Ideas to Mitigate Deficiencies in Application PZC #23-3
Proposed Amendments to the Ledyard STR Regulations

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I will now discuss ideas that will help mitigate the problems in the proposed amendment:

1. Inadequate definition for a "*Short-Term Rental Host.*"

At the top of the first page of the proposed amendment is a proposed definition for a "*Short-Term Rental Host.*" The proposed definition is: "*An adult who is an STR owner, or a designated representative of an STR owner, responsible for enforcing the conditions of the STR special permit, the STR Guest Rules, and the STR Guest Agreement*".

The problem with the proposed definition is that it does not require the host to be a resident host, and without a resident host, no one has a sufficient vested interest in the property to prevent misconduct by its STR guests. The proposed definition also allows the host to be only 18, which is the age of majority in Connecticut, but is likely to be too young to be responsible for the management and operation of an STR with a large number of guests.

An STR requires a special permit. As such, it is proper to have standards that require an STR to have a resident host, who can be its owner, or an agent of the owner. It is equivalent to our existing special permit standards for B&B's and Country Inns, which require a resident host, or the owner's agent, to be on, or reside on, the property.

As such, instead of the proposed definition, the ***"STR host"*** should be defined as: ***"An adult who is an STR Owner, or is an agent of an STR owner, who resides in an STR, or in an accessory apartment on the same parcel as an STR."***

The proposed change does not require the host to be physically present when STR guests are on the property. This is because it is unreasonable to require STR guests to notify the host of their daily schedule, and it would be virtually impossible for the host to schedule his daily activities to dovetail with his guests' schedules. For example, guests who intend to visit Foxwoods may not know when they will leave, or when they will return. What is important is that the guests know at the time they make their reservation that the STR host lives on the property, which will encourage guests who intend to engage in misconduct to rent a non-resident hosted STR.

2. Inadequate Purpose

§8.31.A is the purpose of the STR regulations. The purpose, as stated in the existing regulations, is to "*Permit the public use of a furnished single-family residence or duplex or accessory apartment in a residential district, or in a legally existing single-family residence or duplex or accessory apartment in a non-residential district, as a short-term rental in accordance with the requirements of this section*."

If read carefully, the "*purpose*" is an example of circular logic, which provides little or no value. As proposed, the purpose of the STR regulations is simple – to allow STRs. The purpose should include the reasons you want to allow STRs. For example, perhaps the purpose of the proposed STR regulations in §8.31.A should be to:

"To allow a homeowner to generate income from transient guests in a manner that is invisible and non-detrimental to the quality of life of its neighbors, without reducing the availability of housing, and without impacting the property values of nearby and adjacent properties."

3. Failure to require a resident host.

The proposed §8.31.B.1 is new. It allows, but does not require, the STR host to occupy the property as his residence.

The proposed 8.31.B.14 provides that "*... if the STR is equipped with 24-hour exterior video surveillance capable of real-time monitoring, and video and sound remote recording, and if the host can be on the property within 30 minutes of notification, a host is not required to be physically present when STR guests are present."*

Video and sound recording, if not disabled, may make it easier to arrest and prosecute STR guests who, after the fact, engaged in misconduct that interfered with the quality of life of its neighbors. However, just as video and sound recording equipment does not prevent theft from convenience stores, it will also not prevent STR guests from disturbing their neighbors.

For example, assume you own your home, and there is a five-bedroom STR with a pool and hot tub next door that does not have a resident host. Also, assume you have to be at work at 6 AM every morning, and in the summer, you enjoy sleeping with the windows open.

Just before midnight, 25 people consisting of high school and young college students between the ages of 16 and 18 move into the STR and begin a late night pool party. They turn on the backyard floodlights, turn on the music, open a keg of beer, and have a wild celebration. They also disabled the video cameras and sound recording systems in the STR. The music, noise, and lights wake you.

So, what do you do? You first call the non-resident host, but he is sleeping, his cell phone is set to vibrate, and he does not answer. However, even if he answered, it would take him at least an hour to get dressed, buy gas, and drive to the property.

Because he did not answer, you then call the police, and they respond quickly. Now you are fully awake and dressed, and are being questioned by the police as they investigate to discover who did what to whom, and if any laws or town ordinances were violated. However, because the guests had disabled the cameras, there is no record of the disturbance – and it is your word against theirs, who are claiming that they did not disturb you, but instead claim you are harassing them. The police ask if you want to press charges, which you decline because you need to sleep before going to work, and because the STR guests will go home in the morning. The police do not enforce our zoning regulations, but the guests are warned to be quiet and to turn off the floodlights.

