

HOUSING CLINIC – FAIR HOUSING TRACK

YALE LAW SCHOOL

TO: Hon. Steve Cassano, Co-Chair
Hon. Cristin McCarthy Vahey, Co-Chair
Members of the Planning and Development Committee

FROM: Karen Anderson, Yale Law School Housing Clinic

DATE: March 15, 2021

RE: Support for H.B. No. 6611, An Act Concerning a Needs Assessment and Other Policies Regarding Affordable Housing and Development

Dear Senator Cassano, Representative McCarthy Vahey, and members of the Planning and Development Committee:

Thank you for the opportunity to provide testimony today. My name is Karen Anderson, and I am a member of Yale Law School’s Housing Clinic writing **in support of H.B. No. 6611, An Act Concerning a Needs Assessment and Other Policies Regarding Affordable Housing and Development**. Throughout my time in law school, I have worked with Open Communities Alliance on their efforts to expand housing opportunities and end exclusionary zoning practices. I join Open Communities Alliance in strongly supporting this legislation to create a new Fair Share Zoning system, in which each municipality would work to reach a specific goal for affordable housing in order to meet regional needs.

These needs are immense—many Connecticut residents are severely burdened by high housing costs, with over 135,000 families who earn less than 30% of the area median income currently spending more than half of their income on housing.¹ In addition to an affordable housing crisis, Connecticut also has a housing segregation crisis, with many Black and Latino families facing barriers to housing mobility and being disproportionately excluded from suburban communities that have used zoning to wall themselves off.

Fair Share Zoning would put the state on a proactive, ten-year path to create new housing opportunities and meaningfully redress decades of racial injustice. Connecticut General Statutes § 8-2 already requires local zoning regulations to “encourage the development of housing opportunities, including opportunities for multifamily dwellings” and “promote housing choice and economic diversity in housing, including housing for both low and moderate income households” in order to meet the needs of “residents of the municipality and the planning region in which the municipality is located.”² But without specific, enforceable affordable housing goals in place, many suburbs have simply refused to do their fair share. This dynamic of suburban

¹ David N. Kinsey, *Fair Share Housing Model for Connecticut, 2020*, Open Communities Alliance (Nov. 2020), <https://www.ctoca.org/fairshare>.

² C.G.S. § 8-2(a).

exclusion is one that I know all too well from studying the history of zoning regulations in Woodbridge, a suburb that neighbors New Haven.

Woodbridge is much wealthier and much whiter than the surrounding South Central Connecticut region. Woodbridge's median income is over \$142,000, more than \$100,000 higher than in neighboring New Haven, and only 8.3% of Woodbridge's population is Black or Hispanic, compared to 29.9% of South Central Connecticut's population.³ A major driver of this segregated status quo is Woodbridge's refusal to zone for affordable housing or multi-family housing. The vast majority of the town is zoned only for single-family homes on large 1.5 acre lots—just 0.2% of the town's area allows duplexes, and multi-family housing for families with children is banned across the entire town.⁴ Of the town's 3,478 housing units, only 13 units are designated as affordable by the State and available to families with children.⁵

Open Communities Alliance currently has an application pending with Woodbridge's Town Plan and Zoning Commission to amend the town's zoning regulations and Plan of Conservation and Development to finally allow affordable, multi-family housing. As one of the law students supporting this effort, I spent hours poring over the zoning commission's meeting minutes going back a half century and found that Woodbridge has repeatedly resisted calls to end its exclusionary practices. A full account of Woodbridge's long history of exclusionary zoning is attached below—and it shows that when exclusionary suburbs get to choose the number of affordable housing units to zone for, the number they choose is close to zero.

To summarize some notable moments in this exclusionary history:

- In 1978, the Connecticut Commission on Human Rights and Opportunities criticized Woodbridge's "large-lot zoning" and "exclusion of multi-family housing" as policies that were driving up housing costs and keeping out low-and-moderate income families who were disproportionately Black and Hispanic.
- In the 1980s, 1990s, and 2000s, Woodbridge rejected a series of zoning proposals that would have loosened restrictions and allowed small amounts of multi-family housing. Each time, residents used the same tropes about how letting new families move in would change "the character of the Town."
- In 1996, Woodbridge acknowledged requirements in state law to zone for affordable housing, but responded by developing a hyper-restrictive "Affordable Housing District" with requirements so onerous that it is functionally unusable and has never been used since its enactment.
- In 2004, Woodbridge reviewed a report from the South Central Regional Council of Governments that declared a "housing crisis," with "the need for affordable housing in the region [at] a critical point." The Woodbridge Town Plan and Zoning Commission responded with a letter saying "it is not the zoning commission's opinion that housing is

³ U.S. Census Bureau, 2014-2018 American Community Survey.

⁴ Open Communities Alliance, *Application of 2 Orchard Road LLC and Open Communities Trust LLC for Amendment to Woodbridge Zoning Regulations and Plan of Conservation and Development* at iii (Sep. 29, 2020), <https://www.woodbridgect.org/DocumentCenter/View/3465/Application-to-Amend-Woodbridge-Zoning-Regulations-and-Plan-of-Conservation-and-Development-Re-Multi-family-and-Affordable-Housing>.

⁵ *Id.*

the problem . . . people with well paying jobs can purchase houses”—a stunning statement from a town with a median home price over \$400,000.

- In 2009, Woodbridge spent millions of dollars to purchase a country club in order to “control its development” and prevent it from being used for “affordable housing or denser developments.”
- In 2014, an initial draft of Woodbridge’s 2015-2025 Plan of Conservation and Development (POCD) acknowledged how “fewer Black residents and members of other racial groups live in Woodbridge than elsewhere in the county or state;” “a majority of renters are unable to find affordable housing options;” and “Woodbridge’s unique demographics and housing stock pose current and potential future obstacles to affordability among particular groups, including renters, older residents, and low-income homeowners.” But following public hearings, that language and recommendations for expanded housing opportunities were deleted from the adopted POCD that is still in place today.

The pending application before the Woodbridge Town Plan and Zoning Commission is a landmark effort to bring an exclusionary suburb into compliance with existing federal and state law. But civil rights organizations shouldn’t have to move mountains to get town after town after town to comply with their affordable housing obligations. We need a new system that determines each town’s fair share of the affordable housing needs and requires specific, near-term plans for meeting that fair share, with an enforcement process for towns that don’t plan at all or don’t plan effectively. This legislation will do exactly that.

Woodbridge and many other suburbs have a steady habit of exclusionary zoning, and Connecticut has a steady habit of segregation. Fair Share Zoning will allow us to finally move forward with expanded housing opportunities, job creation, and racial justice. I urge members of the Planning and Development Committee to support H.B. No. 6611.

Respectfully,

Karen Anderson

Yale Law School ‘21

Member, Housing Clinic, Jerome N. Frank Legal Services Organization

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Exhibit: History of Exclusionary Zoning in Woodbridge, Connecticut

I. Executive Summary

Since the 1960s, Woodbridge's legal obligations under state and federal law regarding zoning have undergone significant changes, including passage of the federal and state Fair Housing Acts and amendments to the State Zoning Enabling Act. Yet Woodbridge's exclusionary zoning regulations—which require large lot sizes, permit only single-family housing and very limited duplexes, and completely ban multi-family housing for families with children—have remained firmly fixed in place over decades. As the following historical analysis shows, the preservation of these zoning restrictions is not an accident of inertia. Rather, Woodbridge has been confronted time and time again with the region's need for affordable housing, with the State's mandates for municipal zoning commissions to promote affordable housing, and with specific opportunities to amend its Zoning Regulations accordingly. Each time, a pattern has repeated itself: the Town acknowledges the possibility of removing restrictions; then receives concerted backlash from residents concerned about property values, quality of life, and "the character" of Woodbridge; and ultimately abandons any significant changes, choosing to perpetuate exclusionary zoning rather than risk upsetting the most vocal anti-density residents.

This pattern includes six proposed zoning amendments, considered from 1981 to as recently as 2007, to allow multi-family housing in certain areas of Woodbridge—all six were either denied outright or withdrawn in response to opposition at public hearings. Aware that amendments to the State Zoning Enabling Act did require the Town to enact *some* zoning regulations regarding affordable housing, Woodbridge instead enacted in 1996 a nominal "Affordable Housing District" ("AHD") that introduced onerous additional requirements for developments while preserving the multi-family ban.

Confronted in 2004 with a regional report declaring a housing crisis and calling for municipalities to meet affordable housing needs, Woodbridge instead adopted a 2005-2015 POCD that did not recommend changes to residential districts. A preliminary draft of Woodbridge's 2015-2025 POCD did address affordability concerns and outlined potential steps to increase density, but the Town removed these provisions following public outcry at a Planning and Zoning Commission meeting on January 26, 2015, where Woodbridge citizens testified that any such measures would "degrad[e]," "deteriorate," and "destroy" Woodbridge.

During a 2015 to 2019 zoning regulation revision process, the Town considered a proposal to allow multi-family dwellings in some parts of the Village District. Once again, following significant public opposition (including racially coded warnings that any affordable rental units would draw in families from Hamden, New Haven, and West Haven seeking to access Woodbridge schools), those proposals were dropped from the adopted regulations.

Woodbridge thus enters the 2020s with longstanding exclusionary zoning mechanisms that Town officials have reconsidered and effectively reenacted repeatedly. Like the zoning restrictions themselves, the concerns raised to justify exclusion (school enrollment, traffic, property values, aesthetics, unique character of Woodbridge, a town of homeowners rather than renters, etc.) have also remained the same, even in the face of clearer and clearer demands from state and regional officials that something needs to change.

II. Introduction: Origin And Criticisms Of "Snob Zoning"

From 1965 to the present, Woodbridge's population has grown from approximately 6,600 to 8,900 residents. This growth is drastically smaller than what was predicted in 1966, when population projections compiled by the Regional Planning Agency of South Central Connecticut estimated that "the population of Woodbridge will almost triple, going from a 1965 figure of 6,600 to 18,818 by the end of the century."¹ These figures "startled an audience of more than 500 area leaders at a regional symposium" held by the Greater New Haven Chamber of Commerce for "the 15 cities and towns in South Central Connecticut."² In Woodbridge, population growth was being driven not by "changes in birth rates," but by "net migration."³

Concerns about an influx of newcomers seemed to underlie the Town's zoning strategies: a 1960 report recommended setting aside part of the southeastern corner of town "for an economic development use," as otherwise "small lot residential building could mushroom."⁴ A 1976 "Community Diagnosis" of Woodbridge conducted by the Yale University School of Epidemiology and Public Health stated that following population growth from 1950 to 1970, "the natives no longer knew everyone in town and, although by any other standard [a minimum residential lot size of] 1.5 acres could hardly be considered over-crowdedness, some natives viewed this as high density living."⁵ The report also explained that Woodbridge's "land use policy (specifically 1.5 acre zoning) set an upper limit for the future population size of Woodbridge," noting that "Woodbridge has been criticized [for] 'snob zoning.'"⁶

¹ Walter Dudar, *Huge Population Rise by Year 2000 Facing City and Surrounding Towns*, NEW HAVEN EVENING REG. (Nov. 29, 1966), https://branford.advantage-preservation.com/viewer/?t=31171&i=t&by=1966&bdd=1960&d=01011878-12311980&fn=branford_scrapbooks_-_new_haven_evening_register_usa_connecticut_branford_19660101_english_77&df=71&dt=80.

² *Id.* The gap between projected population growth and actual population growth was starker in Woodbridge (projected increase of 185% between 1965 and 2000, actual increase of 36% between 1965 and 2010) than in 12 out of 14 other municipalities in South Central Connecticut.

³ Alfred Fasulo et al., *Woodbridge: A Community Diagnosis*, 50-51 (May 1976).

⁴ WOODBRIDGE TOWN PLAN & ZONING COMM'N, PLANNING REPORT FOR WOODBRIDGE, CONNECTICUT (1960).

⁵ Fasulo et al., *supra* note 3 at 45.

⁶ *Id.* at 44, 35.

One such critic was the Connecticut Civil Liberties Union, which in 1972 characterized "minimum lot size requirements, minimum floor area requirements," and "exclusion of apartment buildings either from entire towns or from residential districts" as "exclusionary or 'snob zoning' devices."⁷ The Connecticut Civil Liberties Union urged "suburban municipalities" to instead "consider and accommodate their fair share of the needs of the citizens of the region of which they are a part for low and moderate income housing."⁸

In the late 1970s, the Connecticut Commission on Human Rights and Opportunities ("CHRO") even considered initiating a state "enforcement effort against exclusionary zoning in selected target towns or cities in Connecticut."⁹ A 1978 CHRO report, titled "A Study of Zoning in Connecticut," aimed to "enable the Commission and other interested parties to identify patterns of zoning and related demographic conditions that strongly suggest zoning may play a significant role in contributing to the small numbers of members of legally protected classes residing in those communities."¹⁰ Ultimately, the "hypothesis of this study" was that "zoning, as practiced by some of the towns and by the state as initiator of local zoning power, may deny fundamental rights of legal protection to classes discriminated against."¹¹ Particularly, if a town has "employed controls which increase the cost of housing and restrict the availability of housing," thus "restrict[ing] their growth in population to almost entirely white and relatively affluent persons," the "conclusion arises that such towns may be employing zoning in an exclusionary manner."¹²

The CHRO report identified Woodbridge as among the towns with the most homogenous demographics and "most severely restricted" zoning.¹³ In 1970, Woodbridge was among the Connecticut towns with the lowest percentage of residents in poverty—just 3%, compared to 17.5% in New Haven and 7.4% in West Haven—and 52.7% of Woodbridge households were in the State's top quintile for income.¹⁴ Moreover, high "residential housing prices in 1977 were tending to increase those disparities" between Woodbridge and the State.¹⁵ Unlike Hamden,

⁷ CONN. CIVIL LIBERTIES UNION, EXCLUSIONARY ZONING (1972), https://www.dropbox.com/sh/uyp9srslmrm7gzu/AAAuwUYx8BvfNd5TAIRizkFda/Box1?dl=0&preview=1-13-ExclusionaryZoning.pdf&subfolder_nav_tracking=1.

