EX# 53

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Land Use Department

Closing Remarks
July 31, 2025

Good evening. For the record, my name is Eric Treaster, and I am representing myself. Tonight marks the fourth and final evening of the public hearing for application #25-02 RA, which was opened on June 12 and continued on June 26 and July 10. The reason for my application is that our zoning regulations do not adequately protect our rural residential character, quality of life, and property values from inappropriate multifamily and mixed-use developments.

Conflict with the POCD

The POCD, as shown in Exhibit 4, includes a statement that our zoning regulations should protect the rural residential character of Ledyard. It also states that the regulations should be revised to implement the goals in the POCD. Page 23 of the Affordable Housing Plan, also included as part of Exhibit 4, indicates that the majority of the residents surveyed prefer Ledyard to continue providing single-family homes on large lots, single-family homes on small lots, and townhome developments consisting of between 12 and 36 units. This is consistent with the July draft of the Goman & York Route 12 Corridor Study, which includes a summary of the results of over 300 responses to its survey regarding what the public prefers for the development of the Rt. 12 corridor in Gales Ferry. The handout is from Pages 55, 59, and 131 of its draft report. It shows that only 1% of residents, *or only about three people*, wanted to see new multifamily developments along Route 12. 61%, or about *183 residents, ranked multifamily developments as their least preferred type of development* in the Rt. 12 corridor.

The problem, and the reason for my application, is that the existing regulations do the opposite. They allow multi-hundred-unit, six-story apartment complexes, mixed-use developments, and multistory parking garages in Gales Ferry and Ledyard Center as of right, with no standards, no conditions of approval, no required parking, and no public hearing. I am often asked, *How did this happen*, especially when the goals in the POCD are clear and it should be evident that most residents do not want such developments. I do not know the complete answer, but I do know what is in the record.

History of Current Multifamily Regulations

The current zoning regulations for multifamily and mixed-use developments went into effect on September 28, 2022. The Town was the applicant, which means there was no time limit for rendering a decision on the proposed regulations. The public hearing was open for several weeks, including the evening of July 14, 2022.

During that evening, the prior Town Planner reported that, *based on suggestions from developers*, she had included allowing 65-foot-high, six-story, as-of-right multifamily and mixed-use developments in her proposed rewrite of the zoning regulations. She did not reference the applicable goals in the POCD, and she did not identify the developers who had suggested the new multifamily regulations.

A few minutes into the hearing on July 14, our Mayor testified in support of the new regulations. He said that he *considered the new regulations to be business-friendly*. It was the only time I am aware of that a Mayor has testified before the zoning commission or the combined planning and zoning commission. He did not reference or consider the goals in the POCD.

A few minutes after the Mayor spoke, Attorney Bill Sweeney also *spoke in favor of the multifamily regulations*. He said, (quote) *"I am arising on behalf of a number of clients in support of this evening."* (unquote)

He later said, (quote)*"I have a number of clients who are paying me to be here tonight because they are looking at Ledyard as [a] possible investment area to meet this housing demand." (unquote)*

Attorney Sweeney did not reference or consider the goals in the Ledyard POCD, and he did not identify his clients.

No one else spoke in favor of the proposed multifamily regulations.

About two months later, on September 8, 2022, during deliberations on the proposed new regulations, the Town Planner again stated that allowing 65-foot-high, six-story as-of-right developments, as she had proposed in her rewrite of the zoning regulations, was based *on suggestions from developers.* She did not identify the developers, and did not reference or consider the goals in the POCD.

She also said, "*We need more units to be economically feasible.*" She then asked you to decide if her proposed 65-foot height limit was acceptable.

After six minutes and 33 seconds of discussion, you approved the 65-foot height limit for multifamily developments. There was no discussion about whether the height limit was consistent with the goals in the POCD. There was also no discussion of the risks of unintended consequences associated with allowing such developments as of right, without standards or required parking.

The Current Multifamily Regulations May Be Invalid

One of the reasons I provided the history of the current multifamily regulations is that the failure to consider the POCD during the deliberations on September 8, 2022, which was a violation of the enabling statute, may, based on case law, render the current multifamily and mixed-use zoning regulations invalid. My application allows you to consider the goals in the POCD as they relate to the development of multifamily and mixed-use housing and the protection of the rural residential character of our Town, including its quality of life and property values.