The following day, during your lunch break, you file a complaint with the zoning enforcement officer that the STR guests were in violation of the zoning regulations. However, there are multiple STR complaints in his queue, and it will be several weeks before the ZEO issues a cease and desist order or imposes a daily fine under the citation ordinance as provided in the regulations.

If the STR had a host who lived on the property, the resident host would have likely prevented the late hour pool party, not allowed the floodlights to be turned on, there would have been no disturbance, your sleep would not have been interrupted, the police would not have been called, and you would not have to use your lunch break to file a complaint with the zoning officer.

You finally decide you cannot take these disturbances any longer and to sell your home and move to a town that does not allow STRs. However, you quickly discover that no one wants to raise his or her family in a home that is adjacent to an STR, and that your home can only be sold to an STR investor. So, you sell your home to an STR investor, and Ledyard now has another home removed from its housing supply. This entire sequence of events was initiated by the change in this application to §8.31.B.1 that deletes the requirement for an STR to have a resident host.

The solution is to:

Replace the proposed §8.31.B.1 with the following:

"A. An STR must be within a single-family residence, an accessory apartment in a single-family residence, an accessory apartment on the same parcel as a single family residence, or in a unit in a duplex if the second unit is the residence of the STR host."

B. A single family residence, and its accessory apartment (if any), shall not be simultaneously used as STRs.

C. "The STR owner, or the agent of its owner, must reside on the same parcel as the STR."

4. §8.31.B-2 is unfair.

§8.31.B-2 states, "*Property to be used for an STR must contain the minimum lot size required in the underlying Zone*."

This addition is great for several hundred Ledyard residents because it protects the homes in the Highlands from the risks of being adjacent to an STR. This is because there are about 600 pre-existing lawfully nonconforming lots in the Highlands that are zoned R20 that have less than 20,000 square feet. It is the perfect solution for the Highlands!

However, is it fair to protect only 600 families from the risks of an adjacent STR, when you can just as easily protect all the families in Ledyard?

All that is necessary is to (a) remove Short-Term Rentals from the Use Table, (b) delete §8.31, and (c) include a statement that the rental of dwelling units with terms of 30 or fewer days is not permitted.

5. The proposed §8.31.B.4 contains a requirement regarding taxes that is difficult to justify

§8.31.B.4 requires that "*the applicant must be current on municipal taxes at the time of application and for the duration of time the dwelling is utilized as an STR.*" The problem with this requirement is that it is unique to STRs. We do not require it for any other use that requires a zoning permit.

As such, §8.31.B.4 should be deleted because it is unnecessary, or it should be added as a requirement for all land uses.

6. The proposed §8.31.B.5 contains requirements regarding building, fire, health, and blight that are difficult to justify.

§8.31.B.5 requires that a *"proposed STR shall not have Zoning, Building, Fire, or Health Code violations, and shall not be blighted under the Town's Blight Ordinance."* The problem with this requirement is that our zoning regulations, the building code, Fire Code, Health Code, and the blight ordinance are applicable to all land uses, not just to STRs.

As such, §8.31.B.5 should be deleted because it is not necessary, or it should be a requirement for all land uses.

7. §8.31.B.6 is redundant with §11.3.5.D.

The proposed §8.31.B.6 requires that "*the STR shall not constitute or create a risk to public health, safety, convenience, or general welfare.*" However, §11.3.5.D in the existing regulations states that: "*The Commission may approve an application for a Special Permit, deny the application, or approve the application subject to such conditions as it may deem necessary to protect the public health, safety, welfare, property values, and natural resources of the state", which is redundant with §8.31.B.6.*

As such, there is no need for the proposed §8.31.B.6, and it should be deleted.

8. The proposed §8.31.B.7, for practical purposes, prohibits a resident host from residing in his home and renting out his unused bedrooms.

The existing §8.31.B.6 states that *"STR occupancy is limited to two adult guests per bedroom, where the number of bedrooms is the number shown on the STR property card (in the tax assessor's office), less the number of bedrooms reserved for use by its host."* Under the existing regulations, there is no limit on the number of bedrooms required to be reserved for a resident host.

However, the proposed §8.31.B.7 is different. It states, "*The number of adult guests is limited to two per bedroom where the number of bedrooms is the number shown on the STR's property card (in the tax assessor's office),* ***less one bedroom*** *that is reserved for use by its host."* As worded, only one bedroom can be reserved for a resident host who lives in the home, which is too constraining. In addition, it is unreasonable to require one bedroom to be reserved for the host if the STR has video recording equipment and the host will never be physically present at the STR, except at the time of check-in.

