

EX#20



**LEDYARD PLANNING & ZONING COMMISSION**  
**Staff Report: PZ#24-7ZRA**

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SEP 10 2024

Land Use Department

**STAFF REPORT**

**TO:** Ledyard Planning and Zoning Commission  
**FROM:** Michael D'Amato, AICP, CZEO, Consulting Planner  
**APPLICATION:** PZ#24-7ZRA: Application to Amend the Zoning Regulations  
**APPLICANT:** Eric Treaster

**APPLICATION SUMMARY**

Per the information submitted, this application has been submitted to:

1. Clarify that mining and quarrying are not permitted
2. Establish reasonable limits on large-scale excavation
3. Establish reasonable limits on the mass and density of multi-family developments that are consistent with the Affordable Housing Plan and the POCD
4. To require a public hearing for 8-30 Affordable Housing Applications

These changes are proposed through amendments to Sections which include: Table of Contents, Section 2.2 (Definitions), Pg 5-3 (Uses Res Districts), Pg. 6-7 (Uses Non-Res Districts), Pg 8-14, Sec 8.16 (Excavation), Pg. 5-1 Sec. 5.2 (Dim Reqs. Res Zones), Pg 5-2, Sec. 5.3 (Uses Res Districts), Pg 6-2 Table 6.2.1 General Guidelines: All Development, Cluster & Transition Districts), Pg 6-4 Sec. 6.4 (Permitted/Special Permits Uses Non-Res Zones), Pg. 8-25, Sec. 8.28 (Residence, Multi-Family), Pg 8-26, Sec 8.28.E (Off-Street Parking), Pg 8-26, Sec. 8.28.F (Max Bldng. Height Multi-Fam), Page ii Table of Content (Reserved) & Sec 8.3 (Reserved) to add "Affordable Housing Developments (R.I.G.L. §8-30g Applications)

| KEY APPLICATION TIMELINES  |                                       |
|--|---------------------------------------|
| Application Submission Date  | June 5, 2024                          |
| Official Date of Receipt   | June 13, 2024                         |
| Public Hearing Open Deadline   | August 17, 2024 (Extension Granted)   |
| Public Hearing Close Deadline  | 35 days from public hearing open date |
| * CGS §8-7d allows the applicant to consent to one of more extensions of time provided the total extension of time periods does not exceed 65 days |                                       |

**LEGAL STANDARD**

Standard for Application Type:

The Commission reviews zoning amendments in accordance with Zoning Regulations

**Section 11.4.4.** In making a decision, the commission should evaluate:

- 1) Consider whether the text amendment would be in accordance with the comprehensive plan; and
- 2) Take into consideration the Plan of Conservation and Development, prepared pursuant to CGS §8-23.

## Application Analysis and Staff Comment

The applicant has separated the proposed amendments into three (3) categories, "Multifamily", "Excavation, Mining and Quarrying", and "Affordable Housing". For the purposes of consistency, this review will follow the same format.

### Part 1: Multifamily Developments

There are eight (8) revisions pertaining to "multifamily developments" proposed by the applicant. Per the revised materials dated 7/8/24 and revised 8/19/24 these revisions include:

1. **Page 5-1** – (from §5.2 table):

**Delete** "Maximum Building Height of Principal Structure (ft)\*\*\*"

**Replace with:**

"*Maximum Building Height of Principal Structure (ft)*"  
(Retain the existing 35' under the R20, R40, and R60 columns.)

2. **Page 5-2** – (just before the §5.3 table):

**Delete:** "\*\*\*Maximum Building Height for permitted Non-residential Principal Uses and/or Multifamily Residences in the R20, R40, or R60 Districts is 45ft/3.5 stories"

3. **Page 6-2** – (last line of Table 6.2.1)

**Delete** the "50\*" entry on the last line of Table 6.2.1 under the LCDD, LCTD, MFDD, GFDD, and RCCD columns.

**Replace** each "50\*" entry with: "35" on the last line of Table 6.2.1 under the LCDD, LCTD, MFDD, GFDD, and RCCD columns.