Response to Staff Report
(If necessary)

Regarding the Recusal Request

On June 21, I submitted Exhibit 28, which is my letter requesting that Commissioner Woody recuse himself from hearing this application.

Commissioner Woody is brilliant, knowledgeable, works hard, and cares about our Town. He was the chair of the Planning & Zoning Commission, and I have a great deal of respect for him. However, as I explained in Exhibit 28, Commissioner Woody has stated that the need for affordable housing is a no-brainer. Based on that statement, and his conduct when he was the Chairman, it appears that Commissioner Woody believes that accelerating the development of affordable housing is more important than the protection of the rural residential character, protection of property values, and the protection of the quality of life in our Town, which means he is likely opposed to my application.

As Commissioner Woody knows, it is customary for a Commissioner to recuse himself in the interest of fairness or when it is necessary to avoid the perception of predetermination. A Commissioner, when requested to recuse himself, can also respond by stating that he is not predisposed and will evaluate the application in a fair and unbiased manner. Now would be the time for Commissioner Woody, if he so chooses, to respond to my request for his recusal for the reasons described in Exhibit 28.

Regarding the Denial Opinion in Exhibit 13 and Change 22

Next, I must address Exhibit 13, which Attorney Avena submitted on June 5. Exhibit 13 advised you to deny my application until there are no pending applications filed with the Wetlands Commission that were conceived under the current zoning regulations. In response, on June 23, I revised my application. The revised application is Exhibit 27-2.

Change #22 in the revised application provides that *"Any application requiring IWWC approval shall be subject to the zoning regulations in effect at the time the application was received by the IWWC."*

A few days later, on July 3, I submitted Exhibit #40 as an improvement to change #22 that you may wish to consider. Exhibit 40 suggests that you consider replacing change #22 with an alternative that states, *"Any application requiring IWWC approval shall be subject to the zoning regulations in effect at the time the application was received by the Planning and Zoning Commission or, at the discretion of the Applicant, the zoning regulations in effect at the time the IWWC received the application."*

Exhibit 40 is intended to recognize the possibility that an applicant, albeit unlikely, may prefer to be subject to the most recent zoning regulations rather than to the regulations that were in effect when his application was submitted to the Wetlands Commission.

You have broad discretion when adopting land use regulations. As long as you consider the goals in the POCD, follow proper procedures, and the regulations do not conflict with the land use statutes and case law, the regulations you adopt should be lawful.

Change #22 and its suggested alternative in Exhibit 40 mitigate the concerns expressed by Attorney Avena and Attorney Smith. The changes do not conflict with the land use statutes, do not conflict with case law, do not conflict with the goals in the POCD, and are consistent with the master plan and zoning map. As such, I urge Attorney Avena to withdraw Exhibit 13 because it predates my revised application and is no longer applicable.

Regulation of Character

There was testimony during the hearing that character cannot be regulated. The speaker was referring to CGS §8-2-(d) in the enabling statutes. However, the statute, if read carefully, does not say that character cannot be regulated. The statutes provide that zoning regulations cannot be applied to deny a land use application based on a district's character. There is a difference.

The key phrase is *"to deny."* Although the enabling statute prevents the denial of an application based on a district's character, you are allowed to have standards in the regulations and to impose conditions of approval, including physical characteristics, on uses that require a special permit if those standards and conditions of approval are necessary to preserve a neighborhood in terms of its scale, density, intensity of use, and architectural design.

Exhibit #14-2, which is from a set of materials presented by Attorney Smith during our training last March, shows that the special permit process, which includes the standards and conditions necessary for the approval of a special permit, *is to permit a generally compatible use in a zoning district, but because of the nature of the proposed use, special attention must be given to its location and method of operation in order to keep such special uses compatible with the uses that are allowed as of right in that district.*

The second page of Exhibit #14-2 provides an example of when a denial of an application for a special permit was proper because the proposed use was not compatible with the neighborhood.

