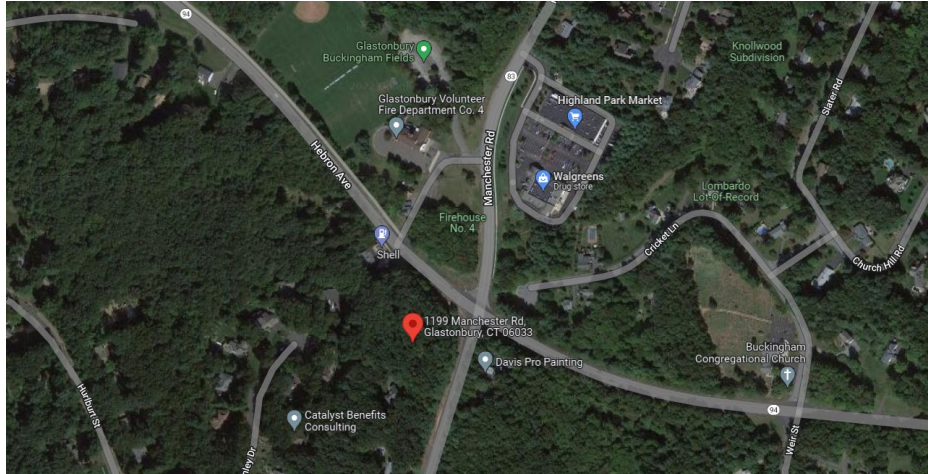


**APPLICATION OF MANCHESTER/HEBRON AVENUE, LLC FOR
SITE PLAN APPROVAL FOR 74 RENTAL APARTMENTS AT
1199 MANCHESTER ROAD, GLASTONBURY, CT,
"BUCKINGHAM PLACE"**

Applicant's Second Set of Supplemental Materials

June 9, 2022



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12. Documents regarding pedestrian safety: Copy of Superior Court decision in *Dakota Partners, Inc. v. Town Plan & Zoning Commission*, 2019 WL 5424771 (Conn. Super. Ct., Aug. 28, 2019) and Public Act 21-28

SUBMITTED SEPARATELY

Revised Civil Plan Set for “1199 Manchester Road,” prepared by Wentworth Civil Engineers, LLC (14 full-size copies)

Revised Architectural Plans, prepared by FLB Architecture & Planning, Inc. (14 copies at 11x17)

Rain garden addendum and detail (2 copies).

DropBox link with all materials.

1



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MEMORANDUM

TO: Glastonbury Town Plan and Zoning Commission

CC: Rebecca Augur, Director of Planning & Land Use Services
Jonathan Mullen, Planner

FROM: Hinckley, Allen & Snyder LLP (Andrea Gomes, Tim Hollister)

DATE: June 9, 2022

Re: Applicant's Second Set of Supplemental Materials – Application for Site Plan Approval for 74 Rental Apartments at 1199 Manchester Road, Glastonbury, CT, "Buckingham Place"

In anticipation of the June 21, 2022 continued public hearing, this package is intended to provide the Commission with additional information pertaining to the above-captioned application. Narrative responses to various questions and comments posed by the Commission, town staff, and the public on May 17, are below, with accompanying exhibits appended here, as indicated. Revised civil plans and architectural plans have been submitted separately.

1. Staff Comments. The applicant's responses to staff comments are included in this memorandum as follows:
 - a. Office of Community Development comments and responses – *see* Tab 2.
 - b. Building Inspection / Zoning Enforcement comments and responses – *see* Tab 3.
 - c. Environmental Planner comments and responses – *see* Tab 4.
 - d. Engineering Department comments and responses – *see* Tab 5.
 - e. Fire Marshal's comments and responses – *see* Tab 6.
 - f. Health Department comments and responses – *see* Tab 7.

2. Commission and Public Questions / Comments. Responses to comments and questions posed to-date by the Conservation Commission, Town Plan and Zoning Commission, and public are included in this memorandum, in chronological order, as follows:

- a. Responses to Conservation Commission comments from May 12, 2022 meeting – *see* Tab 8.
- b. Responses to Town Plan & Zoning Commission and public comments from May 17, 2022 public hearing – *see* Tab 9.

3. Civil Plan Revisions. The following is a summary of the major revisions to the civil plans, which are responsive to town staff and Commission, Conservation Commission, and ASDRC comments to-date. Additional details on these, and other, smaller revisions, are noted in the applicant’s responses to staff comments at Tabs 2 through 9.

- a. The retaining wall along Hebron Avenue has been removed, and the proposed grading in that area has been revised.
- b. The retaining wall on west side of the Hebron Avenue entrance has been removed, and the proposed grading in that area has been revised.
- c. The south side of the proposed building has been regraded to provide a 10-foot space extending out from the proposed building to accommodate surface drainage and access for building maintenance and emergency services.
- d. The 2:1 slope on the south and west sides of the proposed building has been regraded to include a reverse bench slope.
- e. Sidewalks have been incorporated along the site frontage on Hebron Avenue and Manchester Road.
- f. A designated pull-off area for delivery / moving vehicles has been added to the west side of the proposed building.
- g. An erosion and sediment control plan has been prepared for each individual phase of earth excavation.
- h. A design for the dumpster enclosure is now shown on the site plan.
- i. A rain garden has been added next to the Hebron Avenue entrance drive for additional stormwater runoff treatment.

4. Architectural Plan Revisions. The following is a summary of the revisions to the architectural plans, which are responsive to town staff and Commission, Conservation Commission, and ASDRC comments to-date.

- a. The exterior elevations have been revised to reflect building massing, a revised proposed roof design, and different exterior materials.
- b. The floor plans have been modified to reflect the exterior elevation changes.
- c. The location of the Housing Opportunity Units have been clarified on the plans.

5. Proposed Conditions of Approval. To address the various comments and questions posed to-date on this application, the applicant has drafted the following proposed set of approval conditions:

- a. The applicant has agreed to construct sidewalks along the site frontage, on Hebron Avenue and Manchester Road, in accordance with town sidewalk design standards. The applicant shall cooperate with the Town of Glastonbury and Connecticut Department of Transportation regarding further improvements to the Town's pedestrian network in the area.
- b. The applicant shall comply with the conditions of approval noted in the May 4, 2022 letter from the Glastonbury Water Pollution Control Authority.

2

**Responses to May 5, 2022 Memorandum from
Rebecca Augur, Director of Planning and Land Use Services**

1. In Section V, the Plan states that the applicant has experience administering affordability plans. Please provide further evidence of that experience.

Response: Section V of the Affordability Plan has been revised to note that the applicant will engage a consultant with experience in administering affordable housing communities, to administer the Affordability Plan. *See* Tab 10 (the revised Affordability Plan also includes the updated rental calculations previously submitted to the Commission.)

2. Section V states that the Administrator role may be transferred or assigned to another entity with prior written notice to the Town. The Town would prefer prior consent, which will not be unreasonably withheld, to ensure an experienced Administrator is assigned in the event of a transfer.

Response: Section V of the Affordability Plan has been revised accordingly.

3. The Town recommends that notice of availability and marketing of units also be made on cthousingsearch.org, a service provided through the CT Department of Housing, as appropriate.

Response: Section VI of the Affordability Plan has been revised accordingly.

4. Section X mentions an application fee for the Housing Opportunity Units. Please describe what is anticipated.

Response: The application fee is typically \$100 - \$150 per application.

5. Schedule E, Sample Lease Rider, Section 11 mentions on-site and off-site common facilities access fees. Please describe what is anticipated.

Response: The Sample Lease Rider at Schedule E is a generic Lease Rider developer pursuant to state regulations. On- and off-site common facilities access fees typically include fees for indoor parking or additional storage, neither of which the applicant anticipates here. The rider would be customized to the proposed community, once leasing begins.

3

**Responses to April 28, 2022 Letter from
Lincoln White, Building Official / Zoning Enforcement Officer**

1. Site plan and building plans are general concept for site grading and layout, parking and utility expectations. The building plans are not detailed enough for a comprehensive review for code compliance at this time. Notes have been added to include a topic's being considered that were discussed with the Architect at an informal meeting.

Response: Noted. It should also be noted that the Building Official, Lincoln White, confirmed that his reference in this comment to "code compliance" refers only to the Connecticut State Building Code, and not the Fire Safety or Fire Prevention Codes. The proposed building has been designed to comply with the Connecticut State Building Code, but full Building Code compliance will be confirmed upon the submission of a building permit to the Building Department.

2. The rear slope tends to grab my attention as it climbs up behind the 5-story structure causing concern of its long-term stability and reasonable access for construction of the 1st level retaining wall. A detailed design should be submitted to determine the exact extent to which the hill will have to be excavated to accomplish the extended up-hill footing of the retaining wall/foundation.

Response: The south side of the proposed building has been regraded to allow for a 10 foot area out from the building, which will accommodate surface drainage and access for building maintenance and emergency services. This change in grading will also provide additional room during construction. Details provided by Welti Geotechnical P.C. have been added to the plans relative to temporary embankment stabilization by utilizing soil nailing behind foundation and retaining wall. *See* revised Grading plan, E&S control plan and Notes & Details, Sheets SP-3, SP-7 & SP-13.

3. Access for building maintenance and emergency services needs to be accommodated along the toe of the slope also. The Building code requires a ten-foot distance out from the building to accommodate surface drainage. The fire sprinkler requirement does allow for lack of vehicle access to portions of the building perimeter where an access way would normally be expected. All these considerations and calculations will need to be part of the submittal.

Response: *See* response no. 2, above.

4. This is considered a 'threshold building' requiring statutory third-party structural review along with a number of systems requiring Special Inspection designation and submission.

Response: Noted.

5. Utility meter locations are not depicted however, I recall them being in a mechanical room near the fire connection to the building, verification would be warranted.

Response: The utility connections including underground utilities and water enter the building at the southeast corner (on the east façade). There is a utility room at that corner of the building to accommodate metering and equipment in the lower level of the building. The fire department connection will be at this same location.

6. There is no indication of heating source fuel, the applicant should confirm type and location.

Response: The applicant is currently exploring the feasibility of using mini-split systems for heating and cooling.

4

**Responses to May 5, 2022 Memorandum from
Suzanne Simone, Environmental Planner**

1. Drainage. The site is currently wooded with a mix of evergreen and deciduous trees and shrubs. The elevation of the site ranges from 406 feet in the southwestern corner and descends down slope to 356 feet along Hebron Avenue and 372 feet along Manchester Road. The proposed stormwater management system (Sheet SP-2) includes underground infiltration with hydrodynamic separator (to remove debris and sediment before entering the underground galleries). The monitoring and maintenance schedule is detailed on Sheet SP-11.

The proposal does not incorporate above ground stormwater management structures, such as rain gardens. The long-term effectiveness of the underground system is dependent upon regular maintenance.

Response: The applicant agrees that the long-term effectiveness of all stormwater management structures (above and below ground) depend upon regular maintenance. The maintenance plan at Sheet SP-11 describes the required maintenance items and appropriate timing to ensure long term performance of the proposed underground structures. In addition to underground chambers and hydrodynamic separator, a rain garden has been added to treat stormwater for the entrance drive from Hebron Avenue.

2. Erosion Controls. The geotechnical narrative (dated March 8, 2022) identifies stabilization measures that may be utilized during excavation, without providing information on how and when the preferred measure will be determined. The plan lacks details on the temporary slope retention measures: soldier piles with wood lagging and soil nailing.

Response: Dr. Welti, the applicant's consulting geotechnical engineer, will provide oversight throughout the construction process, and will work with the applicant to determine the best slope retention measures at that time. Details provided by Welti Geotechnical P.C. have been added to the plans relative to temporary embankment stabilization by utilizing soil nailing behind foundation and retaining wall.

The plans identify extensive excavation and regrading, and retaining wall construction. Erosion control matting is proposed along the western and southern slope to stabilize after final grading (Sheet SP-5).

Response: Noted.

The notes and details (Sheet SP-11) identifies that the temporary stock pile will be seeded and secured with silt fencing. Silt sacks are proposed to be located within existing street catch basins. The notes specify that the erosion controls will be monitored at intervals consistent with the 2002 CT Erosion and Sediment Guidelines.

Response: Noted.

The site is proposed to have construction access on Manchester Road and Hebron Avenue, with stone tracking pads (Sheet SP-5). The temporary silt trap is to be located in the northeast corner of the property, with site grading directing surface water into the excavated depression to retain transported soil on site during construction.

Response: Noted.

3. **Landscape Plan.** The landscape plan (Sheet SP-6) identifies 252 individual plants to be incorporated into the site design. The species categories are: 47 perennials (two species), 15 deciduous trees (four species), 19 evergreen trees (two species) and 171 deciduous and evergreen shrubs (11 species). Thirteen Fraser firs are proposed at the top of the slope behind the proposed building along the property boundary in the Rural Residence Zone.

Response: The 252 individual plants originally proposed have been increased to 320 individual plants, 241 of which, or 81%, are native. The vast majority of the shrubs and trees provided are pollinators. Pollinators also have been added to the conservation mix originally proposed for the slope.

Snow storage (Sheet SP-1), is proposed along the northwest side of the building. Red cedar trees are proposed to be planted at the top of the slope in this area. The location of the snow storage does not conflict with the overall landscape plan, stormwater management area or sight line entering/exiting the property.

Response: Noted. The applicant also notes that the Connecticut Department of Transportation (“DOT”) will have to approve the driveways proposed for the community, prior to construction, at which time the DOT also will confirm that the proposed sight lines are adequate.

5

**Responses to April 26, 2022 Memorandum from
Daniel Pennington, Town Engineer / Manager of Physical Services**

1. The Engineering Division has reviewed the traffic impact study provided and finds the methodologies utilized to be in line with industry standards. Peak hour impacts to level of service at the adjacent signalized intersection and roadway network in general are expected to be minimal. No mitigation measures are recommended for implementation.

Response: Noted.

2. Design of the stormwater management system is generally in conformance with Town standards. Applicant should provide additional water quality volume retention for the driveway to Hebron Avenue.

Response: The applicant is willing to provide additional water quality retention in this area. A rain garden has been added to treat stormwater runoff by retaining the additional water quality volume for the entrance drive along Hebron Avenue.

3. A designated pull-off area for delivery/moving vehicles that does not block normal traffic flow through the site should be provided based on the number of units and associated resident movement.

Response: A designated pull-off area for delivery/moving vehicles has been added to the west side of the proposed building, *see* Sheet SP-1.

4. A note or short narrative shall be added to the plans requiring the snow storage area on the west side of the building to be kept clear of material storage of any type.

Response: The requested note has been added to Sheet SP-1.

5. Provide 5 foot-wide concrete sidewalk across the entire frontage of the parcel with 8" thick reinforced sidewalk through the driveway per Town standards.

Response: Sidewalks have been added to the site frontage along Hebron Avenue and Manchester Road. The town-required details for the sidewalk, including an 8-foot thick reinforced sidewalk through the driveway areas, also has been added. *See* Sheets SP-1, SP-11.

6. Given the 74 residential unit proposal and its proximity to the nearby public park and commercial market, it is recommended that the applicant consult with the State Department of Transportation concerning inclusion of a true pedestrian phase within the Hebron Avenue/Manchester Rd traffic signal cycle. This signal is owned and maintained by the Department of Transportation, and at present includes only a pedestrian push button calling the side street green phase. The Engineering Division believes that consideration of a concurrent or exclusive pedestrian phase with appropriate pedestals, crosswalk pavement markings and necessary controller modifications is warranted. Documentation of the recommended consultation shall be provided to the Town Engineer and any Department required improvements implemented.

Response: The DOT has verified that the existing signal at the Hebron Avenue / Manchester Road intersection provides pedestrian pushbuttons on the west leg of the intersection to call the north/south vehicle phase to allow pedestrians to cross with the green vehicle signal. Pedestrians crossing east to west do not need a button as this vehicle green comes up automatically, even if no cars are present. This is standard pedestrian accommodation for intersections with very low pedestrian volumes.

The DOT also has verified that pedestrian phases with pedestrian signals could be added at this location. Depending on the projected pedestrian volumes, the DOT is willing to work with the Town to determine the best way to control pedestrian movements.

As noted in response no. 5, above, the applicant has revised its plans to include sidewalks along its site frontage on Manchester Road and Hebron Avenue.

7. Revise the proposed sanitary sewer extension in accordance with the attached memo from the Town Engineer to Gregory Mahoney dated April 1, 2022 and per any additional conditions of approval from the WPCA. Applicant shall also adhere to all requirements outlined in the attached March 15, 2022 letter from Gregory Mahoney regarding 1199 Manchester Road - Proposed Residential Apartment Development Sanitary Sewer Report.

Response: The applicant has accepted the WPCA's May 4 approval letter, including the conditions of approval noted therein.

8. The proposed excavation procedure described in the geotechnical report prepared by Welti Geotechnical, P.C. requires supporting diagrams and phased Erosion and Sediment Control plans for proper implementation during construction. Separate E&S plans for each phase of construction should be provided to clarify the proposed construction

sequence and the necessary sediment controls during each phase outlined in the narrative. Cross sections of the site during each phase should also be provided as part of these plans to clarify intent of phasing narrative and specific controls required during each phase. The construction sequence and project specific erosion and sediment control narrative on Sheet SP-11 should be relocated to the E&S Plan Sheet SP-5. Adherence to these requirements will help to insure worker safety during the large scale excavation operations.

Response: The applicant has added separate erosion and sediment control plans for each phase of construction. *See* Sheets SP-5, SP-6, and SP-7. The erosion and sediment control narratives have been modified for each phase of construction and added to the aforementioned erosion and sediment control plan sheets.

9. Reverse slope benches are required for the proposed 2:1 slopes on the west and south sides of the site for consistency with the 2002 CT Guidelines for Erosion and Sediment Control and to avoid long term erosion problems due to the length and height of the slope.

Response: Reverse slope benches have been added to the proposed 2:1 slopes on the west and south side of the subject property.

10. The proposed temporary silt trap shown on Sheet SP-5 overlaps into the area of the proposed underground chambers and should be adjusted in order to preserve integrity of soils in that area.

Response: The proposed temporary silt trap shown on Sheet SP-7 has been relocated to preserve the soil integrity of the underground chambers.

11. Silt sacks are required on Sheet SP-5 to protect the drainage system inlets on Hebron Avenue and Manchester Road downhill of the proposed driveway entrances.

Response: Silt sacks have been added to the existing catch basins on Hebron Avenue and Manchester Road.

12. Additional spot grades are necessary for the proposed sidewalk that abuts the ADA parking spaces on the north side of the proposed building in order to ensure compliance with ADA regulations. Precast concrete parking bumpers should be provided where there is no curb.

Response: The requested additional spot grades have been added to Sheet SP-2.

13. Additional spot grades should be provided at the top and bottom of all retaining walls to clarify proposed grading.

Response: The requested additional spot grades have been added to Sheet SP-2.

14. The proposed top of wall grades for the retaining wall along the Hebron Avenue frontage of the property appear to be lower than the abutting parking lot pavement at certain locations and should be raised to support the abutting pavement. Guiderail or other suitable barrier is recommended along the top of this wall to prevent errant vehicles from driving over the wall during parking maneuvers. A scaled cross section / detail through this wall should be provided to demonstrate that the proposed wall envelope, barrier, and light poles can be constructed within the limits of the subject property.

Response: The retaining wall originally proposed in this area has been eliminated, and the grading has been revised accordingly. *See* Sheet SP-2.

15. The proposed stormwater maintenance plan on Sheet SP-11 should be relocated to the utility plan Sheet SP-3 for ease of reference.

Response: The proposed stormwater maintenance plan has been relocated to Sheet SP-3.

16. The Town standard MS4 tracking table and Engineering Division Inspection note should be provided on Sheet SP-3.

Response: The Town standard MS4 tracking table and Engineering Division Inspection note have been added to Sheet SP-3.