4. **Page 6-2** – (just below Table 6.2.1)

**Delete:** "\*Maximum height may be increased to sixty-five (65) feet for multi-family and/or mixed-use buildings with full sprinkler systems; located in areas with functioning fire hydrants; and where all sides of the structure are accessible by a ladder fire engine."

**Staff Comment on Proposed Amendments 1-4:**

Items 1-4 include revisions which would establish a maximum height for all structures in residential zoning districts of 35ft. While removing this language would provide uniformity within the districts, which is generally beneficial within zoning regulations, staff would caution the Commission on the potential implications of such a change, particularly:

1. Creation of non-conformities: Existing non-residential or multi-family projects in Town would become non-conforming based upon the overall reduction in allowable height of 10ft.
2. Impact on Coverage/Density: With housing projects the most common metric used is density as compared to commercial projects which are typically looking at using square feet. Every project has a baseline density or size that is needed for the project to be feasible. Reducing the total allowable height by 10ft/ 1 story could potentially have the unintended effect of pushing development to increase total lot coverage and/or building footprints to achieve the necessary density and/or desired square footage as this amendment effectively reduces potential density by 30%.
3. Height vs. Design: While this amendment (if approved) would limit total height and number of stories for subject buildings, what would not change is how a building is designed. Particularly when it comes to projects in residential districts, what can be more impactful is how a building is situated on a lot, what type of roof it has if there are divisions in the façade etc.

**5. Page 6-4 – (Line 4 of Schedule 6.4)**

**Replace:** "SPL" with "SUP" on the line identified as "Residence Multi-family (apts, condos) §8.13" in the LCDD, MFDD, GFDD, and RCDD columns.

**Staff Comment on Proposed Amendment 5:**

As proposed, this amendment seeks to require a Special Use Permit application for "Residence Multi-Family (apts, condos)" in lieu of the current Site Plan Application requirements. This amendment would apply to the LCDD, LCTD, MFDD and GFDD all of which are characterized as special development districts and have a separate set of development standards outlined within Section 6.2 of the regulations. Staff would caution the Commission on increasing the standard of review from SPL to SUP, particularly when the specific criteria for reviewing such an application have not been included.

It is worth noting that Special Permit Uses are not uses which the Commission has the flexibility to simply deny based on preference, lack of public support or otherwise. Per *McLoughlin v. Bethel Planning & Zoning Commission*, the Special Permit category is for uses which are expressly authorized by the regulations. The Commission has the ability to issue a

conditional approval for these types of applications provided it can show that such conditions are necessary to protect health, safety, convenience or property values.

In addition, as the Regulations stand currently with the requirements for a Site Plan Application, the PZC already has the authority to conduct a public hearing associated with the site plan. It is still bound to issue an approval within 65-days as required by Statute but there is nothing that would prevent a public hearing from being held if allowing the public to provide input was deemed appropriate.

**6. Page 8-25 – (§8.28.B)**

**Delete:** "§8.28.B "Density: The density for an Apartment Condominium complex shall be limited only by the applicable building, fire, and public health codes and applicable bulk/dimensional requirements of the particular zone."

**Replace §8.28.B with:**

*"B. There is no minimum floor space area for a dwelling unit or a numerical or percentage cap on the number of dwelling units in a multifamily residence, as defined in §2.2.*

- 1. As defined in §2.2, the height shall not exceed 35'.*
- 2. The number of stories shall not exceed three (3).*
- 3. The size shall not exceed 10,000 square feet for a one-story, 20,000 square feet for a two-story, or 30,000 square feet for a three-story multifamily residence.*
- 4. The population density shall not exceed sixty (60) people per acre based on an occupancy of two people per bedroom.*
- 5. Multiple multifamily residences can be on a single parcel.*
- 6. Each dwelling unit must have one or more bedrooms."*

**Staff Comment on Proposed Amendment 6:**

As stated above, density is an important factor when considering the viability of a housing development of any type. The current regulations allow for density to be established based upon applicable health and safety codes and do not otherwise cap density. The proposed amendment in addition to re-stating the requested 35ft height and 3-story limit also establishes a maximum building size by total number of stories, limits density using a population count and states a minimum bedroom count.

