

June 12, 2025

Marty Wood, Chairman,
Ledyard Planning and Zoning Commission
Town Hall
741 Colonel Ledyard Highway,
Ledyard, CT 06339

Re: Text Amendment Application PZ #25-2ZRA

Dear Mr. Wood:

The Ledyard Planning and Zoning Commission (the “Commission”) is currently reviewing a text amendment application, Application PZ #25-2ZRA, submitted by Eric Treaster, which proposes changes to the Ledyard Zoning Regulations (the “Zoning Regulations”) that would modify the mass, height, and population density of multifamily developments.

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 #25-5SITE) related to the construction of a multifamily residential housing development on such properties. The purpose of this letter is to outline the ways in which Mr. Treaster’s proposed changes to multifamily development standards proposed by Application PZ #25-2ZRA 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 inconsistent with the 2020 POCD and in contravention of C.G.S. §8-3a. Moreover, the portion of his proposal that addresses sanitary sewerage systems is pre-empted by state law and is unenforceable.

For these reasons, which are more fully discussed in detail below, C.R. Klewin LLC respectfully requests that the Commission deny Application PZ #25-2ZRA.

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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 #25-2ZRA 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 #25-2ZRA 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 it more difficult to have predictable 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.***

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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.

Mr. Treaster is resting his argument on the protection of the “character” of the community that he believes should exist and because he contends that multi-family housing is not preferred by Ledyard’s residents. For example, he circled a portion of the POCD that states that “Regulations must carefully protect the character of Ledyard” but stops circling the remainder of the sentence in the POCD that finishes by saying “...while providing for the flexibility needed to continue to attract new residents and businesses.” See page 10.

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 #25-2ZRA proposes to limit all multi-family residential structure to a 5,000 square foot footprint and three story structures. These dimensional requirements that would apply to all multifamily residential development regardless of zoning district and also covertly limit the density of the developments. The proposed changes would remove 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.

There are numerous other issues in this newest set of proposals that undercut the ability to provide reasonably priced multi-family residential housing in the Town of Ledyard. Some examples will be cited below but for the avoidance of doubt, none of the proposed changes have merit and all should be rejected even if not further discussed below.

One egregious example is the requirement that no studio apartments be allowed. Mr. Treaster asserts, without an offer of any proof that studio apartments “tend to attract transient tenants,”

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are somehow more difficult to manage, allegedly require more interventions, and supposedly “often require more government services” than those tenants who choose to occupy one, two, three or four bedroom units. Mr. Treaster has not even offered an anecdote let alone a study to support his bald assertions.

Mr. Treaster also suggests a new Section 2.2. It proposes to define public and private sewer treatment facilities, and then in section 3.3 legislate that “private” sewer treatment plants are to prohibited. This is an exercise in futility since such zoning regulations, if approved, would be quickly overturned in court because they are pre-empted by state statute. This power is not found in C.G.S §8-2. The exclusive authority to regulate and approve such sanitary sewerage facilities and septic systems, be they public or private, is given to other agencies such as the CT Department of Energy and Environmental Protection, CT Department of Public Health (See C.G.S §22a-430 and in certain instances the local WPCA (see C.G.S §7-246) and for private septic systems to the local health department. (See C.G.S Section §22a-430 and the Connecticut Public Health Code).

This Commission cannot regulate sewers or where sewers are permitted or planned within a community. As set forth above such is the jurisdiction of either the local Water Pollution Control Authority under Connecticut General Statutes § 7-246 or via the Department of Energy and Environmental Protection via § 22a-430. “Administrative agencies are tribunals of limited jurisdiction and their jurisdiction is dependent entirely upon the validity of the statutes vesting them with power and they cannot confer jurisdiction upon themselves ... [I]t is clear that an administrative body must act strictly within its statutory authority.” *MacKenzie v. Planning & Zoning Comm’n*, 146 Conn. App. 406, 426 (2013). Jurisdiction is dependent entirely upon statutes vesting them with powers, and they must act strictly within the authority provided by statute. *Eden v. Planning & Zoning Comm’n*, 139 Conn. 59, 63 (1952).

The proposed parking requirements are also ill-considered and require far more parking than is necessary for multi-family residential developments. It is well known that multi-family developments generate less traffic per person than single family detached structures. For example, requiring a parking space for each and every bedroom is excessive and will needlessly increase impervious coverage.

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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 #25-2ZRA seek to eliminate nearly all of the provisions of the Zoning Regulations added in the 2022 update related to promoting and increasing multifamily housing.

Requiring special permit approval for all multifamily residential development and imposing a single set of bulk and covert density standards applying to multifamily housing regardless of zoning district is unworkable and should be denied.

Mr. Treaster spends much of his rebuttal challenging your Town Attorney’s opinion that the application should be rejected without prejudice until my client’s wetland and zoning applications have been considered. Mr Treaster correctly states that should C.R. Klewin, LLC submit its site plan application in advance of the effective date of his zoning regulations that you adopt that the zoning regulations in effect today would still apply. However, that does nothing to remove the inference that an approval of these meritless regulations that fly in the face of the POCD and a denial of the C.R. Klewin LLC site plan, if that were to occur, could then be viewed as an element of proof of bias and predisposition.

C.R. Klewin LLC does not have this concern because it is confident that this Commission will see that none of the proposed zoning regulatory changes, as currently drafted, are worthy of passage at all.

On behalf of C.R. Klewin, LLC we respectfully request that the Commission deny Mr. Treaster’s petition to amend the zoning regulations, with prejudice. Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Brian R. Smith", with a stylized, flowing script.

Brian R. Smith

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cc: Eric Treaster, Petitioner

Elizabeth Burdick, Director of Land Use and Planning for the Town of Ledyard