17. A suitable geotextile fabric should be added to the construction details for the underground detention systems to protect the washed stone envelope around each system. Inspections ports should be provided for each row of the system to check system function and need for maintenance.

Response: Geotextile fabric has been added to the underground detention detail, *see* Sheet SP-12. Inspection ports have been added to the design plans, *see* Sheet SP-3.

18. The Town standard details for concrete sidewalk, sanitary sewer trench, and sanitary sewer manhole should be added to the plan set.

Response: The requested Town standard details have been added to the plan set. *See* Sheet SP-11.

19. An encroachment permit will be required from the CT Department of Transportation for work within the State Right-of-way of Hebron Avenue (Route 94) and Manchester Road (Route 83). A copy of the permit shall be furnished to the Town prior to the start of construction.

Response: Noted.

20. Applicant shall provide a copy of final stamped and signed plans, stormwater management report, and traffic report in PDF form to the Town Engineer.

Response: Noted.

6

**Responses to April 20, 2022 Memorandum from
Fire Marshal's Office**

1. Address numerals will need to be provided that are visible from the streets abutting the complex.

Response: Address numerals are shown on the building elevation at the front elevation (visible from Hebron Avenue), on any identification signs provided at the entrances to the site from Hebron Avenue and Manchester Road, and on the east side of the building near the side access point (visible from Manchester Road).

2. Fire lanes will need to be posted at locations specified by this office.

Response: Noted.

3. The locations of the above fire lanes and methods of posting same, will need to be specified on the final and permanent drawing of record submitted and filed with the Town of Glastonbury.

Response: Noted.

4. The depicted location of the fire hydrant immediately adjacent to the building is not acceptable. The proposed hydrant is blocked by parking stalls and will prevent vehicle traffic circulation if the fire department apparatus connects to the hydrant. The Hydrant location will need to be repositioned just south of the enclosed concrete dumpster pad, three feet back from the curb on the south east driveway.

Response: The proposed fire hydrant has been relocated as directed, *see* Sheet SP-1.

5. A reflective sign that reads "FDC "will need to be posted at the fire department connection.

Response: The requested sign is shown on the architectural elevations at the location of the Fire Department connection (the southeast corner of the proposed building).

6. The sign will also need to indicate that the connection serves the automatic fire sprinklers and the building standpipes. Standpipes are required in the stairways.

Response: See preliminary layout of the sign on the architectural drawings. Standpipes will be provided in the stairways.

7. The building will need to be provided with at least one public safety rapid entry vault.

Response: A public safety rapid entry vault will be provided at the main entrance on the north side of the building.

8. An exterior rated flashing light connected to the fire alarm will need to be provided.

Response: The requested flashing light will be provided at the main entrance on the north side of the building, near the rapid entry vault.

9. Exterior emergency lighting will be required at the exits.

Response: Exterior emergency lighting at the exits is required by Section 1008 of the Connecticut State Building Code and will be provided on the exterior of the building at every egress location (main entrance, east side of building, and north side of building).

10. Lease agreements or caveats will need to be in place to restrict the use of propane barbeque grills on the balconies.

Response: Agreed.

11. The use of and location of temporary fuel tanks utilized for construction purposes will need to be reviewed by this office.

Response: Noted.

12. The developer shall inform all contractors that the disposal of construction debris by open burning is not permitted. This includes any vegetation that might be cleared as part of this proposal.

Response: Noted.

13. Portable toilets shall be positioned at a minimum of ten feet from the building while under construction.

Response: Noted.

7

**Responses to April 26, 2022 Memorandum from
Windy Mis, Director of Health**

1. The site plan shows an enclosed dumpster area approximately 8' x 14'. The Commission may want to consider if that area will be sufficient to contain garbage, household trash and recycling generated by the 87 bedrooms as proposed (9 efficiency, 52 - 1 BR, 13 - 2 BR).

Response: A second dumpster location has been added at the southeast corner of the building, *see* Sheet SP-1.

2. Interior bicycle storage is proposed for residents, and one exterior bicycle rack is shown on the site plan, although no rack detail or placement design is included on the plan.

Response: The plans currently show placement design of the exterior bicycle rack. Final plans will include exterior bicycle rack detail.

3. It is strongly suggested that a sidewalk be constructed along the frontage of the property in order to provide safe pedestrian travel along the front of the property.

Response: Sidewalks have been added to the site frontage along Hebron Avenue and Manchester Road. The applicant will continue to cooperate with the Town of Glastonbury and Connecticut Department of Transportation regarding further improvements to the Town's pedestrian network in the area.

8

**Responses to Conservation Commission Questions and Comments
During May 12, 2022 Meeting**

1. Reverse slope benches should be added, per town staff comments.

Response: Reverse slope benches have been added to the proposed 2:1 slopes on the west and south side of the subject property.

2. Sidewalks should be incorporated along the site frontage.

Response: Sidewalks have been added to the site frontage along Hebron Avenue and Manchester Road. The applicant will continue to cooperate with the Town of Glastonbury and Connecticut Department of Transportation regarding further improvements to the Town's pedestrian network in the area.

3. List of sustainable design elements. Solar on building or solar canopies possible?

Response: The following sustainable design elements have been incorporated into the plans:

- All permanent interior lighting will be LED.
- All exterior building lighting (recessed flush in the ceiling above each patio/deck and at the main entrance) will be LED illumination and Dark Sky-compliant.
- Building insulation will exceed the minimum requirements of the Connecticut State Energy Code.
- Heating units will be selected for their high "specific absorption" or SAR rating.
- The building is oriented to take maximum potential advantage of solar. Given the high foliage on the property to the south and west of the site, the use of solar on-site is likely not feasible. However, the applicant will explore whether solar is feasible for the common elements of the community.

4. Site Sections.

Response: A site section of the proposed community, from Manchester Road, facing west, has been added to the revised plan set submitted herewith, *see* Sheet SP-11. A more detailed site section will be provided in advance of the Conservation Commission meeting on June 16.

5. A copy of the lighting plan.

Response: A photometric plan already was included in the civil plan set submitted to the Town Plan and Zoning Commission. A copy of that plan, as revised, is attached here as Exhibit A for the Conservation Commission's reference.

6. A list specifying proposed native species and pollinators on landscape plan.

Response: Two columns were added to the plant specifications list on the planting plan: one column for pollinators, and one column for native species. In addition, pollinator plants will be added to the conservation grass mix proposed for the slope on-site, and a note has been added to that effect on the planting plan. In total, 81 percent of the proposed plantings are native species, and almost all of the proposed plants are pollinators.

7. Additional landscaping on slope (trees) to appear more naturally forested

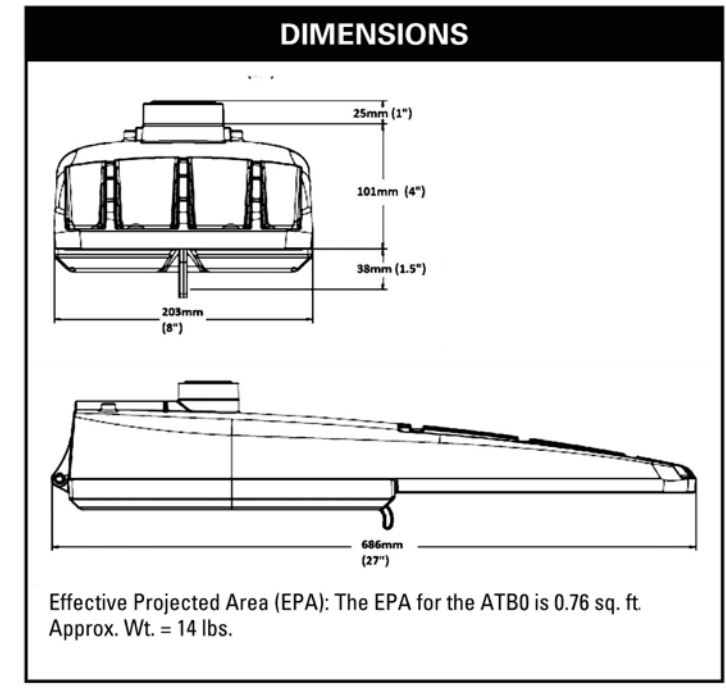
Response: Twelve groups of paper birch and red cedar trees are now proposed for the upper portion of the slope.

EXHIBIT A

CALCULATIONS ARE AT GROUND LEVEL, FIXTURES ARE AT 14' MOUNTING HEIGHT

0.0

Luminaire Schedule						
Symbol	Qty	Label	Arrangement	LLF	Description	Lum. Watts
□	6	A	SINGLE	0.903	ATB0 20BLEDE10 XXXXX R4 4K 5K	72
□	1	C	SINGLE	0.903	ATB0 20BLEDE10 XXXXX R4 4K 5K HSS	72
□□	2	D	BACK-BACK	0.903	ATB0 20BLEDE10 XXXXX R4 4K 5K	72



AMERICAN ELECTRIC LIGHTING
 AUTOBAHN ATB0 SERIES
 LED FULL CUTOFF POLE FIXTURE
TYPICAL LIGHT POLE FIXTURE
 NOT TO SCALE

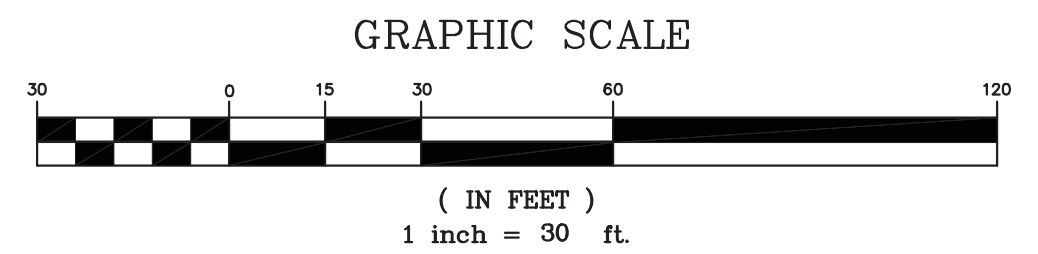
MANCHESTER/HEBRON AVE LLC
 PROJECT/APPLICANT
 1199 MANCHESTER RD, GLASTONBURY, CONN.
 PROJECT ADDRESS

 TPZ CHAIRMAN

DATE APPROVED _____ DIRECTOR OF COMMUNITY DEVELOPMENT

FILE NO. _____

WARNING THESE PLANS NOT TO BE USED FOR LOCATION OF UNDERGROUND UTILITIES - CALL BEFORE YOU DIG
 1-800-922-4455 TWO WORKING DAYS BEFORE YOU DIG.



I HEREBY DECLARE TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THIS PLAN IS SUBSTANTIALLY CORRECT.

Wesley J. Wentworth
 WESLEY J. WENTWORTH
 P.E. # 20380

WENTWORTH CIVIL ENGINEERS LLC
 177 WEST TOWN ST.
 LEBANON, CT 06249
 TEL. (860) 642-7255
 FAX (860) 642-4794
 web: wentworthcivil.com

SITE ILLUMINATION PLAN
 1199 MANCHESTER ROAD
 PREPARED FOR
MANCHESTER/HEBRON AVE LLC
 GLASTONBURY, CONNECTICUT

REV. 5-20-22 TOWN COMMENTS
 REV. 3-03-22 TOWN COMMENTS

DATE: 11-08-21
 SCALE: 1" = 30'
 SHEET: SP-10
 MAP NO. 21-002-1LP

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**Responses to Town Plan and Zoning Commission and Public Questions and Comments
During May 17, 2022 Public Hearing**

1. Affordability.

- a. The applicant is “only doing this for profit.”

Response: Development under General Statutes § 8-30g occurs in one of two ways: with government subsidies / financial assistance such as federal Low Income Housing Tax Credits or Connecticut Housing Finance Authority programs; or as “set-aside” housing, in which a for-profit entity, without government subsidy, uses 70 percent of the units at market-rate rents to be able to provide below-market / affordable units for the remaining 30 percent of the units. So, privately-funded, for-profit development is exactly what § 8-30g envisioned in 1989, and this part of the program has worked well across the state since the statute’s inception.

- b. Multi-family affordable housing does not lower property values of the nearby single-family homes.

Response: The applicant points the Commission to two additional studies regarding the impacts of multi-family affordable housing on surrounding property values at Tab 11.

- c. Highland Park Market is “too expensive” for the affordable unit tenants.

Response: First, 70 percent of the units will be market-rate. Second, one and two person households earning approximately \$47,000 to \$81,000 per year can afford Highland Park Market.

2. Emergency Access / Code Compliance.

- a. Does the Fire Department’s ability to reach the upper floors of the proposed building present a health and safety concern?

Response: No. Indeed, the Fire Marshal’s Office has reviewed the plans, and the applicant previously submitted a letter from Joseph Versteeg, a building and fire safety consultant, previously was submitted, confirming compliance with all applicable building and fire safety codes, *see* Tab 10 of the applicant’s April 18, 2022 zoning application package.

3. **Building / Site Design.**

- a. The applicant should install sidewalks along the subject property.

Response: Sidewalks have been added to the site frontage along Hebron Avenue and Manchester Road. The applicant will continue to cooperate with the Town of Glastonbury and Connecticut Department of Transportation regarding further improvements to the Town’s pedestrian network in the area.

- b. The proposed building is “too tall.”

Response: General concerns with the height of the proposed building do not create a valid denial reason under General Statutes § 8-30g. Moreover, there are a number of buildings in Glastonbury that are five or more stories tall, including: The Tannery apartments at 911 New London Turnpike; Hilton Garden Inn at 85 Glastonbury Boulevard; Homewood Suites at 65 Glastonbury Boulevard; the offices at 624-628 Hebron Avenue; and the offices at 455 and 655 Winding Brook Drive. Thus, there is precedent in town for a building of this height.

- c. The proposed slope is “too steep.”

Response: The plans as modified, and town staff comments, show that the proposed slope will be safe. Indeed, as the applicant explained during the May 17 public hearing, the existing slope on the subject property is a 2:1 slope – the same slope proposed here for the finished residential community – and has existed as such without issue for decades. Further, the existing slope of the Shell gas station property at 2088 Hebron Avenue, which abuts the subject property to the west, is steeper than the slope proposed for the community (1.2:1 to 0.8:1 slopes), and is similarly stable.

- d. The proposed use is “too intense.”

Response: The subject property is primarily located in the Planned Business & Development (PBD) Zone, which allows, subject to special permit approval, a number of uses that are “more intense” than what is proposed here, including:

- Filling or removal of earth products, excavation;
- Office, general and/or professional uses;
- A variety of retail trade uses, including automotive, marine craft, and aircraft; building materials and farm equipment; and food.
- Auditorium or coliseum;
- Community center;
- Theater;

- Indoor firing range; and
- Transportation center.

e. Tenants and visitors will illegally park off-site, or walk in the road, endangering their safety and that of passing motorists.

Response: First, the applicant is entitled to a presumption that its residents will comply with applicable law, and presuming otherwise is speculative and not supported by the record. *See e.g., Brenmor Properties, LLC v. Plan. & Zoning Comm'n*, 162 Conn. App. 678, 708 (2016), *aff'd*, 326 Conn. 55 (2017) (rejecting commission's argument that residents would park illegally as "little more than speculation and conjecture").

As to pedestrian safety: in a recent court decision, a judge held that drivers are required to look out for pedestrians, and we cannot assume that pedestrians will walk unsafely. *See Dakota Partners, Inc. v. Town Plan & Zoning Comm'n*, 2019 WL 5424771 (Conn. Super. Ct., Aug. 28, 2019). Pedestrian safety was further addressed in 2021 by the General Assembly and Governor by the passage of Public Act 21-28, which expands the rules for when drivers must yield to pedestrians. There is no basis to conclude that this site plan will result in pedestrian safety concerns. Also, the applicant has agreed to work with the Town on sidewalks (*see* proposed conditions of approval at Tab 1). Copies of *Dakota Partners* and P.A. 21-28 are at Tab 12.

f. Children on Stanley Drive will fall down the slope of the proposed apartment building.

Response: Assuming that children will trespass on the subject property is, again, speculative. Moreover, there is an existing slope on the subject property now and, as highlighted by the applicant's team at the May 17 public hearing, the slope on the abutting gas station is steeper than the grade of the proposed slope.

g. Will a school bus stop at the proposed apartment building?

Response: While the applicant does not anticipate many children in the proposed community, the location for school bus pick-up and drop-off will be developed in concert with the Glastonbury Board of Education and the Connecticut DOT.

4. Traffic.

- a. Have there been any complaints regarding the safety of the Manchester Road / Hebron Avenue intersection?

Response: The applicant has reached out to the Glastonbury Police Department for this information, and is awaiting a response.

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**Buckingham Place
Glastonbury, Connecticut**

Housing Affordability Plan

**Revised Submission Draft
June, 2022**

**Submitted by Manchester/Hebron Avenue, LLC to the
Glastonbury Town Plan & Zoning Commission**

PREPARED BY:
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Introduction

Manchester/Hebron Avenue, LLC submits this Housing Affordability Plan for the seventy-four (74) unit multi-family residential rental community known as "Buckingham Place," located on property known as 1199 Manchester Road (Map J5 / Street 4160 / Lot W0035A) in Glastonbury, Connecticut (the "Community"). See Exhibit A, attached hereto.

Under this plan, thirty percent (30%) of the residential rental units at the Community will meet the criteria for "affordable housing" as defined in Connecticut General Statutes ("C.G.S.") § 8-30g ("Housing Opportunity Units"). C.G.S. § 8-30g requires that fifteen percent (15%) of the Housing Opportunity Units be affordable for 40 years to families earning eighty percent (80%) or less of the area or State median income, whichever is less, and that fifteen percent (15%) be affordable to families earning sixty percent (60%) or less of the area or State median income, whichever is less. This Housing Affordability Plan ("Plan"), which is proposed as a condition of site plan approval by the Glastonbury Town Plan & Zoning Commission (the "Commission"), satisfies these requirements and describes how the affordable housing apartment homes will be administered.

I. Apartment Homes Designated as Housing Opportunity Units.

Thirty percent (30%) of the residential rental units in the Community, or twenty-three (23) units, will be designated as Housing Opportunity Units pursuant to C.G.S. § 8-30g. The specific apartments initially designated as Housing Opportunity Units are shown on reduced floor plans included in Schedule A of this Plan.

II. Forty (40) Year Affordability Period.

The Housing Opportunity Units in the Community shall be designated as affordable or workforce housing units for at least forty (40) years after the initial occupation of the Community. The 40 years shall be calculated for each Housing Opportunity Unit beginning on the date that the certificate of occupancy is issued for the Housing Opportunity Unit.

III. Pro-Rata Construction and Dispersion.

The Housing Opportunity Units shall be built and offered for rent on a *pro rata* basis as construction proceeds in accordance with the construction-phasing plan approved by the Commission for the Community. It is the intent of this Plan that one (1) Housing Opportunity Unit will be built and offered for rental within the time that three (3) market-rate units are completed and offered for rental.

IV. Nature of Construction of Housing Opportunity Units.

The Housing Opportunity Units shall be constructed in substantial conformance with the site plans and floor plans approved in the zoning permits for the Community, as may be modified based on the requirements of the Glastonbury Building Official or other Town staff in signing off on administrative permits or approvals. *See also* Schedule B of this Plan.

V. Entity Responsible for Administration and Compliance.

This Affordability Plan will be administered by a consultant, to be engaged by Manchester/Hebron Avenue, LLC, or its successors and assigns, which has the experience necessary to administer this Plan (the "Administrator"). The principal point of contact under this Plan shall be _____. Contact information for the principal point of contact shall be provided to the Town of Glastonbury and the Commission prior to the issuance of a Certificate of Occupancy.

The Administrator shall submit annually a written status report demonstrating compliance with affordability and occupancy rules and approval conditions. The role of Administrator may be transferred or assigned to another person or entity, provided that: (a) said person or entity has the experience and qualifications to administer this Plan; and (b) the Commission has provided its consent for such a transfer or assignment, which consent will not be unreasonably withheld.