Amendment 6 seeks to establish a new cap on total building size at 10,000SF per story. While limiting the total size of anyone building for projects that are large in scale is a technique used by many Municipalities, if the Commission is interested in this type of approach, it is

recommended that alternate language be pursued to encourage multiple principal buildings vs. limiting building sizes based on the number of stories.

This portion of the proposal also proposes that population density for a project should not exceed sixty (60) people per acre based on an assumption of 2 persons per bedroom. Staff has a significant concern with using this metric to calculate density as the charge of Planning & Zoning Commission's is to regulate the use of the land not the user of the land.

According to the most recent American Community Survey (2020), the average household size in Ledyard was 2.6. Establishing a regulation based upon the assumption of 2 persons per bedroom forces a project in its entirety to project a population that is nearly 35% greater than the average.

The other concern that staff would have is that by limiting density as written there is essentially no connection between building size and allowable density. A 10,000SF building would be allowed the same density as a 30,000SF building.

**7. Page 8-26**

**Delete:** "E. Off-street Parking: Off-street parking shall be provided as required by §9.4."

**Replace with:**

**"E. *Off-street Parking:***

- 1. *Parking shall be below, attached, between, or behind multifamily residences.***
- 2. *Required resident parking shall be on the same parcel as the multifamily residence.***
- 3. *Covered parking attached to or below a dwelling unit shall count as 1.25 parking spaces toward the off-street parking requirements.***
- 4. *A tandem parking space shall count as a single parking space.***
- 5. *A minimum of two parking spaces are required per one- or two-bedroom dwelling unit.***
- 6. *Parking requirements are increased by 15% if no on-street parking is available.***
- 7. *Parking requirements are credited 1.25 spaces for every covered parking space attached to or below a dwelling unit.***
- 8. *A reasonable number of off-street parking spaces shall be reserved for guest parking."***

**Staff Comment on Proposed Amendment 7:**

Proposed revisions included within this Section of the requested changes pertain to off-street parking requirements in Section 8.28. While the idea of encouraging covered parking through reducing the number of spaces required is useful, staff has multiple concerns with the language as proposed, specifically:

1. A requirement that at least 2 spaces per unit be provided for such developments is a violation of Public Act 21-29. Unless the Town of Ledyard affirmatively opted-out of the requirements of this Act, only 1 parking space can be required per 1 bedroom unit.
2. The term "reasonable" when referring to the number of guest parking spaces is a term that is undefined and could appear arbitrary to applicants.

**8. Page 8-26**

**Delete:** "F. Maximum Building Height for a Multi-family Residence in the R20, R40, or R60 districts is forty-five feet/3.5 Stories."

**Replace with:**

***"F. Recreation. A reasonable amount of appropriate outdoor recreational space and facilities shall be provided for use by residents. (Optional for age-restricted developments.)"***

**Staff Comment on Proposed Amendment 8:**

With any development it is important that amenities and facilities are appropriately provided so that residents of the development have access to open space, community/gathering areas, places to store bicycles or other equipment etc. these design considerations should be more defined if the Commission wishes to encourage them more seriously. As mentioned above, staff would caution use of the term "reasonable" as it is undefined and not a standard that an applicant can easily determine compliance with.

Lastly, the note that does not obligate age-restricted developments to meet this standard should also be evaluated. Zoning Regulations should be consistent and transparent and removing a development requirement based upon the occupant is not advisable. In addition, as was the case with many age-restricted developments in the early 2000's, this would prohibit a removal of any age-restriction down the road as this standard would then apply to the project.