⁸ *Id.*

⁹ U.S. DEP'T OF HOUS. & URB. DEV., STATE CIVIL RIGHTS AGENCY DEMONSTRATIONS OF STRATEGIES TO FIGHT HOUSING DISCRIMINATION, CASE STUDY: CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES 12 (1980), <https://www.huduser.gov/portal/Publications/pdf/HUD%20-%206035.pdf>.

¹⁰ CONN. COMM'N ON HUMAN RIGHTS & OPPORTUNITIES, A STUDY OF ZONING IN CONNECTICUT 1 (1978), available at <http://hdl.handle.net/11134/120002:229>.

¹¹ *Id.* at 6.

¹² *Id.*

¹³ *Id.* at 83.

¹⁴ *Id.* at 25, 33.

¹⁵ *Id.* at 47-48.

Milford, and Ansonia, Woodbridge did not have a "Black population large enough to report separately Black poverty status in 1970."¹⁶

The report also noted that "the most affluent communities in the state, Darien, New Canaan, Westport, Weston, Wilton, and Woodbridge, with medians [of annual income] above \$20,000, have made little effort to build assisted housing. Woodbridge and Weston have built no units."¹⁷ Beyond the failure to build assisted housing, Woodbridge had zoning regulations "that prevent the construction of housing at a cost affordable by low and moderate income residents."¹⁸ The CHRO identified several major "examples of provisions that are restrictive," including "exclusion of multi-family housing," defined as buildings "with 3 or more household units" (noting that "because these types of dwelling units are generally considered to be less expensive to construct, exclusion of these dwelling units will generally exclude low and moderate income households and minorities from the community because they cannot afford the more expensive types of dwelling units").¹⁹ In 1978 and in 2020, Woodbridge zoning ordinances prohibit multi-family housing in all districts.

Another major example cited by the CHRO was "large-lot zoning, usually defined as any minimum lot size over one-half acre per unit," which "increases the cost of housing in several ways."²⁰ As discussed below, the minimum lot size in Woodbridge's main residential zone has been at least 65,000 square feet, or 1.5 acres, since 1963. The report used such zoning practices to classify towns into three groups based on their zoning practices: "most severely restricted," "middle range of zoning restriction," and "least restricted" – Woodbridge was in the "most severely restricted" group.²¹

Based on these findings, the CHRO had originally planned to initiate "an enforcement effort against exclusionary zoning in selected target towns or cities," first "seeking voluntary remedies to exclusionary zoning in the target jurisdictions but, where necessary, filing complaints to obtain the adoption of policies and procedures along the lines of the models to be proposed in the handbook [to be prepared by the CHRO] on affirmative zoning."²² However, while the CHRO continued to view zoning restrictions such as Woodbridge's as forms of unlawful discrimination, the CHRO director ultimately declined to pursue enforcement litigation.²³

A HUD case study concluded that the CHRO's "zoning strategy failed to anticipate the two reasons later cited to explain why complaints and enforcement might not be particularly

¹⁶ *Id.* at 34.

¹⁷ *Id.* at 43.

¹⁸ *Id.* at 56.

¹⁹ *Id.* at 57, 64.

²⁰ *Id.* at 58.

²¹ *Id.* at 83.

²² U.S. DEP'T OF HOUS. & URB. DEV., *supra* note 9 at 12-13.

²³ *Id.* at 13.

fruitful – the conservative judicial climate within the State and the undercutting impact that hostile citizen opinion can have on a litigation strategy."²⁴ In those years, the CHRO "was at times under serious attack in the State legislature," and those "political restraints, as well as the conservative judicial climate in the State, may also have been involved in the director's resistance to pursuing zoning litigation."²⁵

Nevertheless, in 1986 the CHRO again pointed to restrictions on multi-family housing as an exclusionary zoning practice, finding that "zoning regulations which make it unfeasible for developers to build multi-family dwellings in the suburbs have an adverse impact on many protected classes who can only afford to rent apartments. This is a form of discrimination. It is also a leading cause of the lack of supply of housing units."²⁶ Given those findings, the CHRO made a recommendation to municipalities that "each municipality should zone a certain amount of land for the development of multi-family dwellings for low and moderate income families," in order to remediate the current "lack of rental units" and resulting "adverse impact on minorities and single heads of household."²⁷

Throughout the 1970s and 1980s, this state agency responsible for enforcing anti-discrimination laws had "assume[d] that within every community there should exist either available housing for low and moderate income households or the possibility of developing such housing."²⁸ In 1991, that assumption became an express statewide legal mandate through amendments to the Connecticut Zoning Enabling Act.²⁹ Yet as the following discussion demonstrates, the zoning practices identified as exclusionary in the 1970s still remain on the books in Woodbridge in 2020.

III. Evolution Of Woodbridge's Residential Zoning Districts

This section summarizes the long history of large-lot, single-family zoning in Woodbridge. After providing an overview of this general trend, this section discusses two moments when the potential to meaningfully open residential zones arose—the 1982 addition of two-family dwellings as permitted uses in Residence C and D, and the 1996 adoption of the AHD—but the Town ultimately maintained stringent density restrictions.

A. Overview Of Woodbridge's Zoning Districts

²⁴ *Id.* at 40.

²⁵ *Id.* at 48.

²⁶ CONN. COMM'N ON HUMAN RIGHTS & OPPORTUNITIES, HOUSING DISCRIMINATION AND OPPORTUNITIES IN THE STATE OF CONNECTICUT 48 (1986), https://www.dropbox.com/sh/uyp9srsImrm7gzu/AAAILR1m_rAg9qgSnonTrAlwa/Box2/2-05-HousingDiscriminationAndOpp.pdf?dl=0.

²⁷ *Id.* at 63.

²⁸ CONN. COMM'N ON HUMAN RIGHTS & OPPORTUNITIES, *supra* note 10 at 7.

²⁹ General Statutes § 8-2(a), *amended by* Public Acts 1991, No. 91-392.

The "Zoning Ordinance for the Town of Woodbridge" first became effective on December 24, 1932.³⁰ As Yale Law School Professor Robert C. Ellickson has noted, Woodbridge was a pioneer within South Central Connecticut in "imposing binding large-lot requirements in the 1930s . . . by the 1950s, many other New Haven suburbs had joined the bandwagon."³¹ The "nearly ubiquitous" Residence A District, which still covers most of the Town, originally had a minimum lot size of 20,000 square feet in 1932, which tripled to 60,000 square feet in 1938, then increased again to 65,000 square feet in 1963.³²

This Residence A District remains largely unchanged: as in 1963, it still permits only single-family dwellings (no two-family or multi-family) and has a maximum building height of two and a half (2.5) stories and 35 feet, a minimum lot width and frontage of 200 feet, and a minimum livable floor area of 1,200 feet.³³ Any new Residence A lots created after November 1, 2001 that are "located fifty percent (50%) or more within a drinking water supply watershed," which covers roughly three-quarters of the district, must have a "minimum of two acres of Buildable Lot Area," up from 65,000 square feet.³⁴

In 1953, a "Pilot Plan" of Woodbridge's "Zoning and Town Plan Commission" (now known as the Town Plan and Zoning Commission, "PZC") noted that "Woodbridge has for some time had the strictest residential zoning in the area requiring, in most of the town, lots which are twice as large as the largest required in any adjacent town."³⁵ Then as now, "business [was] largely concentrated in the southeast corner, on Amity Road and Litchfield Turnpike near the Wilbur Cross Parkway," in contrast with "extensive areas" zoned solely for large-lot residential use.³⁶

A 1960 PZC report characterized the southeastern corner of Woodbridge, "often referred to as the 'flats,'" as an area that "was relegated to the small house lot," probably "due to the existence of small lots at the time of the preparation of the [original] zoning ordinance, the then existing notion of the noxious character of business and industry and the ease with which New

³⁰ PLANNING & ZONING COMM'N, ZONING REGULATIONS FOR THE TOWN OF WOODBRIDGE 1 (2019) ("The Woodbridge Town Plan and Zoning Commission . . . hereby amends and codifies the 'Zoning Ordinance for the Town of Woodbridge,'" which was effective December 24, 1932").

³¹ Robert C. Ellickson, *Zoning and the Cost of Housing: Evidence from Silicon Valley, Greater New Haven, and Greater Austin*, 11 (Jan. 13, 2020), <https://ssrn.com/abstract=3472145>.

³² *Id.* at 20.

³³ *See, e.g.*, PLANNING & ZONING COMM'N, ZONING REGULATIONS FOR THE TOWN OF WOODBRIDGE (Jan. 1, 1963) (July 1975) (May 1989) (Sept. 15, 2014) (Dec. 26, 2018) (July 1, 2019).

³⁴ ZONING REGULATIONS FOR THE TOWN OF WOODBRIDGE, *supra* note 30 at 61; Ellickson, *supra* note 34 at 20 n.57.

³⁵ WOODBRIDGE ZONING & TOWN PLAN COMM'N, PILOT PLAN 1 (June 8, 1953).

³⁶ *Id.* at 2.

Haven could be reached."³⁷ While most of the Town's land area and housing stock is located in the Residence A District, this southeastern corner has long included other small residential zones (Residence B, Residence BB, Residence C, and Residence D) and commercial zones: BI (Business and Industrial District), GB (General Business District), DEV-1 (Development District 1), and DEV-2 (Development District 2).³⁸

Like the Residence A District, the requirements in the other residential zones have remained largely the same since 1963: the minimum lot sizes are still 15,000 square feet in Residence B, 9,375 square feet in Residence BB (now "T3-BB"), 5,000 square feet in Residence C (now "T3-C"), and 4,000 square feet in Residence D (now "T3-D").³⁹ The minimum livable floor area in each is still 1,000 square feet, and the minimum lot width and frontage is still 100 feet in B, 75 feet in BB, 50 feet in C, and 40 feet in D.⁴⁰

B. 1982: Zoning Regulations Amended To Allow Two-Family Dwellings

Since 1982, Woodbridge has allowed two-family dwellings in the Residence C and D districts, which are now known as T3-C and T3-D. However, instead of adopting a proposed amendment that would have allowed for multiple dwellings per lot in limited circumstances, the PZC enacted a version that imposed a new ban on having more than one residential dwelling per lot (preventing, for example, a cluster of two-family dwellings).

In October 1982, the PZC discussed "the feasibility of amending the regulations to permit the establishment of a second dwelling in an existing one-family residence as a second unit for occupancy by and limited to a senior citizen" and reviewed "methods and regulatory language used by other communities."⁴¹ In November 1982, the PZC then voted unanimously to amend the Zoning Regulations to include a new definition for "two-family dwelling" (a "single detached building containing two dwelling units") as a permitted use in Districts C and D.⁴² The amendment adopted by the PZC also included a new provision on "Maximum Number of Dwellings per Lot," stating that "[n]o more than one building containing a Dwelling Unit or Units is permitted on a Lot."⁴³

The PZC had received, but did not adopt, an alternative amendment version that would have included an exemption for "Residential Multi-Building Developments," permitted by Special Permit and subject to conditions regarding city water, public sewers, sidewalks,

³⁷ WOODBRIDGE TOWN PLAN & ZONING COMM'N, PLANNING REPORT FOR WOODBRIDGE, CONNECTICUT 36 (1960).

³⁸ *See, e.g.*, TOWN OF WOODBRIDGE, ZONING MAP (1962).

³⁹ *See, e.g.*, ZONING REGULATIONS FOR THE TOWN OF WOODBRIDGE, *supra* note 30.

⁴⁰ *Id.*

⁴¹ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 18, 1982).

⁴² *Id.* (Nov. 1, 1982).

⁴³ *Id.*

minimum lot area, and minimum lot frontage.⁴⁴ Instead, in adopting the ban on multiple dwellings per lot, the PZC emphasized that "it has always been the intent, construction, and proper interpretation of the Woodbridge Zoning Regulations that only one-family per lot is permitted in Districts A, B, BB, C and D," framing the two-family amendment as a narrow way to "amend the Zoning Regulations" while still "reinforc[ing] such proper intent, construction, and interpretation."⁴⁵

C. 1988: Reaffirmed Ban On Multiple Dwellings Per Lot

In March 1988, the PZC received another application to allow "residential multi-building developments" by special permit, again provided that the development is "served by both city water and public sewers," has sidewalks "provided along all public roads," and conforms to the General Bulk Regulations," and to modify the definition of "dwelling, two family" from "a single *detached* building . . ." to "a single building containing two Dwelling Units."⁴⁶ The applicant had recently purchased five lots, each of which could currently be used for a solitary two-family house, but instead hoped to arrange those ten units in a multi-building development "using the middle portion of the property as 'open space.'"⁴⁷

At the June 1988 public hearing, no residents spoke in favor of the amendment, whereas several residents spoke in opposition.⁴⁸ Residents cited concerns about "anything that makes it easier to have more people and traffic."⁴⁹ Several residents also warned that the amendment could trigger broader, unwanted changes, making statements such as: "many towns have been totally ruined by condominiums;" the amendment would make it "entirely possible that there could be cluster housing in Woodbridge;" "this amendment would open the flood gates to cluster housing and condominiums;" and "this amendment would leave other parts of town vulnerable to condominiums or two family houses."⁵⁰ Beyond traffic, underlying some of these concerns was the view that "people who rent tend not to care as much about the upkeep of the property and it brings down the value of individually owned properties around the rental property."⁵¹

The PZC discussed the requested amendment during three subsequent meetings.⁵² On July 25, 1988, the PZC voted unanimously to deny the application, for reasons including the amendment's "errors of reference to appropriate sections of the Zoning Regulations," the use of

⁴⁴ PLANNING & ZONING COMM'N, Application of Oct. 1982.