VI. Notice of Initial Rental of Housing Opportunity Units.

Except as provided in Section X of this Plan and subject to Section VIII, during the initial lease-up of the Community, the Administrator shall provide notice of the availability for rental of each Housing Opportunity Unit. Such notice shall be provided, at a minimum, by advertising at least two times in a newspaper of general circulation in the Town of Glastonbury, and by advertising on cthousingsearch.org, a service provided by the Connecticut Department of Housing. The Administrator shall also provide such notice to the Commission and to the Clerk of the Town of Glastonbury. Such notice shall include a description of the available Housing Opportunity Unit(s), the eligibility criteria for potential residents, the maximum rental price (as hereinafter defined), and the availability of application forms and additional information. All such notices shall comply with the federal Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.* and the Connecticut Fair Housing Act, C.G.S. §§ 46a-64b *et seq.* (together, the "Fair Housing Acts").

VII. Resident Eligibility.

Eligibility of applicants to lease a Housing Opportunity Unit in the Community shall be determined by the Administrator in accordance with this Plan and C.G.S. § 8-30g, as amended.

VIII. Affirmative Fair Housing Marketing Plan.

The rental of both Housing Opportunity Units and market-rate units in the Community shall be publicized, using State regulations for affirmative fair housing marketing programs as guidelines. The purpose of such efforts shall be to apprise residents of municipalities of relatively high concentrations of minority populations of the availability of such units. The Administrator shall have responsibility for compliance with this section. Notices of initial availability of units shall be provided, at a minimum, by advertising at least two times in a newspaper of general circulation in such identified municipalities. The Administrator shall also provide such notices to the Commission and the local or regional housing authority. Such notices shall include a description of the available Housing Opportunity Unit(s), the eligibility criteria for tenants, and the availability of application forms and additional information.

Using the above-referenced State regulations as guidelines, dissemination of information about available Housing Opportunity Units and market-rate units shall include:

A. Analyzing census, Connecticut Department of Economic and Community Development town profiles, and other data to identify racial and ethnic groups least likely to apply based on representation in Glastonbury's population, including Asian Pacific, Black, Hispanic, and Native American populations.

B. Announcements/advertisements in publications and other media that will reach minority populations, including newspapers, such as and radio stations serving Glastonbury and other towns in the metropolitan statistical area and regional planning area, and advertisements or flyers likely to be viewed on public transportation or public highway areas.

C. Announcements to social service agencies and other community contacts serving low-income minority families (such as churches, civil rights organizations, the housing authority, and other housing authorities in towns represented in Glastonbury's metropolitan statistical area and regional planning agency, legal services organizations, etc.).

D. Assistance to minority applicants in processing applications.

E. Marketing efforts in geographic area of high minority concentrations within the housing market area and metropolitan statistical area.

F. Beginning affirmative marketing efforts prior to general marketing of units, and repeating again during initial marketing and at 50 percent completion and thereafter at reasonable period intervals with respect to re-rentals.

All notices shall comply with the federal and State Fair Housing Acts.

IX. Application Process.

A person seeking to rent one of the Housing Opportunity Units ("Applicant") must complete an application to demonstrate eligibility. The application form and process shall comply with the Fair Housing Acts.

A. Application Form.

The application form shall be provided by the Administrator and shall include an income certification form. In general, "income" for purposes of determining an Applicant's qualification shall include the Applicant family's total anticipated income from all sources for the twelve (12) month period following the date the lease commences (the "Lease Begin Date"). If the Applicant's financial disclosures indicate that the Applicant may experience a significant change in the Applicant's future income during the twelve (12) month period, the Administrator shall not consider this change unless there is a reasonable assurance that the change will in fact occur.

In determining what is and is not to be included in the definition of annual family income, the Administrator shall use the criteria set forth by HUD and listed on Schedule C, attached.¹

B. Applicant Interview.

The Administrator shall interview an Applicant upon submission of a completed application. Specifically, the Administrator shall, during the interview, undertake the following:

1. Review with the Applicant all the information provided on the application.
2. Explain to the Applicant the requirements for eligibility, verification procedures, and the penalties for supplying false information.
3. Verify that all sources of family income and family assets have been listed in the application. Make clear that the term "family" includes all individuals who are to occupy the home, and that no relationship by blood or marriage is required.
4. Request the Applicant to sign the necessary release forms to be used in verifying income. Inform the Applicant of what verification and documentation must be provided before the application is deemed complete.
5. Inform the Applicant that a decision as to eligibility cannot be made until all items on the application have been verified.

¹ See 24 C.F.R. § 5.609. Federal regulations are subject to change, and it is the intent of this Affordability Plan to follow HUD regulations with respect to income certification as such regulations may be amended from time to time.

C. *Verification of Applicant's Income.*

Where it is evident from the income certification form provided by the Applicant that the Applicant is not eligible, additional verification procedures shall not be necessary. However, if the Applicant appears to be eligible, the Administrator shall require verification of the Applicant's reported income.

If applicable, the Applicant shall provide the documentation listed on Schedule D, attached hereto, to the Administrator. This list is not exclusive, and the Administrator may require any other verification or documentation as the Administrator deems necessary.

A sample rider to the lease agreement for Housing Opportunity Units is attached hereto as Schedule E.

X. **Prioritization of Applicants for Initial Rental.**

In the event that the number of qualified Applicants exceeds the number of Housing Opportunity Units, then the Administrator shall compile a waiting list, from which Applicants will be selected on a first-come, first-served basis. For purposes of this section, an application shall be considered received when a completed and signed application form is submitted with the applicable application fee.

XI. **Maximum Rental Price.**

Calculation of the maximum rental price ("Maximum Rental Price") for a Housing Opportunity Unit, so as to satisfy C.G.S. § 8-30g, shall utilize the lesser of the area median income for the Town of Glastonbury or the statewide median income as published by HUD as in effect on the day a lease is signed by the lessee of the Housing Opportunity Unit ("Resident"). Such income shall then be adjusted for household size assuming occupancy by 1.5 persons per bedroom and using the adjustment formula adopted by State regulations. The Maximum Rental Price shall be calculated as follows:

**EFFICIENCY RENTAL UNIT FOR
FAMILY EARNING LESS THAN 80 PERCENT
OF STATEWIDE MEDIAN INCOME**

**SAMPLE
COMPUTATIONS BASED
ON FY 2022 DATA**

1. Determine lower of relevant year (2022) area median income for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area (\$112,700) or statewide median income (\$112,600), adjusted for family size (family of 4), as published by HUD	\$112,600
2. Determine adjusted income for a household of 1 persons by calculating 70 percent of Item 1	\$78,820
3. Calculate 80 percent of Item 2	\$63,056
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$18,917
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,577
6. Compare HUD 2022 Fair Market Rents for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area (\$865) times 120 percent	\$1,038
7. Use lesser of calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,038
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$100
9. Subtract reasonable monthly expenses (Item 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$938

**EFFICIENCY RENTAL UNIT FOR
FAMILY EARNING LESS THAN 60 PERCENT
OF STATEWIDE MEDIAN INCOME**

**SAMPLE
COMPUTATIONS BASED
ON FY 2022 DATA**

1. Determine lower of relevant year (2022) area median income for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area (\$112,700) or statewide median income (\$112,600), adjusted for family size (family of 4), as published by HUD	\$112,600
2. Determine adjusted income for a household of 1 persons by calculating 70 percent of Item 1	\$78,820
3. Calculate 60 percent of Item 2	\$47,292
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$14,188
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,183
6. Compare HUD 2022 Fair Market Rents for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area	\$865
7. Use lesser of calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$865
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$100
9. Subtract reasonable monthly expenses (Item 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$765

**ONE BEDROOM RENTAL UNIT FOR
FAMILY EARNING LESS THAN 80 PERCENT
OF STATEWIDE MEDIAN INCOME**

**SAMPLE
COMPUTATIONS BASED
ON FY 2022 DATA**

1. Determine lower of relevant year (2022) area median income for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area (\$112,700) or statewide median income (\$112,600), adjusted for family size (family of 4), as published by HUD	\$112,600
2. Determine adjusted income for a household of 1.5 persons by calculating 75 percent of Item 1	\$84,450
3. Calculate 80 percent of Item 2	\$67,560
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$20,268
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,689
6. Compare HUD 2022 Fair Market Rents Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area (\$1,054) times 120 percent	\$1,265
7. Use lesser of calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,265
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$125
9. Subtract reasonable monthly expenses (Item 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$1,140

**ONE BEDROOM RENTAL UNIT FOR
FAMILY EARNING LESS THAN 60 PERCENT
OF STATEWIDE MEDIAN INCOME**

**SAMPLE
COMPUTATIONS BASED
ON FY 2022 DATA**

1. Determine lower of relevant year (2022) area median income for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area (\$112,700) or statewide median income (\$112,600), adjusted for family size (family of 4), as published by HUD	\$112,600
2. Determine adjusted income for a household of 1.5 persons by calculating 75 percent of Item 1	\$84,450
3. Calculate 60 percent of Item 2	\$50,670
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$15,201
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,267
6. Compare HUD 2022 Fair Market Rents Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area	\$1,054
7. Use lesser of calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,054
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$125
9. Subtract reasonable monthly expenses (Item 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$929

**TWO BEDROOM RENTAL UNIT FOR
FAMILY EARNING LESS THAN 80 PERCENT
OF STATEWIDE MEDIAN INCOME**

**SAMPLE
COMPUTATIONS BASED
ON FY 2022 DATA**

1. Determine lower of relevant year (2022) area median income for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area (\$112,700) or statewide median income (\$112,600), adjusted for family size (family of 4), as published by HUD	\$112,600
2. Determine adjusted income for a household of 3 persons by calculating 90 percent of Item 1	\$101,340
3. Calculate 80 percent of Item 2	\$81,072
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$24,322
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$2,027
6. Compare HUD 2022 Fair Market Rents for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area (\$1,302) times 120 percent	\$1,563
7. Use lesser of calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,563
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$150
9. Subtract reasonable monthly expenses (Item 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$1,413

**TWO BEDROOM RENTAL UNIT FOR
FAMILY EARNING LESS THAN 60 PERCENT
OF STATEWIDE MEDIAN INCOME**

**SAMPLE
COMPUTATIONS BASED
ON FY 2022 DATA**

1. Determine lower of relevant year (2022) area median income for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area (\$112,700) or statewide median income (\$112,600), adjusted for family size (family of 4), as published by HUD	\$102,600
2. Determine adjusted income for a household of 3 persons by calculating 90 percent of Item 1	\$101,340
3. Calculate 60 percent of Item 2	\$60,804
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$18,242
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,521
6. Compare HUD 2022 Fair Market Rents for Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area	\$1,302
7. Use lesser of calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,302
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$150
9. Subtract reasonable monthly expenses (Item 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$1,152

XII. Principal Residence.

Housing Opportunity Units shall be occupied only as a Resident's principal residence. Notwithstanding any zoning, subdivision or other regulation to the contrary, subleasing of Housing Opportunity Units shall be prohibited.

XIII. Requirement to Maintain Condition.

All Residents are required to maintain their units. The Resident shall not destroy, damage or impair the unit, allow the unit to deteriorate, or commit waste on the unit. When a Housing Opportunity Units offered again for rental, the Administrator shall cause the unit to be inspected.

XIV. Change of Income or Qualifying Status of Resident.

In the event that a Resident's income changes so as to exceed the qualifying maximum, or if the Resident otherwise becomes disqualified, such Resident must provide notice to the Administrator within seven (7) days of the disqualification. When a resident becomes disqualified, the Administrator shall require the Resident to vacate the Housing Opportunity Unit within sixty (60) days. The Administrator (or owner, if the Administrator is not the owner) in his sole discretion may elect to move the Resident to a market rate apartment unit if the Resident satisfies the Administrator's (or owner's) normal criteria for such unit.

XV. Enforcement.

A violation of this Affordability Plan shall not result in a forfeiture of title, but the Commission shall otherwise retain all enforcement powers granted by the General Statutes, including § 8-12, which powers include, but are not limited to, the authority, at any reasonable time, to inspect the property and to examine the books and records of the Administrator to determine compliance of Housing Opportunity Units with this Affordability Plan and applicable state statutes and regulations. Such records are confidential and not subject to disclosure under the Freedom of Information Act.

SCHEDULE A
DESIGNATION OF HOUSING OPPORTUNITY UNITS

Total Number of Units:

	Efficiency	1 Bedroom	2 Bedrooms	TOTAL
Market-Rate Units:	6	36	9	51
Housing Opportunity Units:	3	16	4	23
TOTAL:	9	52	13	74

Apartment units designated as Housing Opportunity Units are identified on the attached floor plans.

As shown on the accompanying floor plans, the specific units designated as Housing Opportunity Units are evenly dispersed throughout the building.

SCHEDULE B

MINIMUM SPECIFICATIONS FOR HOUSING OPPORTUNITY UNITS

Foundation

- Footings – poured concrete w/footing drain
- Frost Walls – poured concrete w/waterproofing and foundation coating
- Floors – poured concrete

Exterior

- Framing and Sheathing – as per building code
- Exterior Wall – 2" x 6"
- Interior Wall – 2" x 4"
- Fiberglass Roof Shingle (25 years)
- Foundation plantings (as specified)
- Brick siding
- Aluminum gutters and down spouts
- Exterior weather-proof electrical outlet(s)
- Energy efficient vinyl windows
- Asphalt driveways and walks or equivalent (as specified)
- Insulation as per building code; Exterior walls R21; Ceiling R49

Interior

- Wall to wall carpeting or vinyl plank
- Energy efficient heating system
- Tankless hot water heater
- Direct wire smoke and CO₂ detectors
- Easy care vinyl clad wire closet shelving
- Pre-wired telephone and cable TV outlets
- Laundry area with washer / dryer
- Ground fault circuits in kitchen, bathrooms and garage
- Colonial six-panel doors (or comparable)

Kitchens

- Vinyl plank
- Laminate or traditional wood cabinets
- GE self-cleaning oven, refrigerator and microwave
- Sound insulated, multi-cycle dishwasher
- Laminate countertops
- Stainless steel sink with single lever faucet

Bathrooms

- Full width vanity mirrors
- Single piece acrylic tubs and shower surrounds
- Laminate vanity tops
- No-wax vinyl flooring or equivalent

SCHEDULE C

DEFINITIONS AND ELEMENTS OF ANNUAL FAMILY INCOME

1. Annual income shall be calculated with reference to 24 C.F.R. § 5.609, and includes, but is not limited to, the following:
 - a. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, bonuses and other compensation for personal services;
 - b. The net income from operations of a business or profession, before any capital expenditures but including any allowance for depreciation expense. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
 - c. Interest, dividends, and other net income of any kind from real or personal property, before any capital expenditures but including any allowance for depreciation expense. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
 - d. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, or other similar types of periodic payments; including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount, except as permitted in 2.q, below;
 - e. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, except as permitted in 2.c, below;
 - f. Welfare assistance payments.
 - (1) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
 - i. Qualify as assistance under the TANF program definition at 45 C.F.R § 260.31; and
 - ii. Are not otherwise excluded under Section 2, below
 - (2) If the welfare assistance payments include an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency

- e. Income of a live-in aide, as defined in 24 C.F.R. § 5.403;
- f. Subject to 1.i, above, the full amount of student financial assistance paid directly to the student or to the educational institution;
- g. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- h. Amounts received under training programs funded by HUD;
- i. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
- j. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- k. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;
- l. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- m. Temporary, nonrecurring or sporadic income (including gifts that are not regular or periodic);
- n. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- o. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- p. Adoption assistance payments in excess of \$480 per adopted child;

- q. Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts;
 - r. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
 - s. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; and
 - t. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 C.F.R § 5.609(c) apply. *See Exhibit 5-1 at pp. 4-5 to HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, revised as of November 2013, for a listing of income sources that apply for the exclusion.*
3. Net family assets for purposes of imputing annual income include the following:²
- a. Cash held in savings and checking accounts, safety deposit boxes, homes, etc.;
 - b. The current market value of a trust for which any household member has an interest;
 - c. The current market value of any rental property or other capital investments, less (a) any unpaid balance on any loans secured by the property and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.);
 - d. The current market value of all stocks, bonds, treasury bills, certificates of deposit, mutual funds, and money market accounts;
 - e. The current value of any individual retirement, 401K or Keogh account;
 - f. The cash value of a retirement or pension fund which the family member can withdraw without terminating employment or retiring;
 - g. Periodic or lump-sum receipts from pension and retirement funds at retirement, termination of employment or withdrawal;

² What is included and excluded from Net Family Assets is derived with reference to Exhibit 5-2 to HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, revised as of November 2013.

- h. The cash value of life insurance policies available to the individual before death;
 - i. Any lump-sum receipts not otherwise included in income (*i.e.*, inheritances, capital gains, one-time lottery winnings, victim's restitution and settlement on insurance claims);
 - j. The current market value of any personal property held for investment (*i.e.*, gems, jewelry, coin collections); and
 - k. Interest payments on a mortgage or deed of trust held by an Applicant.
4. Net family assets do not include the following:
- a. Necessary personal property (clothing, furniture, cars, etc.);
 - b. Interest in Indian Trust Land;
 - c. Equity in a cooperative unit in which the family lives;
 - d. Term life insurance policies;
 - e. Assets which are part of an active business, not including rental properties;
 - f. Assets that are not effectively owned by the Applicant because, although held in the Applicant's name, the assets and any income accrue to the benefit of someone else who is not a member of the family and the other person is responsible for income taxes incurred; and
 - g. Assets that are not accessible to the Applicant and provide no income to the Applicant.

SCHEDULE D DOCUMENTATION OF INCOME

The following documents shall be provided, where applicable, to the Administrator to determine income eligibility:

1. Employment Income.

Verification forms must request the employer to specify the frequency of pay, the effective date of the last pay increase, and the probability and effective date of any increase during the next twelve (12) months. Acceptable forms of verification (of which at least one must be included in the Applicant file) include:

- (a) An employment verification form completed by the employer.
- (b) Check stubs or earnings statement showing Applicant's gross pay per pay period and frequency of pay.
- (c) W-2 forms if the Applicant has had the same job for at least two years and pay increases can be accurately projected.
- (d) Notarized statements, affidavits or income tax returns signed by the Applicant describing self-employment and amount of income, or income from tips and other gratuities.

2. Social Security, Pensions, Supplementary Security Income, Disability Income.

- (a) Benefit verification form completed by agency providing the benefits.
- (b) Award or benefit notification letters prepared and signed by the authorizing agency. (Since checks or bank deposit slips show only net amounts remaining after deducting SSI or Medicare, they may be used only when award letter cannot be obtained.)
- (c) If a local Social Security Administration ("SSA") office refuses to provide written verification, the Administrator should meet with the SSA office supervisor. If the supervisor refuses to complete the verification forms in a timely manner, the Administrator may accept a check or automatic deposit slip as interim verification of Social Security or SSI benefits as long as any Medicare or state health insurance withholdings are included in the annual income.

3. Unemployment Compensation.

- (a) Verification form completed by the unemployment compensation agency.

(b) Records from unemployment office stating payment dates and amounts.

4. Government Assistance.

(a) All Government Assistance Programs. Agency's written statements as to type and amount of government assistance the Applicant is now receiving, including but not limited to assistance under the federal Section 8 program, and any changes in such assistance expected during the next twelve (12) months.

(b) Additional Information for "As-paid" Programs: Agency's written schedule or statement that describes how the "as-paid" system works, the maximum amount the Applicant may receive for shelter and utilities and, if applicable, any factors used to ratably reduce the Applicant's grant.

5. Alimony or Child Support Payments.

(a) Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.

(b) A letter from the person paying the support.

(c) Copy of latest check. The date, amount, and number of the check must be documented.