**August 19, 2024, Revision**

**1. Add parking layout and parking dimension requirements.**

Replace [duplicated] §8.28.E-7 with: *"Parking layout and parking dimensions shall be consistent with the Parking Dimension Requirements listed in the table in §9.4.4.A; the Parking Requirements listed in the table in §9.4.4.B; and the Other Standards listed in §9.4.4.C and §9.4.4.D."*

**2. Add parking lot landscaping requirements.**

Add [new] §8.28.E-9 as follows: *"Parking lot landscaping shall be consistent with the requirements in §9.4.6."*

The application as submitted contains seven (7) proposed amendments to the Regulations pertaining to excavation and Section 8.16

**1. Page iii – (In the Table of Contents)**

**Delete:** "8.16 EXCAVATION (FILLING OR REMOVAL OF SOIL, GRAVEL AND STONE)"

**Replace with:**

"8.16 EXCAVATION"

**2. Page 2-7 – (In §2.2 (Definitions))**

**Delete:** The definition of "Excavation, Major"

**Delete:** The definition of "Excavation, Minor"

**Staff Comment on Proposed Amendments 1-2:**

As discussed previously in this report, removing defined terms has the potential to result in unintended consequences with respect to previously approved activities. If this portion of the application were to be approved, any operation in Ledyard which results in the import/export of 0-300 cubic yards would now qualify as an excavation activity, including excavation for the construction of a single-family home. For example, excavation for a home with a 25'x25' footprint would yield approximately 200-250 cubic yards of material. Unless that soil was kept on the property, such activity would qualify under this proposal as "excavation".

Staff would caution the Commission in its review of this proposed change as it would qualify most land-disturbing activities as "excavation". For reference, 300 cubic yards is approximately 15-18 loads of a tri-axle dump truck.

**3. Page 2-7 – (In §2.2 (Definitions))**

**Delete:** The definition of "Excavation"

**Replace with:**

**EXCAVATION:** *"The act or process of digging, removing, relocating, or displacing soil, rock, or other materials from a parcel or lot to build foundations, install utilities, or landscape for the development of one or more principal or accessory uses allowed in the district. Excavation is not a "land use."*

**Staff Comment on Proposed Amendment 3:**



To expand further on the comments above, while expanding of the definition of excavation alone is not cause for concern, the removal of the qualifying criteria that currently exists does create a potential concern.

In addition, the last sentence within the proposed definition presents a strong concern for staff. Changes to this definition should not exclude an activity which is currently listed within your Regulations as an allowable use of land. Not only is excavation recognized as a land use within your regulations currently, it has also been recognized as such by multiple CT court cases, several of which clearly protect such uses, even if deemed to be non-conforming, to allow for continued expansion known as the "Natural Expansion Doctrine". See: *Taylor v. Wallingford Zoning Board of Appeals*, and *Kovacs v. New Milford Zoning Board of Appeals*.

**4. Page 2-7 – (in §2.2 (Definitions))**

**Add the following definitions for "Mining," "Quarry," and "Quarrying":**

**MINING:** *The act or process of extracting valuable or marketable minerals from the earth's surface.*

**QUARRY:** *A place, typically a large pit, from which marketable stone or other materials of value are being extracted or have been extracted.*

**QUARRYING:** *The act or process of extracting marketable stone or other valuable materials from a quarry.*

**Staff Comment on Proposed Amendment 4:**

As drafted, staff would caution the Commission on adoption of the proposed amendments. There is little distinction between "mining" and "quarrying" and all three of the proposed definitions include terminology with a high degree of subjectivity including "valuable" and "marketable"

**5. Page 5-3 – (in Table 5.3)**

**Delete** "Excavation Operations - Major ( $\geq 300$  cu yds) 8.16" and the SUP requirement under the R20, R40, R60 columns.