⁴⁵ PLANNING & ZONING COMM'N, MEETING MINUTES (Nov. 1, 1982).

⁴⁶ PLANNING & ZONING COMM'N Application of Mar. 21, 1988.

⁴⁷ PLANNING & ZONING COMM'N, MEETING MINUTES (June 6, 1988).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² PLANNING & ZONING COMM'N, MEETING MINUTES (June 23, 1988); (June 27, 1988); (July 25, 1988).

new "terminology which is not defined," and the applicant's failure to present "evidence that appropriate use can not be made of property under current Zoning Regulations."⁵³

D. 1994 To 1996: Development Of Affordable Housing Regulations

In 1989, the General Assembly adopted the Affordable Housing Land Use Appeals Act to promote construction of low and moderate income units, creating a special appeals procedure for affordable housing applications in any municipality with fewer affordable units than the statute's bright line standard: 10% of local housing stock.⁵⁴ Woodbridge took notice of this new law, with the Town Counsel informing the PZC of "the requirement for towns to pass zoning regulations regarding affordable housing," explaining that "the first step for Woodbridge, as well as 142 other Connecticut municipalities, to meet the ten percent goal [established by the 1990 Affordable Housing Appeals Act] is to amend the zoning regulations."⁵⁵

Despite the statements of the Town Counsel, the steps actually taken by Woodbridge did not bring the Town any closer to compliance with state law. Throughout 1994, the PZC convened an "Affordable Housing Study Group" (the "Study Group") for a series of meetings to "work on a draft proposal for the amendment of the Zoning Regulations dealing with affordable housing."⁵⁶ The Study Group considered "questions of location, density and type of housing units, setbacks, buffer areas, desirable open space set asides . . . as well as the influence of water and sanitary sewers and suitable locations for units to serve senior citizens."⁵⁷

By January 1996, the PZC had developed a proposed amendment for a new "Affordable Housing District."⁵⁸ This initial amendment version contemplated the possibility of multi-family housing, with the section on "Sale, Resale and Rental Restrictions" noting that "single-family, multi-family, and elderly affordable housing units shall be restricted by title to preserve such use."⁵⁹ In April 1996, the PZC noted "the need to adopt [an amendment] as soon as possible."⁶⁰ By July 1996, this language had disappeared.⁶¹

In September 1996, the PZC voted unanimously to approve the version of the amendment without any authorization to develop multi-family housing with an effective date of October 1, 1996.⁶² The approval resolution stated that "the Commission decided to undertake an amendment of the Zoning Regulations to comply with the requirements of the Connecticut General Statutes

⁵³ PLANNING & ZONING COMM'N, MEETING MINUTES (July 25, 1988).

⁵⁴ General Statutes § 8-30g.

⁵⁵ PLANNING & ZONING COMM'N, MEETING MINUTES (Apr. 1, 1996).

⁵⁶ PLANNING & ZONING COMM'N, MEETING MINUTES (May 31, 1994).

⁵⁷ PLANNING & ZONING COMM'N, MEETING MINUTES (Mar. 21, 1994).

⁵⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 16, 1996).

⁵⁹ *Id.*

⁶⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Apr. 15, 1996).

⁶¹ PLANNING & ZONING COMM'N, Draft Amendment of July 29, 1996.

⁶² PLANNING & ZONING COMM'N, MEETING MINUTES (Sept. 16, 1996).

to enable 'Affordable Housing Facilities' to be built in Town." It also cited the PZC's consideration of "the need to provide facilities for various age and economic groups in Town" (not in the region) and the PZC's "desire to make affordable housing available to all segments of the Community."⁶³ While the resolution made reference to "sub-soil limitations . . . causing constraints on development of higher density," the PZC did not explain the extent of any such constraints or connect this concern to the continued ban on multi-family housing.⁶⁴

Other than minor typographical edits and wording changes, the AHD in Woodbridge's current zoning regulations remains the same as the version adopted in 1996. These "Affordable Housing District Developments" allow only for single-family detached housing and elderly housing.⁶⁵ Setback requirements are more onerous than in other residential districts: the special "affordable housing district setback" requires a moat-like setback around the entire development area.⁶⁶ Off-street parking requirements are also higher (2.5 spaces per single-family attached or detached dwelling unit) as are procedural requirements. Developers must receive PZC approval for a zone change, a special exception for an Affordable Housing District Development Plan, and a special exception for a site plan.⁶⁷

IV. 1981 To 2007: Six Multi-Family Amendments Fail To Pass

From 1981 to as recently as 2007, the PZC has received at least six applications for zoning amendments to allow multi-family housing in certain areas of Woodbridge – all six were either denied by the PZC or withdrawn in response to opposition at public hearings. Three of these applications came *after* the 1991 amendments to the State Zoning Enabling Act, which affirmatively required local zoning regulations to "encourage the development of housing opportunities, including opportunities for multifamily dwellings . . . for all residents of the municipality and the planning region in which the municipality is located."⁶⁸ The applications from 1981, 1982, 1983, 1993, 1994, and 2007 represented a variety of approaches to provide

⁶³ *Id.*

⁶⁴ The resolution stated that "the Commission is aware of the severe sub-soil limitations peculiar to the soils in Town identified by the Connecticut Department of Agriculture as Woodbridge Soils causing constraints on development of higher density." *Id.* However, this point is either pretextual or misguided. "Woodbridge Soils" are not "peculiar" to the Town of Woodbridge, but rather designate a soil series found throughout Connecticut, Massachusetts, New Hampshire, New York, and Rhode Island. *See* UNITED STATES DEP'T OF AGRICULTURE, OFFICIAL SOIL SERIES DESCRIPTIONS – WOODBRIDGE SERIES (May 2016), https://soilseries.sc.egov.usda.gov/OSD_Docs/W/Woodbridge.html. Moreover, Woodbridge Soils only constitute a small percentage of the soils in the Town. *See* UNITED STATES DEP'T OF AGRICULTURE, PUBLISHED SOIL SURVEYS FOR CONNECTICUT, <https://www.nrcs.usda.gov/wps/portal/nrcs/surveylist/soils/survey/state/?stateId=CT>.

⁶⁵ ZONING REGULATIONS FOR THE TOWN OF WOODBRIDGE, *supra* note 30 at 4.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ General Statutes § 8-2(a), *amended by* Public Acts 1991, No. 91-392.

such opportunities for multi-family dwellings, but all were met with similar strains of opposition: purported concerns about increased school enrollment, traffic, police and emergency service demand, as well as broader fears that any increased density would harm the "character" of the Town.

A. 1981: Proposed Amendment To Allow Multi-Family Housing In Districts C & D (Withdrawn)

The PZC received an October 1981 application "for a zoning amendment that would permit multi-family dwellings in Residence C and Residence D" by special permit, with a required minimum lot size of 40,000 square feet and a maximum building area of 35% lot coverage.⁶⁹ The applicants emphasized that this amendment would only affect "a limited area, namely Residence C and D, which have water, sewer, utilities and close proximity to shopping and transportation."⁷⁰ In fact, only three total lots would comply with the proposed bulk regulations, which could potentially house a total of 100 people.⁷¹ The applicants framed the proposal as responding to the fact that "a large class of citizens were being discriminated against as they could not live in Woodbridge, namely young marrieds and older residents who no longer wanted to keep their large homes."⁷² During the public hearing, one resident spoke in favor of the application and seven spoke against.⁷³ Concerns raised included "traffic problems" and "the number of people in one room."⁷⁴ One resident "asked if the use would be limited to only residents of Woodbridge," saying "he did not see how the Town would be enhanced unless it was restricted to use by residents which he did not think could be done."⁷⁵ Another said "he had liked Woodbridge which was why he moved here, and before allowing multi-family many things should be considered," including "the impact on schools, fire department, police, traffic," and criticized the "applicant [of] not thinking of beautifying Woodbridge."⁷⁶

In a January 1982 meeting, the PZC discussed "several areas of concern," including the "definition of multi-family," whether there would be "allowance for open space," the "generality of language which could lead to various interpretations," and issues of "maintenance" and "exterior condition of buildings."⁷⁷ During the meeting, the applicants submitted a letter withdrawing the proposed amendment.⁷⁸

⁶⁹ PLANNING & ZONING COMM'N, Application of October 5, 1981.

⁷⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Dec. 7, 1981).

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 25, 1982).

⁷⁸ *Id.*

B. 1982: Proposed Amendment To Allow Multi-Family Housing In Districts C & D (Denied)

In April 1982, the PZC received another application to amend the Zoning Regulations "to allow Multi-Family Dwellings in Residence C & Residence D Districts," this time with a maximum of six dwelling units (or eight elderly dwelling units) per building.⁷⁹ The application included a "Feasibility Study" with monthly rent estimates for "Proposed Rental Homes for Elderly Citizens."⁸⁰ In reviewing the proposed amendment, the Regional Planning Agency of South Central Connecticut found "that the adoption of this amendment would provide housing for the elderly in only a limited area of Woodbridge," which "would be in the interest of not only the town of Woodbridge, but would materially assist in meeting regional housing needs."⁸¹ A few months earlier, the PZC had discussed a housing survey conducted by the Commission on Aging, through which "a need had been shown for elderly housing" in the Town.⁸²

But this amendment to help meet regional housing needs was met with resistance during a June 1982 public hearing. Several residents raised concerns about traffic, while others expressed opposition "to any zone change in C & D area" and concerns that "there are no guarantees the use would be for residents of the town."⁸³ One resident argued that the amendment "will increase policemen and will add medical problems."⁸⁴ In July 1982, the PZC voted unanimously to deny the application.⁸⁵ In providing reasons for denial, the PZC stated that the amendment would: "provide for a large number of dwelling units to be built at one time and would impact greatly on the traffic patterns in a congested area;" allow lower minimum floor area requirements that were "undersized" and "insufficient" to "promote the health, safety, or general welfare of the occupants of the community;" and set "no limit upon the number of buildings which may be constructed on a parcel," an outcome "not in keeping with the character of the district."⁸⁶ The PZC also noted "that no property owners in the district who spoke at the public hearing spoke in favor of the application."⁸⁷

C. 1983: Proposed Amendment To Allow Multi-Family Housing And Accessory Apartments (Denied)

In July 1983, the PZC received an application to amend the Zoning Regulations to allow multi-family dwellings in Districts C, D, and GB (General Business) and accessory apartments in

⁷⁹ PLANNING & ZONING COMM'N, Application of April 5, 1982.

⁸⁰ *Id.*

⁸¹ PLANNING & ZONING COMM'N, Letter of April 29, 1982.

⁸² PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 25, 1982).

⁸³ PLANNING & ZONING COMM'N, MEETING MINUTES (June 7, 1982).

⁸⁴ *Id.*

⁸⁵ PLANNING & ZONING COMM'N, MEETING MINUTES (July 21, 1982).

⁸⁶ *Id.*

⁸⁷ *Id.*

Districts A, B, BB, C, and D, both requiring a Special Permit.⁸⁸ The proposed amendment also included restrictions regarding minimum lot size, density, maximum building area, minimum livable floor area per dwelling unit, parking requirements, and side yards.⁸⁹

During a September 1983 public hearing, no residents (other than the applicant) spoke in favor of the proposal.⁹⁰ One resident expressed that he "d[idn't] want any changes in zoning," while another said he "moved here because there was no multiple dwellings." Several residents expressed concern about "town services" being "stretched," including "added strain to [the] police force," in addition to a general increase in congestion. One resident said he "d[idn't] feel the need" for the housing enabled by the amendment, because he would "prefer single family" and "most elderly in town can afford to live here already." The applicant expressed his willingness to modify the proposal to only allow multi-family dwellings in District GB, and not in Districts C and D.⁹¹

During an October 3, 1983 meeting, the PZC considered this "proposal to permit multi-family residences in a General Business Zone" and "expressed concern about the desirability of such a proposal," citing "traffic congestion and noise as possible detriments to a residential living environment."⁹² The PZC also "noted that [the proposed accessory apartments] would not be restricted to the elderly," and categorized the amendment proposal overall as "overly broad and overly vague."⁹³

On October 24, 1983, the PZC voted unanimously to deny the application.⁹⁴ In doing so, the PZC characterized the proposal for "multi-family dwellings in the general business district zone" as "contrary to the Town Plan of Development" and "inconsistent with the character of the district."⁹⁵ The PZC cited concerns about "densely congested streets" that "would provide a hazard to the health and general welfare," as well as the proposed amendment's lack of standards regarding "number of stories, number of families per building, yard and lot width requirements which this Commission deems to be items which require special standards for such [multi-family] dwelling units."⁹⁶ The PZC also noted that "no one at the public hearing spoke in favor of the application" and that the "amendment generally contains many technical deficiencies and drafting problems" and "vague and undefined terms and standards" which "preclude its adoption."⁹⁷

⁸⁸ PLANNING & ZONING COMM'N, Application of July 11, 1983.