(d) Applicant's notarized statement or affidavit of amount received or that support payments are not being received and the likelihood of support payments being received in the future.

6. Net Income from a Business.

The following documents show income for the prior years. The Administrator must consult with Applicant and use this data to estimate income for the next twelve (12) months.

(a) IRS Tax Return, Form 1040, including any:
Schedule C (Small Business)
Schedule E (Rental Property Income)
Schedule F (Farm Income)

(b) An accountant's calculation of depreciation expense, computed using straight-line depreciation rules. (Required when accelerated depreciation was used on the tax return or financial statement.)

(c) Audited or unaudited financial statement(s) of the business.

- (d) A copy of a recent loan application listing income derived from the business during the previous twelve (12) months.
- (e) Applicant's notarized statement or affidavit as to net income realized from the business during previous years.

7. Recurring Gifts.

- (a) Notarized statement or affidavit signed by the person providing the assistance. Must give the purpose, dates and value of gifts.
- (b) Applicant's notarized statement or affidavit that provides the information above.

8. Scholarships, Grants, and Veterans Administration Benefits for Education.

- (a) Benefactor's written confirmation of amount of assistance, and educational institution's written confirmation of expected cost of the student's tuition, fees, books and equipment for the next twelve (12) months. To the extent the amount of assistance received is less than or equal to actual educational costs, the assistance payments will be excluded from the Applicant's gross income. Any excess will be included in income.
- (b) Copies of latest benefit checks, if benefits are paid directly to student. Copies of canceled check or receipts for tuition, fees, books, and equipment, if such income and expenses are not expected to change for the next twelve (12) months.
- (c) Lease and receipts or bills for rent and utility costs paid by students living away from home.

9. Family Assets Currently Held.

For non-liquid assets, collect enough information to determine the current cash value (i.e., the net amount the Applicant would receive if the asset were converted to cash).

- (a) Verification forms, letters, or documents from a financial institution, broker, etc.
- (b) Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- (c) Quotes from a stock broker or realty agent as to net amount Applicant would receive if Applicant liquidated securities or real estate.
- (d) Real estate tax statements if tax authority uses approximate market value.
- (e) Copies of closing documents showing the selling price, the distribution of the sales proceeds and the net amount to the borrower.

- (f) Appraisals of personal property held as an investment.
- (g) Applicant's notarized statements or signed affidavits describing assets or verifying the amount of cash held at the Applicant's home or in safe deposit boxes.

10. Assets Disposed of for Less Than Fair Market Value ("FMV") During Two Years Preceding Lease Begin Date.

- (a) Applicant's certification as to whether it has disposed of assets for less than FMV during the two (2) years preceding the Lease Begin Date.
- (b) If the Applicant states that it did dispose of assets for less than FMV, then a written statement by the Applicant must include the following:
 - (i) A list of all assets disposed of for less than FMV;
 - (ii) The date Applicant disposed of the assets;
 - (iii) The amount the Applicant received; and
 - (iv) The market value to the asset(s) at the time of disposition.

11. Savings Account Interest Income and Dividends.

- (a) Account statements, passbooks, certificates of deposit, etc., if they show enough information and are signed by the financial institution.
- (b) Broker's quarterly statements showing value of stocks or bonds and the earnings credited the Applicant.
- (c) If an IRS Form 1099 is accepted from the financial institution for prior year earnings, the Administrator must adjust the information to project earnings expected for the next twelve (12) months.

12. Rental Income from Property Owned by Applicant.

The following, adjusted for changes expected during the next twelve (12) months, may be used:

- (a) IRS Form 1040 with Schedule E (Rental Income).
- (b) Copies of latest rent checks, leases, or utility bills.
- (c) Documentation of Applicant's income and expenses in renting the property (tax statements, insurance premiums, receipts for reasonable maintenance and utilities, bank statements or amortization schedule showing monthly interest expense).

- (d) Lessee's written statement identifying monthly payments due the Applicant and Applicant's affidavit as to net income realized.

13. Full-Time Student Status.

- (a) Written verification from the registrar's office or appropriate school official.
- (b) School records indicating enrollment for sufficient number of credits to be considered a full-time student by the school.

**SCHEDULE E
SAMPLE LEASE RIDER FOR HOUSING OPPORTUNITY UNITS**

**2022 RIDER TO THE LEASE AGREEMENT
FOR HOUSING OPPORTUNITY UNITS (80%)***

1. TERM AND PROVISIONS

The annexed Lease Agreement for an affordable residential rental unit is for a term of at least (1) year.

This unit is being rented as an "affordable housing unit" as defined by Section 8-30g of the Connecticut General Statutes, and is to be rented at or below the lesser of 80 percent of the area median income for the Town of Glastonbury, Connecticut, or 80 percent of the State Median Income as determined by the U.S. Department of Housing and Urban Development ("HUD"). (Rates are determined on an annual basis.) This development has been approved by the Glastonbury Town Plan and Zoning Commission based in part on the condition that a defined percentage of residential rental units will be rented as affordable housing apartment homes. The Landlord is required by law to strictly enforce these restrictions.

2. INCOME LIMITS

Prior to the commencement of the lease term, resident must provide Landlord with a copy of his or her most recently filed Federal Income Tax Return (Form 1040 or 1040A) or any other proof requested or allowed by law for the purpose of verifying income. Resident must certify that such proof is true and accurate and that the total annual income of all the members of Resident's family who will occupy the unit subject to this lease does not exceed the amount set forth below which applies to the number of persons in Resident's family who will be residing in the subject unit:

FAMILY SIZE:

<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
\$ _____	\$ _____	\$ _____	\$ _____

3. MAXIMUM RENTS

Notwithstanding anything in the Lease Agreement to the contrary, the total rent for the affordable housing residential rental units shall not exceed the amounts set forth below. :

* A similar Rider will be used for the 60% affordable income apartments.

MAXIMUM RENT

ACTUAL RENT
(Less a Utility Allowance)

1 bedroom:

Annual \$ _____
Monthly \$ _____

\$ _____

4. UTILITY ALLOWANCE

The monthly rent for an affordable rental unit includes a monthly allowance for utilities, which are heat, hot water, electricity, trash but excluding telephone and cable television. Heat and utility costs are calculated by a reasonable estimate.

5. CERTIFICATION OF INCOME

Prospective residents will be required to fill out an application form containing detailed instructions for calculating their family income and allowing the Administrator to verify the information. Applicants will be required to sign a verification of their review and understanding of the income maximums, the penalties for false information, and the applicable procedures in the event that their income increases at some future time above the allowable maximum. Applicants will also be required to provide appropriate documentation to verify their income. Incomes of resident(s) in each affordable unit will be re-verified annually at the time of the lease renewal.

This Agreement shall terminate and the Resident may be evicted for failure to qualify, if the Resident has falsely certified family income or family composition. Such false certification constitutes material noncompliance under the Lease Agreement. Resident is obligated to provide such subsequent re-certification of income as the Landlord shall require.

The Town of Glastonbury will be entitled to inspect the income statements of the residents of the affordable units upon which the Administrator bases the certification.

6. CHANGE OF INCOME

In the event that an affordable unit resident's income changes so as to exceed the qualifying maximum or if the resident otherwise becomes disqualified, such resident must provide notice to the Landlord's representative within seven (7) days of the disqualification. When a resident becomes disqualified, the Administrator shall require the Resident to vacate the Housing Opportunity Unit within sixty (60) days. The Administrator (or owner, if the Administrator is not the owner) in his sole discretion may elect to move the Resident to a market rate apartment unit if the Resident satisfies the Administrator's (or owner's) normal criteria for such unit.

7. LANDLORD'S RIGHT TO INCREASE RENT

In the event that the Resident's residence is no longer being subsidized under Section 8 of the United States Housing Act of 1937, the Landlord's right to increase the monthly rent shall be conditioned upon the Landlord's furnishing Resident with a notice at least sixty (60) days prior to such increase.

8. LANDLORD'S RIGHT TO REASSIGN PREMISES

Whereas the monthly rent for this unit is calculated on the basis of the number of bedrooms in the unit, Resident may, during the term of the Lease, be reassigned to different premises if an increase or decrease in the number of Resident's family members residing in the unit warrants such a change under applicable statutes and regulations. In the event of such reassignment, Resident's monthly rent shall be based upon the size of the unit occupied for the remaining Lease term.

9. NO SUBLETTING OR ASSIGNMENT

Subletting of affordable units shall be prohibited. In addition, the affordable unit shall be occupied only as the resident's principal residence.

10. RESTRICTIONS ON USE

No portion of the unit may at any time during the term of this Agreement be used on a transient basis, for example, as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, nursing home, sanitarium, or rest home.

11. ACCESS TO COMMON FACILITIES

Residents shall be given equal access with all other Residents, at an equal charge if any, to all on-site and all off-site common facilities of the Community. The Landlord shall ensure that handicapped or disabled individuals are afforded equal access to all facilities of the Community.

12. INTERPRETATION

Unless otherwise indicated, the terms used herein shall have the same meaning ascribed to them in the main body of this Lease Agreement. This rider shall control any conflict between terms herein and the Lease Agreement.

13. PROCEDURES FOR INITIAL DESIGNATION AND LEASING OF AFFORDABLE UNITS

Attached to this Lease Agreement is the developer's initial designation of the units that shall be rented as affordable units. These units shall remain vacant until a qualified family is found.

In the event that the development is fully leased and the development contains the minimum number of affordable units containing income-qualified families, if one of the families occupying these units vacates voluntarily or otherwise, this unit will be kept vacant until another qualified family is found.

**RIDER TO THE LEASE AGREEMENT
FOR HOUSING OPPORTUNITY UNITS**

IN WITNESS WHEREOF, the parties hereto have executed this Rider to the Lease Agreement
on the _____ day of _____ Year _____.

RESIDENT

PRINT NAME

PRINT NAME

DATE

Manchester/Hebron Avenue, LLC

SIGNATURE MANAGEMENT REPRESENTATIVE

Exhibit A Property Description

All that certain piece or parcel of land, situated on the southerly side of Hebron Avenue (State Route 94) and westerly side of Manchester Road (State Route 83) in the Town of Glastonbury, County of Hartford, and State of Connecticut, commonly known as No. 1199 Manchester Road, and being more particularly described as follows:

BEGINNING at an iron pin set in the westerly street line of Manchester Road being N 17° 27' 53" E, a distance of 534.43' from a GHM Monument, which marks the southeast corner of the land herein described and the northeast corner of land N/F STEPHANIE EVANS:

THENCE, running, a distance of 368.68', along the southerly line of land N/F STEPHANIE EVANS to an iron pin set marking the southwest corner of land herein described;

THENCE, turning and running N 02° 32' 40" E, a distance of 27.24', along the easterly line of land N/F STEPHANIE EVANS to an iron pin found marking the northeasterly corner of land N/F STEPHANIE EVANS and southeast corner of land N/F DOUGLAS E. ZELISKO;

THENCE, running N 02° 32' 40" E, a distance of 147.66', along the easterly line of land N/F DOUGLAS E. ZELISKO to an iron pin set marking the northwest corner of land herein described;

THENCE, turning and running S 51° 04' 42" E, a distance of 140.00', along the southerly line of land N/F SHAH PROPERTIES LLC to an iron pin set marking the southeast corner of land N/F SHAH PROPERTIES LLC;

THENCE, turning and running N 21° 14' 36" E, a distance of 219.59', along the easterly line of land N/F SHAH PROPERTIES LLC to an iron pin set marking the northwest corner of land herein described and northeast corner of N/F SHAH PROPERTIES LLC;

THENCE, turning and running S 37° 56' 14" E, a distance of 11.46', along the southerly street line of Hebron Avenue to an iron pin set;

THENCE, running S 68° 30' 28" E, a distance of 43.96', along the southerly street line of Hebron Avenue to an iron pin set;

THENCE, running S 51° 40' 16" E, a distance of 64.20', along the southerly street line of Hebron Avenue to an iron pin set;

THENCE, running S 52° 54' 42" E, a distance of 103.96', along the southerly street line of Hebron Avenue to an iron pin set;

THENCE, running along a curve to the right having a delta of 61° 02' 10", a radius of 50.00', length of 53.26', and a tangent of 29.47' along the southerly street line of Hebron Avenue and westerly street line of Manchester Road, to an iron pin set in the westerly street line of Manchester Road marking the northeast corner of the land herein described;

THENCE, running S 08° 07' 28" W, a distance of 130.61', along the westerly street line of Manchester Road to an iron pin set;

THENCE, running S 17° 27' 53" W, a distance of 155.88', along the westerly street line of Manchester Road to an iron pin set marking the point or place of beginning;

The above described parcel contains 104,570 s.f. Or 2.401 acres and is more particularly shown on a map entitled:

"EXISTING CONDITIONS #1199 MANCHESTER ROAD PREPARED FOR MANCHESTER/HEBRON AVE LLC GLASTONBURY, CONN. DATE: 9-5-21 REV. 11-16-21 PINS SET. REV. 12-20-21. SCALE: 1"=30' MAP NO. 220017-1A SHEET SV-1" Prepared by Aeschliman Land Surveying, PC East Hartford, Connecticut.

11

Higher-Density Development

MYTH AND FACT



**Urban Land
Institute**

Higher-Density Development

MYTH AND FACT



**Urban Land
Institute**

About NMHC—the National Multi Housing Council

NMHC is a national association representing the interests of the nation's larger and most prominent apartment firms. NMHC advocates on behalf of rental housing, conducts apartment-related research, encourages the exchange of strategic business information, and promotes the desirability of apartment living. One-third of Americans rent their housing, and 15 percent of all U.S. households live in an apartment home.

Doug Bibby, *President*

About Sierra Club

The Sierra Club's members are 700,000 of your friends and neighbors. Inspired by nature, we work together to protect our communities and the planet. The Club is America's oldest, largest, and most influential grass-roots environmental organization.

Larry Fahn, *President*

About AIA—the American Institute of Architects

Since 1857, the AIA has represented the professional interests of America's architects. As AIA members, more than 75,000 licensed architects, emerging professionals, and allied partners express their commitment to excellence in design and livability in our nation's buildings and communities. Members adhere to a code of ethics and professional conduct that assures the client, the public, and colleagues of an AIA-member architect's dedication to the highest standards in professional practice.

Douglas L. Steidl, *President*

About ULI—the Urban Land Institute

ULI—the Urban Land Institute is a nonprofit educational and research institute supported by its members. Its mission is to provide responsible leadership in the use of land to enhance the total environment. ULI sponsors educational programs and forums to encourage an open exchange of ideas and sharing of experiences; initiates research that anticipates emerging land use trends and issues and proposes creative solutions based on that research; provides advisory services; and publishes a wide variety of materials to disseminate information on land use and development. Established in 1936, the Institute has more than 24,000 members and associates from more than 80 countries representing the entire spectrum of the land use and development disciplines.

Richard M. Rosan, *President*

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As this country continues to grow and change, communities are left to figure out where all these new people will live, work, and shop. New markets are emerging for real estate that offers a more convenient lifestyle than is offered by many low-density sprawling communities. New compact developments with a mix of uses and housing types throughout the country are being embraced as a popular alternative to sprawl. At the core of the success of these developments is density, which is the key to making these communities walkable and vibrant.

Unfortunately, in too many communities higher-density mixed-use development is difficult to construct because of zoning and building codes that favor low-density development with segregated uses and because of opposition from the community. This publication looks at several myths surrounding higher-density development and attempts to dispel them with facts to help dismantle the many barriers such developments face.

ULI is proud to have partnered with NMHC—the National Multi Housing Council, Sierra Club, and AIA—the American Institute of Architects on this publication. This convergence of interests highlights the importance each organization has placed on finding a new development pattern that better fits the needs of a growing and changing country.

ULI will continue to provide forums in which all stakeholders can explore and debate issues about growth and development patterns and how properly designed and incorporated density can be used to accommodate new growth. ULI will conduct research, produce well-balanced information, and identify best practices on issues relevant to growth and density. Through these efforts, ULI and its partners hope to play a role in planning a better development pattern for the future.

Harry H. Frampton III
Chair

Higher-Density Development: Myth and Fact

America's changing population is creating demand for new types of homes, offices, and retail outlets. Better solutions are needed to the challenges created by changing demographics, dwindling natural areas, smog and public health issues, shrinking municipal budgets, and traffic congestion. Communities that answer these challenges will develop into great places to live.

America will add roughly 43 million new residents—that's 2.7 million new residents per year—between now and 2020.¹ America is not only growing but also undergoing dramatic demographic changes. The traditional two-parent household with children is now less than a quarter of the population and getting proportionally smaller. Single-parent households, single-person households, empty nesters, and couples without children make up the new majority of American households, and they have quite different real estate needs.² These groups are more likely to choose higher-density housing in mixed-density communities that offer vibrant neighborhoods over single-family houses far from the community core.

The fact is that continuing the sprawling, low-density haphazard development pattern of the past 40 years is unsustainable, financially and otherwise. It will exacerbate many of the problems sprawl has already created—dwindling natural areas and working farms, increasingly longer commutes, debilitating traffic congestion, and harmful smog and water pollution. Local officials now realize that paying for basic infrastructure—roadways and schools, libraries, fire, police, and sewer services—spread over large and sprawling distances is inefficient and expensive.

Most public leaders want to create vibrant, economically strong communities where citizens can enjoy a high quality of life in a fiscally and environmentally responsible manner, but many are not sure how to achieve it. Planning for growth is a comprehensive and complicated process that requires leaders to employ a variety of tools to balance diverse community interests. Arguably, no tool is more important than increasing the density of existing and new communities, which includes support for infill development, the rehabilitation and reuse of existing structures, and denser new development. Indeed, well-designed and well-integrated higher-density development makes successful planning for growth possible.

Density refers not only to high-rise buildings. The definition of density depends on the context in which it is used. In this publication, *higher density* simply means new residential and commercial development at a density that is higher than what is typically found in the existing community. Thus, in a sprawling area with single-family detached houses on one-acre lots, single-family houses on one-fourth or one-eighth acre are considered higher density. In more densely populated areas with single-family houses on small lots, townhouses and apartments are considered higher-density development. For many suburban communities, the popular mixed-use town centers being developed around the country are considered higher-density development.

Most land use professionals and community leaders now agree that creating communities with a mix of densities, housing types, and uses could be the antidote to sprawl when implemented regionally. And across the country, the general public is becoming more informed and engaged in making the tough land use choices that need to be made while understanding the consequences of continuing to grow as we have in the past. Many have also come to appreciate the “place-making” benefits of density and the relationship between higher-density development and land preservation. Media coverage of the topic of growth and development has also evolved. Past media coverage of growth and development issues was often limited to the heated conflicts between developers and community residents. Many in the media are now presenting more thoughtful and balanced coverage, and several editorial boards support higher-density developments in their communities as an antidote to regional sprawl.

Yet despite the growing awareness of the complexity of the issue and growing support for higher-density development as an answer to sprawl, many still have questions and fears related to higher-density development. How will it change the neighborhood? Will it make traffic worse? What will happen to property values? And what about crime? Ample evidence—documented throughout this publication—suggests that well-designed higher-density development, properly integrated into an existing community, can become a significant community asset that adds to the quality of life and property values for existing residents while addressing the needs of a growing and changing population.

Many people’s perception of higher-density development does not mesh with the reality. Studies show that when surveyed about higher-density development, those interviewed hold a negative view. But when shown images of higher-density versus lower-density development, people often change their perceptions and prefer higher density.³ In a recent study by the National Association of Realtors® and Smart Growth America, six in ten prospective homebuyers, when asked to choose between two communities, chose the neighborhood that offered a shorter commute, sidewalks, and amenities like shops, restaurants, libraries, schools, and public transportation within walking distance. They preferred this option over the one with longer commutes and larger lots but limited options for walking.⁴ The 2001 American Housing Survey further reveals that respondents cited proximity to work more often than unit type as the leading factor in housing choice.⁵ Such contradictions point to widespread misconceptions about the nature of higher-density development and sprawl. Several of these misconceptions are so prevalent as to be considered myths.

