

Applicant Mark C. Coen's Response to Questions and Comments
August 6, 2010

Requested Change	Change Made? / Response to Question	Reason/ Comment
I. Public Comments		
Is the property within the Costal Area Management Act?	Yes	No separate CAM application is necessary. The text change application was referred by Commission staff to DEP on 7/19, the Commission may consider whether onsite or adjacent costal resources will be impacted, if those impacts outweigh the need for affordable housing and there is no modification of the application that can be made to eliminate or limit those impacts.
Are the parking lot and handicapped access ramp included in the approved wetlands permit?	Yes	The submitted minutes of March 16, 2010
Is the property within a DEP protected species "Blob"	No	There is a "blob" which is adjacent to the other side of Smith Pond, but does not cover this property. A blow up of the "blob" will be submitted.
Is Ledyard a "suburban" town, according to the ITE, whose data was used to determine the correct number of parking spaces?	Yes.	The ITE defines a "suburban" town as "locations are outside the central city of a metropolitan area. Characteristics may include limited transit services, surface parking, less-than-complete pedestrian networks, predominance of single-story buildings, sites with isolated land uses and larger groupings of homogeneous land uses." The ITE defines "rural" areas as "located outside a metropolitan region" which Ledyard is not. No "apartment" parking calculations are provided for "rural areas."

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II. Commission Comments		
Statute says proposed text amendment should be part of the Affordability Plan.	Yes	Proposed text amendment is included as Schedule H of the Affordability Plan.
Affordability plan calls this a "Townhouse" which is not defined by the Zoning Regulations.	Yes	References to "Townhouse" have been deleted. The proposed development is now called a "three (3) family dwelling" and a definition of "three (3) family dwelling" has been added to the proposed text for addition to the Zoning Regulations.
Several questions were raised about conflicts between the proposed text and section 13.3 of the regulations.	No	Changes were not required. The proposed text specifically exempts this development from section 13.3 in its entirety.
Is the actual height of the structure may be in excess of 40', which is the height permitted by the proposed text.	No	The applicant's engineer has determined, using the definition of building height contained in the Zoning Regulations that the actual height of the proposed structure is less than 40'.
Why is more than 35' required? Can the structure be lowered?	No	There is no link between height in excess of 35' and health, safety or other criteria that can be considered by the Commission, especially in light of the letter from the Ledyard Fire Marshal. No change was made to lower the height of the proposed structure.
Why not provide 1200 SF of parking for the site?	No	Adequate parking, as calculated using the relevant ITE standards, is available on site as currently designed. There is no health or safety risk, so no change has been made.
Blanket exemption from 13.3 includes exemption from bonding. Why?	No	There is no health or safety risk created by exempting this project from bonding, so no change has been made.

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Blanket exemption from 13.3 includes exemption from sewer requirement. Why?	No	No sewers are available on this site. There is no health or safety risk created by the installation of a health code compliant septic system, so no change has been made.
Blanket exemption from 13.3 includes exemption from all buffering and screening. Could some be provided?	Yes	A landscaping plan will be presented to the Commission at or before the August 12 public hearing.
In text of 3.1.7 could you say, "dwelling to be located at 83 Inchcliffe Drive to contain 3 dwelling units" instead of three (3) family dwelling?	No	There is no risk to health, safety or other matters that can be legally considered by the Commission by using a narrower definition in this section of the proposed text. Note that a definition of the term "three (3) family dwelling" has been added to the proposed text.
Language should be added to section 13.3 which states, "Except for a single 3 1 BR at 83 Incliffe Drive as per 3.1.7" and that narrows the scope and then list the individual exemptions, rather than a blanket exemption.	No	There is no health or safety interest presented.
The Afforability Plan should be made more specific to Ledyard and Gales Ferry.	Yes	Generic references have been replaced with specific references to the Town of Ledyard, Gales Ferry and the Ledyard Zoning Commission.
The Afforability Plan should contain an introduction and table of contents.	No	This plan is based on a model accepted by the Department of Economic and Community Development, which is charged with the administration of Conn. Gen. Stat. § 8-30g. The format of the plan will continue to conform to that approved model.

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<p>The plan must list who is the responsible person or entity for its administration.</p>	<p>Yes</p>	<p>Donco, LLC., which buys, sells and leases real estate, will be the administrator of the plan. In the alternative, The applicant will consent to administration by the Ledyard Housing Authority or other municipal agency, should the Commission prefer this option and should such an agency agree to be the administrator.</p>
<p>Language of the Affordability Plan should conform to the statute.</p>	<p>No</p>	<p>This plan is based on a model accepted by the Department of Economic and Community Development, which is charged with the administration of Conn. Gen. Stat. § 8-30g. The format of the plan will continue to conform to that approved model.</p>
<p>The model plan used is for a large development and contemplates successor administrators, even though this is a small project.</p>	<p>No</p>	<p>This plan is based on a model accepted by the Department of Economic and Community Development (DECD), which is charged with the administration of Conn. Gen. Stat. § 8-30g. The DECD requirements are the same, regardless of the size of the development. The format of the plan will continue to conform to that approved model.</p>
<p>Several concerns about the Affirmative Fair Housing Marketing Plan, and its specific targeted populations, were raised.</p>	<p>No</p>	<p>The Affirmative Action Marketing Plan conforms to the requirements of Regulations of Connecticut State Agencies 8-37ee-1, which governs Affirmative Fair Housing Marketing</p>
<p>Throughout the plan, the term "Townhouse" should be changed to "Apartments" which is a defined term in the Zoning Regulations</p>	<p>Yes and No</p>	<p>The term "Townhouse" has been changed to "Three (3) family dwelling." A definition of the tem "Three (3) family dwelling" has been drafted and included in the proposed text for inclusion as a defined term in the Zoning Regulations.</p>

