes if they are within the scope of the revised application and were discussed during the hearing. However, the prohibition on multifamily developments in R60 districts, although discussed, is outside the scope of this application.

It is unlikely that you will receive new information if this hearing is continued. The record is sufficient for you to make informed decisions regarding whether the 22 proposed changes have merit and should be adopted. I recommend that the hearing be closed this evening.

If the hearing is closed, seated Commissioners will have 65 days, beginning this evening, to deliberate and vote on the proposed changes. It should be enough time for Attorney Avena to prepare a legal opinion regarding change 22. It should also provide sufficient time for Ms. Burdick, based on the information in the record, to prepare her staff report. I will grant an extension if more time is needed.

The revised application, **Exhibit #27-2**, can be used as a checklist to assist in your deliberations. Remember to address the inconsistencies in the zoning regulations highlighted in yellow in **Exhibits #24** and #37.

Also, remember that the POCD, although not controlling, must be considered when adopting changes to the zoning regulations. Specifically, under CGS §8-3a(a), you are required to state on the record your findings on the consistency of the proposed changes with the POCD, even though there is no requirement that the changes must be consistent with the POCD. The provisions in the POCD that should be considered are those in **Exhibit 4**.

Hopefully, everyone by now has visited the Triton Square Apartments. In essence, this application is a land-use policy question, which is whether our zoning regulations should impose constraints to prevent four, five, and six-story apartment complexes and mixed-use developments in our town. I urge you to adopt the proposed regulations to help protect the rural residential character of our town, preserve its property values, and maintain our quality of life for current and future residents.

Thank you.