

Part I

PZC Application #24-07 ZRA [Revised]

Multifamily Regulations

Presentation

8 August 2024

Good evening. My name is Eric Treaster, and I am representing only myself. My wife and I have lived at 10 Huntington Way since 1976. Like you, we care deeply about our neighborhood and our town. The regulations I am proposing in this application will not provide a financial benefit to me or anyone else, but they will help protect the character of Ledyard as a desirable community for future generations.

Exhibit #5.1 is the revised application. It is structured into three parts.

Part I is a proposed set of replacement regulations for developing multifamily apartment complexes. I prepared Part I because I believe the current regulations place the town at risk of losing its rural, low-density character by allowing massive multi-hundred-unit 6-story apartment complexes.

Part II of the revised application proposes new mining, quarrying, and excavation regulations.

I prepared Part II because our existing excavation regulations are inadequate to protect the health, property values, and quality of life of residents who live near a major excavation project.

Part III of the revised application proposes regulations for 8-30g affordable housing applications.

I prepared Part III because I believe a public hearing should be mandatory for any application that intentionally does not comply with the zoning regulations. I also believe that 8-30g affordable housing applications can usually be improved at little or no cost to the applicant.

Unless otherwise requested by the Chairman, I will present Part I first and then see if the public or the Commission have any comments or questions. I will then present Part II, followed by public comments and questions, and then Part III, which will only take a few minutes.

Introduction to Multifamily Regulations - History

According to the 7/14/22 Zoom recording, the current multifamily regulations were initially proposed by unidentified land developers to Juliet Hodge, our previous Town Planner. Attorney Bill Sweeney addressed you when you opened the public hearing on your comprehensive zoning rewrite application, which included the multifamily regulations. As recorded by Zoom, he said that he was *being paid by several developers who want the multifamily regulations in the application to be adopted and to monitor their progress*. Attorney Sweeney repeatedly said the multifamily

regulations in the application were excellent and should not be changed. *He said nothing about their consistency with the POCD.*

You adopted the proposed multifamily regulations on 9/8/22 as part of your comprehensive rewrite of the zoning regulations. The regulations, which allow four-, five-, and six-story multi-hundred-unit apartment complexes in Gales Ferry Village and Ledyard Center by right, require only a site plan review and no public hearing, which is wrong for our town.

Such massive apartment complexes may be appropriate for cities like New London, Norwich, and Groton, but not for a quiet rural bedroom community like Ledyard. Massive multi-hundred-unit complexes in Ledyard will have costly unintended consequences, such as a need for more school buses, more teachers, more classrooms, more police, more social support services, more sewage treatment capacity, and increased refuse transportation and processing costs. Four-, five-, and six-story multi-hundred-unit complexes could also mean Ledyard would have to contract for elevator inspection services and hire additional building, fire, and health officials.

As you know, with rare exceptions established by case law, uses that are allowed by right, even when you require a site plan review, do not give you the authority to impose conditions of approval. You are required to approve an application for a by-right use if it satisfies the regulations, and you are required to deny an application for a by-right use if it does not comply with the regulations.

I prepared Part I because *a special permit should always be required for any complex development likely to create unintended consequences.* A use that requires a special permit allows you to not only determine if an application complies with the objective requirements, but also allows you to approve or deny an application based on the subjective standards for a special permit listed in §11.3 of the zoning regulations, such as traffic, noise, odors, and impact on property values.

However, the most important reason to require a special permit for complex uses is for you to have the authority to impose conditions of approval when it is necessary to protect public health, safety, convenience, property values, and natural resources. You are severely limited in your ability to impose conditions of approval for uses that are allowed by right.

Consistency with the POCD

This handout includes a copy of page 23 of the Ledyard Affordable Housing Plan and copies of pages 10, 16, 17, and 55 of the 2020 POCD.

You amended and approved the current POCD in 2020.