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<p>In the plan, the rental calculations are titled "Sales Price" not rent.</p>	<p>Yes</p>	<p>The title of Section XII of the Affordability Plan has been corrected.</p>
<p>Numbers used for estimated utility payments and insurance payments seem to high.</p>	<p>Yes</p>	<p>Revised numbers, and an explanatory footnote have been added. The rental calculations have been adjusted accordingly.</p>
<p>Several comments were made about necessary language and documents if individual units are to be sold.</p>	<p>Yes</p>	<p>All references to the sale of units have been deleted from the Affordability Plan.</p>
<p>Sample deeds are not included. Deed restrictions on the entire property should be included.</p>	<p>Yes</p>	<p>Schedule G, a "Restrictive Covenant of Affordability" has been added to the Affordability Plan. This restrictive covenant contains the necessary statutory language to restrict the sale of this property, pursuant to Regulations of Connecticut State Agencies 8-30g-9. This restrictive covenant applies to the entire property. Individual units will not be sold, so this is the only necessary deed restriction.</p>
<p>A document entitled "conditions of approval" should be included.</p>	<p>No</p>	<p>There are no conditions required to protect substantial interests in health or safety.</p>
<p>Restrictive covenants should be included. These were interpreted as lease "rules and regulations" by Mr. Treaster.</p>	<p>No</p>	<p>A "Restrictive Covenant" is a legal term of art referring to a restraint on alienation of a piece of real property. A restrictive covenant restricting the sale of the property has been included as Schedule G, as discussed above. Lease "rules and regulations" have not been included, and are not required by statute or regulation.</p>

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<p>The Affordability Plan is silent about children. If single mother with a child, will that affect the rental?</p>	<p>No</p>	<p>The Rental price formula, including the number of occupants used to generate that calculation, are specifically enumerated in Regulations of Connecticut State Agencies 8-30g-8. The Affordability Plan complies with those regulations.</p>
<p>The Affordability Plan has a "lease rider" but not an actual "lease"</p>	<p>No</p>	<p>The lease rider contains the statutorily mandated language, which is all that is within the jurisdiction of the Zoning Commission. The landlord will remain free to use any lease which contains the required "rider."</p>
<p>Several suggestions for restrictions that should be included in a lease or "rules and regulations" were made including that the Lease should be for a one year term, should have a provision regarding long term guests, should restrict "tin foil," should restrict Bar-B-Q's on decks, should restrict boat storage, among others.</p>	<p>No</p>	<p>These items are outside the jurisdiction of the Zoning Commission.</p>
<p>Lease should require that the HOD unit be the primary domicile of the resident.</p>	<p>No</p>	<p>This language is contained in Section XIII of the Affordability Plan. By statute, the HOD unit must be administered according to the plan. No additional document is necessary.</p>

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<p>There was a discussion about whether it is permissible if the renter of the HOD unit remained after exceeding income limits and the next available unit became the HOD unit.</p>	<p>No</p>	<p>This is possible if a vacant unit is available to become the HOD unit at the time the present HOD unit becomes market rate. In a large development, this is probably a workable idea. However, because of the size of this development, it is unlikely that a unit will be vacant at the time the HOD unit becomes market rate. For that reason, no change has been made to the Affordability Plan to reflect this discussion.</p>
<p>Several "entry criteria" were proposed, such as, whether someone on the sex offenders list or subject to a restraining order or out on probation for a felony, or single mom with three children rent the HOD unit, or, presumably, the other unit.</p>	<p>No</p>	<p>Existing state laws on these subjects will be followed, but it is unclear if specific "entry requirements" are legal. Certainly, requiring specific "entry criteria" is outside the Commission's jurisdiction in deciding on this application.</p>
<p>Annual financial statements should not be tax returns</p>	<p>No</p>	<p>DECD requires income tax returns be used as the annual financial statement.</p>
<p>"Schedule A" of the Affordability Plan, the property description, should be more specific.</p>	<p>Yes</p>	<p>Schedule A has been revised to include a more specific, metes and bounds description of the property.</p>
<p>Can "Schedule D" be simplified?</p>	<p>No</p>	<p>This is what is required by DECD.</p>
<p>"Schedule F" should include a specific list of common facilities.</p>	<p>No</p>	<p>The owner will make this determination at the time of construction.</p>
<p>Is parking assigned? How will access be handled.</p>	<p>No</p>	<p>Pursuant to "Schedule C", each unit includes one parking space. Specific assignment of spaces is outside the jurisdiction of the Commission.</p>