⁸⁹ *Id.*

⁹⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Sept. 12, 1983).

⁹¹ *Id.*

⁹² PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 3, 1983).

⁹³ *Id.*

⁹⁴ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 24, 1983).

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

D. 1991: Acknowledgement Of Affordable Housing Mandate In State Statutes

The PZC did acknowledge that recent amendments to the State Zoning Enabling Act, approved in July 1991, required local zoning regulations to "encourage the development of housing opportunities, including opportunities for multifamily dwellings . . . for all residents of the municipality and the planning region in which the municipality is located."⁹⁸ In September 1991, the PZC discussed "recently adopted amendments of the State enabling legislation pertaining to Planning and Zoning,"⁹⁹ and in December 1991 the PZC specifically considered "recent amendments of the State Statutes pertaining to standards of development such as density, type of housing and the need for the provision of affordable housing for residents of the Town and the Region."¹⁰⁰

Moreover, the December 1991 meeting included discussion of "aspects of the Regional Plan [of Development, for the South Central Regional Council of Governments], now in preparation, which dealt, among other things, with a fair share allocation of affordable housing units for each town in the region."¹⁰¹ In January 1992, the PZC "suggested that further study of the proposed draft be made," but the PZC does not appear to have undertaken any subsequent consideration of this plan (though as discussed above, the PZC did develop affordable housing regulations between 1994 and 1996).¹⁰²

In 1987, the South Central Regional Council of Governments ("SCRCOG") had contracted with Rutgers University to "estimate housing need for the region" and "distribute that need to 15 component municipalities," finding a "1986 affordability-based need" of "22,000 units for low-and very low-income households."¹⁰³ A draft Regional Plan of Development appears to have been approved by SCRCOG's Regional Planning Commission in 1992.¹⁰⁴ According to a 1994 analysis of regional housing planning in the early 1990s, "housing allocation was not a priority in this area of Connecticut"— "local elected officials in the South Central [region] seem[ed] more willing to take their chances on being sued under the Connecticut Appeals Statute than to acknowledge a quantifiable number of affordable housing need that they must provide," and a SCRCOG staff member said "the momentum for and time of housing allocation [had] passed."¹⁰⁵

⁹⁸ General Statutes § 8-2(a), *amended* by Public Acts 1991, No. 91-392.

⁹⁹ PLANNING & ZONING COMM'N, MEETING MINUTES (Sept. 16, 1991).

¹⁰⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Dec. 16, 1991).

¹⁰¹ *Id.*

¹⁰² PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 6, 1992).

¹⁰³ Robert W. Burchell, *Regional Housing Opportunities for Lower Income Households: A Resource Guide to Affordable Housing and Regional Mobility Strategies* 109-10 (1994).

¹⁰⁴ Conn. Post Ltd. P'ship v. S. Cent. Conn. Reg'l. Council of Gov'ts., 758 A.2d 408, 412 n.9 (Conn. App. Ct. 2000).

¹⁰⁵ Burchell, *supra* note 103, at 111.

Indeed, when the PZC received requests for affordable housing amendments in 1993 and 1994, the reality of the new state mandate was not enough to overcome public opposition to increased housing opportunities.

E. 1993 And 1994: Proposed Amendments To Allow Affordable Multi-Family Housing (Withdrawn, Denied)

In September 1993, the PZC received an application for "an amendment to the Zoning Regulations . . . to allow affordable multi-family housing."¹⁰⁶ This amendment would have added multi-family dwellings as a permitted use in Districts C, D, and GB, and provided a special permit process for "planned residential developments" with a minimum of 20 percent of dwelling units deed-restricted as affordable housing—in Districts C, D, and GB, those units could be "multi-family elderly units," and in Districts A, B, BB, C, and D could be "single family," "two family," or "garden apartments."¹⁰⁷ On November 1, 1993, the applicants' attorney made a presentation to the PZC, "citing pertinent sections of the General Statutes of Connecticut (8-2, 8-3, 8-30g)."¹⁰⁸ The PZC identified "many deficiencies" in the proposed amendment and gave the applicants "the opportunity to withdraw the application."¹⁰⁹

In 1994, the applicants did reapply, requesting "a zone change of a property located at 330 Amity Road" and "other amendments of the Zoning Regulations to build affordable housing."¹¹⁰ Specifically, the applicants sought to build "120 three-bedroom family rental affordable dwelling units, no less than sixty of which will rent for less than 900 dollars per month" (an amount corresponding to 30% of the income of a household at 80% of Area Median Income) at 330 Amity Road and "35 units of Affordable Elderly Housing at 18 Hazel Terrace," and requested either "a special exemption or an amendment to the zoning regulations" in order to do so.¹¹¹ The application included "two possible approaches to amend the zoning regulations which the Commission may choose to adopt."¹¹²

The applicants explained that "the project is aimed to families earning \$30,000 to \$40,000 per year," with "priority given to town firefighters, police, teachers, and employees, and then to Woodbridge residents." They also noted that "the town needs 200 such [affordable] units before it can exempt itself from the Affordable Housing Appeals Act," which went into effect in 1990.¹¹³

¹⁰⁶ PLANNING & ZONING COMM'N, Application of September 1, 1993.

¹⁰⁷ *Id.*

¹⁰⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (Nov. 1, 1993).

¹⁰⁹ PLANNING & ZONING COMM'N, MEETING MINUTES (Nov. 15, 1993).

¹¹⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (May 16, 1994).

¹¹¹ PLANNING & ZONING COMM'N, MEETING MINUTES (June 6, 1994).

¹¹² *Id.*

¹¹³ *Id.*

During a June 1994 public hearing on the application, the PZC received "a petition consisting of approximately 179 residents who were in opposition to the Affordable Housing proposal."¹¹⁴ In public testimony, several residents voiced concerns that "serious" and "excessive" traffic would result from the development, and that "the school system would be overburdened with the additional students," potentially jeopardizing the "excellent education" currently available to their children.¹¹⁵ Many invoked their "quality of life" and "existing property values," warning that approval of the application "would set a bad precedent" and potentially "open up the area for development of higher density housing," an outcome perceived as "totally unacceptable."¹¹⁶

Others simply argued that "affordable housing was not needed," and the PZC Chairman said that Woodbridge's "plan of development . . . does not contain an affordable housing plan"¹¹⁷ – despite the fact that state law had provided since 1988 that "in preparing such plan the [local planning] commission shall consider . . . the need for affordable housing,"¹¹⁸ and had provided since 1991 that "such plan [of development] shall also promote housing choice and economic diversity in housing, including housing for both low and moderate income households."¹¹⁹

A *New Haven Register* Letter to the Editor describing the public hearing, titled "Hysteria Greeted Affordable Housing Plan in Woodbridge," characterized "the reaction of many Woodbridge residents to the very notion of affordable housing as downright alarming."¹²⁰ The author, who had been in attendance, recalled that "one irate resident rose to declare her certainty that affordable-housing residents would 'climb over a fence and hurt my children or steal my car,'" and that "only one speaker questioned [this] assertion."¹²¹ The author said "the zoning laws in Woodbridge have so far succeeded only in keeping Woodbridge white," noting that in his "graduating class at Amity Senior High School, only four of the 274 students were black."¹²² The letter also argued that "affordable housing will certainly mean an influx of black, Hispanic and other minority residents into our town and students into our schools," a result being opposed by "speakers at the hearing" calling for the PZC "not [to] disturb our zoning regulations."¹²³

The public hearing continued in July 1994, during which the applicants again noted "that Woodbridge had only 0.1% of its dwelling units as affordable housing, which does not meet the

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ General Statutes § 8-23, *amended by* Public Acts 1988, No. 88-13.

¹¹⁹ General Statutes § 8-2(a), *amended by* Public Acts 1991, No. 91-392.

¹²⁰ Michael Rader, *Hysteria Greeted Affordable Housing Plan in Woodbridge*, NEW HAVEN REG. (June 28, 1994).

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

State requirements."¹²⁴ They framed their amendment request as a "first draft of affordable housing regulations," asking "the Commission to adopt a comprehensive affordable housing program that will bring the town into compliance with achieving the 10% affordable housing ratio in the town."¹²⁵ No residents spoke in favor of the application.¹²⁶

In August 1994, the PZC characterized the proposed amendments as "vague, confusing, inconsistent, and poorly drafted" regulations that "would not contribute to the orderly development of affordable housing in Woodbridge," voting unanimously to deny the application.¹²⁷

F. 2007: Proposed Amendment For Affordable Multi-Family Overlay In Residence A (Withdrawn)

In March 2007, the PZC considered an application from Triple R Developers, LLC "to amend the Woodbridge Zoning Regulations under Section 8-30g of the Connecticut General Statutes by adding a new section 3.11, Integrated Mixed Housing District which would be an overlay district for the Residence A District to allow, in addition to the existing uses, multifamily affordable housing."¹²⁸ These amendments were "designed for applicability for a proposed affordable housing development on property of Triple R Developers, LLC located at 145 & 157 Peck Hill Road."¹²⁹

In parallel, the PZC faced pending litigation with Triple R Developers, which was appealing a subdivision denial on the same property¹³⁰—the PZC had voted unanimously to deny the subdivision application in July 2006.¹³¹ During April and May 2007, Triple R Developers entered into discussion with the PZC, the PZC's consulting engineer, and Woodbridge Town Counsel "regarding a resolution of the pending appeal," arriving at a proposed settlement under which "the subdivision would be reduced from an original 11-lot subdivision to an 8-lot subdivision" and have "reduction of rear lots to two, different ingress and egress configurations," and "a reconfiguration of subdivision open space."¹³² Notably, the settlement would also provide for "withdrawal for an application for affordable housing at those premises."¹³³ During a May 2007 open session of the proposed settlement, a Woodbridge resident reiterated his opposition to the affordable housing application's "overlay district in the residence A District," asking the PZC to oppose any such overlay because "the beauty of the Town of Woodbridge has been kept by the

¹²⁴ PLANNING & ZONING COMM'N, MEETING MINUTES (July 5, 1994).

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ PLANNING & ZONING COMM'N, MEETING MINUTES (Aug. 15, 1994).

¹²⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (Mar. 5, 2007).

¹²⁹ *Id.*

¹³⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Apr. 9, 2007).

¹³¹ PLANNING & ZONING COMM'N, MEETING MINUTES (July 3, 2006).

¹³² PLANNING & ZONING COMM'N, MEETING MINUTES (May 1, 2007).

¹³³ *Id.*

enforcement of zoning regulations."¹³⁴ Ahead of a June 2007 PZC meeting to discuss a "Draft Motion for Approval of Settlement Proposal," Triple R Developers "submitted a letter of withdrawal of the application" for amendments to allow multi-family affordable housing.¹³⁵ On June 18, 2007, the PZC voted unanimously to approve a settlement allowing for the eight-lot subdivision.¹³⁶

V. Public Opposition To Other Density Increases

In addition to those six multi-family housing amendments, several other applications have generated similar opposition to any perceived increases in residential density.

A. 1996: Proposed Amendment To Allow Accessory Apartments (Denied)

For example, an August 1996 application requested an amendment to allow accessory apartments in Districts A, B, and BB, with "accessory apartment" defined as "a self-contained Dwelling Unit accessory and subordinate to a One-Family Dwelling."¹³⁷ The applicant stated that "nothing in the application affects density or traffic and parking," and that the amendment seeks "to retain the single family character in Woodbridge."¹³⁸

Nevertheless, a public hearing elicited critical reactions from several residents, including the presentation of "a petition to the Commission in opposition to the application," which warned that "it would be difficult to monitor the apartments so that they did not become rental apartments at a later time."¹³⁹ A resident separately stated that it could be "possible for the primary owner to move into the apartment and rent out the main residence to a large family which the citizens who own property would have to support with their taxes and provide education."¹⁴⁰ One resident said "the proposed square footage is excessive and would allow two families in two dwellings to live on one and one-half acres," adding that this would "end Woodbridge as we now know it."¹⁴¹ Another felt "the proposed amendment would precipitate a change in the Town" and that "there is no protection for the Town."¹⁴²

In November 1996, the PZC voted unanimously to deny the application, citing its opinion that "the proposed amendment would disrupt safeguards for the protection and preservation of the character of what are essentially one-family residential districts," and potentially "result in

¹³⁴ *Id.*

¹³⁵ PLANNING & ZONING COMM'N, MEETING MINUTES (June 4, 2007).

¹³⁶ PLANNING & ZONING COMM'N, MEETING MINUTES (June 18, 2007).

¹³⁷ PLANNING & ZONING COMM'N, Application of August 1996.

¹³⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 7, 1996).