During its public hearing, I asked whether the POCD would be a document that would guide the development of our zoning regulations or if it would go on a bookshelf and be ignored. I was pleased that *Chairman Capon responded that he intended for the POCD to be a valuable tool to guide the development of our zoning regulations and the development of our town.*

Page 23 from the Affordable Housing Plan, in the upper right-hand corner, shows that the *majority of surveyed residents want Ledyard to have more single-family homes on large lots, more single-family homes on small lots, and more townhome developments of between 12 and 36 units*. Nothing in the Affordable Housing Plan can be interpreted as residents wanting four-, five-, and six-story multi-hundred-unit high-density apartment complexes.

There is also nothing in the POCD that can be interpreted as a recommendation that Ledyard should adopt regulations to allow enormous four-, five-, and six-story multi-hundred-unit apartment complexes. Instead, page 10 of the POCD explicitly recommends that the zoning regulations be revised to protect the character of Ledyard. Page 10 also recommends that the regulations be revised to implement the goals of the POCD.

Page 16 shows that many residents wish to retain Ledyard's rural character. The bottom of page 16 indicates that the zoning regulations should guide the residential growth of Ledyard to ensure high standards of design and quality of life.

Page 17 is the most important. *It shows that residents desire to maintain the town's low-density residential character. Massive multi-hundred-unit four-, five-, and six-story apartment complexes as allowed in the current regulations are in direct conflict with the POCD's goal of preserving Ledyard's low-density character.*

Page 55 in the POCD repeats its guidance on page 10, which states that the zoning regulations must protect the character of Ledyard. Page 55 also shows that the quality of life must be protected.

I admit there are sections in the POCD that recommend more housing. The problem is that the current regulations ignore the POCD's explicit recommendations that the zoning regulations should protect the town's character.

The proposed regulations in Part I of this application represent a reasonable balance for implementing the POCD's conflicting goals of encouraging more housing while protecting the town's character.

Renderings & Photos

The first two renderings in the handout are of the Triton Square apartment complex that is near completion behind the Super 8 motel in Groton. They show a 304-unit, four- and five-story apartment complex on 14 acres just west of the Super Eight motel on Route 12, across from Super Stop and Shop. The Triton Square apartment complex is so tall that it can be seen from I95. Under our existing zoning regulations, this development would be allowed in Gales Ferry Village and Ledyard Center by right without a public hearing. *Such enormous towering developments are inconsistent with the goals in the POCD that recommend protecting the character of Ledyard or its desired low-intensity housing, as shown in the Affordable Housing Plan.*

By Groton standards, the 4- and 5-story, 304-unit Trident Square apartment complex on 14 acres is not a big deal because Groton has many large apartment complexes, and the Triton Square development is consistent with Groton's character.

However, a massive 304-unit, 4-, 5-, or 6-story apartment complex would be a big deal in Gales Ferry Village, Ledyard Center, or our residential districts because it would not be consistent with Ledyard's character. Under the proposed regulations, *the Triton Square Apartment complex would not be permitted in Ledyard.*

The first photo in the handout shows the new five-story, 203-unit Beam apartment complex on Howard Street in New London. Under the existing regulations, this apartment complex would also be permitted in Gales Ferry Village and Ledyard Center by right without a public hearing, even though it is inconsistent with the goals of the POCD. *The Beam apartment complex would not be allowed in Ledyard under the proposed regulations.*

The second photo shows the Fox Run Apartments. It is a 172-unit, two-story multifamily complex on Flintlock Road on 27 acres in Ledyard that is consistent with the POCD and is compatible with the character of Ledyard. *It is also an example of a large multifamily complex that would be allowed under the proposed regulations.*

The handout's third, fourth, and fifth photos are of the new 31-unit Ledyard Meadows apartments at 807 Colonel Ledyard Highway. It consists of one- and three-story buildings. *It is an example of a multifamily development that is consistent with the POCD and the Affordable Housing Plan. It would be allowed under the proposed regulations.*

The last photo is of the new Spruce Meadows apartment complex on Rt. 1 in Stonington. *It also consists of 3-story buildings that would be allowed under the proposed regulations.*

Sewage Capacity

You may think that Ledyard does not have to worry about the development of massive apartment complexes because of its lack of public sewers. However, the spare capacity of the sewer treatment plant that services the Highlands is at least 70,000 gallons of sewage per day, and the new 5" pressurized sewer line on Colonel Ledyard Highway that will soon connect Ledyard Center to the sewer treatment plant will easily transport 70,000 gallons or more of sewage per day.