**Delete** "Excavation Operations - Minor ( $< 300$  cu yds) §8.16" and the SPL requirement under the R20, R40, R60 columns.

**6. Page 6-7 – (in Table 6.4)**

**Delete** "Excavation Operations - Major ( $\geq 300$  cu yds) 8.16" and the SUP requirement under the RCDD, I, and CIP columns.

**Delete** "Excavation Operations - Minor ( $< 300$  cu yds) §8.16" and the SPL requirement under the RCDD, I, CIP, and CM columns.

**Staff Comment on Proposed Amendments 5-6:**

See comments above for Proposed Amendments 1-2

**7. Page 8-14 –**

**Delete** the entire §8.16 "Excavation (Filling or Removal of Soil, Gravel and Stone)

**Replace §8.16 with the following:**

**8.16 EXCAVATION**

***Purpose:*** *To allow for the necessary removal of materials for developing a permitted principal or accessory land use without impacting health, safety, convenience, or property values.*

**A. *Limits:*** *The maximum excavation removal amount is limited to 5,000 cubic yards. Excavation removal amounts above 5,000 cubic yards require one or more renewal applications and new permit(s).*

**B. General Requirements:**

- 1. Excavation necessary to develop a permitted principal or accessory use that requires a zoning permit or a special permit is permitted under the zoning permit or special permit for the use.*
- 2. Excavation shall not result in reduced desirability, usefulness, or value of the excavated parcel or adjacent parcels.*
- 3. Excavation shall not result in an unsightly undeveloped site due to open pits, rubble, unused or junk equipment, or other indications of improper site closure.*
- 4. Excavation shall not involve explosives or rock-crushing machinery if it is within 2,000 feet of a residence.*
- 5. Excavation must begin within one year of the date of its permit.*

6. *Excavation must be completed within 180 days of beginning.*
7. *Excavation may involve expansive controlled demolition agents and other alternative, less intrusive technologies when explosives or rock-crushing machinery are not allowed or are unsuitable.*
8. *No excavation shall occur closer than fifty (50) feet from any wetlands, watercourse, or water body.*
9. *No removal shall occur within twenty-five (25) feet of a property line or within fifty (50) feet of a highway property line, where the distances are measured from the top of the bank.*
10. *Upon the completion of excavation,*
  - a. *No bank shall exceed a slope of one (1) foot vertical rise in three (3) feet of horizontal distance;*
  - b. *Disturbed areas shall be covered with a minimum of four (4) inches of topsoil and graded;*
  - c. *The area will be limed, fertilized, and seeded; and*
  - d. *The site shall be maintained until the area is stabilized.*
11. *To provide for surface drainage, the gravel bank floor area shall be graded to not less than one percent (1%) or more than four percent (4%).*
12. *Topsoil and subsoil stripped from the operation area will be stockpiled for site restoration.*
13. *Nonconformance with the "Plan of Operation" constitutes a violation of the zoning regulations or permit approval conditions.*
14. *No excavation will involve mining or quarrying, as defined in §2.2, as the principal purpose of the excavation.*
15. *To determine if a proposed excavation is a prohibited mining or quarrying use, the ZEO or the Planning and Zoning Commission, as appropriate, may determine if an applicant would likely proceed with his proposed development if it did not depend on revenue from the sale of minerals and stones excavated from the site.*

**C. Additional requirements when the excavation removal amount is between 300 and 5,000 cubic yards.**

1. *A special permit is required for the excavation component of the development if the proposed principal or accessory use is allowed by right.*
2. *A site plan shall be provided that includes the surrounding area and depicts the location of residences within 2,000 feet of the site.*
3. *The Commission may impose constraints on the days and hours of excavation as a condition of approval of the special permit.*
4. *Excavation requires a twenty (20) foot wide by fifty (50) foot long tracking pad at the site entrance consisting of three (3) inches of crushed stone installed before the start of operations.*
5. *The Commission may require the applicant to post a bond to the Town of Ledyard in an amount and form sufficient to assure the parcel will be excavated, graded, landscaped, and restored in conformance with the Plan of Operation and its Closure Plan.*
6. *The Commission may require additional screening as a condition of approval if it deems more isolation of adjacent properties is necessary.*
7. *If the removal area is near a town/state or state road, the Commission may require additional screening as a condition of special permit approval.*