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

the introduction of two-family residences into what have been designated as essentially one-family districts."¹⁴³

B. 1999: Proposed Amendment To Allow For A 55+ Development In Development District 1 (Denied)

In April 1999, the PZC received an application for zoning amendments that would allow "a Planned Residential Care Development for the Elderly in Development District 1."¹⁴⁴ The applicants explained that existing regulations allowed developments "for individuals 62 years and older," and that "this proposal is for a facility to be for individuals 55 years and older."¹⁴⁵

One PZC member voiced "the concern" that "if the Commission enacts this legislation and somebody comes along and wants to just build your everyday condominium, the Commission would have to approve it."¹⁴⁶ Another PZC member disagreed, expressing that "we are going to be safe from opening the flood gates to development of any kind of condominium that anybody wants," because the proposal specifically "has to do with health facilities and is for the elderly."¹⁴⁷ But some residents shared the first PZC member's concerns about a slippery slope, characterizing the proposal as "a significant change to the zoning regulations" that would lead to "other complexes similar to this coming in."¹⁴⁸ In June 1999, the concerned PZC member reiterated that "you don't want to open the Town up to condominium developments in the Development District 1 because it is not in the interest and/or the character of the Town of Woodbridge" – his motion to deny the application passed by a vote of three to one.¹⁴⁹

C. 2000: Proposed Amendment To Allow For A 62+ Development In Development District 1 (Denied)

In March 2000, the same applicants returned with a modified proposal, now restricted "for 62 years of age or older residents," which they said "complies with the current regulations."¹⁵⁰ Residents again spoke in opposition, remarking that "this is like commercial housing and it does not fit the character of the Town," that "there is a better use for the property," and that "traffic flow and safety is a concern."¹⁵¹ The PZC determined that the proposed development's "relationship with an assisted living facility" was not sufficiently equivalent to a relationship with a nursing home, denying the application in April 2000 for being out of

¹⁴³ PLANNING & ZONING COMM'N, MEETING MINUTES (Nov. 4, 1996).

¹⁴⁴ PLANNING & ZONING COMM'N, MEETING MINUTES (Apr. 5, 1999).

¹⁴⁵ *Id.*

¹⁴⁶ PLANNING & ZONING COMM'N, MEETING MINUTES (May 17, 1999).

¹⁴⁷ *Id.*

¹⁴⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (May 3, 1999).

¹⁴⁹ PLANNING & ZONING COMM'N, MEETING MINUTES (June 7, 1999).

¹⁵⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Mar. 6, 2000).

¹⁵¹ *Id.*

compliance with the present requirement that a Planned Residential Care Development for the Elderly abut a nursing home.¹⁵²

During subsequent meetings, the PZC "expressed concern over recent attempts to introduce residential development in DEV-1 (Development District 1)."¹⁵³ In June 2000, the PZC voted six to one to amend the zoning regulations to remove altogether "planned residential care development[s] for the elderly" as a permitted use in DEV-1 (a use which was not reintroduced for several years).¹⁵⁴

D. 2008: Opposition To A Two-Family Development In Residence C

In 2008, the developer Iannini & Sons applied for a three-lot subdivision on an existing Landin Street lot of "15,000 sq. feet in area," where "each proposed lot would be 5,000 sq. feet in area, and would be occupied by a single building with two dwelling units for a total of six dwelling units in the subdivision."¹⁵⁵ This development, though eventually approved, elicited significant skepticism and criticism during a June 2008 public hearing. The applicants stressed "that the units are in compliance with the regulations of the Town of Woodbridge" and that there were already "single family and two family dwellings without garages on Landin Street."¹⁵⁶

However, the PZC Chairman "expressed concern over the visual massing from the three buildings on the street" and "questioned if the buildings were complementary and aesthetically compatible with the neighborhood."¹⁵⁷ Several residents also spoke to voice concerns, including "congestion of motor vehicles," "negative impact on the homes in the neighborhood," "negative impact to the property values," an "increased population," "aesthetic awkwardness," and that the new buildings that would "not blend in."¹⁵⁸ Another concern was the potential for "8 to 10 more children in the school system if the project is built."¹⁵⁹ One Landin Street resident said "he did not want to see three large buildings of such size erected across the street from his house."¹⁶⁰

Some comments indicated a stigma surrounding two-family buildings: one resident remarked that "he owns a two-family house, but after he realized the pride of the neighborhood people he would rather have a single-family home."¹⁶¹ Others expressed that "they would rather see one or two single-family houses versus three two-family homes," and that "the current

¹⁵² PLANNING & ZONING COMM'N, MEETING MINUTES (Apr. 3, 2000); PLANNING & ZONING COMM'N, MEETING MINUTES (Apr. 17, 2000).

¹⁵³ PLANNING & ZONING COMM'N, MEETING MINUTES (June 5, 2000).

¹⁵⁴ *Id.*

¹⁵⁵ PLANNING & ZONING COMM'N, MEETING MINUTES (June 2, 2008).

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

buildings in the neighborhood are "homes" – not the "houses" being proposed that "would make Woodbridge lose some" of its "certain type of sensitivity."¹⁶² One Landin Street resident was careful to state that the neighborhood was "not opposed to new people or changes, but rather are opposed to changing the dynamics of the neighborhood for something that is commercial."¹⁶³

The developer responded that "they have done their homework; had the property surveyed, met the regulations, met with the Town Planner, and met the parking regulations," and that "he was taken aback by some of the comments."¹⁶⁴

VI. 1999 To 2005: Update Of The Town Plan Of Conservation And Development

While Woodbridge's Zoning Regulations provide the present restrictions on land use, the Town's POCD provides a long-term vision for the community and a short- and mid-term blueprint for development decisions. Woodbridge spent several years preparing its 2005-2015 POCD, during which the PZC encountered evidence of significant affordable housing needs in the region—but those needs never formed the focus of the POCD revision.

A. Woodbridge's First POCD Update Since 1974

State law requires each municipal planning commission to prepare a "plan of conservation and development for the municipality."¹⁶⁵ In 1988, the General Assembly amended this law to add a frequency provision, that "the commission shall review the plan of [conservation and] development at least once every ten years and shall adopt amendments . . . as the commission deems necessary to update the plan."¹⁶⁶ In 1999, the State gave this provision more teeth by requiring municipalities to explain any failure to review within applications for state development funding.¹⁶⁷

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ General Statutes § 8-23(a)(1) (2019).

¹⁶⁶ General Statutes § 8-23, *amended by* Public Acts 1988, No. 88-13.

¹⁶⁷ General Statutes § 8-23, *amended by* Public Acts 1999, No. 99-117 ("on and after July 1, 2000, if a commission does not review the plan within said ten years, the chief elected official of the municipality shall submit a letter to the Secretary of the Office of Policy and Management and the Commissioners of Transportation and Economic and Community Development that explains why such review was not conducted. A copy of the letter shall be included in each application by the head of a municipal agency for funding for development of real property submitted to said secretary or commissioners until the plan is reviewed in accordance with this subsection").

When that amendment was approved in June 1999, Woodbridge's most recent Plan of Development (for which the current term is POCD) dated back to 1974.¹⁶⁸ In July 1999, Woodbridge's Town Planner stated during a PZC meeting "that the State statute provides a requirement that the Plan of Development be updated every ten years," and a new PZC Study Commission "indicated that they would meet to discuss updating the Plan of Development."¹⁶⁹

This effort accelerated in October 2001, when the PZC formed "three Town Plan Update Subcommittees" to take on particular issues: "the Business District, the Town Center, and the Residential District," which would focus on "Districts A and B."¹⁷⁰ These subcommittees held several dedicated meetings from January to July 2002.¹⁷¹

B. Emphasis On Keeping Residential Districts As-Is

These subcommittee meetings did not address the State of Connecticut's statutory mandate for plans to "consider . . . the need for affordable housing."¹⁷² However, they did address concerns previously raised by the public about new developments changing the character of the Town and straining the school system. For example, the "Sub-Committee Regarding the Mixed Residential/Business Districts of Woodbridge" recommended a "Design Review Committee" that would advise the PZC and "review all renovations and new commercial structures and multi-family facilities like Nursing Homes and Assisted Living Facilities," whereas "other residential dwellings would be exempt from review."¹⁷³ This final recommendation to the PZC specifically emphasized that "the Design Review Committee would not review single-family residences."¹⁷⁴ This subcommittee also recommended "encouraging development around [residential areas within DEV-1 and DEV-2] that increases the residential property values while increasing the tax base for the town and limiting development that adds new students to a school system that is already struggling to accommodate an increasing student enrollment."¹⁷⁵

The "Residential A and B District Sub-Committee" provided a July 2002 report to the PZC that "supported the recent changes to two-acre minimum in watersheds." In 2001, the PZC had adopted an amendment increasing the minimum lot size to two acres in any public supply watershed, covering about three-quarters of the land in the Residence A District.¹⁷⁶

¹⁶⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (Feb. 23, 1999); PLANNING & ZONING COMM'N, MEETING MINUTES (July 19, 1999).

¹⁶⁹ *Id.* (July 19, 1999).

¹⁷⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 15, 2001).

¹⁷¹ *See, e.g.*, PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 22, 2002); PLANNING & ZONING COMM'N, MEETING MINUTES (July 22, 2002).

¹⁷² General Statutes § 8-23, *amended* by Public Acts 1988, No. 88-13.

¹⁷³ PLANNING & ZONING COMM'N, MEETING MINUTES (Feb. 19, 2002).

¹⁷⁴ PLANNING & ZONING COMM'N, MEETING MINUTES (July 22, 2002).

¹⁷⁵ *Id.*

¹⁷⁶ Ellickson, *supra* note 31 at 20.

C. PZC Criticism Of Regional Report On Affordable Housing Needs

In November 2002, the PZC did discuss "Affordable Housing issues," following a review of "draft Town Plan Update chapters" prepared by consultants—the content of those discussions is not recorded in PZC minutes.¹⁷⁷ A July 2003 meeting also included discussion of "identifying housing needs within the Town, and address[ing] how those needs may be accommodated."¹⁷⁸ Yet in May 2004, as the PZC was reviewing a "Regional Housing Market Assessment Report," its comments (as described below) dismissed the responsibility of municipalities to provide for regional housing needs.¹⁷⁹

The report was the work of the SCRCOG, a platform for cooperation between 15 municipalities, including Woodbridge. SCRCOG was developing a Regional Housing Marketing Assessment "to provide the basis for an amendment to the Regional Plan of Development."¹⁸⁰ The final report, adopted in June 2004, declared a "housing crisis," with "the need for affordable housing in the region [at] a critical point," and called for "an effective regional approach to this regional problem."¹⁸¹ In reviewing a draft of this report, the PZC criticized it as presenting "conclusions that appear to be based on 'observations' rather than facts."¹⁸² In comments shared with SCRCOG, the PZC said "it is not the [PZC's] opinion that 'housing is the problem' but rather the regional business climate . . . people with well paying jobs can purchase houses."¹⁸³ The PZC also questioned whether "needs of the homeless," including "social services, counseling, hospitalization, etc. can be remedied solely by providing affordable housing."¹⁸⁴

Two months later, the PZC "reaffirmed [the] inclusion" in the updated POCD of a recommendation for "a village district with mixed uses, but no apartments, for the BI and GB districts of town."¹⁸⁵ Many of the POCD update conversations had focused on establishing a Village District in the "mixed-use area of town near the Wilbur Cross Parkway,"¹⁸⁶ possibly reflecting the view expressed by one PZC member "that the Commission shouldn't do anything through the town plan that would be detrimental to residential areas of town."¹⁸⁷

VII. 2010 To 2015: Update Of The Town Plan Of Conservation And Development

¹⁷⁷ PLANNING & ZONING COMM'N, MEETING MINUTES (Nov. 25, 2002).

¹⁷⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (July 21, 2003).

¹⁷⁹ PLANNING & ZONING COMM'N, MEETING MINUTES (May 3, 2004).

¹⁸⁰ S. CENT. REG'L COUNCIL OF GOV'TS., REGIONAL HOUSING MARKET ASSESSMENT Preface (2004), http://SCRC.org/wp-content/uploads/reports/2004_Reg_Housing_Report.pdf.

¹⁸¹ *Id.* at ES-1, ES-2.

¹⁸² PLANNING & ZONING COMM'N, MEETING MINUTES (May 3, 2004).

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ PLANNING & ZONING COMM'N, MEETING MINUTES (July 26, 2004).

¹⁸⁶ PLANNING & ZONING COMM'N, MEETING MINUTES (Feb. 24, 2003).

¹⁸⁷ PLANNING & ZONING COMM'N, MEETING MINUTES (Apr. 15, 2003).

As early as November 2010, the PZC began discussing updates to the POCD for 2015-2025.¹⁸⁸ The updated POCD eventually approved in March 2015 did not include recommendations to encourage multi-family housing opportunities or low and moderate income housing opportunities – despite the fact that issues of density and affordability did arise during those years of discussion.

A. Preliminary Discussions Acknowledging Affordability Problems

For example, in February 2011, the PZC discussed updating the POCD and considered "the possibility of allowing high density housing developments on certain parcels outside of the Village District," noting the "encouragement in the State Plan of Conservation and Development for high density housing and the impact that may have on the Town Plan."¹⁸⁹ In March 2012, the PZC again noted that "the State Plan encourages *cluster housing*. Pros and cons of this type of development need to be analyzed," mentioning also that "senior housing and low-income housing plans need to be reviewed."¹⁹⁰ Minutes from a PZC work session in October 2012 state that "if the idea is to try to transform Woodbridge in certain ways to make it friendlier for people of all ages, especially those who are a little older and want to stay within the community, the only way to do this is by allowing smaller homes," and note that "zoning currently completely prohibits cluster housing."¹⁹¹ By October 2013, the Town had hired consultants to assist with the POCD update, and the PZC directed them to consider "other ideas for development that might traditionally be considered 'taboo.'"¹⁹²

The consultants gave the PZC a presentation in January 2014 on demographics and housing trends, sharing that "single-family housing prices have remained the highest in the area by \$50,000 or more. Only 1.12% of Woodbridge units meet state affordability standards. 1 in 3 Woodbridge households and a majority of renters pay unaffordable housing prices (>30% of income)."¹⁹³ In a subsequent presentation, the consultants stated that "the distribution of households across income categories seen across Connecticut and the United States does not exist in Woodbridge. Instead, incomes are highly concentrated with the top three categories of households earning \$100,000 or more each year. Conversely, far fewer Woodbridge households fall into low-to-moderate income categories."¹⁹⁴ In that same presentation, the consultants discussed residential build out, with the framing that "everything is very much heavily influenced by District A, which the vast majority of town is zoned as" – but also with the

¹⁸⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (Nov. 1, 2010).