At 150 gallons of sewage per day per bedroom, the new sewer line can easily support 477 additional bedrooms in Ledyard Center. When the new sewer line becomes operational, the land behind the Ledyard Center school or on Colby Drive off Fairway Avenue could, under the existing regulations, be used for the development of one or more multi-hundred-unit four-, five-, or six-story apartment complexes by right, without a public hearing, *even though such developments are inconsistent with the POCD and the Affordable Housing Plan.*

In locations with no public sewer, such as in the Gales Ferry Development District and most of our R20, R40, and R60 residential districts, sewage processing can now be provided using packaged wastewater treatment systems. For example, a state-of-the-art packaged sewer treatment system scaled to handle 50,000 gallons of daily sewage would allow for a 333-unit apartment complex in the Gales Ferry Development District. The existing regulations allow such developments by right without a public hearing, which is wrong.

Height

The zoning regulations' definition of building height is unusual. For pitched roofs, *height is defined as the distance from grade to the halfway point between the eave and the ridge of a roof. Under this definition, the height of the ridge of a pitched roof can be several feet above the height limit in the regulations.*

For example, a 65-foot building, as permitted under the existing regulations, could have a ridge height of more than 95', *depending on the width of the building and its roof pitch.* I believe any building with four or more stories or a ridge height greater than 50' would be inconsistent with the POCD and out of character for Ledyard.

Height Reduction

Please turn to Part I in the Revised Application. Items #1 through item #4 and item #6 are necessary to treat all multifamily developments fairly and uniformly. They reduce the maximum height for multifamily buildings in residential districts from 45' and 3.5 stories to 35' and three stories. They also reduce the maximum height for multifamily buildings in non-residential districts from 65' and six stories to the same 35' or three stories.

35', or three stories, is the same height limit the regulations impose on single-family dwellings. 35' is also the height of the new Ledyard Meadows and Spruce Meadows apartments shown in the handout. *35' is a reasonable height limit that balances Ledyard's need for more housing with the POCD goal of protecting the character of Ledyard.*

Special Permit & Public Hearing

The existing regulations require a special permit and a public hearing only for multifamily developments in residential districts and the Ledyard Center Transition District.

Item #5 on page 2 of the revised application adds the requirement for a special permit and a public hearing for multifamily developments in the Ledyard Center Development District, the Multifamily Development District, the Gales Ferry Development District, and the Resort Cluster Development District.

A public hearing is appropriate because *the public should always have the right to address the Commission on any proposed development that could be detrimental to the town's character, impact nearby property values, create a safety risk, require an increase in public services, result in increased tax rates, or otherwise be likely to have unintended or undesirable consequences.* Public hearings are also important for the public to have transparency into how the Commission makes and justifies its major decisions.

Another reason to require a special permit for multifamily developments is that *it allows you to impose conditions of approval when necessary to protect health, safety, convenience, property values, and natural resources.* The Commission cannot impose conditions of approval on uses allowed by right.