As such, the ***existing §8.31.B.6, which does not require a specific number of bedrooms to be reserved for the host, should be retained.***

9. The proposed §8.31.B.8 allows too many guests in an STR.

The proposed §8.31.B.8 states, "*Unaccompanied minors are not permitted in an STR.*"

This provision creates two problems.

The first is the proposed regulation allows an unlimited number of guests who are minors age 15, 16, and 17 years old if there is at least one STR guest who is age 18 or older, which is the age of majority in Connecticut.

The second is because there is no limit on the number of minors, an STR septic system may be damaged if there are more than two guests per bedroom, even if they are minors.

As such, the number of STR guests should be limited in a manner that mirrors the occupancy limits under the fair housing laws.

§8.31.B.8 should be replaced with the following:

"§8.31.B.8 STR guest occupancy limits are as follows:

A. At least one STR guest must be over 25.

B. Bedrooms with one STR guest must have at least 70 square feet.

C. Bedrooms with two STR guests must have at least 120 square feet.

D. Bedrooms with additional STR guests must have at least an additional 50 square feet per additional guest.

E. Kitchens and other non-habitable rooms cannot be used as bedrooms.

F. STRs with one or two guests must have a living room at least 120 square feet.

G. STRs with three to five guests must have at least a 120 square feet living room and at least a 80 square feet dining room, or a combined 200 square feet living/dining room.

H. STRs with 6 or more guests must have at least a 150 square feet living room and at least a 100 square feet dining room, or a combined 250 square feet living/dining room."

10. The proposed regulations delete a critical notice requirement.

The existing §8.31.8 identifies the STR notice requirements. It provides that STR advertising include a limit on the "*number of permitted adult guests, number of bedrooms available for use by STR guests, a statement that guest parking is off-street, a prohibition on creating a nuisance, pet rules, and a declaration that the host is the owner of and has his primary residence in the STR or its accessory apartment.*" This notice is what makes the existing regulations unconstitutional because it discriminates against non-resident owned STRs.

The existing regulations are also deficient because they do not have a limit on the number of minor guests, which means an STR septic system could be damaged if there are too many guests in the house.

The proposed §8.31.9 contains an amended STR notice requirement. The big difference is that it *deletes the existing requirement that STR advertising must include a declaration that the host is the owner of and has his primary residence in the STR.*

The change means prospective STR guests who seek a non-resident hosted STR will no longer know be able to ascertain which STRs have and do not have a resident host.

As such, the proposed change deletes the most important tool in the toolbox to prevent STRs from having a deleterious effect on the neighbors.

If the intent is that you want to allow STRs only if they have a resident host, then §8.31.9 should state:

"8.31.9. A notice regarding the STR on short-term rental platforms, such as AirBnb and Vrbo, shall include the maximum number of guests, including minors, the number of bedrooms available for use by STR guests, the limit on the number of guest vehicles allowed to be parked on the property, a statement that STR guest parking is required to be off-street, a prohibition on guest conduct that is unlawful or constitutes a nuisance, the pet rules, and that the STR has a resident host on the property."

If the intent is that you want to allow STRs but not require a resident host, then §8.31.9 should state:

"8.31.9. A notice regarding the STR on short-term rental platforms, such as AirBnb and Vrbo, shall include the maximum number of guests, including minors, the number of bedrooms available for use by STR guests, the limit on the number of guest vehicles allowed to be parked on the property, a statement that STR guest parking is required to be off-street, a prohibition on guest conduct that is unlawful or constitutes a nuisance, the pet rules, and a declaration that the STR is equipped with 24-hour exterior video surveillance capable of real-time monitoring, and video and sound remote recording. Access to such records will be granted upon request for investigating disruptive guest behavior." **[Remember – the video recording may place the STR owner and town at risk!]**

11. A Change To Reduce Risk.

If you decide that STR risks are usually due to very short-term STR rentals, such as one, two, or three night weekend rentals for a graduation, reunions, or weddings, and longer-term STR rentals are unlikely to harm a neighborhood, *then three changes are needed to the proposed regulations.*

The first is that the definition of a Short-Term Rental in Section 2.2 should be changed so that it reads, ***"A short-term rental is a "furnished single-family residence, duplex unit, or accessory apartment, on a single parcel, that is rented to the public for a minimum of 21 continuous days."***

The second is that ***§8.13.B.9 regarding STR advertising should be amended, so it includes a notice that the minimum STR rental term is 21 continuous days.***

The third is that a new **§8.31.B.17** should be added that states, ***"STR rentals with terms shorter than 21 days are not permitted."***

12. §8.31.B.14 contains requirements that will be ineffective.