¹⁸⁹ PLANNING & ZONING COMM'N, MEETING MINUTES (Feb. 7, 2011).

¹⁹⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Mar. 5, 2012).

¹⁹¹ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 23, 2012).

¹⁹² PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 30, 2013).

¹⁹³ PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 13, 2014).

¹⁹⁴ PLANNING & ZONING COMM'N, MEETING MINUTES (May 5, 2014).

"assum[ption] that the zoning regulations are going to stay basically the same in the near future."¹⁹⁵

As part of the POCD update process, the consultants conducted a town-wide survey to gauge preferences surrounding future development, and reported that "there seems to be fairly strong support for attracting younger families and doing some mixed-use development. There is a lot of desire for more information about affordable housing and what are the different options for people to consider going forward."¹⁹⁶ In July 2014, the consultants recommended that the PZC "explore different funding opportunities and programs where small towns can get some funding to support affordable homeownership. There would need to be an organization that is dedicated to it and has a strong mission and is able to devote itself full time to these opportunities."¹⁹⁷

B. Public Criticism Of Draft Plan's Few Affordability And Density Provisions

Despite the consultant's recommendation, the draft POCD shared in advance of the January 26, 2015 public hearing included only a few recommendations regarding affordable housing (allowing accessory dwelling units that could be deed-restricted; extending the boundaries of the Village District, part of which would continue to allow two-family homes), as well as provisions for higher-density, age-restricted developments.¹⁹⁸ During the public hearing, even these limited recommendations elicited heavy criticism from several residents who warned of degradation, deterioration, and destruction of the Town. The PZC "got an earful" as residents reiterated "their concern that higher density [in one development] may lead to higher density in other parts of town."¹⁹⁹

For example, a former PZC member stated that the recommendations regarding the "Woodbridge Village Zoning Regulations" would "jeopardize single family homes and makes all zoning degraded to Residential D," by allowing "2 and 3 family houses (with in-law apartments)."²⁰⁰ He characterized the POCD consultants as focused "on increasing density when there are already momentous traffic problems in the area" and "problems in town with rental homes."²⁰¹ He called for a "major overhaul" of the proposal and "asked the Commission to act

¹⁹⁵ *Id.*

¹⁹⁶ PLANNING & ZONING COMM'N, MEETING MINUTES (July 7, 2014).

¹⁹⁷ PLANNING & ZONING COMM'N, MEETING MINUTES (July 23, 2014).

¹⁹⁸ 2015-25 PLAN OF CONSERVATION AND DEVELOPMENT: DRAFT PLAN FOR REVIEW - REVISED NOVEMBER 17, 2014,

<https://web.archive.org/web/20150626174414/https://woodbridgeplan.files.wordpress.com/2014/12/submitted-draft-pocd-11-18-web.pdf>.

¹⁹⁹ Bettina Thiel, *Residents Object to Proposed Plan of Development*, WOODBRIDGE TOWN NEWS (Feb. 26, 2015), <https://woodbridgetownnews.com/residents-object-proposed-plan-development/>.

²⁰⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 26, 2015).

²⁰¹ *Id.*

independently or it can lead to the destruction of town."²⁰² Another former PZC member said "it appeared that the Commission's compass was off, and they needed to start over and listen to the expressions of concern about the plan."²⁰³ A third former PZC member, who had served from 2001 to 2009, "compared the proposed POCD to a Trojan Horse, using language as a springboard to change the zoning (the soul of the town) to 3 family housing" and accused the First Selectman of "hir[ing] a private attorney to draft language for a floating zone."²⁰⁴

A resident whose "family had lived in Woodbridge for over 115 years" said "that rezoning the existing single family District (BB) to multifamily" in the Village District "would deteriorate the area and add to traffic density."²⁰⁵ He commented that "the residents of the BB District maintain their single family homes, which used to be blue collar workers but are now white collar workers."²⁰⁶ Another resident who "had lived in New Jersey and watched it get developed" stressed that "he liked the Town the way it was" and "it would be a shame to change the zoning," stating that "the people in the flats deserve better than the expansion of two family housing in their neighborhoods."²⁰⁷ The Chairman of the Economic Development Commission responded to the comments "on the development of New Jersey" by saying "that New Jersey's municipalities are subject to different laws than in Connecticut (Ref: Mt. Laurel New Jersey Case) which requires every town to provide affordable housing."²⁰⁸

Many residents also expressed concerns about the draft POCD's recommendation to "pursue development proposals for age-restricted lifestyle housing on CCW [Country Club of Woodbridge] property, which may include higher density housing."²⁰⁹ One resident submitted a letter requesting deletion of this language, referencing a "petition signed by more than 300 concerned residents from a cross section of the town."²¹⁰ One "10 year resident of Town" said the proposed CCW development "would destroy his reasons for moving to Town."²¹¹ A "lifelong resident of Town and former member of the Board of Education" was "bothered by the proposed changes for the CCW and the concept of cluster housing," characterizing the developer Toll Brothers as "house builders, not community builders."²¹²

A related recommendation in the draft Housing Action Plan section, to "adopt revisions to the Residence A zone to provide for active adult and open space conservation subdivision

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ 2015-25 PLAN OF CONSERVATION AND DEVELOPMENT DRAFT, *supra* note 198.

²¹⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 26, 2015).

²¹¹ *Id.*

²¹² *Id.*

options," (thus enabling CCW development), similarly attracted criticism.²¹³ A "lifetime resident of town" and "former Chair of the Conservation Commission" expressed concern about "the proposed Zoning changes in the Residence A Zone, which could make many parcels open to change" and "be the 1st step towards fundamentally changing the character of Woodbridge."²¹⁴ She said "no one was moving to Woodbridge to have high density housing."²¹⁵ Another resident said those changes "would destroy the CCW," which he called "a jewel of open space and the gateway to upper Woodbridge," and "told the Commission it holds the life of Woodbridge in its hands, use it responsibly."²¹⁶ He also said "in this case the sale of homes in Woodbridge who wanted to move to the new housing at the CCW would be to young families," and "it is documented that residential development does not generate enough taxes."²¹⁷

C. Adopted Plan's Elimination Of References To Affordability Problems And Solutions

Following the controversy and concerns on display during the public hearing, the PZC edited the POCD to eliminate several references to affordability concerns, the housing needs of racial minorities and low and moderate income households, and steps to increase density.²¹⁸ Language deleted or replaced included:²¹⁹

- **Language Deleted:** "Fewer black residents and members of other racial groups live in Woodbridge than elsewhere in the county or state." *Page 19, Housing and Demographics, "Woodbridge is diversifying, but remains fairly homogenous."*
- **Language Deleted:** "Among renters, a large majority of households earning less than \$50,000 are not able to find housing that meets this standard, and more than 4 in 10 households with incomes between \$50,000 and \$75,000 spend over 30% of their income on housing costs." *Page 24, Housing and Demographics, "High housing costs pose affordability challenges."*
- **Language Replaced:** "Overall, a majority of renters are unable to find affordable housing options. On the owner-occupied side of the housing market, three-quarters of low-to-moderate income households face similar challenges, as do nearly 40% of middle-

²¹³ 2015-25 PLAN OF CONSERVATION AND DEVELOPMENT DRAFT, *supra* note 198.

²¹⁴ PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 26, 2015).

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (Feb. 23, 2015).

²¹⁹ The bullets, based on Meeting Minutes of February 23, 2015, reflect a comparison between the November 2014 draft Plan of Conservation and Development (<https://web.archive.org/web/20150626174414/https://woodbridgeplan.files.wordpress.com/2014/12/submitted-draft-pocd-11-18-web.pdf>) and the Plan of Conservation and Development adopted in March 2015 (<https://www.woodbridgect.org/DocumentCenter/View/214/Town-Plan-of-Conservation-and-Development-PDF?bidId=>).

income households. Even among higher-income groups, unaffordability remains a concern—a significant number of households with earnings of \$75,000 or more continue to face challenges in finding affordable ownership options in Woodbridge," was replaced with "High housing costs are more common among renters, a majority of whom pay over 30% of household income on rent and related housing expenses. A smaller proportion of homeowners (approximately 31%) face housing costs above this threshold." *Page 24, Housing and Demographics, "High housing costs pose affordability challenges."*

- **Language Replaced:** "Woodbridge's unique demographics and housing stock pose current and potential future obstacles to affordability among particular groups, including renters, older residents, and low-income homeowners," was replaced with ". . . obstacles to affordability among empty nesters." *Page 26, Housing and Demographics, "Existing policies can promote affordability."*
- **Language Replaced:** "Given the mismatch between large homes and smaller households, lifting existing zoning regulations prohibiting accessory housing uses could provide opportunities for rental housing for family members, as well as increasing the town's stock of affordable housing units via deed restrictions," was replaced with "Given Woodbridge's housing stock, in-law housing units could provide opportunities for housing for family members." *Page 26, Housing and Demographics, "Existing policies can promote affordability."*
- **Language Deleted:** "The Affordable Housing District provisions of Woodbridge's zoning regulations provides a floating zone that allows for the designation and deed-restriction of affordable housing units (including attached or detached single family homes, as well as Elderly Affordable Housing), defined as housing costing 30% or less of the Town median income." *Page 26, Housing and Demographics, "Existing policies can promote affordability." Note: With the deletion of this bullet, there is now no mention of the AHD in the adopted POCD.*
- **Language Deleted:** "Adopt revisions to the Residence A zone to provide for active adult and open space conservation subdivision options." *Page 27, Housing Action Plan, "Near-Term Action Agenda."*
- **Language Replaced:** "Pursue development proposals for age-restricted lifestyle housing on Country Club of Woodbridge property, which may include higher density housing" replaced with "Consider usage on Country Club of Woodbridge property." *Page 27, Housing Action Plan, "Near-Term Action Agenda."*
- **Language Deleted:** "Develop supply of 55-plus housing options; Expand the Town's small inventory of age-restricted housing to provide older residents with more local housing options, for which there is a distinct need; Explore age-restriction options in Village zones." *Page 28, Housing Action Plan, "Mid-Term Action Agenda."*

- **Language Replaced:** "The Woodbridge Village area, often referred to locally as 'The Flats' or 'Amity', is the most densely built-up area of Woodbridge, and the neighborhood best suited to intensified development—such as new businesses and multifamily housing—over the next ten years and beyond," replaced with ". . . the neighborhood best suited to encourage development—such as new businesses and mixed use—over the next ten years and beyond." *Page 43, Village and Economic Development, "Woodbridge Village Conceptual Plan."* Note the elimination of "multifamily housing."
- **Language Added:** "A recent report by NESDEC on RSD 5 enrollment projections predicts a slightly decreasing trend in middle and high school enrollments in grades 7 to 12 for the next five to ten years . . . However, home sales to families with school-age children in Woodbridge (as well as Orange and Bethany) appear to have increased in the past few years and may result in higher-than-expected enrollments. Close attention to local housing sales may be warranted in order to monitor this trend at all grade levels." *Page 114, Historic & Community Resources, "Woodbridge and Amity Regional School Districts."*

In March 2015, the PZC voted unanimously to approve this revised 2015-2025 POCD.²²⁰

VIII. 2009 To 2020: Country Club Of Woodbridge Development Proposals

As noted above, the former CCW property has been a source of controversy in recent years, generating significant opposition to any development plans that would increase density. The Town's 2009 purchase of the CCW property was based in part on fears that the property could otherwise be targeted by affordable housing developers. Residents voted overwhelmingly in a 2011 referendum against a proposal for age-restricted cluster townhomes, and waves of opposition from 2015 to 2020 (rooted in concerns that increased density on the CCW property could spread throughout town) led to the breakdown of negotiations over other proposals for age-restricted development. This opposition frequently alluded to Woodbridge's Zoning Regulations as carefully designed mechanisms to limit housing development.

A. 2009: Woodbridge Purchases CCW To "Control Its Development"

The Town purchased the 150-acre property in 2009, after its owners went bankrupt.²²¹ During the May 2009 Annual Town Meeting, the Board of Selectmen explained that their "primary reason for authorizing the purchase of the Club was to ensure the appropriate development of the largest single tract of land remaining in Woodbridge," with the goal "to

²²⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Mar. 23, 2015).