The last reason, which is the most important, is that *a special permit allows the Commission to consider the subjective standards of approval in Sections 11.3.4 and 11.3.5 in the regulations, such as traffic, congestion, odors, and noise; if a proposed building or use is in harmony with the appropriate and orderly development of the district; if the use would be noxious, offensive, or detrimental to the area; if the proposed development will harm property values in the immediate neighborhood; if the character of the neighborhood will be preserved in terms of scale, density, and intensity of use; if the proposed use would cause unreasonable pollution; or if a proposed development would be in conflict with the desired future development of Ledyard as identified in the POCD. Requiring a special permit is the only way the Commission can evaluate and consider subjective standards for a proposed land use.*

Health Code

CGS §8-2 is the enabling statute for land use regulations. §8-2-(d)-(7) states that zoning regulations shall not “Establish for any dwelling unit a minimum floor area that is greater than the minimum floor area set forth in the applicable building, housing or other code.”

§8.28.B in the existing regulations has two parts. The first part states that the density of an apartment condominium complex shall be limited only by the applicable building, fire, and public health codes. However, building, fire, and public health codes are not land use regulations and are unnecessary in the zoning regulations.

The second part of §8.28.B, in the same sentence, states that the density of an apartment condominium complex shall be limited by the applicable bulk and dimensional requirements of the particular zone.

This statement is also unnecessary because the dimensional requirements are in Chapter 4, §5.2, §5.4.D, §6.2.1, and §6.3.1 of the zoning regulations. Because it is unnecessary, Item #6 in Part I of the application deletes all of §8.28.B in the existing regulations.

Should the POCD Continue To Be Ignored?

I recognize that there is an argument, based on the need for housing, that the existing multifamily regulations should be retained *even though the apartment complexes they permit conflict with the Affordable Housing Plan and the low-density and protection of character goals in the POCD.*

There is also the argument that without density constraints, as in the existing regulations, the cost of land will be spread over more units, per-unit development costs will be reduced, developers will maximize the number of dwelling units per acre, and the developers will pass some of their per-unit cost savings on to tenants in the form of more affordable rents.

However, in the real world, if there are no density constraints, the cost of land suitable for multifamily developments will increase, diminishing or eliminating any per-unit savings.

Unless developers are non-profit entities, they will maximize their profits, even if the land is free. Developers will always charge the market rate for their units to maximize their profits. If a

multifamily development, at the market rent, will not make a reasonable return on its development and operating costs, it will not be built.

Rents will be reduced only when the housing supply exceeds the demand for housing. Adding one or two thousand new units in an area that needs 7,000 or more new units will make little or no difference in housing costs.

Population Density and Size

The enabling statutes allow zoning regulations to limit the height, number of stories, size of buildings, and population density.

As previously stated, the proposed regulations reduce the maximum height of multifamily residences from 45' and 65' to 35', the same as for single-family dwellings.

35' or three stories is a reasonable constraint for a bedroom community such as Gales Ferry Village and Ledyard Center. *The proposed reductions in the maximum heights are the most important changes in the application to ensure new multifamily developments are consistent with the goals of the POCD and the Affordable Housing Plan.*

The proposed regulations also require that the size of a multifamily building not exceed 10,000 square feet for a one-story multifamily residence, 20,000 square feet for a two-story multifamily residence, or 30,000 square feet for a three-story multifamily residence. The 10,000' per floor constraint translates into, *for example*, a 200' long building if it is 50' in depth, which is large by Ledyard standards. But it is a reasonable constraint. It means that, at 10,000' per floor, a developer will be limited to 30,000 square feet per building for his multifamily development. If a developer needs additional units, he can either make his units smaller or propose more buildings.

The proposed 30,000 square foot size limit per building is *based on the premise that, with all else being equal, multiple small two- and three-story buildings, as shown in photos 2 through 6 in the handout, are more compatible with Ledyard's rural character than massive 65' high apartment complexes, as shown in the first photo and the two renderings in the handout.* Smaller buildings would have more convenient parking, and closer and more appropriate outdoor recreation areas. They would also be safer, more attractive, quieter, and more desirable for residents.

The proposed regulations also impose a population density limit of 60 people per acre for multifamily developments.