Our zoning regulations allow you to deny a special permit use, including a multifamily or mixed-use development, if it would cause undue traffic generation that would have a deleterious effect on the safety of the motoring public; if it is not in harmony with the orderly development of the zoning district; if it would be offensive to the area because of odors, dust, appearance, or other similar reasons; if it would reduce property values in the immediate neighborhood; if the character of the immediate neighborhood would not be preserved in terms of scale, density, intensity of use, and architectural design; or if it would not be consistent with the future development of the area as envisioned in the POCD. As such, the most important change in my application is its requirement for a special permit for multifamily and mixed-use developments.

Packaged Sewer Treatment Plants

Changes #9, 10, 11, 12, and 13.1 in the revised application are related to packaged sewer treatment plants. I acknowledge and agree with Attorney Smith that DEEP regulates packaged sewer treatment plants. However, structures, as defined in §2.2, are subject to the height, setback, and use constraints in the zoning regulations. For example, a freestanding structure for storing a lawn mower, called a storage shed, or a freestanding structure for a car, called a garage, are accessory uses because, by definition, such structures are customarily incidental and subordinate to one or more of the permitted principal uses. In Ledyard, accessory uses are permitted as of right if they comply with the height, setback, and use constraints in §8.2 of the zoning regulations.

However, a freestanding structure for a packaged sewer treatment plant is not an accessory use because it would not be customarily incidental and subordinate to any of the principal uses listed in the zoning regulations. My proposed regulations clarify that a freestanding structure housing a packaged sewer treatment plant on the same parcel as a permitted principal use is not an accessory use as defined under the zoning regulations, and is therefore not allowed.

If you agree, you can either take no action or adopt the suggested clarifying regulations. If you disagree, you should add a provision that a freestanding structure housing a packaged sewer treatment plant on the same parcel as a permitted principal use is an as-of-right accessory use if it complies with the size, height, and location constraints in §8.2 of the zoning regulations.

Regarding §8-30g

Attorney Smith stated that if my application is approved, developers and property owners of real property in the commercial districts that currently allow multifamily housing by right would likely file applications under §8-30g. I disagree.

§8-30g requires at least 30% of the units to be affordable, which means that at least 30% of the units must be rented or sold at below-market rates.

However, the cost of developing, marketing, managing, and maintaining affordable units is the same as for market-rate units, which forces investors to use the profits from their market-rate units to subsidize the costs of their affordable units.

Investors must have a reasonable opportunity to earn a competitive return on their investment costs. To earn a competitive return on an 8-30g deed-restricted affordable housing development, investors typically must rent or sell their market-rate units at rates above market, but people are generally unwilling to pay above-market rents or prices. Investors are aware of this, which is why they will not be more likely to use 8-30g if the proposed regulations are adopted.

Closing

As previously stated, my application is, in essence, a policy question. To be fully informed, I urge that you walk around the 304-unit, 14-acre Triton Square apartment complex; view it from behind the Super 8 motel and the Chinese restaurant; look at it from both the southbound and northbound lanes of I-95; drive into its parking lots; and walk through the abutting residential neighborhood on the west. Do the same with the new apartment complexes on Bank Street and Howard Street in New London.

Then decide if equivalent developments should be allowed in Ledyard.

You should also understand the unusual definition of height in §2.2 of our regulations, which, depending on a roof's design and pitch, results in structures with the same height under the regulations having different actual heights. For example, a 35' multifamily development with a pitched roof will be higher than a 35' multifamily development with a flat roof, which should encourage pitched-roof developments.

Exhibit #25-2, which is the revised application, can be used as a checklist for your deliberations. Please also remember to resolve the conflict between the definition of a multifamily structure in §2.2 and its definition in §8.28.A. Remember that, although the goals in the POCD are not controlling, they must be considered. Exhibit 4 lists the goals in the POCD that are addressed in the application. You can make reasonable adjustments to any of the changes in my application that were discussed during the hearing.

Thank you for considering my application. I know it isn't easy, but I believe our multifamily and mixed-use regulations must be amended to protect the rural residential character, property values, and the quality of life for the future of our Town.

I will submit a copy of my presentation for the record.

Thank you.