Robinson+Cole

MEMORANDUM

To: Chairman Tony Capon and Members of the Ledyard Planning and Zoning Commission and Elizabeth Burdick, Director of Land Use & Planning

From: Brian R. Smith, Esq., Robinson & Cole, LLP

Date: September 11, 2024

Subject: Text Amendment Application PZ #24-7ZRA

The Ledyard Planning and Zoning Commission (the "Commission") is currently reviewing a text amendment application, Application PZ #24-7ZRA, submitted by Eric Treaster, which proposes changes to the Ledyard Zoning Regulations (the "Zoning Regulations") that: i) would modify the mass, height, and population density of multifamily developments; ii) would prohibit mining and quarrying and impose constraints on large-scale excavation; and iii) require a public hearing for 8-30g affordable housing applications. The Commission has continued the public hearing for this application to its September 12, 2024 meeting.

This firm represents C.R. Klewin LLC, owner of 19, 29 and 39 Military Highway in the Ledyard Gales Ferry Development District (GFDD), which currently has an application under review by the Ledyard Inland Wetlands and Watercourses Commission (IWWC #24-9) related to the construction of a multifamily residential housing development on such properties. The purpose of this memorandum is to outline the ways in which the changes to multifamily development standards proposed by Application PZ #24-7ZRA are inconsistent with Ledyard's 2020 Plan of Conservation and Development (the "POCD") and the Ledyard Affordable Housing Plan 2023-2028 (the "Affordable Housing Plan"). Passage of these amendments would remove the thoughtful flexibility currently built into the Ledyard Zoning Regulations and force developers to consider other statutory alternatives to regain needed flexibility in designing much needed multi-family residential developments. Furthermore, the proposed amendments are, in contravention of C.G.S. Section 8-3a, inconsistent with the 2020 POCD.

For these reasons, which are more fully discussed in detail below, we respectfully request that the Commission deny Application PZ #24-7ZRA.

I. POCD

The POCD states that "viable communities are diverse in terms of age, income, family status, and ***should contain a reasonable mix of housing types to satisfy the needs of a diverse***

population." (POCD, page 13, emphasis added). The POCD also contains several goals to address housing needs in Ledyard on pages 16 and 17, including the following:

- "To encourage a diversity of housing types and ensure an adequate supply of housing at affordable cost."
- "Adopt regulations to allow by-right development of multi-family and infill housing."

Application PZ #24-7ZRA proposes the adoption of regulations which do the exact opposite of these housing goals. Currently, Section 6.4 of the Zoning Regulations allows multifamily residential development with site plan approval by the Commission in the LCDD, MFDD, GFDD and RCDD non-residential zoning districts. Site plan approval is an administrative review and approval of the Commission that ensures a proposed development meets the applicable standards and requirements of the Zoning Regulations. In contrast, Application #24-7ZRA would require special permit approval by the Commission for all multifamily residential development in the LCDD, MFDD, GFDD and RCDD zoning districts. Special permits are a discretionary review by the Commission that requires a public hearing, thereby making the development of multifamily residential uses in districts which are specifically intended for higher-density development. The stated purposes of such districts are found in Section 6.1 of the Zoning Regulations and included below for reference (emphasis added).

> Ledyard Center Development District (LCDD)
> To support and encourage the development of a New England Village Center, identifiable as the center of the community, through the concentration of commercial businesses along a main street. Future development implies an ***intensification and mixture of appropriately scaled commercial, residential, and civic uses*** consistent with these Zoning Regulations, harmonious streetscapes, walkways, and plantings to create a "sense of place" and further develop the LCDD as a destination for shopping, services and social gatherings.
>
> Multi-Family Development District (MFDD)
> To encourage development of attractive multifamily developments in a pedestrian-friendly village environment. ***This District is for high-density residential development.***
>
> Gales Ferry Development District (GFDD)
> To encourage pedestrian-friendly commercial development of unified design and scale to ***create a higher density in Gales Ferry Village***. These regulations are intended to attract and encourage family activities.
>
> Resort Commercial Cluster District (RCCD)
> To encourage development of commercial recreational uses and commercial tourism-oriented uses while maintaining the character of the surrounding area.

On page 10, the POCD states that "regulations must carefully protect the character of Ledyard while providing for the flexibility needed to continue to attract new residents and businesses." Zoning Regulations Section 8.28.B states that the "density for an Apartment/Condominium complex shall be limited only by applicable building, fire, and public health codes and applicable bulk/dimensional requirements of the particular zone." This section recognizes that each zoning

district serves a different purpose and the applicable bulk and density standards in each district should reflect the specific purposes of the respective zoning district. Application PZ #24-7ZRA proposes the replacement of Zoning Regulations Section 8.28.B with a single set of bulk, dimensional and density standards that would apply to all multifamily residential development regardless of zoning district. This proposed change removes the flexibility that the Zoning Regulations afford multifamily residential development in zoning districts explicitly intended for higher density development and imposes a one-size fits all standard town-wide that is not consistent with the POCD's goal of encouraging a diversity of housing types identified in the Zoning Regulations as appropriate.

II. Affordable Housing Plan

A review of the 2022 update to the Zoning Regulations is included in the Affordable Housing Plan in relation to the affordable housing. On page 26 of the Affordable Housing Plan, it notes that the 2022 update to the Zoning Regulations included "several regulations that intend to promote and increase affordable housing, multifamily housing, and diverse housing types in general" and that the "new regulations create a far more flexible environment for multifamily housing by allowing multifamily in more districts, thus creating more multifamily development opportunities in more areas of Ledyard." The changes to the Zoning Regulations proposed by Application PZ #24-7ZRA seek to eliminate nearly all of the provisions of the Zoning Regulations added in the 2022 update related to promoting and increasing multifamily housing.

The Affordable Housing Plan includes results and discussion regarding a community survey that was conducted in the summer of 2022 to gauge residents' thoughts on affordable housing. ***Notably on pages 21 and 38, respectively, 68 percent of respondents think that affordable housing is important to Ledyard's long-term viability and 52 percent think that the housing options available in Ledyard do not fit existing residents' needs. Nearly 58 percent of respondents think that increasing housing options in Ledyard would improve the town (page 41).*** Application PZ #24-7ZRA does not appear to align with the results of the community survey and instead seeks to restrict new housing options rather than encourage them.

Additionally, on page 43 of the Affordable Housing Plan, it is shown that nearly 65 percent of respondents of the community survey think that the town should "seek to focus new, somewhat higher housing density in specific areas." However, Application PZ #24-7ZRA would eliminate existing provisions of the Zoning Regulations which encourage the development of higher-density housing in specific zoning districts intended for just such purposes. Requiring special permit approval for all multifamily residential development and imposing a single set of bulk and density standards applying to multifamily housing regardless of zoning district is unworkable and should be denied.