Assuming two people per bedroom, 60 people per acre translates into 30 bedrooms per acre. As a result, a multifamily development on a five-acre parcel without wetlands could theoretically have up to 150 bedrooms, which could be 150 1-bedroom apartments, 75 two-bedroom apartments, or a combination of one-, two-, three-, or four-bedroom apartment units. If each one-bedroom unit was 550', and each building had 10,000 square feet per floor, or 30,000 square feet total, the proposed regulations would theoretically permit a three-story, 50-unit building on a 5-acre parcel, which is large for Ledyard but would still be consistent with the POCD goals of providing more housing while at the same time protecting the character of our town. In the real world, due to

possible wetlands, lot coverage limits, if the parking is paved or permeable, and setback requirements, the maximum number units on a five acre parcel would be less.

On larger parcels, such as an 18-acre parcel, a multifamily complex with enough water and sewer capacity could have up to 540 bedrooms, which could be 540 1-bedroom apartments or 270 two-bedroom apartments. If each unit were a 550' one-bedroom apartment, an 18-acre development would likely consist of 10 three-story, 35' high, 30,000 square-foot buildings. Although large, it would not tower over a neighborhood. *It would, however, provide a meaningful amount of new housing consistent with the character of Ledyard, as recommended in the POCD.*

The proposed regulations retain the current provision that multifamily developments can consist of multiple buildings on a single parcel.

And last, the proposed regulations require units in multifamily developments to have at least one bedroom.

Requiring at least one bedroom provides residents with more space, flexibility, and privacy. This results in a more stable tenant population than multifamily developments consisting of efficiency or studio apartments. I once owned an apartment building consisting of studio apartments. They are challenging to manage, especially when two residents share a single unit. Prospective residents are unlikely to enter into one-year leases, which means efficiency units are often rented on a month-to-month basis and have a high turnover rate. Requiring units to have at least one bedroom will also help prevent a multifamily complex in a residential district from being operated as an extended-stay hotel.

Parking

The existing regulations reference §9.4 in the zoning regulations for the parking requirements for multifamily developments. However, §9.4 does not have any parking requirements for multifamily developments. This omission was probably intentional because whoever drafted the zoning regulations likely believed parking regulations were unnecessary because the enabling statute in effect at the time mandated the parking requirements for multifamily developments.

The enabling statute provided that zoning regulations cannot require more than one parking space for each studio or one-bedroom dwelling unit, or more than two parking spaces for each dwelling unit with two or more bedrooms. However, if a multifamily development consists of a significant number of two and three-bedroom units and each has multiple adult residents to help share the rent, then more than two parking spaces would be necessary for each unit. Fortunately, the enabling statute allowed towns to opt out of the parking mandate, which you wisely exercised.

The application proposes a slight increase in the minimum amount of parking. It requires a minimum of two parking spaces for a one- or two-bedroom unit; clarifies that tandem parking counts as a single parking space; increases the parking requirements by 15% if no on-street parking is available; credits 1/4 of a parking space for every covered parking space that is attached to or located under a dwelling unit; and requires parking to be below, attached, between, or behind multifamily residences. The application also requires the developer to provide a reasonable number of guest parking spaces.

Why Should the Proposed Multifamily Regulations Be Approved?

In summary, there are four reasons why Part I of this application should be approved.

The first reason is that the proposed regulations will help provide housing for people who prefer a quieter, safer, and more rural environment, more accessible access to nature, and a sense of community that New London, Groton, and Norwich cannot offer.

The second reason is that *the proposed regulations do not prohibit large multifamily developments*. They only require that they consist of one-, two-, or three-story buildings instead of allowing four-, five-, or six-story buildings.

The third reason is that although the proposed regulations may result in more buildings, the proposed 30,000-square-foot limit per building is large enough not to significantly increase the per-unit cost of a multifamily development.

The fourth and most important reason the proposed regulations should be approved is to help preserve and protect Ledyard's character as a quiet rural bedroom community, as recommended by the POCD and the Affordable Housing Plan.

Mr. Chairman, this completes my presentation of Part I of the revised application and is a good time for commission questions and public comments before proceeding to Part II.