**D. Application Requirements:**

*Applications that include excavation, as defined, must include the following:*

1. *A description of the purpose(s) of the excavation.*
2. *The anticipated start date and the hours and days of excavation.*
3. *The amount of time expected between beginning and completing the excavation.*
4. *The expected excavation removal amount (in cubic yards).*
5. *Identification of the existing and proposed structures on the site.*
6. *A statement that the proposed excavation will not involve mining or quarrying, as defined in §2.2, as a principal purpose of the excavation.*
7. *A signature page signed by the applicant certifying the excavation will be conducted in conformance with the Zoning Regulations, the Plan of Operation, the Closure Plan, and the Plan for Sediment and Erosion Control.*

**Staff Comment on Proposed Amendment 7:**

Including a purpose statement at the beginning of a Regulation Section is common and can be helpful to readers of the document to better understand the goals of the section and intent of the Commission. However, the purpose statement within proposed amendment more narrowly only includes "removal" of materials and would not appear to cover if materials were to be imported to a property.

Staff would offer the following comments pertaining to the "General Requirements" as proposed:

- General Requirement #2: The Commission should not review a proposed activity based upon an undefined and subject potential reduction in desirability, usefulness or value to the parcel. If such an activity is permitted, it is a landowners right to conduct the activity on their property.
- General Requirement #3: As drafted, the proposed amendment would only allow for the conduct of such activities provided they were in preparation for a subsequent use which was also permitted so this requirement wouldn't be necessary.
- General Requirement #5 and #6: It is unlawful to provide for the commencement and completion of an approved activity. CT General Statutes Section 8-3 provides for the expiration of land use approvals.
- General Requirement #8: Zoning Regulations which establish buffer zones related to wetlands should only be developed when they are in support of alleviating concerns associated with flood risks. Otherwise, the regulation of wetlands and/or watercourses should be at the sole discretion of the Inland Wetlands & Watercourses Commission.
- General Requirement #15: The Planning & Zoning Commission or ZEO should not decide on an application based upon conjecture or assumption. Marketability, potential profit and qualifying an approval based upon a potential future development are beyond the scope of authority for this Commission.

**Staff comments pertaining to subsect. "C" excavation between 300 and 5,000 c.y.:**

- Subsection C Requirement #1: As drafted, this amendment would only permit excavation activities if they were proposed in conjunction with an allowable site development activity.
- For example, construction of a single-family home that involves excavation of 350 cubic yards would now require the submission of these additional application materials.

**8. A "Plan of Operation" that includes:**

- a. If the removal area is on or near a river, estuary, watercourse, or wetlands, a detailed description of the protective measures that will be taken to conform with federal, state, and local regulations.*
- b. If the excavation is in or abuts a residential district, a description of how the excavation will not create impulse or continuous sounds at the property line that exceed 5 dB above the ambient noise level at the property lines.*
- c. A description of how the excavation will not create odor, dust, fly ash, or other airborne contaminants, or how these contaminants will be controlled so as not to leave the excavation site.*
- d. A plan for sediment and erosion control.*
- e. Information showing that if the excavation is below the seasonal high water table, the pond banks will be no steeper than a two-to-one ratio (2:1).*
- f. Information showing that surface water will flow from the excavated area through appropriate sediment control devices before leaving the site.*
- g. The proposed truck access & egress route to and from the excavation area.*
- h. Information regarding the depth of the groundwater table.*
- i. Information regarding a log of soil borings taken to the depth of the proposed excavation.*
- j. A description of the proposed excavation effort and technology.*
- k. A description of the machinery that will be used on the site.*
- l. Details for the final grading and landscaping after the completion of excavating.*
- m. Details regarding the drainage of the operation area during and after the completion of the work.*
- n. A description of how erosion will be controlled during excavation and how storm water and process water used in the operations will be contained, treated, and discharged in conformance with federal, state, and local regulations.*
- o. A closure plan showing how the site will be closed and restored upon completion of the proposed excavation.*