The proposed §8.31.B.14 states that, *"The host must be physically present on the property when guests check-in. Virtual check-in is not permitted. At check-in, the host must provide the guests a written copy of the STR Guest Agreement and Guest Rules. The host must be physically present on the property when guests are present, or the STR shall be equipped with 24-hour video surveillance capable of real-time monitoring, and video and sound remote recording. STR guests shall be made aware of the active recording on the premise, and that upon request, access to such recordings can be granted to authorities for the purpose of investigating potential guests' disruptive behavior."*

As a result of this change, STR guests will not learn about the video and sound recording equipment in the STR *until they are being checked in.* This will be too late for guests who want privacy to engage in misconduct to find another STR. They will have no choice but to get the keys and check-in, and if they need privacy, to disable the video equipment. It will be impossible for a non-resident host to always be present on the property when guests are present, and the *alternative of requiring video and sound recordings* will place too much of a risk on the STR owner and the town for invasion of privacy suits.

As such, if *the video and sound recording requirement is to be retained* as a deterrent to guest misconduct in lieu of the host being physically present, then to be effective:

A notice regarding the video and sound recording must be declared on STR platforms to discourage STR guests who intend to engage in misconduct from choosing the STR.

The requirement in the proposed §8.31.B.14.A *that the host must be reachable at all times* will, of course, not be possible. And even when if it is possible, what can the host do when his STR has 25 intoxicated young people; the neighbors call him at 2 AM and report they cannot sleep because of the barking dogs, ATV's running in the backyard, loud music coming from the property, and they have to be at work early the next morning? Video cameras, and a 30-minute host response time, will not protect neighborhoods from these risks. ***The only way to satisfactorily protect neighborhoods is either to require a resident host, or to prohibit STRs altogether.***

13. §8.31.C.2 unnecessarily requires a copy of the Host's photo ID or Driver's License.

The regulations do not require a copy of a driver's license or photo ID for any other land use. Since the STR owner can have his agent/operator be the host, there is no need for a photo ID of the STR owner. ***As such, §8.31.C.2 should be deleted***.

14. §8.31.C.3 requires a copy of the property card showing its ownership.

It also provides that no individual or entity may own more than one STR in town simultaneously.

Under the proposed regulations, the property owner will no longer be required to be a resident host, and under the proposed amendment, an STR manager can manage multiple LLC's, where each LLC owns a single STR. However, because the commission has no way to know if the manager of an LLC that is an applicant for an STR special permit is also the manager of other LLC's that own STRs, the **limit on the number of STR's an entity can own is meaningless and should be deleted.**

However, it is still important to require a copy of the property card. This is necessary to show the number and dimensions of the bedrooms, and the sizes of the living room and dining room, which are necessary to calculate the maximum number of STR guests.

15. §8.31.C.7 is a new requirement that requires details about the exterior video surveillance system and the proposed noise monitoring equipment.

If you are OK with allowing video recording equipment in lieu of requiring a host to be present or to reside on the property, then the proposed §8.31.C.7 is too vague and should be replaced with the following:

"§8.31.C.7. The applicant shall provide the following information associated with the required video surveillance and noise monitoring equipment.

A. Where on the property will each camera and microphone be located?

B. What is the field of view of each camera and the sensitivity of the recording equipment?

C. What are the specifications, including the resolution and sampling rates, of the cameras and sound recording equipment?

D. Are the cameras capable of recording if there is no lighting?

E. Are the cameras and recording equipment waterproof?

F. Who will retain the video and sound recordings, and for how long?

G. What is the warranty and mean time between failures of the equipment?

H. Is lighting required for the cameras to operate at night?

I. How long will it take to obtain spare parts to repair the video and sound equipment?

J. Will lighting, if required, illuminate neighboring properties?

K. How many continuous hours of recording will be retained.

L. Who will physically have possession of the video and sound recordings?

M. Will the video equipment record any part of neighboring properties?

N. What are the applicable references showing that the proposed video and sound recording system is lawful, and does not constitute an unlawful invasion of privacy?

O. Will the equipment record sounds from adjacent properties?

P. If the STR operator is sleeping, how will he know if the video and sound recording equipment has detected a problem?

Q. Will the video cameras cover the street to assure guest parking complies with the regulations?

R. How will the video and recording equipment be protected from theft, disabling, or the removal of power by STR guests?