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<p>P. 18 (now P. 19) of sample lease rider: Not clear if children are included in the calculation and if so, would that be unlawful discrimination against people with children? I think it would, but address issue of children.</p>	<p>No</p>	<p>The Rental price formula, including the number of occupants used to generate that calculation, are specifically enumerated in Regulations of Connecticut State Agencies 8-30g-8. The Affordability Plan complies with those regulations.</p>
<p>Section 5 of the "Lease Rider" says "each unit" when there is only one HOD unit.</p>	<p>Yes</p>	<p>Changed.</p>
<p>Portions of the rider are written in future tense, when past tense may be preferable.</p>	<p>No</p>	
<p>Section 5 of the "Lease Rider" says "Town of Ledyard" when it should say "Ledyard Zoning Commission"</p>	<p>Yes</p>	<p>This language has been changed to, "Town of Ledyard or the Ledyard Zoning Commission. . ." Typically, this function is performed by Town staff because a part time, volunteer Zoning Commission lacks the resources to perform it. However, if the Zoning Commission wishes to perform this function, the Applicant has no objection.</p>
<p>Conn. Gen. Stat. § 8-30h requires an annual certification of compliance by the administrator.</p>	<p>Yes</p>	<p>Language requiring annual certification to the Zoning Commission was added to Section V of the Affordability Plan. As the HOD unit must be administered pursuant to the Affordability Plan, this fulfills the requirements of Conn. Gen. Stat. § 8-30h.</p>

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Can eviction in ninety (90) days of an HOD tenant who exceeds income limits be avoided?	No	The Affordability Plan and "lease rider" were amended for consistency, so that both require eviction within sixty (60) days of exceeding the income limitations. No specific number of days is found in statute or regulation. If the Commission wishes to propose an alternate number of days, the Applicant would be amenable to considering its request.
List the amenities provided for each unit.	No	This is outside the jurisdiction of the Commission.
Eliminate the word intent, which Mr. Treaster does not like.	No	
Identify an initial administrator.	Yes	Donco, LLC., which buys, sells and leases real estate, will be the administrator of the plan.
If you don't intend to sell individual units, delete all references to sales.	Yes	
On page 2, item 6, second sentence, says notices per affirmative marketing plan in Section 8, but Section 8 doesn't contain an affirmative marketing plan.	Yes	The Affirmative Fair Housing Marketing Plan is now contained in VIII of the plan.
Add an Affirmative Fair Housing Marketing Plan specifically tailored to this development.	No	The Affirmative Action Marketing Plan conforms to the requirements of Regulations of Connecticut State Agencies 8-37ee-1, which governs Affirmative Fair Housing Marketing. Note that the papers in which notice is to be published have been specifically selected to reach Ledyard.

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Are changes required to address whether someone whose only source of income is unemployment be accepted as an HOD tenant?	No	The HOD unit will be administered as required by Conn. Gen. Stat. and the Affordability Plan.
Are changes required to address whether someone who receives the income necessary to rent the HOD unit as a gift?	No	The HOD unit will be administered as required by Conn. Gen. Stat. and the Affordability Plan.
Should be a provision in the Affordability Plan that the that the unit be the principal residence of the dwelling.	Yes	This was, and is, contained in section XIII of the Affordability Plan.
The lease should address the event of increase in renters income.	Yes	Provisions regarding increasing renters income are addressed in Section 6 of Schedule F, the "lease rider"
Say that HOD unit must be safe, sanitary and good condition to be sold and if not who pays for those repairs.	Yes	Section XIV of the Affordability Plan contains specific requirements regarding maintenance of the HOD unit. Specific arrangements between the landlord and tenant regarding payment for repairs are outside the jurisdiction of the Commission.
The slope of the land does not match the architectural drawings.	No	Elevation drawings do not typically show grades.
Mr. Treaster asked why this location was chosen and which other locations were considered.		This location was chose to stay as far away from Inland Wetlands and Watercourses as possible while still constructing safe, livable dwellings.
Decks should be on the water side, not the South side.	Yes	As proposed, decks do face the water.

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Why not take advantage of the "trapezoidal shape" of the building area permitted by existing setbacks?	No	This location was chose to stay as far away from Inland Wetlands and Watercourses as possible while still constructing safe, livable dwellings.
Is a denitrification system required for the septic on this property?	No	No change was made because this issue is outside the jurisdiction of the Commission.
Mr. Treaster requested confirmation that septic is approved for this three (3) family dwelling.	No	Waste will be disposed of as required by the public health code. This is not a Zoning issue and is therefore outside the jurisdiction of the Commission.
Should Ductless AC/heat pumps be used?	No	No changes were made to application to address this comment because it is outside the jurisdiction of the Commission. The Applicant appreciates this suggestion and will investigate it further.

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