To some degree, these myths are the result of memories people have of the very-high-density urban public housing projects of the 1960s and 1970s that have been subsequently deemed a failure. Somehow, the concept of density became associated with the negative imagery and social problems of depressed urban areas. The reality

is that complex interrelated factors such as the high concentration of poverty and poor educational and employment opportunities combined to doom the public housing projects. Even very-high-density housing can be practical, safe, and desirable. For example, the mixed-income apartments and condominiums or luxury high rises in New York and Chicago—some of the safest and most expensive housing in the country—prove that density does not equal an unsafe environment.

The purpose of this publication is to dispel the many myths surrounding higher-density development and to create a new understanding of density that goes beyond simplistic negative connotations that overestimate its impact and underestimate its value. Elected officials, concerned citizens, and community leaders can use this publication to support well-designed and well-planned density that creates great places and great communities that people love. With the anticipated population growth and continuing demographic and lifestyle changes, consensus is building that creating communities with a mix of densities, housing types, and uses will be both necessary and desirable.

Higher-Density Development: Myth and Fact is the sixth in a series of Urban Land Institute myth and fact booklets. The series is intended to clarify misconceptions surrounding growth and development. Other topics covered have included transportation, smart growth, urban infill housing, environment and development, and mixed-income housing.

Higher-Density Development: Myth and Fact examines widespread misconceptions related to higher-density development and seeks to dispel them with relevant facts and information. Although the benefits of higher-density development are often understated, so are the detrimental effects of low-density development. The advantages and drawbacks of higher-density development are compared throughout this publication with the alternative of low-density development. In the process, misconceptions regarding low-density development are also addressed.

MYTH

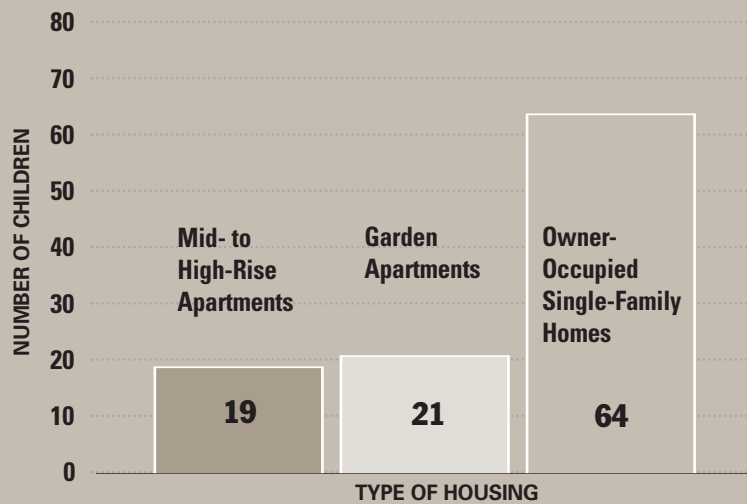
Higher-density development overburdens public schools and other public services and requires more infrastructure support systems.

FACT

The nature of who lives in higher-density housing—fewer families with children—puts less demand on schools and other public services than low-density housing. Moreover, the compact nature of higher-density development requires less extensive infrastructure to support it.

Public officials across the country struggle to afford the infrastructure needed to support sprawling development. A recent study analyzing the costs of sprawl estimated that more than \$100 billion in infrastructure costs could be saved over 25 years by pursuing better planned and more compact forms of development.⁶ The issue has transcended political parties and ideologies and has become an issue of basic fiscal responsibility. California’s Republican Governor Arnold Schwarzenegger has criticized “fiscally unsustainable sprawl,”⁷ while Michigan’s Democratic Governor Jennifer Granholm has noted that sprawl “is hampering the ability of this state and its local governments to finance public facilities and service improvements.”⁸

NUMBER OF SCHOOL AGE CHILDREN PER 100 UNITS OF NEW HOUSING



Source: 1999 American Housing Survey (Washington, D.C.: U.S. Bureau of the Census and U.S. Department of Housing and Urban Development, 1999).

Progressive and conservative groups have identified sprawl as a real problem. Charter of the New Urbanism states that “placeless sprawl” is an “interrelated community building challenge.”⁹ Conservative groups have concluded that “sprawl is in fact a conservative issue” with “conservative solutions” and that “sprawl was in large part created through government intervention in the economy.”¹⁰

Indeed, numerous government policies over the last half century have led to and supported sprawl. Historically, federal spending for transportation has subsidized large-scale highway construction over other modes of transportation. Financing policies from the Federal Housing Administration have promoted suburban subdivisions across the nation. Large lot exclusionary zoning has forced the artificial separation of land uses, leading to large distances between employment centers, housing, and retail. But many government agencies now realize they cannot afford to continue providing the infrastructure and public services that sprawl demands.

Not only do local governments absorb much of the cost of more and more roadways, profoundly longer water and electrical lines, and much larger sewer systems to support sprawling development, they must also fund public services to the new residents who live farther and farther from the core community. These new residents need police and fire protection, schools, libraries, trash removal, and other services. Stretching all these basic services over ever-growing geographic areas places a great burden on local governments. For example, the Minneapolis/St. Paul region built 78 new schools in the suburbs between 1970 and 1990 while simultaneously closing 162 schools in good condition located within city limits.¹¹ Albuquerque, New Mexico, faces a school budget crisis as a result of the need to build expensive new schools in outlying areas while enrollment in existing close-in schools declines.

PROFILE



MCCAFFERY INTERESTS

The Market Common Clarendon

Located on the site of a former parking lot and occupying roughly ten acres of land, the Market Common in Clarendon, Virginia, just outside Washington, D.C., provides 300 Class A apartments, 87 townhouses, 100,000 square feet of office space, and 240,000 square feet of prime retail space. Located within walking distance of the Orange Line of Washington’s extensive subway system, residents can leave their cars parked while they take public transit to work. They can also walk to a Whole Foods grocery store adjacent to the highly successful development. Prominent national retailers occupy the ground level of the building, and structured parking is provided. The compact development form of the Market Common promotes walking, biking, and using public transit over autos. The apartments are attractive to young professionals without children, lessening the impact on the county’s school system. The project is the result of a successful collaboration of McCaffery Interests, Arlington County officials, and citizens of the Clarendon neighborhood; it has spurred new retail, office, and residential construction on neighboring sites.

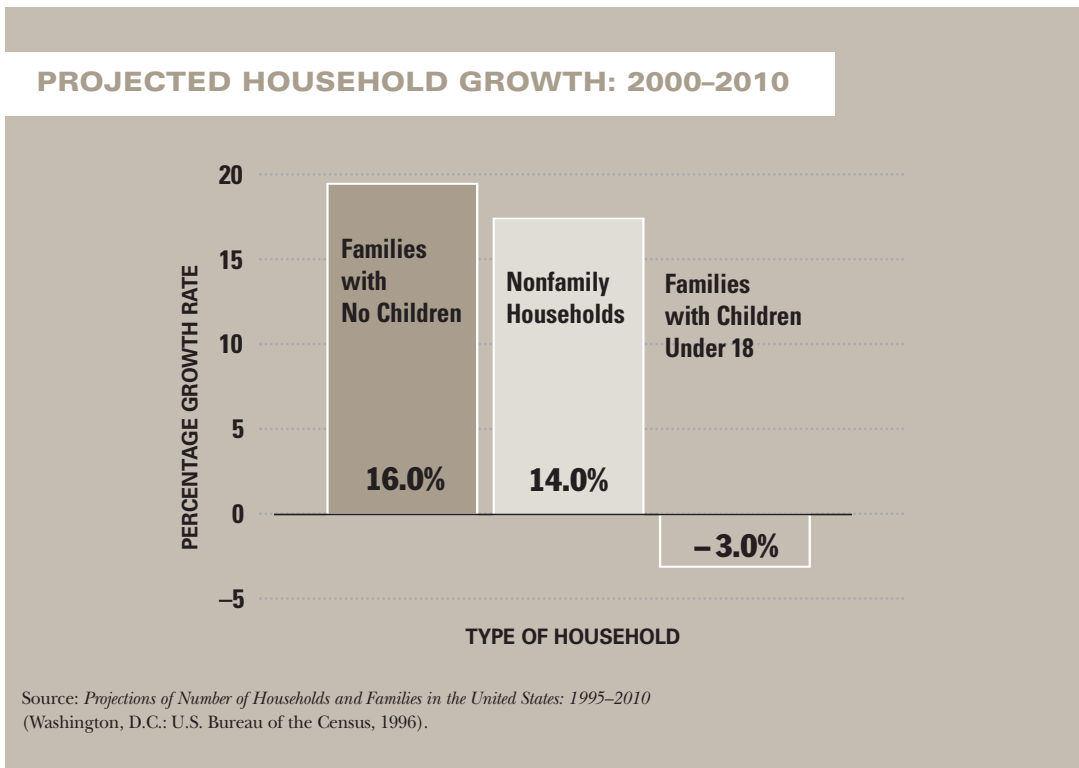
Located within walking distance of a Washington, D.C., Metro stop, the Market Common provides housing, offices, retail, and restaurants on a ten-acre site that was formerly a parking lot.

Unfortunately for local governments, a growing body of evidence shows that sprawling development often does not pay enough property tax to cover the services it requires. A study conducted for a suburban community outside Milwaukee found that public services for an average-price single-family house in that community cost more than twice as much as the property taxes paid by the homeowner.¹²

One reason for the disparity between property tax revenue and the cost of public services is expenditures for public schools. Low-density suburbs and exurban areas generally attract families with more school-age children. In fact, single-family developments average 64 children for every 100 units, compared with only 21 children for every 100 units of garden apartments and 19 children for every 100 units of mid- to high-rise apartments.¹³ The reason is that multifamily housing attracts predominantly childless couples, singles, and empty nesters.

And although apartment renters do not pay property tax directly, apartment owners do. Apartments are also usually taxed at a higher commercial real estate tax rate,¹⁴ so a typical mixed-use development with retail, office, and apartments may subsidize the schools and other public services required by residents of low-density housing in the same community. This phenomenon is further exacerbated because many multifamily developments and retail and office establishments pay for their own trash disposal, shuttle buses, and security.

Reducing the distance between homes, shops, and offices also reduces the cost of public infrastructure. According to one of many studies, “The public capital and operating costs for close-in, compact development [are] much lower than they [are] for fringe, scattered, linear, and satellite development.”¹⁵ And many of these studies do not take into account the advantages created by making public transit



more feasible as well as making delivery of basic services like mail delivery, trash collection, and police and fire protection more efficient.

Another emerging body of research suggests that higher-density development is an important component of economic development initiatives and helps attract new employers. “Information economy” is a term used to define the growing industries based on the economics of the Internet, information goods, and intellectual property. Workers in this field are known as “knowledge workers,” and many believe they are the future of the American economy. These workers are comfortable with the latest technology and, because their skills are transferable, choose their jobs based on the attributes of the town or city where they are located. They seek out vibrant, diverse urban centers that offer access to technology, other knowledge workers, and lifestyle.¹⁶

The economic development game has changed. Employers now follow the workers rather than the other way around. Therefore, communities that focus on providing a high quality of life with the energy and vitality created by urban centers will be much more likely to attract these highly prized, talented, and productive workers than communities of faceless sprawl. Companies that understand the appeal of these communities are making relocation decisions with these workers in mind. Studies have shown that increasing employment density increases labor productivity, generally by reducing commuting times.¹⁷

Thus, introducing higher-density projects into a community will actually increase that community’s revenue without significantly increasing the infrastructure and public service burdens. Blending apartments into low-density communities can help pay for schools without drastic increases in the number of students. Diversifying housing options and adding amenities like shops and offices close by will improve the quality of life and attract businesses and people that will strengthen the community’s economic stability. Increasing density provides a real economic boost to the community and helps pay for the infrastructure and public services that everybody needs.

PROFILE

Highlands’ Garden Village

Built on the site of the Elitch Gardens amusement park in Denver, Highlands’ Garden Village is a walkable, transit-linked community and a financially viable model for environmentally responsible infill development. New York–based developer Jonathan Rose & Companies developed single-family homes, townhouses, seniors’ and multifamily apartments, cohousing, offices, and retail space on the site. At the center, a historic theater and carousel from the original amusement park are being transformed



JONATHAN ROSE & COMPANIES

Highlands’ Garden Village reuses some structures from the amusement park previously located on the site. The compact development, combined with a variety of uses and housing types, uses public infrastructure more efficiently than low-density sprawling development.

into a community performing arts center and a walking labyrinth. Berkeley, California–based Calthorpe Associates designed a plan that put new homes on three sides of a square-shaped village and a commercial “main street” on the fourth. Restaurants, studios, and shops line the street with live/work townhouses and offices above, giving residents the opportunity to live, work, and shop in the same community. The proximity of amenities, location near downtown, and convenience of public bus lines encourage people to walk and reduce travel costs.

MYTH

Higher-density developments lower property values in surrounding areas.

FACT

No discernible difference exists in the appreciation rate of properties located near higher-density development and those that are not. Some research even shows that higher-density development can increase property values.

The precise value of real estate is determined by many factors, and isolating the impact of one factor can be difficult. Although location and school district are the two most obvious determining factors of value, location within a community and size and condition of the house also affect value. Several studies have examined whether multifamily housing has any impact on the value of nearby single-family detached houses. These studies have shown either no impact or even a slightly positive impact on appreciation rates.

PROFILE



HAILE PLANTATION CORPORATION

Haile Plantation

Haile Plantation is a Gainesville, Florida, icon. Although it is denser than surrounding communities, the values of homes in Haile Plantation are often higher than the values of houses in neighboring lower-density communities, because the traditional neighborhood design employed there makes Haile Plantation more desirable and valuable. Beginning with the master plan in 1979, Haile Plantation has been called one of the first new urbanist communities in the country. Developers Bob Rowe and Bob Kramer in conjunction with the Haile Plantation Corporation developed the 1,700-acre site to include more than 2,700 units, ranging from single-family homes to townhouses and garden apartments. The sense of community has only grown with the expansion of the development to include a town center, a village green, trails, civic uses, and offices. Indeed, it is density and diversity that together add value to this popular Florida community.

Homes in Haile Plantation sell for more than neighboring homes because prospective buyers view the traditional neighborhood design as a valuable and desirable amenity.

For instance, one study by the National Association of Home Builders looked at data from the American Housing Survey, which is conducted every two years by the U.S. Census Bureau and the Department of Housing and Urban Development. It found that between 1997 and 1999, the value of single-family houses within 300 feet of an apartment or condominium building went up 2.9 percent a year, slightly higher than the 2.7 percent rate for single-family homes without multifamily properties nearby.¹⁸

Another study, commissioned by the Family Housing Fund in Minnesota, studied affordable apartments in 12 Twin Cities neighborhoods and found “little or no evidence to support the claim that tax-credit family rental developments in [the] study eroded surrounding home values.”¹⁹ And a long-term study by Harvard University’s Joint Center for Housing Studies published in 2003 also confirms that apartments pose no threat to nearby single-family house values, based on U.S. Census data from 1970 to 2000.²⁰

Not only is there compelling evidence that increased density does not hurt property values of nearby neighbors: researchers at Virginia Tech University have concluded that over the long run, well-placed market-rate apartments with attractive design and landscaping actually increases the overall value of detached houses nearby.²¹ They cite three possible reasons. First, the new apartments could themselves be an indicator that an area’s economy is vibrant and growing. Second, multifamily housing may increase the pool of potential future homebuyers, creating more possible buyers for existing owners when they decide to sell their houses. Third, new multifamily housing, particularly as part of mixed-use development, often makes an area more attractive than nearby communities that have fewer housing and retail choices.²²

P R O F I L E

Echelon at Lakeside

Echelon at Lakeside is the only multifamily development in an upscale, master-planned single-family suburban neighborhood of Lakeside on Preston in Plano, Texas a suburb of Dallas. Florida-based developers Echelon Communities, LLC, overcame initial community opposition from area residents through high-quality innovative design. The award-winning architecture blends seamlessly with the surrounding neighborhood’s traditional style. Larger-than-normal floor plans, individual entries, and attached garages combine to mirror the grand

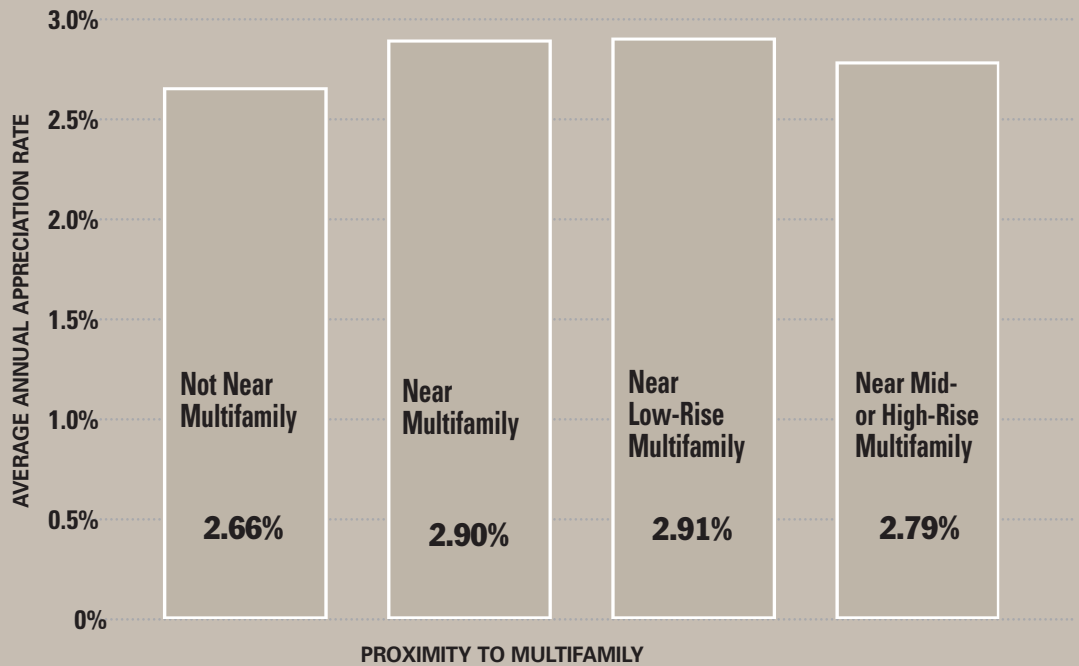


COURTESY OF ECHOLON COMMUNITIES, LLC. PHOTOGRAPH BY STEVE HINDS

The award-winning apartments at Echelon at Lakeside were designed to blend with the neighboring luxury homes.

estates in the surrounding communities. Although street elevations make the buildings appear to be one single-family home, they actually house several multifamily units. Memphis-based architects Looney Ricks Kiss used five building types and three building styles. All units include high-quality interior finishes; community amenities include a resort-style pool, fitness facility, clubroom, business and conference center, and full-time concierge.

AVERAGE ANNUAL APPRECIATION FOR SINGLE-FAMILY DETACHED HOMES BY NEARNESS TO MULTIFAMILY BUILDINGS



Source: NAHB computations based on data in the *American Housing Survey: 1997 and 1999* (Washington, D.C.: U.S. Bureau of the Census and U.S. Department of Housing and Urban Development, 1997 and 1999).

Concerned citizens should use the entitlement process to demand high-quality development in their communities while understanding that density and adjacent property values are not inversely related. Higher-density real estate developers and investors in higher-density real estate need to appreciate the fact that most Americans’ wealth is held in their home equity. Therefore, changes in property values can have very real consequences to existing property owners. Likewise, homeowners would benefit from knowing that developers make a substantial financial commitment when investing in new higher-density projects. This investment is an incentive to make the project successful, which can give the community leverage in working with the developer. Such interrelated and overlapping economic interests among these stakeholders make it all the more likely that a mutually beneficial agreement can be reached. Such an agreement can result in a project that enhances the existing community, ensures the appreciation of residents’, developers’, and the local government’s financial interests, and addresses the needs of current and future residents of the community and region.