²²¹ Pam McLoughlin, *Woodbridge Country Club Proposals Will Get Closer Scrutiny*, NEW HAVEN REG. (Jan. 1, 2019), <https://www.nhregister.com/news/article/Woodbridge-country-club-proposals-will-get-closer-13501917.php>

control its development."²²² In response to a resident comment that "the Town was taking a big risk in pursuing something that's best left to private developers," and that with private development of homes "the tax base would increase," the First Selectman noted that "if the property were developed as you suggest, then of course there would be an increase in the necessary services for that property, including an increase in the school enrollment . . . maybe 45 or 50 [families]."²²³ The resident responded that "no one's building 45 or 50 homes in one shot in this economy."²²⁴ The Woodbridge Town Attorney then chimed in to "clarify" that:

[Y]ou do have zoning and it does, right now, only permit single family dwellings. But that property is served by public water and public sewer. And I can assure you that after many years of fighting a whole host of affordable housing or denser developments, not myself, but reading about what's going on in a lot of towns, this is the kind of property that is prime for that. Woodbridge does not have affordable housing to speak of, and it has the potential services for this kind of development. So, while your initial zoning will give you some comfort, you can look to some of your surrounding towns. Look to Orange—they faced this time and again and they fought for many, many years and spent a lot of money fighting it, and they have a lot of dense development in Orange because they couldn't reconcile it. So it's to give you control of this property going forward. At least at some point you may have to decide to sell it for development, but you control what will go there as you go forward.²²⁵

These remarks, framing town ownership of the CCW as a way to protect against the development of affordable housing, were followed by applause from the audience.²²⁶

B. 2011: Residents Vote Two-To-One Against Age-Restricted Townhouses

In August 2011, the Woodbridge First Selectman released a "bid request outlining the town's interest in seeing" 19 acres of the property "used for age-restricted housing."²²⁷ The developer Toll Brothers submitted plans to build 54 units of age-restricted housing, with 13 buildings containing four townhouses each, and one building containing two townhouses.²²⁸ A November 2011 informational meeting about this proposal "turned contentious at times," with public comments warning that if Woodbridge residents moved into the new development, their old "homes could potentially be purchased by families with school-age children."²²⁹ One former

²²² *Town of Woodbridge Annual Town Meeting 2009*, (WGATV broadcast May 18, 2009), https://archive.org/details/wgact-Annual_Town_Meeting_2009.

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ Bridget Albert, *Woodbridge Grapples with Housing Plan*, NEW HAVEN REG. (Nov. 21, 2011), <https://www.nhregister.com/news/article/Woodbridge-grapples-with-age-restricted-housing-11557079.php>.

²²⁸ *Id.*

²²⁹ *Id.*

PZC member said the current PZC was "way off base to bring a developer" in, and a Conservation Commission member said "the administration has no respect," and "this is no longer a democratic town."²³⁰ Nearly 1,800 residents participated in a December 2011 referendum on the proposal, voting overwhelmingly (1190 to 588) to reject it.²³¹

C. 2015 To 2016: Toll Brothers Cluster Housing Proposal Draws Opposition

The Town continued exploring potential uses for the CCW property, noting in the 2015-2025 POCD its intent to "consider age-restricted life style housing which may include cluster housing or planned development district" and to "consider open space uses" (a second option added after the first generated controversy).²³² In February 2015, a committee appointed by the Town to consider development options recommended a new proposal by Toll Brothers for an "age-restricted, 55-and-older development of 96 attached townhouses and 74 single-family homes."²³³ One Woodbridge resident wrote a Letter to the Editor objecting to "the narrow, three-story monstrosities companies like Toll Brothers are packing into any corner they can find in towns all over Connecticut," and saying that if a CCW zoning change occurs, "development will be unstoppable not only at the [CCW] but wherever an acre of Town land exists."²³⁴ Another resident created a "Say No to Toll" blog, to "spread the word about the potential destruction of this property" and warn that any "zoning change will set a precedent for potential future development elsewhere," meaning "litigation will be costly to the town to try and prevent future development."²³⁵

²³⁰ *Id.*

²³¹ Melissa Nicefaro, *Woodbridge Voters Crush Development Plan*, PATCH (Dec. 13, 2011), <https://patch.com/connecticut/bethwood/woodbridge-voters-axe-development-plan>.

²³² PLANNING & ZONING COMM'N, 2015-25 TOWN OF WOODBRIDGE PLAN OF CONSERVATION AND DEVELOPMENT (Mar. 23, 2015), <https://www.woodbridgect.org/DocumentCenter/View/214/Town-Plan-of-Conservation-and-Development-PDF?bidId=>.

²³³ Pam McLoughlin, *Ad-hoc Committee Recommends Toll Brothers for Woodbridge Country Club Development*, NEW HAVEN REG. (Feb. 11, 2015), <https://www.nhregister.com/business/article/Ad-hoc-committee-recommends-Toll-Brothers-for-11357653.php>.

²³⁴ Joyce Simpson, *Letter: Woodbridge Country Club*, WOODBRIDGE TOWN NEWS (Dec. 10, 2014), <https://woodbridgetownnews.com/letter-woodbridge-country-club/>.

²³⁵ *What's Happening in Woodbridge*, SAY NO TO TOLL, (Apr. 29, 2015), <http://saynototoll.blogspot.com/2015/04/>.



Image Source: "Say No to Toll" Blog (May 2, 2015), saynototoll.blogspot.com/2015

A Woodbridge Selectman expressed similar concerns in a December 2015 column in the *Woodbridge Town News*.²³⁶ The Selectman emphasized that "Woodbridge is unique as the only town in Connecticut that borders a major city but feels like a rural community," calling "this unique character—and the high property values that have always accompanied it" a "direct result of our longstanding, far sighted zoning regulations."²³⁷ The column warned that "if zoning is changed to accommodate the Toll Brothers, we risk that such a change could spread to other large parcels of land in town."²³⁸

By July 2016, Toll Brothers had scaled back their proposal to only "80 active adult housing units on 42 acres of land," with the Town keeping 113 acres. 65 of the units would be "clustered one-family homes," with the remaining 15 being "carriage homes" with more than one unit in a building.²³⁹ In August 2016, the Woodbridge Board of Selectman voted unanimously against pursuing negotiations with Toll Brothers, instead deciding to negotiate with a senior fellow of the Yale Corporation who proposed a golf course development.²⁴⁰ This proposal was withdrawn later that year, with a Yale University vice president stating that "the University had other priorities at this time."²⁴¹

²³⁶ Maria Cruz Kayne, *From Across the Aisle*, WOODBRIDGE TOWN NEWS (Dec. 10, 2015), <https://woodbridgetownnews.com/from-across-the-aisle-121115/>.

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ Pam McLoughlin, *Competing Plans Laid out for Country Club of Woodbridge Property*, NEW HAVEN REG. (July, 27, 2016), <https://www.nhregister.com/connecticut/article/Competing-plans-laid-out-for-Country-Club-of-11321151.php>.

²⁴⁰ Bettina Thiel, *New Country Club Proposal Viewed Favorably*, WOODBRIDGE TOWN NEWS (Aug. 31, 2016), <https://woodbridgetownnews.com/new-country-club-proposal-viewed-favorably/>.

²⁴¹ Bettina Thiel, *Yale University: Not on our Golf Course*, WOODBRIDGE TOWN NEWS (Dec. 7, 2016), <https://woodbridgetownnews.com/yale-university-not-golf-course/>.

D. 2018 To 2020: Negotiations Over Single-Family, Active Adult Development Break Down

In February 2018, the Town mailed a survey concerning use of the CCW land to every Woodbridge household, asking residents to "rate six different land use options on a scale from 1 to 10."²⁴² The survey had a 26.3% response rate, with significant opposition to the options "sell a portion of the land for age-restricted, over-55 housing" (39% in favor, 41% opposed) and "sell the entire parcel for single-family homes with no age restriction and pay off any existing debt" (16% in favor, 65% opposed).²⁴³ Use of the property for other residential uses, including multi-family or affordable housing, was not included as an option on the survey.

As the Board of Selectmen continued to consider development proposals, a Woodbridge Park Association member wrote a Letter to the Editor arguing that "any zoning change for this property will have enormous follow-on consequences for other properties in town and bring in housing much more clustered than our present 1½ acre zoning that our town leaders have had the vision to include in our residential zoning regulations for many years" – essentially arguing that this restrictive residential zoning is central to the "unique character" of the Town.²⁴⁴ Residents expressed similar sentiments during a December 2018 "informational/comment session on two proposals for upscale, age-restricted housing," with one speaker receiving "loud cheers and applause" after saying residents had already sent a "message loud and clear" by rejecting the original Toll Brothers proposal in the 2011 referendum.²⁴⁵ Coverage of the session noted that "many are concerned that once clustered housing is allowed, it will set a precedent and other such projects will be approved in town, compromising the community."²⁴⁶

In June 2019, the Board of Selectmen did vote to move forward with one of the proposals, which would use 60 acres to build 120 detached, single-family homes for "55-and-over active adults."²⁴⁷ Two Selectmen abstained from this vote, citing the "overwhelming

²⁴² Bettina Thiel, *Residents Asked to Weigh in on Country Club*, WOODBRIDGE TOWN NEWS (Feb. 8, 2018), <https://woodbridgetownnews.com/residents-asked-weigh-country-club/>.

²⁴³ Bettina Thiel, *Country Club: Cash Cow or Open Space?*, WOODBRIDGE TOWN NEWS (May 3, 2018), <https://woodbridgetownnews.com/country-club-cash-cow-or-open-space/>.

²⁴⁴ Richard Forselius, *Letter: Country Club of Woodbridge – What Are Our Selectmen Doing?*, WOODBRIDGE TOWN NEWS (Nov. 16, 2018), <https://woodbridgetownnews.com/letter-country-club-of-woodbridge-what-are-our-selectmen-doing/>.

²⁴⁵ Pam McLoughlin, *Controversial Plans for Woodbridge Country Club Property Draw Hundreds*, NEW HAVEN REG. (Dec. 18, 2018), <https://www.nhregister.com/metro/article/Controversial-plans-for-Woodbridge-country-club-13473554.php>.

²⁴⁶ *Id.*

²⁴⁷ Bettina Thiel, *Selectmen Choose St. Pierre Proposal for Country Club*, WOODBRIDGE TOWN NEWS (June 28, 2019), <https://woodbridgetownnews.com/selectmen-choose-st-pierre-proposal-for-country-club/>.

dismay" of town residents "over the problems with density, traffic . . . and required zoning revisions that would forever change the character of our town" and noting that "what separates us from other towns that also had much open space is our well-considered zoning regulations."²⁴⁸ One Selectman warned that CCW development would set "a dangerous precedent that will create opportunities for other developers to come in with high-density proposals," which at a minimum would generate "legal fees" when "the Town refuses these proposals," and "at worst, we lose these cases and more development is here, and the Woodbridge we know is gone."²⁴⁹

The *Woodbridge Town News* published several Letters to the Editor that similarly opposed this proposal, with titles including "Why Aren't They Listening?", "Beware the Bait & Switch," "Country Club of Woodbridge – A Recurring Nightmare," and "Let's Keep the Woodbridge We Know & Love."²⁵⁰ The authors argued that the original 2009 purchase of the CCW was intended "as a way of preventing residential development" and that Woodbridge residents were largely "opposed to housing development."²⁵¹ In their estimation, "a zoning change for this property will . . . [make] Woodbridge no different than many towns with town homes and clustered development throughout," since use of any acreage for cluster housing could lead to the remaining acres being "sold off piece by piece in the future," allowing for "dense development in a residential A zone" that would "change the character of our town forever" and undo a long legacy of "semi-rural character [that] was created over time with our careful zoning."²⁵²

In January 2020, another Letter to the Editor warned that in Oxford, Connecticut, the owner of an "over-55 housing project is seeking to change the use of remaining land to . . . a 197-unit mid-rise apartment complex to be built under the provisions of Connecticut's Affordable Housing statutes," which "give a property owner broad discretion (i.e. little local government input) over the use of the parcel as long as a portion of the property is used as affordable housing." The author speculated that the proposed CCW developer may be unable to sell all their housing units "at their targeted \$500,000+ price" and said "the alarm bells are

²⁴⁸ Dwight Rowland, *From the Other Side of the Aisle*, WOODBRIDGE TOWN NEWS (July 26, 2019), <https://woodbridgetownnews.com/from-the-other-side-of-the-aisle-7-26-19/>.

²⁴⁹ *Id.*

²⁵⁰ Cheryl Lipson, *Letter: Why Aren't They Listening?*, WOODBRIDGE TOWN NEWS (Apr. 11, 2019), <https://woodbridgetownnews.com/letter-why-arent-they-listening/>; Cathy Wick, *Letter: Beware the Bait & Switch*, WOODBRIDGE TOWN NEWS (Oct. 31, 2019), <https://woodbridgetownnews.com/letter-beware-the-bait-switch/>; Richard Forselius, *Letter: Country Club of Woodbridge: A Recurring Nightmare*, WOODBRIDGE TOWN NEWS (Oct. 31, 2019), <https://woodbridgetownnews.com/letter-country-club-of-woodbridge-a-recurring-nightmare/>; Michael Broderick, *Letter: Let's Keep the Woodbridge We Know & Love*, WOODBRIDGE TOWN NEWS (Oct. 31, 2019), <https://woodbridgetownnews.com/letter-lets-keep-the-woodbridge-we-know-love/>.