**Staff comments pertaining to subsect. "D" Application Requirements:**

- #8. Plan of Operation, Item b: According to the US EPA, ambient noise levels within outdoor areas can range between 45 and 55 decibels. A standard gas-powered lawn mower can range between 80-90 decibels. Requiring that an operation which has been permitted by these regulations and is being conducted during the days and hours authorized by the Commission and using equipment which was also reviewed by the Commission to operate at what is effectively ambient noise levels is not reasonable and would be cause for an almost immediate violation upon commencement of the activity.

**August 19, 2024, Revision**

- 3. Allow excavation of over 300 cubic yards for a by-right use under the zoning permit for that use.**

Delete §8.16.C.1: *"A special permit is required for the excavation component of the development if the proposed principal or accessory use is allowed by right."*

- 4. Require excavation reseeded with a grass species native to the area.**

Replace §8.16.B.10.c with: *"The area will be limed, fertilized, and seeded with a grass species native to the area, and"*

## Part 3: Affordable Housing Applications

1. Page ii (in Table of Contents) –  
Replace §8.3 "RESERVED" in the Table of Contents with:

**"8.3 AFFORDABLE HOUSING DEVELOPMENTS (CGS §8-30G APPLICATIONS) 8-2"**

### **Staff Comment on Amendment 1:**

Should the Commission consider adoption of this amendment, staff would suggest removal of the 8-30g statutory reference. In addition, this term is not defined in the regulations currently or in the proposed language. Staff would also suggest that if these amendments are to be considered for adoption that all relevant terms be defined.

2. Page 8-2 –  
Replace §8.3 "RESERVED" with the following:

#### **"8.3 AFFORDABLE HOUSING DEVELOPMENTS (CGS §8-30g APPLICATIONS)**

- A. *The "Affordability Plan" shall use current rates for its estimated costs of utilities (water, sewer, electricity), insurance premiums, taxes, maintenance, HOA fees, and financing (interest) used in the calculation of the maximum rent or sales price of the deed-restricted affordable dwelling units. The insurance premium cost estimate for the deed-restricted units shall be based on a recent quote from a licensed insurance company and include a description of the amount and type(s) of coverage provided under the policy. The cost estimate for utilities shall take into consideration the size and design of the dwelling; the R-value of its insulation; the size, number, and R-value of its windows; the annual HVAC routine servicing costs; and the quantity and cost (at current rates) of the fuel for the heating and cooling of the deed-restricted units.*
- B. *The "Affordability Plan" shall include a section titled "Conditions of Approvals, Deeds, and Restrictive Covenants [or Lease Provisions] That Will Govern the Affordable Dwelling Units."*
- C. *To show the proposed affordable housing units are comparable in size and design to the market rate units, the "Affordability Plan" shall include a list of differences, if any, between the designated "affordable dwelling units" and the "market rate" units. [For example, will the affordable dwelling units be smaller, have less desirable views, less parking or more distant parking, less efficient insulation, fewer, smaller, or less efficient windows, have fewer bedrooms, fewer or smaller bathrooms, fewer or smaller closets, fewer cabinets, no central AC, a separate entrance, or less efficient heating or cooling than the market-rate units.]*
- D. *The Commission shall impose reasonable changes and conditions of approval to improve the Application that will not have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable housing units.*
- E. *If the Commission denies the Application, it shall provide a detailed statement of its reasons, which must be supported by sufficient evidence in the record.*
- F. *A public hearing is required for all proposed affordable housing developments.*



**Staff Comment on Amendment 2:**

As the Commission is aware, CGS§ 8-30g outlines the process for Affordable housing land use appeals following the denial of an application by a Commission. The applications/projects themselves are not defined as "8-30g developments".