3 MYTH 3 FACT

Higher-density development creates more regional traffic congestion and parking problems than low-density development.

Higher-density development generates less traffic than low-density development per unit; it makes walking and public transit more feasible and creates opportunities for shared parking.

Most people assume that higher-density development generates more traffic than low-density development and that regional traffic will get worse with more compact development. In fact, the opposite is true. Although residents of low-density single-family communities tend to have two or more cars per household, residents of high-density apartments and condominiums tend to have only one car per household.²³ And according to one study using data from the National Personal Transportation Survey, doubling density decreases the vehicle miles traveled by 38 percent.²⁴

PROFILE

Mockingbird Station

The residents of Mockingbird Station in Dallas, Texas, are far less dependent on their cars, because they have a whole host of amenities at their doorstep. Dallas developer Ken Hughes partnered with Denver-based Simpson Housing Group to create the ten-acre pedestrian-oriented urban village, which includes 216 loft apartments, an eight-screen film center and café, more than 90 shops and restaurants, offices, an enclosed public plaza, and parking, all directly linked to the Dallas Area Rapid Transit (DART) light-rail system. Mockingbird Station provides direct platform access to DART trains, which offer residents an eight-minute commute to Dallas's central business district and a single train connection to the Dallas Convention Center, Reunion Arena, and other downtown entertainment. The new village is also immediately adjacent to the campus of Southern Methodist University and within walking distance of the university's new stadium and sports center. RTKL created architecture reminiscent of historic train stations but with a modern twist to the materials and detailing. Although only limited driving is necessary, a parking garage is provided but placed out of sight and underground. The myriad materials, architectural styles, and amenities create a vibrant transit-oriented community.



UC URBAN

Residents of Mockingbird Station can leave their cars in the garage and take an eight-minute train ride to downtown Dallas; they can also walk to shops, offices, and a movie theater.

The reason is that higher-density developments make for more walkable neighborhoods and bring together the concentration of population required to support public transportation. The result is that residents in higher-density housing make fewer and shorter auto trips than those living in low-density housing.²⁵ Condominium and townhouse residents average 5.6 trips per day and apartment dwellers 6.3 car trips per day, compared with the ten trips a day averaged by residents of low-density communities. (A trip is defined as any time a car leaves or returns to a home.)

Increasing density can significantly reduce dependency on cars, but those benefits are even greater when jobs and retail are incorporated with the housing. Such mixed-use neighborhoods make it easier for people to park their car in one place and accomplish several tasks, which not only reduces the number of car trips required but also reduces overall parking needs for the community. But if retail uses are to survive, they must be near households with disposable income. Having those households within walking distance of the shops builds in a market for the stores. One study indicates that in some markets, 25 to 35 percent of retail sales must come from housing close to shops for the shops to be successful.²⁶

P R O F I L E

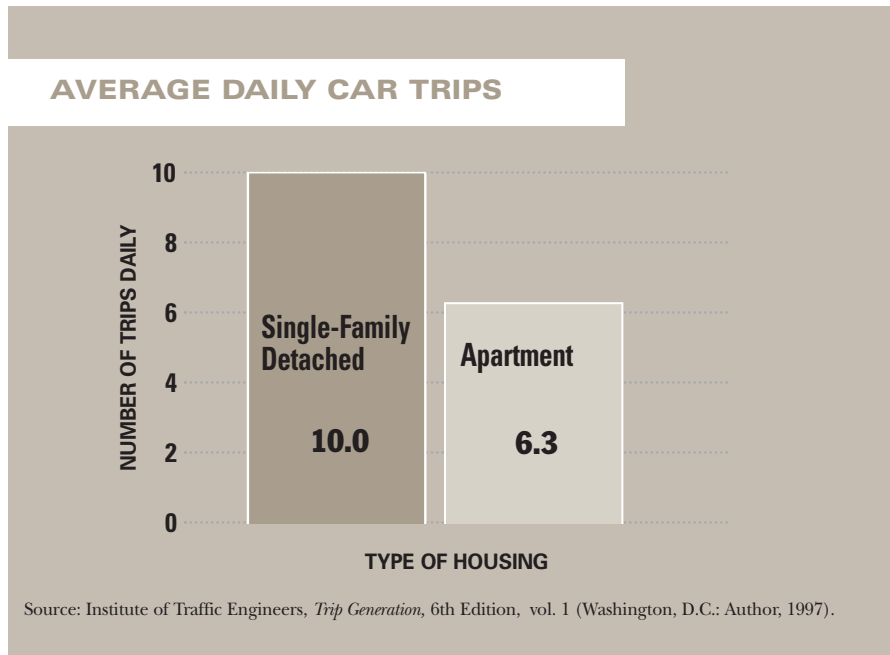
Southwest Station

The Southwest Metro Transit Commission is a small suburban bus system near Minneapolis that serves downtown Minneapolis and numerous other employment and recreation centers, including Minnesota Twins baseball games. The American Public Transportation Association calls it the “best small system in the country.” In an effort to capitalize and expand on the success of the system, the commission has encouraged transit-oriented development at its bus stops. In Eden Prairie, Minnesota, the commission completed a bus depot and five-story parking garage on 22 acres of excess right-of-way. In 2001, it started selling land around the transit complex for retail and residential development. Restaurants, shops, and more than 250 apartments, condominiums, and townhouses soon followed. The new development generated revenue for the commission, new public transit riders, affordable convenient housing, and a suburban lifestyle with the amenities usually afforded only to city dwellers.



The Southwest Metro Transit Commission in suburban Minneapolis runs an award-winning bus system and has encouraged higher-density development around transit stops, like this one at Southwest Station in Eden Prairie, Minnesota.

With a typical family now making more car trips for family, personal, social, and recreational reasons than for commuting to work,²⁷ reducing the number of noncommuting trips takes on greater importance in the battle to reduce traffic congestion and parking problems. A case study in Washington, D.C., found that workers in dense downtown Washington made 80 percent of their mid-day trips by foot while suburban workers made 67 percent of their mid-day trips by car.²⁸ Although a suburban office park would never reach the density levels of a downtown area, planners can still reduce the auto dependency of suburban office workers by using some of the same design techniques. Concentrating density around



suburban offices, allowing and encouraging retail and restaurants in and near the offices, and planning for pedestrian and bike access can all reduce the number of lunchtime car trips required by office workers.

Higher-density mixed-used developments also create efficiencies through shared parking. For example, office and residential uses require parking at almost exact opposite times. As residents leave for work, office workers return, and vice versa. In addition, structured parking becomes feasible only with higher-density developments.

Higher-density development also makes public transit more feasible. When a community that includes residences, shops, and offices reaches a certain threshold of density, public transit-shuttles, bus service, trams, or light rail becomes an option for residents. It is estimated that a minimum density of seven dwelling units per acre is needed to make local bus service feasible with an intermediate level of service.²⁹ Light rail needs a minimum density of nine dwelling units per acre to be feasible.³⁰ When a community can take advantage of these options and increase the transportation choices for residents, relief is greater as total car dependency is further broken. Such choices are impossible for low-density developments.

MYTH

Higher-density development leads to higher crime rates.

FACT

The crime rates at higher-density developments are not significantly different from those at lower-density developments.

People sometimes associate density with crime, even though numerous studies show that no relationship exists between the two. A study in Irving, Texas, using geographic information systems and crime statistics, found no link between crime and density. In fact, it found that single-family neighborhoods are “not all associated with lower crime rates.”³¹ Another study conducted by the University of Alaska found no relationship between housing density and crime in Anchorage.³²

PROFILE

Westminster Place

Although today Westminster Place is a thriving, safe community in midtown St. Louis, it was not always the case. The area, approximately 90 acres, was well known by the St. Louis police department for its high rate of violent crime, which led to the area’s becoming blighted. McCormack Baron Salazar, a St. Louis-based developer, brought the community back through the addition of higher-density mixed-income housing comprising affordable and market-rate units. The master plan included for-sale and rental housing, garden apartments, townhouses, single-family homes, and even an assisted living facility for seniors. A new community pool, a bustling retail center, and a magnet school are included as well. The new plan slowed traffic through the community, added landscaping and street and parking lot lighting, and new “eyes on the street,” making it more difficult for criminals to go unnoticed. The area blossomed into a place where people once again feel safe walking. The success of the community spurred the revitalization of surrounding areas.



MCCORMACK BARON SALAZAR

Increasing the housing density, adding some market-rate housing, and developing a design that slowed traffic and added additional lighting changed Westminster Place from a crime-ridden neighborhood to a thriving, safe community.

PROFILE

East Village

East Village is a small urban revitalization project on the edge of downtown Minneapolis. Before the project was built, the neglected 2.9-acre site contained several deteriorating rental homes, old commercial buildings, and abandoned surface parking lots. The neighborhood wanted to improve the area and the image of one of the city’s oldest neighborhoods, Elliot Park. The developers of the project, Central Community Housing Trust and East Village Housing Corporation, developed the new mixed-income housing and commercial community to encourage a sense of community and ownership. East Village now features community green space, pedestrian paths, and neighborhood businesses. Buildings surround the greenway that leads to Elliot Park, a city park with year-round activities and a community center. Brick, bay windows, and French balconies complement historic buildings in the area. In addition, all buildings have multiple entrances to encourage interaction among neighbors. An underground 350-space parking garage frees up space for landscaped areas. This once neglected area has won two awards for innovation and design and become an exceedingly successful vibrant and safe community.



The additional “eyes on the street” created by the development of East Village in Minneapolis has led to a safer vibrant community.

Arizona researchers found that when police data are analyzed per unit, apartments actually create less demand for police services than a comparable number of single-family houses. In Tempe, Arizona, a random sample of 1,000 calls for service showed that 35 percent originated from single-family houses and just 21 percent came from apartments. Similarly, a random sample of 600 calls for service in Phoenix, Arizona, found that an apartment unit's demand for police services was less than half of the demand created by a single-family house.³³

One reason for the misperception that crime and density are related could be that crime reports tend to characterize multifamily properties as a single "house" and may record every visit to an apartment community as happening at a single house. But a multifamily property with 250 units is more accurately defined as 250 houses. To truly compare crime rates between multifamily properties and single-family houses, the officer would have to count each household in the multifamily community as the equivalent of a separate single-family household. When they do so, many find what the previous studies prove: that crime rates between different housing types are comparable.

Higher-density developments can actually help reduce crime by increasing pedestrian activity and fostering a 24-hour community that puts more "eyes on the street"³⁴ at all times. Many residents say they chose higher-density housing specifically because they felt more secure there; they feel safer because there are more people coming and going, making it more difficult for criminals to act without being discovered. This factor could explain why a ULI study of different housing types in Greenwich, Connecticut, shows that higher-density housing is significantly less likely to be burglarized than single-family houses.³⁵ The relationships among design, management, and security became better understood in the past few decades with the publication of several seminal works, including *Defensible Space: Crime Prevention through Urban Design* by Oscar Newman³⁶ and *Fixing Broken Windows: Restoring Order and Reducing Crime in our Communities* by George Kelling and Catherine Coles.³⁷ Many new higher-density developments include better lighting plans and careful placement of buildings and landscaping to reduce opportunities for crime, contributing to a safer community.

With the emergence of better-quality designs, higher-density mixed-use development is an attractive and safe addition to a community, one that is increasingly attracting a professional constituency seeking safety features. In fact, the luxury segment is one of the fastest-growing components of the multifamily industry.³⁸

5 MYTH FACT

Higher-density development is environmentally more destructive than lower-density development.

Low-density development increases air and water pollution and destroys natural areas by paving and urbanizing greater swaths of land.

Low-density sprawl takes an enormous toll on our air, water, and land. The United States is now losing a staggering 2 million acres of land a year to haphazard, sprawling development.³⁹ More than 50 percent of Americans live in places where the air is unhealthy to breathe,⁴⁰ and childhood asthma and other respiratory diseases are on the rise.⁴¹ Almost half the damage to our streams, lakes, and rivers is the result of polluted runoff from paved surfaces.⁴²

It is inefficient land use, not economic growth, that accounts for the rapid loss of open space and farms. Since 1994, housing lots larger than ten acres have accounted for 55 percent of the land developed.⁴³ This loss of land often causes unexpected economic challenges for rural communities, where farmland, forests, ranchland, and open space tend to be the economic drivers that attract businesses, residents, and tourists. Low-density sprawl compromises the resources that are the core of the community's economy and character. The majority of American homeowners think it is important to stop these trends. In fact, 76 percent of local ballot initiatives related to land conservation passed in November 2004, making \$2.4 billion in funding available for protection of parks and open space.⁴⁴ But purchasing land is only part of the solution and not always an option for financially strapped governments.

Higher-density development offers the best solution to managing growth and protecting clean air and clean water. Placing new development into already urbanized areas that are equipped with all the basic infrastructure like utility lines, police and fire protection, schools, and shops eliminates the financial and environmental costs of stretching those services farther and farther out from the core community. Compact urban design reduces driving and smog and preserves the natural areas that are assets of the community: watersheds, wetlands, working farms, open space, and wildlife corridors. It further minimizes impervious surface area, which causes erosion and polluted stormwater runoff. Two studies completed for the state of New Jersey confirm that compact development can achieve a 30 percent reduction in runoff and an 83 percent reduction in water consumption compared with conventional suburban development.⁴⁵

PROFILE

Prairie Crossing

The developers of Prairie Crossing, George and Vicky Ranney, saved \$1 million in infrastructure costs through environmentally sensitive design. The 677-acre conservation community is located in Grayslake, Illinois, 40 miles northwest of Chicago and one hour south of Milwaukee. The community features 350 acres of open space, including 160 acres of restored prairie, 158 acres of active farmland, 13 acres of wetlands, a 22-acre lake, a village green, and several neighborhood parks. Houses are sited to protect natural features such as hedge-rows, native habitat, and wetlands. Designed with colors and architecture inspired by the landscape, every home has a view of open space and direct access to ten miles of on-site walking and biking trails. Wide sidewalks, deep front porches, and rear garages encourage neighbors to meet. The homes were built with U.S. Department of Energy–approved green building techniques. As a result, they are 50 percent more energy efficient than other homes in the Chicago area, and they sell for a 33 percent sales premium. Station Village is the last phase of Prairie Crossing. When complete, it will include residential, retail, and office space, all within walking distance of two commuter train stations. Residents can ride Metra’s North Line to Chicago’s Union Station or the Central Line to downtown Chicago and O’Hare Airport.

More than half the land at Prairie Crossing was preserved as open space, and homes were built with approved green building techniques.



PRAIRIE CROSSING

PROFILE

The Preserve

USS Real Estate originally held a 550-acre tract of land in Hoover, Alabama, but sold 250 acres to the city, intending to create the Moss Rock Nature Preserve. The 680 single-family homes, 50,000 square feet of retail, and 50,000 square feet of office space are concentrated on the remaining 311-acre site. Before development of the Preserve, Hoover was characterized by sprawling conventional development and lacked a town center. The Preserve's future town center is planned to include 34 live/work units, 14 retail units, and two restaurants: at the heart of the community is the village green, an impressive eight-acre park with a town hall, a fitness center, a junior olympic swimming pool, and a kiddie pool. Residents have access to 15 acres of parks and seven miles of trails that connect to award-winning Hoover schools and the newly created Moss Rock preserve.

Clustering development at the Preserve in Hoover Alabama, enabled the creation of the 250-acre Moss Rock Nature Preserve.



USS REAL ESTATE

Many communities employ techniques such as infill and brownfield development to transform unused, abandoned lots into vibrant, revenue-generating components of the community. Some create direct incentives for higher-density development. The city of Austin, Texas, for example, created a program that rewards developers for locating projects in the city's existing neighborhoods and downtown. Others award points for a variety of attributes, such as transit access, the redevelopment of empty lots, and an increase in pedestrian facilities. By employing standards for factors like open space, dense development, and impact on water quality, communities can facilitate good urban design that preserves natural resources.

Although a well-designed higher-density community offers residents a higher-quality environment, poorly planned sprawl does the opposite. Because low-density sprawl gobbles up so much land through large-lot zoning, it ends up destroying the very thing most people moved there for in the first place—the natural areas and farmland. It forces people to drive longer distances, increasing regional air quality problems. The average American man spends 81 minutes behind the wheel every day, while women average 63 minutes. And surveys show that the time spent driving has been consistently increasing every year.⁴⁶ The national road network, currently at 4 million miles according to the U.S. Department of Transportation, is still growing at an alarming rate, mainly for the purpose of connecting new low-density suburbs back to core communities. Along with the water and air pollution, construction of these highways perpetuates the cycle of sprawl, fragments wildlife habitats, and dries up a community's financial coffers.

Increasing density not only improves air and water quality and protects open space but also redirects investments to our existing towns and cities. It can revitalize existing communities and create more walkable neighborhoods with access to public transit and hiking and biking trails. Pedestrian-friendly higher-density developments offer general health benefits as well. Mixed land uses give people the option to walk and bike to work, shops, restaurants, and entertainment. The convenience of compact communities may help fight diseases related to obesity.⁴⁷ Higher-density communities are vital to preserving a healthy environment and fostering healthy lifestyles.

MYTH

Higher-density development is unattractive and does not fit in a low-density community.

FACT

Attractive, well-designed, and well-maintained higher-density development attracts good residents and tenants and fits into existing communities.

Higher-density development comes in many forms. Some of the most attractive well-planned modern development is built at a high density. Across America, appealing higher-density mixed-use town centers have been wildly popular with the public. Lushly landscaped boulevards, fountains, and showcase architecture have created a sense of place in areas previously known only for faceless, uninteresting low-density development. The enduring appeal

PROFILE

Post Riverside

Atlanta is often called the poster child for suburban sprawl. However, it is also the home of Post Riverside, a revolutionary new mixed-use pedestrian-oriented community developed by Atlanta-based Post Properties, Inc., and located on the banks of the Chattahoochee River between Atlanta's bustling Buckhead and Vinings communities. As is the trend nationally, 65 percent of all vehicle trips in Atlanta are to run errands, not to commute to work. With offices, shops, and restaurants within walking distance of the apartments, Post Riverside residents depend on autos much less than their neighbors in lower-density areas. In addition, the community is connected to Atlanta's MARTA subway system and the Cobb County transit system. This award-winning 85-acre mixed-use development includes 25,000 square feet of retail space, 225,000 square feet of office space, and 535 apartments, all designed around a gracious town square. For many people, this amenity-rich, low-maintenance lifestyle better suits their needs than a traditional single-family home in a low-density neighborhood.



POST PROPERTIES, INC. PHOTOGRAPH ©STEVE HINDS

Post Riverside in Atlanta demonstrates that higher-density development can be attractive and successful in a community known for lower-density development.

and desirability of older and more gracious higher-density neighborhoods—Georgetown in Washington, D.C., Beacon Hill and Back Bay in Boston, and Lincoln Park in Chicago—attest to the fact that some of the more desirable neighborhoods in America historically have been of higher density than that found in typical outer suburbs.

This return to the design principles of the past is at the core of the new urbanist movement that took hold in the 1990s. The movement grew as many people came to miss the sense of community that was created by the mixed-density and mixed-use communities of the past. They realized that low-density subdivisions isolated their owners not only from pedestrian access to shops and offices but also from their neighbors. The growing sense of social alienation, highlighted in books like Robert Putnam's *Bowling Alone*,⁴⁸ has led many back to the comfort of communities that are a reminder of the places where many of us grew up. These new communities combine the best design ideas of the past with the modern conveniences of today to provide residents with what has been missing from many sprawling areas—a sense of community.