²⁵¹ *Id.*

²⁵² *Id.*

ringing . . . the possibility of an attempt to change the use seems high."²⁵³ The Woodbridge Land Trust Board of Directors also wrote to express their unanimous opposition to the proposal, because it "requires that we abandon the zoning protections that have allowed Woodbridge to remain a special and beautiful place" and brings "the very real likelihood of similarly dense development of land throughout the town," which would affect "quality of life for residents," the "costs for public infrastructure and programs," and "individual property values."²⁵⁴

A few weeks later, instead of moving forward with scheduling a referendum on the proposal, the Board of Selectmen "voted to cease further discussions" with Insite/Werner, the developers who had proposed the active-adult development.²⁵⁵ Coverage of the vote noted that "the builder wanted to be able to sell parcels to third-party investors," which First Selectman Beth Heller said "was not considered in the town's best interest."²⁵⁶ The First Selectman "moved to cease not only negotiations, but any discussions with Insite/Werner, a motion that passed unanimously."²⁵⁷

This breakdown of negotiations followed a familiar pattern of development debates in Woodbridge: town officials considered a small, limited increase in density, received significant opposition rooted in fear about opening the floodgates to higher density residential development anywhere in town coupled with a desire to preserve restrictive zoning, and as a result abandoned the endeavor and left the status quo in place.

IX. 2015 To 2019: Zoning Regulation Revisions

The PZC recently undertook a comprehensive review of the Woodbridge Zoning Regulations, and at one point did propose allowing multi-family dwellings in some parts of the Village District – but following significant public opposition, those proposals were dropped from the adopted regulations.

A. 2015 To 2018: Proposal Of A "T-4" Zone Allowing Multi-Family Dwellings

²⁵³ Deke Hotchkiss, *Letter: Will the Over-55 Housing Project Proposed for the Country Club of Woodbridge Be Successful?*, WOODBRIDGE TOWN NEWS (Jan. 9, 2020), <https://woodbridgetownnews.com/letter-will-the-over-55-housing-project-proposed-for-the-country-club-of-woodbridge-be-successful/>.

²⁵⁴ Bryan Pines, *Letter: Land Trust Directors Oppose Sale of Public Land at the Former Country Club of Woodbridge*, WOODBRIDGE TOWN NEWS (Jan. 9, 2020), <https://woodbridgetownnews.com/land-trust-directors-oppose-sale-of-public-land-at-the-former-country-club-of-woodbridge/>.

²⁵⁵ Bettina Thiel, *Country Club Negotiations Break Down*, WOODBRIDGE TOWN NEWS (Mar. 5, 2020), <https://woodbridgetownnews.com/country-club-negotiations-break-down/>.

²⁵⁶ *Id.*

²⁵⁷ *Id.*

Beginning in October 2015, the PZC began discussing "possible regulation changes" to "address the recommendations of the newly adopted" POCD.²⁵⁸ Over the course of 2016 and 2017, the PZC dedicated several meetings to discussing potential revisions with a planning consultant, informed partly by responses to "a preference survey that [was] distributed to the townspeople."²⁵⁹ A shared assumption of the PZC and the planning consultant seemed to be that any new zoning regulations would "make no changes to Residential Zones A & B,"²⁶⁰ and instead "preserve the two main residential areas."²⁶¹

Rather than make adjustments to those main residential zones, the proposals under review focused on the relatively small "Downtown/Flats/Village/Amity section of town."²⁶² Draft zoning regulations presented in February 2018 would have allowed multi-family dwellings by special exception in a proposed "T-4" zone, to be located in the Village District.²⁶³ Opposition to this proposal was fierce, as described below.

B. February 2018: Public Opposition To T-4 Zone

During a February 27, 2018 public hearing, residents charged that "the proposals would tear apart the community that was there," that "high density rental properties represent an urban rather than a rural environment," and that "it tears the fabric of the community, adding a lot of new people."²⁶⁴ Residents were "not asking for an influx of new residents," which could cause "strains on town resources" including "schools, volunteer fire department, police," and worried that "rental units would not contribute as much to tax revenue"—such proposals would be "not a community builder but a community destroyer."²⁶⁵

Taxes were a common area of concern. One resident said "she knew the Commission wanted to have more taxes, but there had to be a different way before adding more buildings for housing."²⁶⁶ Another argued that "adding lots of multifamily housing with a school system overburdened was just going to increase the taxes even more."²⁶⁷ One raised the possibility of the State "eliminating the car tax," in which case "renters will pay no tax at all and much more of the burden of tax will fall onto the homeowners."²⁶⁸

²⁵⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 5, 2015).

²⁵⁹ PLANNING & ZONING COMM'N, MEETING MINUTES (Mar. 7, 2016).

²⁶⁰ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 18, 2016).

²⁶¹ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 30, 2017).

²⁶² *Id.*

²⁶³ PLANNING & ZONING COMM'N, Draft Zoning Revisions of Feb. 27, 2018.

²⁶⁴ PLANNING & ZONING COMM'N, MEETING MINUTES (Feb. 27, 2018).

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ *Id.*

²⁶⁸ *Id.*

Some residents felt that the Village District was being unfairly singled out, saying "no one ever talked about building up any further on Litchfield or any further up on Amity Road," and asking "if other sections of town refuse to allow high density development, why should the Woodbridge Village District which already has the highest percent have to absorb more?"²⁶⁹

Several other residents emphasized school system impacts that they feared, predicting that:

- The proposal would result in having "100 to 200" additional children "with nowhere to put them."
- "If two or three bedroom apartments were available families would rush to Woodbridge to enroll their children in the school system."
- "If development in that area was not 55 or over, the town schools would be flooded with people."
- "Apartments with 2 and 3 bedrooms would mean many more children added to our school system," because "most people that would want to move into those apartments would move here just for the school system."
- For every "one kid in the apartment it would cost the town about \$15,000."²⁷⁰

One resident specifically named "Hamden, New Haven and West Haven" as "three school districts in three towns that have some of the lowest school rankings in the State of Connecticut and they border a town like Woodbridge that has the best," adding "so you bet they move, and if they can get rentals or housing starts to go down in prices they are going to come with their family," and warning that "the town has to be very careful with the rate of development."²⁷¹ After discussing his concerns about how "people come to the area for schools" and "are not going to stop coming," he stated that "he wanted young professionals."²⁷²

Woodbridge First Selectman Beth Heller "asked the commission to reconsider some of the proposed regulations and to 'honor the wishes of people who live in the area.'"²⁷³

C. September And October 2018: Removal Of Proposed T-4 Zone; Continued Pushback

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.* These three towns are significantly more racially diverse than is Woodbridge.

²⁷² *Id.*

²⁷³ Thiel, *supra* note 199.

Following the public hearing, the PZC Chairman noted in a subsequent meeting that "he had been pressured by Town Hall, the First Selectman and Town Counsel" and "had relented" by "leaving the Residential Zones and Development 1 District alone," rather than making any changes that would be perceived to increase density.²⁷⁴ Instead of using a new T-4 zone to add multi-family uses in the Village District, the proposal was altered to focus on "needed updates to the Zoning Regulations including definitions, tables for bulk requirements and uses, and basic standards" – and "no changes would be made to the existing Zoning Districts."²⁷⁵

Another public hearing was held on September 20, 2018 on this updated proposal, beginning with the PZC Chairman acknowledging previous "pushback" and explaining that in response "to comments about strains on town resources . . . no increased density in any zone is proposed," and "there was nothing" in the new proposal "to encourage building anything that became rental units."²⁷⁶ The Chairman also noted that "the Affordable Housing District Regulations . . . were exactly the same as the current regulations."²⁷⁷

The public hearing was continued on October 15, 2018, during which several residents raised concerns that while the proposal no longer applied the T-4 zone to any part of town, the document still contained references to the T-4 definition (which the Chairman summarized as "a General Urban Zone consisting of mixed uses including residential, commercial, and retail").²⁷⁸ One resident called "the existence of T-4 in the document" a "grenade with a pin out," criticizing the use of the word "urban," because "that was not why anyone lived in Woodbridge."²⁷⁹ Another resident added that "he would extend the metaphor, it's a 'Trojan horse' that stalks the town," saying "the existence of the amorphous T-4" in the document gave property owners no assurances "that someday his or her home or his or her business won't be ground zero for T-4."²⁸⁰ Residents expressed opposition to "any philosophy that encouraged increased density in the town," characterized "the proposal of any type of zoning changes" as "nothing more than an unfixable disaster in the community,"²⁸¹ and raised concerns "about the density being allowed, or even insinuated to be allowed to grow in Woodbridge by created zones, or names of zones that are not even included on the zoning map."

D. October 2018: Criticism Of Changes To The General Business District

The October 2018 public hearing also included criticism of an amendment adopted earlier in the year saying that "multiple-family dwellings, when accessory to a legal non-residential use, shall be permitted by Special Exception in the GB [General Business] District only in the

²⁷⁴ PLANNING & ZONING COMM'N, MEETING MINUTES (Mar. 5, 2018).

²⁷⁵ PLANNING & ZONING COMM'N, MEETING MINUTES (Apr. 24, 2018).

²⁷⁶ PLANNING & ZONING COMM'N, MEETING MINUTES (Sept. 20, 2018).

²⁷⁷ *Id.*

²⁷⁸ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 15, 2018).

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ *Id.*

locations depicted within the Red Line Map GB-A," which depicted a very small area covering parts of Hazel Terrace, Selden Street, and Amity Road.²⁸² An applicant had requested the amendment in June 2017, seeking to develop property at 18 Hazel Terrace for a two-story building with seven dwelling units, "4 two-bedroom units and 3 one-bedroom units."²⁸³ The October 2017 public hearing was not well-attended, though two real estate agents did express their view "that condominiums do not fit on Hazel Terrace" and that "they were very skeptical that there would be upscale buyers buying into a property on Hazel Terrace," given that "their experiences with the residences on the street had not been very good."²⁸⁴ In November 2017, the PZC unanimously approved the amendment "to allow multiple family dwellings no larger than 1,250 sq. feet in area each in the GB District by special exception."²⁸⁵

One month later, the PZC Chairman said "in hindsight that section needed to be tightened up a little bit," because "1250 sq. ft. units were large and needed to be downsized."²⁸⁶ In a January 2018 meeting, the PZC Chairman stated that "the intent was to create housing, but not excessive housing," and that "the apartments would be intended for young professionals," with the hope that they would "stay and move into a house in Woodbridge."²⁸⁷ The PZC then voted five to one to revise the language by lowering the maximum square footage to 650 square feet, allowing apartments only over first floor commercial uses, and reducing the area within the GB District where apartments were allowed.²⁸⁸ Given the small maximum square footage, this revision has the effect of excluding families with children.

Yet even this severely limited provision for "young professional" apartments drew sharp criticism. During the October 2018 public hearing on the broader zoning regulation revisions, a former PZC member referenced this earlier amendment, noting that "the current zoning regulations allow apartments on the right side of Amity Road, which he did not believe was fully discussed with the townspeople."²⁸⁹ He went on to say: "no one in town asked for them . . . it is an absolute abomination. Our taxes continue to spiral up in Woodbridge, and what we don't need are more school children . . . that's what apartments would create . . . you guys should be ashamed of yourselves from the board for allowing that to go through . . . no one in the greater town of Woodbridge, by and large, wants that, because people don't want their taxes increased, and people don't want multi-family dwellings all over the Village District . . . we're not New Haven, we don't need greater concentration of people . . . you're not listening or you would have responded to the previous meetings where the group spoke all against apartments."²⁹⁰

²⁸² PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 18, 2018).

²⁸³ PLANNING & ZONING COMM'N, MEETING MINUTES (June 5, 2017).

²⁸⁴ *Id.*

²⁸⁵ PLANNING & ZONING COMM'N, MEETING MINUTES (Nov. 6, 2017).

²⁸⁶ PLANNING & ZONING COMM'N, MEETING MINUTES (Dec. 4, 2017).

²⁸⁷ PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 18, 2018).

²⁸⁸ *Id.*; PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 15, 2018).

²⁸⁹ PLANNING & ZONING COMM'N, MEETING MINUTES (Oct. 15, 2018).

²⁹⁰ *Id.*

This public hearing extended into a November 2018 session, during which the same former PZC member reiterated that an "area that he thought should be changed was GBA where the Commission has allowed apartments," because "he did not believe that anyone really wanted to have apartments in that area" and thought the "change shouldn't have been made without more people in town knowing about it."²⁹¹

E. 2019: Finalization of Updated Zoning Regulations

With the public hearing concluded, the PZC spent several months in 2019 undertaking a "detailed comparison and discussion" of "the existing and proposed regulations," making changes to the proposed regulations along the way.²⁹² In June 2019, the PZC voted unanimously to adopt these "updated regulations" with an effective date of July 1, 2019.²⁹³ As a result, after nearly five years of Town officials discussing zoning regulation revisions, multi-family housing for families with children is still not permitted anywhere in Woodbridge.

X. Conclusion

Over the years, Woodbridge has frequently grappled with the question of whether to take steps to increase and diversify housing opportunities in the Town. To date, Woodbridge's answer has always been "No." While the Town's stated reasons for maintaining its exclusionary zoning mechanisms sometimes reference the physical status quo (preventing traffic congestion, preserving open space), often public opposition to any density increase has been rooted in protecting the socioeconomic status quo—keeping property values high, keeping families in more diverse neighboring towns out of Woodbridge schools, and keeping out would-be newcomers who cannot already afford to own a single-family home on a large lot. Town officials have at times seemed to acknowledge the need for evolving beyond this exclusionary status quo. But, if history is any guide, change will require the PZC to weather the public opposition that always arises to the prospect of affordable housing in Woodbridge.

²⁹¹ PLANNING & ZONING COMM'N, MEETING MINUTES (Nov. 5, 2018).

²⁹² PLANNING & ZONING COMM'N, MEETING MINUTES (Jan. 7, 2019).

²⁹³ PLANNING & ZONING COMM'N, MEETING MINUTES (June 3, 2019).