As the Commission is aware, according to the most recent data published by the CT Department of Housing, approximately 3.82% of Ledyard's total housing stock qualifies as "Affordable". Given that this figure is below the 10% threshold established by CGS §8-30g, if an Affordable housing development went before the Commission for review and approval, it would not therefore be subject to the proposed requirements.

If the intent of this amendment is to further encourage affordable housing, then this Section should be supplemented with additional guidelines such as:

- Allowing such developments "by right"
- Definition of terms, including at a minimum:
  - o "Affordable"
  - o "Affordability Plan"
  - o "Market Rate"

As stated above, given that Ledyard is below the 10% applicability threshold for CGS§ 8-30g, the requirements included within this Section would not apply to a qualifying Affordable development. As mentioned, if the intent is to further encourage housing availability these concepts could be included in a separate Inclusionary Zoning amendment which could build upon the requirement as stated in Section 8.11B (5)(a)

**Plan of Conservation and Development Consistency**

In accordance with Section 8-2 of the CT General Statutes zoning regulations shall "be made in accordance with a comprehensive plan and in consideration of the Plan of Conservation and Development".

**Part 1: Multifamily Developments:**

Staff has reviewed the most recently adopted Ledyard POCD and was not able to find any specific statements which could be considered as directly in support of the proposed changes. The POCD makes reference to "encouraging housing diversity", "promoting rental housing" and cluster developments. The changes as proposed do not appear to align with this focus as they could place further constraints and development burdens on housing projects. The applicant has included a statement pertaining to consistency with the POCD. Staff would note that this document makes several references to consideration of the community's "character". As part of the provisions passed within Public Act 21-29,

consideration of "character" must be specifically limited to physical characteristics only which must be explicitly defined.

**Part 2: Excavation, Mining & Quarrying:**

Staff has reviewed the most recently adopted Ledyard POCD and was not able to find any specific statements which could be considered as directly in support of the proposed changes. Staff was not able to find any language within the POCD that suggests such uses should be reduced or eliminated or that commercial uses overall should be constrained.

**Part 3: Affordable Housing Applications:**

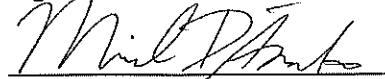
Staff has reviewed the most recently adopted Ledyard POCD and was not able to find any specific statements which could be considered as directly in support of the proposed changes. While there are several mentions to expanding housing diversity and opportunity, promoting Affordable housing and supporting existing housing, the amendments as proposed in this application do not serve to further support these goals as they do not further encourage these developments but rather provide application criteria, a path for the Commission to impose conditions or changes to such applications and requires a public hearing be held.

**Staff Recommendation**

This application, while separated into 3 parts, contains in total seventeen (17) separate amendments to the Zoning Regulations. While there are components within the application overall that may be worth further consideration, as presented these amendments do not further the goals of the POCD. In addition, several portions of the proposal includes language which does not comply with current best practices, case law or Statute and presents a concern should they be adopted as they would immediately make previous approvals issued by the Planning & Zoning Commission non-conforming, which is in substantial conflict with the intent of Zoning Regulations and the consideration that should be given to new amendments.

Staff would recommend denial of the application as presented given the conflicts presented within this report. Following a decision, the Commission could undertake a planning exercise to determine if any of the minor components or concepts are worth incorporating into the regulations at a later date.

Signed,



Michael D'Amato, AICP, CZEO  
Principal  
Tyche Planning & Policy Group, LLC

Reviewed,



Liz Burdick  
Director of Land Use & Planning  
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