Today's developers, architects, and planners know that to attract customers and to secure zoning approvals and community acceptance, they must produce attractive and innovative properties that complement their surroundings. Design professionals are driven to produce projects that meet users' demands, understand and respond to the context of a site, enhance its neighborhood, and are built to last.⁴⁹ In fact, attendance at a recent American Institute of Architects-sponsored conference on density far surpassed expectations, speaking to the interest among land use professionals in addressing the design issues associated with density.⁵⁰

It is plausible that the high level of citizens' opposition to density may be based on an outdated notion of what higher-density development looks like. A University of North Carolina study revealed that when given a choice between two attractively designed communities, one higher density and the other low density; the majority preferred the higher-density option.⁵¹ Other visual preference surveys confirm that there is an almost universal negative reaction to the visual appearance of commercial strip sprawl and an almost universal positive reaction to traditional town-like communities of the past, communities that almost invariably included a mix of densities and uses.⁵²

P R O F I L E

The Plaza at the Arboretum

This award-winning mixed-use project in Santa Monica, California, developed by California-based Legacy Partners, achieves a density of 97.5 dwelling units per acre. The attractive seven-story building includes 10,000 square feet of retail space and 350 apartment units ranging from 612 to 1,555 square feet. The architecture firm Meeks and Partners used strong geometric forms to create a playful architectural character that fits nicely in the avant-garde Hollywood studio section of Santa Monica. The development includes a swimming pool, spa, fitness center, and clubhouse.



Higher-density developments like the Plaza at the Arboretum present opportunities to create outstanding award-winning architecture.

MYTH

No one in suburban areas wants higher-density development.

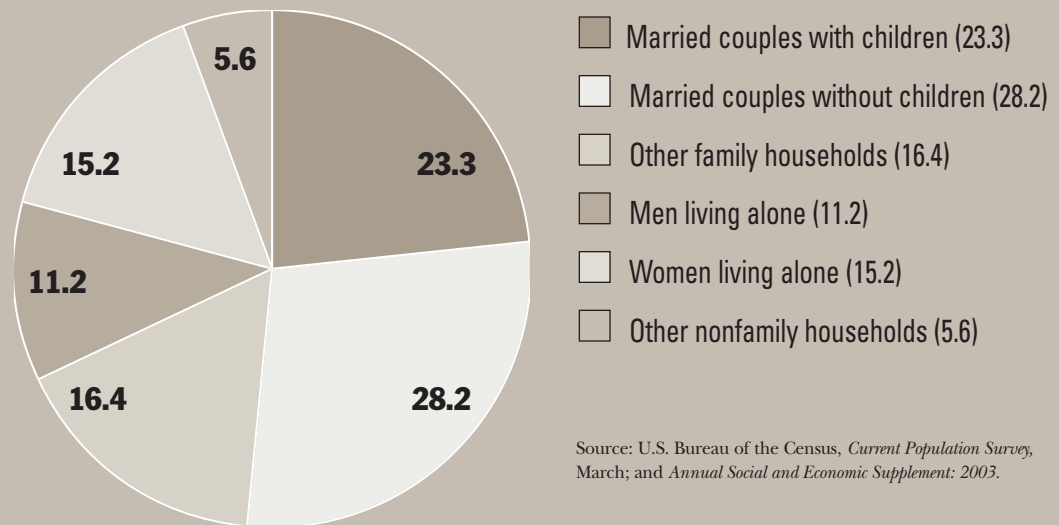
FACT

Our population is changing and becoming increasingly diverse. Many of these households now prefer higher-density housing, even in suburban locations.

When many of us think of the American Dream, we envision married couples with children living in single-family detached houses in the suburbs. The notion is that the only people who want to live in higher-density areas are those who cannot afford a traditional house with a back yard or who want to live in the middle of the city. Both perceptions are flawed.

This country's population is changing, and so are its real estate preferences. These lifestyle changes have significant implications for suburban development. For the first time, there are more single-person households (26.4 percent) than married-

HOUSEHOLDS BY TYPE: 2003 (PERCENTAGE OF TOTAL)



Source: U.S. Bureau of the Census, *Current Population Survey*, March; and *Annual Social and Economic Supplement: 2003*.

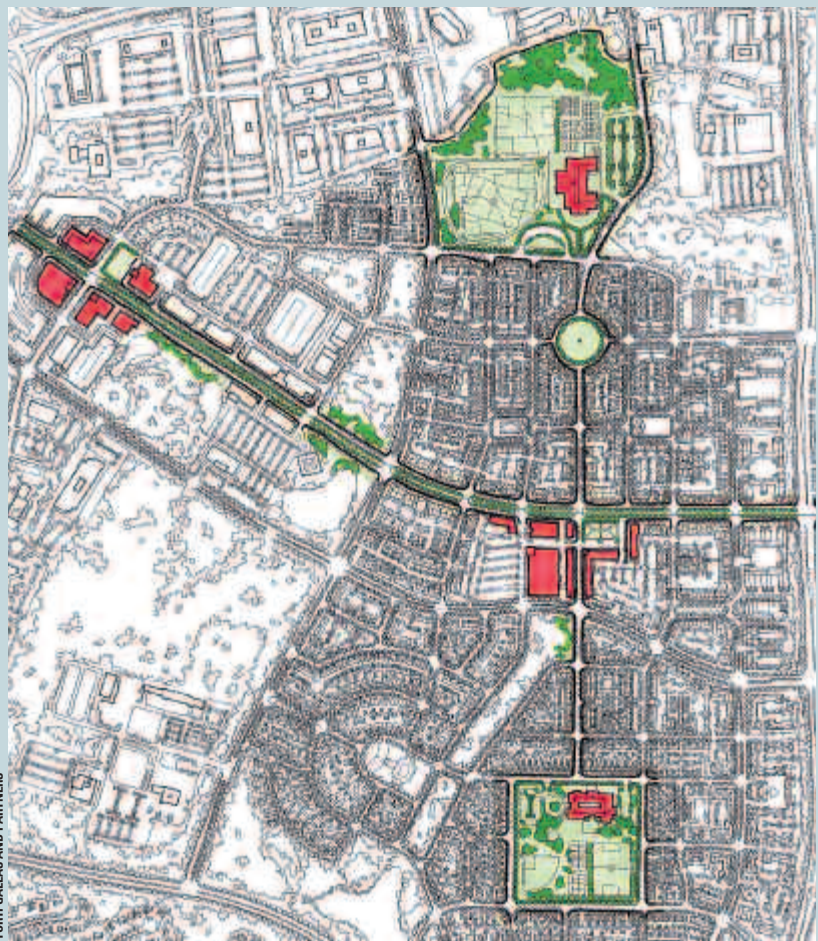
couple-with-children households (23.3 percent).⁵³ The groups growing the fastest, people in their mid-20s and empty nesters in their 50s, are the groups most likely to look for an alternative to low-density, single-family housing.⁵⁴

A growing number of Americans are redefining their American Dream. They are seeking a more convenient and vibrant lifestyle. And while some seek this lifestyle in cities, many others seek the same lifestyle in the suburbs. According to a 2002 study by the National Association of Home Builders, more than half the renters questioned said they wanted to live in the suburbs.⁵⁵ Moreover, a national survey of homebuyers' community preferences found that nearly three-quarters of all

PROFILE

King Farm

This 430-acre community is characterized by the historic architecture of the region but offers an assortment of modern conveniences as well. Developed by King Farm Associates, LLC, King Farm is located in Rockville, Maryland, five miles from the Washington, D.C., beltway, 15 miles from downtown D.C., and walking distance from the Shady Grove Metro station. The neighborhood was designed for pedestrians, but the King Farm shuttle makes getting around even easier. The shuttle runs a complimentary route between the King Farm Village Center, the Metro station, and the Irvington Center, a 90-acre commercial complex next to the Metro. In addition, two types of public bus service are available at King Farm. At the Village Center, 120,000 square feet of retail space is within walking distance from both residential and commercial development. The center also includes 47 loft apartments and a one-acre village green. Watkins Pond and Baileys Common are King Farm's two residential villages. They offer single-family homes, townhouses, condominiums, and luxury apartments intertwined with natural areas. The center of Watkins Pond is a 12-acre city park with tennis and basketball courts, a soccer and softball field, two playgrounds, several picnic areas, benches, and paths.



TORTI GALLAS AND PARTNERS

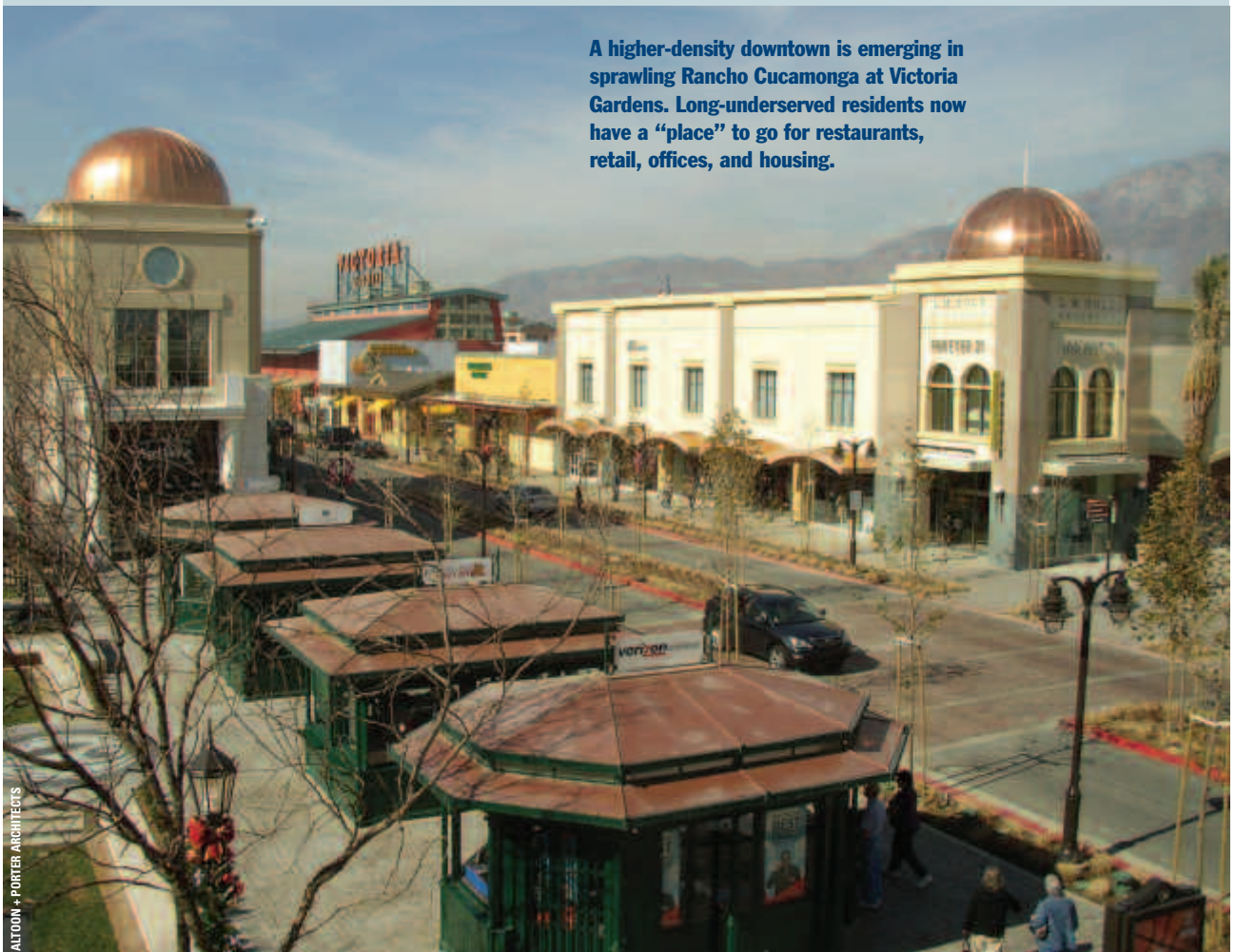
King Farm is a successful higher-density suburban community that integrates housing, retail shops, offices, and public transit.

PROFILE

Victoria Gardens

The city of Rancho Cucamonga, located roughly 60 miles east of Los Angeles in California’s Inland Empire, has a rich agricultural history and, more recently, a history of low-density sprawl with no real city center. This situation is changing, however, with the opening of the first phases of a huge new mixed-use development known as Victoria Gardens. The development, designed by L.A.-based architects, Altoon + Porter, and being developed jointly by California-based developers Forest City California and the Lewis Investment Company, will create a vibrant higher-density downtown where none previously existed. Rapidly growing Rancho Cucamonga has been traditionally underserved by restaurants and entertainment options. The long-awaited addition of a “place” in the city has been well received by residents. The 147-acre development will eventually contain 1.3 million square feet of commercial and community space, including retail, entertainment, office, and civic uses with a cultural center and a library. Twenty acres of housing on site will allow people to live within walking distance of all the amenities of Rancho Cucamonga’s new downtown.

A higher-density downtown is emerging in sprawling Rancho Cucamonga at Victoria Gardens. Long-underserved residents now have a “place” to go for restaurants, retail, offices, and housing.



ALTOON + PORTER ARCHITECTS

buyers prefer to live in a community where they can walk or bike to some destinations.⁵⁶ The 2001 American Housing Survey further reveals that respondents cited proximity to work more often than unit type as the leading factor in housing choice.⁵⁷ These surveys confirm that many people prefer the suburbs but want the amenities traditionally associated with cities, including living close to work.

With the continuing decentralization of cities and the rise of suburban communities with urban-like amenities, many people find that they can live and work in the suburbs with all the attributes of suburbia they desire without giving up walkability and convenience. A recent study confirms that in many regions, more office space is located in suburban locations than downtowns,⁵⁸ providing an opportunity for people to live near their jobs. Communities and developers that have recognized and responded to the dual trends of decentralized offices and a growing desire for a more convenient lifestyle have been rewarded. Well-placed mixed-use, higher-density developments in the suburbs are increasingly popular, creating a new sense of place.

Communities are being developed using the best concepts of traditional communities—smaller lots, a variety of housing types, front porches and sidewalks, shops and offices within walking distance, and public transit nearby. Communities like Celebration in Florida and King Farm in Maryland have been so popular with the homebuying public that past worries over whether the demand exists for them have been replaced by concerns about their rapid price appreciation, putting them out of the reach of all but the highest-income households. Today's real demographic and lifestyle changes are inspiring a return to traditional development styles that offer walkable, bikeable, and more dynamic communities that put residents closer to shops, offices, and parks.

8 MYTH FACT

Higher-density housing is only for lower-income households.

People of all income groups choose higher-density housing.

Multifamily housing is not the housing of last resort for households unable to afford a single-family house. Condominiums, for instance, are often the most sought after and highly appreciating real estate in many urban markets. The luxury segment of the apartment market is also rapidly expanding. Most people are surprised to learn that 41 percent of renters say they rent by choice and not out of necessity, and households making more than \$50,000 a year have been the fastest-growing segment of the rental market for the past three years.⁵⁹ Multifamily housing throughout the world has historically been the housing of choice by the wealthiest individuals because of the access and convenience it provides. From Manhattan to Miami to San Francisco, higher-density housing has been prized for the amenity-rich lifestyle it can provide.

Higher-density development can be a viable housing choice for all income groups and people in all phases of their lives. Many financially secure baby boomers, who have seen their children leave the nest, have chosen to leave behind the yard maintenance and repairs required of a single-family house for the more carefree and convenient lifestyle multifamily housing provides. Interestingly, their children, the echo boomers, are entering the age where many will likely live in multifamily housing. Just starting careers, many are looking for the flexibility of apartment living to follow job opportunities. Their grandparents, likely on a fixed income, may also prefer or need to live in multifamily housing as physical limitations may have made living in a single-family house too challenging.

Providing balanced housing options to people of all income groups is important to a region's economic vitality. The availability of affordable multifamily housing helps attract and retain the workers needed to keep any economy thriving. In many American towns and cities, rapidly rising house prices are forcing working families to live farther away from their jobs. In fact, the lack of affordable housing is mentioned as the number one problem facing working families today.⁶⁰

PROFILE

Rollins Square

Rollins Square, a mixed-use development in Boston's South End, is a truly mixed-income community that provides housing for a wide spectrum of people in all income brackets. Twenty percent of the overall units are reserved for people whose income is 30 to 60 percent of the Boston area median income (AMI), 40 percent are for-sale condominiums reserved for working households with incomes 80 to 120 percent of the AMI, and the remaining 40 percent are market-rate units sell-

ing for up to \$750,000. The residences occupy two city blocks and integrate seamlessly into the existing neighborhood. The varying heights and diverse exterior materials give the appearance that the development was constructed over time. Rollins Square was developed by the Planning Office for Urban Affairs, Inc., a nonprofit developer associated with the Archdiocese of Boston.

Rollins Square effectively provides housing for low-, moderate-, and high-income households in one attractive development that is well integrated into the existing community.



CBT/CHILD BERTMAN TSECKARES ARCHITECTS

PROFILE

I’On

I’On is a 244-acre master-planned community along the deep-water marshes of Hobcraw Creek in Mount Pleasant, South Carolina. Just six miles east of Charleston, the community features 700 single-family homes, community facilities, and a small-scale commercial area. Vince Graham, principal with the I’On Company, is developing six residential neighborhoods connected by narrow streets, pedestrian corridors, and community spaces. An I’On Guild member, one of 18 builders selected for experience, talent, and financial strength, builds each individual home. The architecture is inspired by classic Lowcountry style with large balconies, deep front porches, and tall windows on even taller homes. Homes now sell for \$685,000 to \$1.7 million. Community facilities include I’On Square, I’On Club, the Creek Club, and the Mount Pleasant Amphitheater. Residents also enjoy easy access to the Cooper and Wando rivers, the Charleston harbor, and the Atlantic Ocean. One neighborhood boat ramp and four community docks are available for crabbing and fishing. Two miles of walking trails are available for residents; a five-acre pond, the Rookery, is a protected nesting site for wading birds. In addition, the public and private schools in Mount Pleasant are some of the best in the area.



I’ON COMPANY

Some home prices in the well-planned higher-density community of I’On are approaching \$2 million. The traditional neighborhood design combined with the community amenities made possible by higher densities have made the community one of the most desirable in the Charleston area.

As the problem of affordability worsens, workers on the lower end of the salary scale may move to more affordable cities, leaving a labor shortage in their wake. Such shortages make a region less desirable as an employment center. According to PricewaterhouseCoopers, access to a large and diverse labor pool is the most important factor in making corporate decisions on locations.⁶¹ Communities that do not provide housing for all income groups become less desirable corporate locations.

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Higher-Density Development Myth and Fact

Richard Haughey

No one likes sprawl and the traffic congestion it creates, yet proposals for increasing density in new and existing neighborhoods often are squashed by community fears of public housing, crime, and ugly high rises. *Higher-Density Development: Myth and Fact* dispels these negative connotations, by comparing the advantages and drawbacks of higher- and low-density development. The definition of higher-density development is relative to the community the development is in—it could be single-family homes on smaller lots, or townhouses and apartments in more populated areas. Eight widespread misconceptions about higher-density development are examined and dispelled with well-researched facts and examples of high-quality, compact developments.

Debunk these common myths about density:

- Higher-density development overburdens public schools and other public services and requires more infrastructure support systems.
- Higher-density developments lower property values in surrounding areas.
- Higher-density development creates more regional traffic congestion and parking problems than low-density development.
- Higher-density development leads to higher crime rates.

- Higher-density development is environmentally more destructive than lower-density development.
- Higher-density development is unattractive and does not fit in a low-density community.
- No one in suburban areas wants higher-density development.
- Higher-density housing is only for lower-income households.

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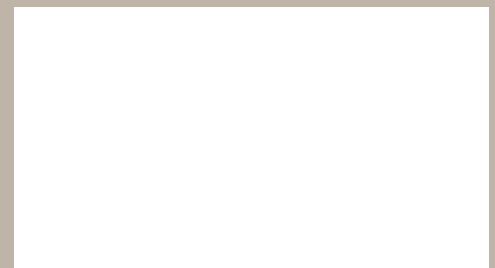
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Dejan Eskic
Senior Research Fellow

The Impact of High-Density Apartments on Surrounding Single-Family Home Values in Suburban Salt Lake County

New, dense housing continues to be a point of conflict in growing communities as concerns over negative impacts to home values dominate the discussion. This study quantifies how new apartment construction has impacted single-family home price acceleration over the last decade.

February 2021

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The Impact of High-Density Apartments on Surrounding Single-Family Home Values in Suburban Salt Lake County

Analysis in Brief

This study found apartments built between 2010 and 2018 have not reduced single-family home values in suburban Salt Lake County. In response to accelerating housing prices over the last decade, the market continues to shift to denser development to slow this trend. However, denser development continues to be a politically controversial topic on city council agendas as existing residents often bring up negative impacts on home values. Single-family homes located within 1/2 mile of a newly constructed apartment building experienced higher overall price appreciation than those homes farther away.

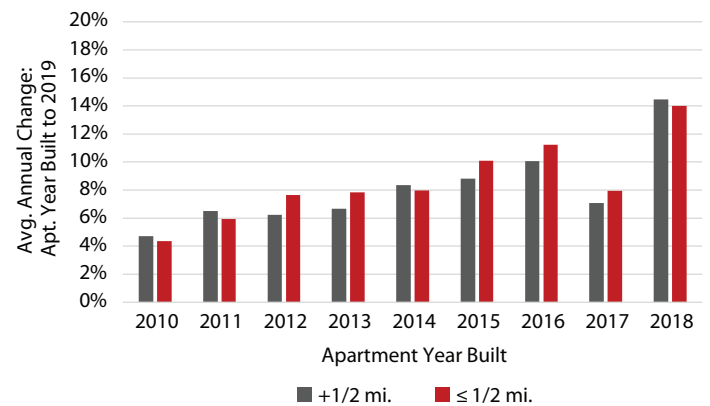
Key Findings

- **New Apartments Have Not Reduced Single-Family Home Values**—Between 2010 and 2019, homes located within 1/2 mile of a newly constructed apartment building experienced a 10.0% average annual increase in median value, while the value of those farther away increased by 8.6%. Only in the Southeast part of the county did homes more than 1/2 mile away from new apartment construction experience higher average price appreciation than those located $\leq 1/2$ mile.
- **Negative Impacts**—The only occurrence where negative price trends followed apartment construction was for homes near apartments built in 2010 and 2011. This resulted from the negative economic impacts brought on by the housing crash of the prior decade.
- **Higher Value per Square Foot**—Between 2010 and 2019, homes that are located $\leq 1/2$ mile of new apartments averaged

an 8.8% higher median value per square foot compared with those farther away. However, the total median market value of single-family homes averaged 4.7% greater for those that are located more than 1/2 mile away from new apartments.

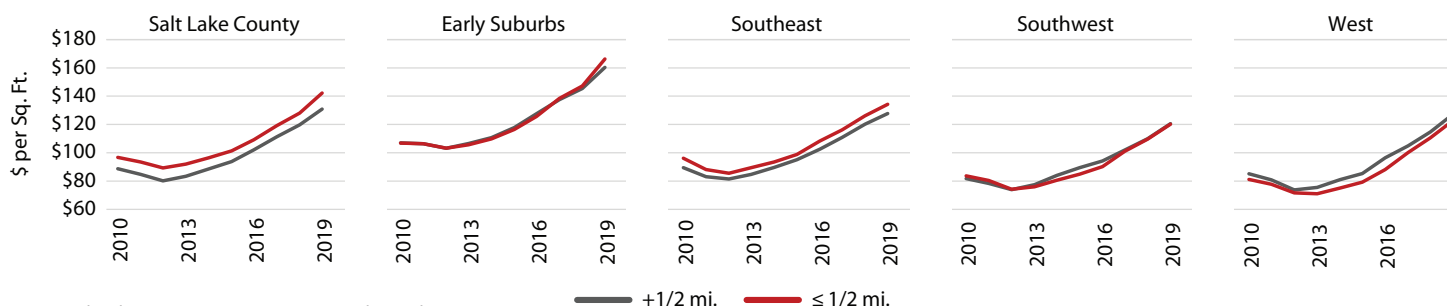
- **Homes Near Apartments Are Smaller and Older**—In suburban Salt Lake County overall, homes located within 1/2 mile of new apartments are approximately 270 sq. ft., or 11.1%, smaller than those farther away. Homes that are located $\leq 1/2$ mile of new apartments are seven years older on average than those located farther away and lot sizes average 0.02 acre smaller for homes located $\leq 1/2$ mile of new apartments.

Average Annual Change in Median Price, Year of Apartment Built to 2019, Salt Lake County



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Median Market Value per Square Foot of Single-Family Homes by Distance to Nearest Apartment



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Access full report at gardner.utah.edu

Introduction

Over the last decade, Utah has led the nation in the rate of population growth, resulting in a record demand for housing. While the housing oversupply of the 2000s was absorbed as the economy recovered from the recession in the early 2010s, supply in the new decade has struggled to keep up, leading to a housing shortage of 53,000 units in 2020. According to the National Association of Realtors, the year-over median sales price of a home in the Salt Lake metropolitan area increased by 12.3% in the first quarter of 2020. The Salt Lake metropolitan area ranked 16th of 182 metropolitan areas surveyed for a year-over price increase. Housing price increases were lower in 90% of the metropolitan areas surveyed.¹ Additionally, land improvement costs, such as excavation and utility work, increased by approximately 40% between 2007 and 2017, and building costs grew 23% in the same period.² Land prices have also soared with a limited supply across the Wasatch Front. The Wasatch Mountains to the east and the Oquirrh Mountains to the west limit the availability of developable land in Salt Lake County.

The combination of soaring demand and supply shortages continues to push the market to provide a more affordable housing product. This is typically done through density because the price of land is distributed across more units. Over the last decade, the market has shifted to denser development, with nearly 48% of all units being built as something other than single-family.

As denser projects continue to appear on city council agendas, opposition to them has grown, manifested in a rising Nimby (not in my back yard) sentiment.³ Amongst the grievances aired by those opposing denser development is an expected negative impact on property values. The question, “Does new apartment construction negatively impact single-family home values?” is challenging to answer because the housing market, over the last decade, has experienced historic price accelerations—it is rare to find a home whose value has decreased. Rather, this study attempts to quantify how new apartment construction has impacted single-family home price acceleration.

This study found apartments built between 2010 and 2018 have not reduced single-family home values. Compared by distance, single-family homes located within 1/2 mile of a newly constructed apartment building experienced higher overall price appreciation than those homes farther away. Measuring the median value of homes from the year the apartment was built to 2019 shows that homes located within 1/2 mile of an apartment experienced a 10.0% average annual increase, while the value of those farther away increased by 8.6%. This implies an additional 1.4 percentage points in annual price appreciation for homes closer to new apartment buildings (see Table 1). Similar results

Table 1: Average Annual Change in Median Price, Year of Apartment Built to 2019

Area	+1/2 mi.	≤1/2 mi.
Salt Lake County	8.6%	10.0%
Early Suburbs	7.6%	10.7%
Southeast	7.3%	6.8%
Southwest	7.7%	9.7%
West	10.5%	13.7%

Note: See Figure 1 for area designations.

Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

are seen in most of the county, with the likely driver being that new apartment construction brings new demand and new dollars to a community and redevelops an older piece of property, thus bringing more vibrancy and “buzz” to the area.⁴

Literature Review

The academic literature leans towards showing multifamily, denser development having either no impact or a positive impact on single-family residential values. A study in King County, Washington, shows an increase in single-family home values for those located near denser development. The study also showed an increase in access to other land uses and parks, adding additional benefits.⁵

A study completed by the National Association of Homebuilders found that between 1997 and 1999, single-family values increased 2.9% for those homes within 300 feet of an apartment building, compared with an increase of 2.7% for those that weren't located next to an apartment.⁶ Based on data from 1970 to 2000, a study published in 2003 by Harvard's Joint Center for Housing Studies concluded that apartments posed no threat to surrounding single-family house values.⁷

A study from researchers at Virginia Tech University concluded that apartments with attractive design and landscaping increased the overall value of nearby detached housing, citing three possible reasons.⁸ These include, first, new construction serves as a potential indicator of positive economic growth; second, new apartments increase the pool of future homebuyers for current homeowners; and third, apartments with mixed-use development often increase the attractiveness of nearby communities as they provide more housing and amenity choices.⁹

An additional benefit is a decrease in traffic, not an increase as often thought. A study by the National Personal Transportation Survey found that doubling density decreases vehicle miles traveled by 38% since denser households typically own fewer vehicles.¹⁰

Methodology & Overview

The Salt Lake County Assessor’s market value data is used to measure new apartment construction effects on single-family homes. Two measures are used. First, the average annual rate of value change from the year the apartment was constructed to 2019 is used to measure the overall impact. Second, the year-over percent change of median market value is used to estimate annual fluctuations.

Because of data availability, only apartments built between 2010 and 2018 are used to measure these impacts. Single-family homes are divided into two categories, homes that are less than or equal to one-half mile ($\leq 1/2$ mi.) from new apartment construction, and those that are farther away ($+1/2$ mi.).

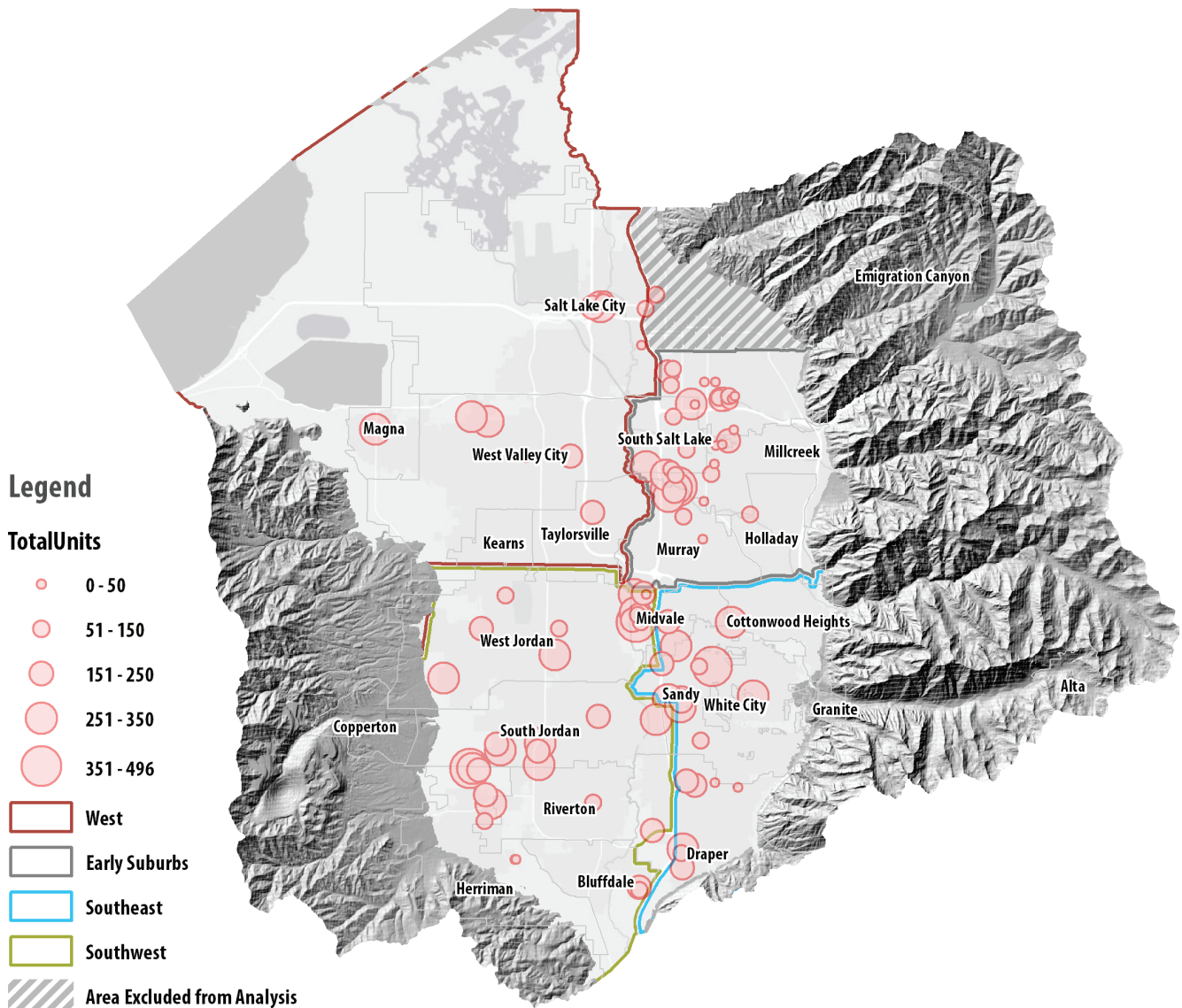
The five geographies covered by this study are shown in Figure 1. Because of a range of development activity and multiple factors not present in the suburban parts of the county,

the greater Salt Lake City downtown area is excluded from this study. The five geographies are based on Census tracts and consist of the following cities and townships:

- **Suburban Salt Lake County:** consists of the four geographies mentioned below.
- **West:** includes a part of Salt Lake City, Magna, West Valley City, Kearns, and Taylorsville.
- **Early Suburbs:** includes a part of Salt Lake City, South Salt Lake, Millcreek, Murray, and Holladay.
- **Southeast:** includes part of Midvale, Cottonwood Heights, Sandy, and part of Draper.
- **Southwest:** includes Bluffdale, Harriman, Riverton, South Jordan, West Jordan, and part of Midvale and Draper.

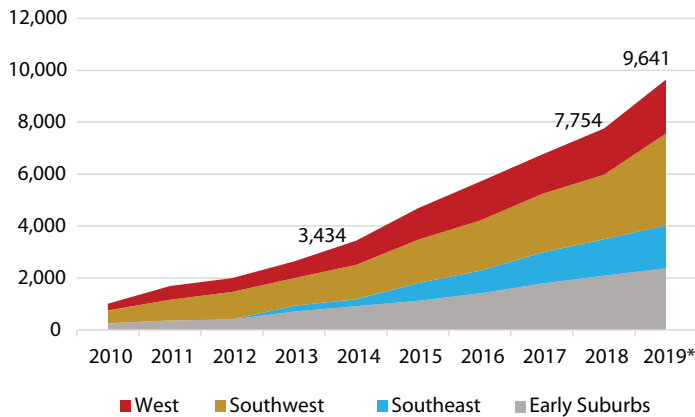
Apartment construction boomed in Salt Lake County during the last decade. Between 2010 and 2018, 7,754 units were

Figure 1: Areas of Analysis and Location of Apartments by Number of Units, 2010–2018



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 2: Cumulative Apartment Units Built, Salt Lake County
(Excluding greater downtown area)



*The data to measure impacts of apartments constructed in 2019 was unavailable at the time of this study.

Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

completed (see Figure 2). Another 1,887 units were delivered to the market in 2019 but are not included in this analysis as the data to measure their impacts are not yet available. By 2018, the county's Southwest area accounted for 32.2% of total apartment units built since 2010, followed by the Early Suburbs area, accounting for 26.9%. The West area held 21.5% of new units built since 2010, and the Southeast area had the lowest share with 17.1% of units.

In suburban Salt Lake County, 1,887 new apartment units completed construction and began leasing in 2019, a single-year record surpassing the 1,250 new units constructed in 2015 (see Table 2). In the Early Suburbs area, 2017 was a record year with 378 new units constructed. The Southeast area set its record in 2015, with 416 new units. The Southwest area holds the record for any single year, adding 1,048 new apartment units in 2019. The West area also reached its record in 2019 for single-year construction with the delivery of 300 units.

Key physical characteristics distinguish single-family units based on their proximity to new apartment construction and impact their value (see Table 3). The size of a home is a major factor driving market value. In suburban Salt Lake County overall, homes located within 1/2 mile of new apartments are approximately 270 sq. ft., or 11.1%, smaller than those farther away. The size difference is even greater for those homes located in the Early Suburbs area; homes $\leq 1/2$ mile of new apartments are 640 sq. ft., or 26.0%, smaller than those that aren't. Homes located in the Southeast area are 438 sq. ft. smaller or 15.3%, while those located in the Southwest area are nearly identical, with a size difference of only 88 sq. ft., or 3.0%. The difference in size for homes in the West area is 142 sq. ft., or 7.4%.

Home age is another factor influencing value, although remodeling and updates often negate this effect. Homes in suburban Salt Lake County that are located $\leq 1/2$ mile of new apartments are seven years older on average than those located

Table 2: Annual Apartment Units Built by Geographic Area
(Excluding greater downtown area)

Area	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019*
Salt Lake County	1,008	693	292	647	794	1,250	1,027	1,038	1,005	1,887
Early Suburbs	256	100	40	307	211	210	288	378	293	300
Southeast	0	0	0	228	42	416	181	330	211	239
Southwest	496	315	252	0	258	334	270	330	238	1,048
West	256	278	0	112	283	290	288	0	263	300

*The data to measure impacts of apartments constructed in 2019 was unavailable at the time of this study.

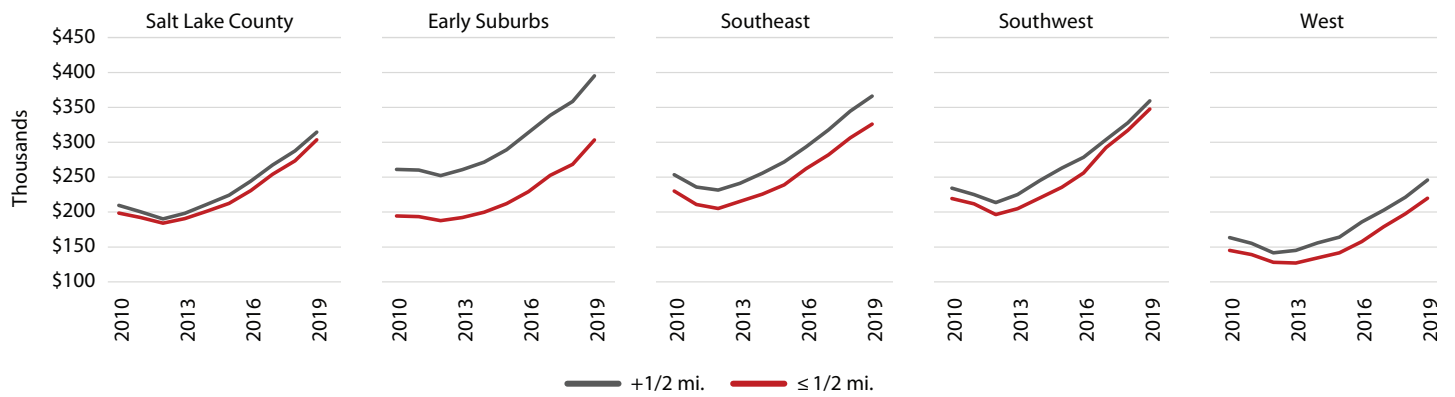
Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Table 3: Single-Family Characteristics by Geographic Area and Distance to New Apartments

Area	Distance to Apartment	# of Single-Family Homes	Median Bldg. Sq. Ft.	Median Age	Median Parcel Size (Acres)
Salt Lake County	+1/2 mi.	129,564	2,403	41	0.21
	$\leq 1/2$ mi.	27,829	2,134	48	0.19
Early Suburbs	+1/2 mi.	30,063	2,464	63	0.21
	$\leq 1/2$ mi.	11,383	1,824	77	0.16
Southeast	+1/2 mi.	28,378	2,866	41	0.23
	$\leq 1/2$ mi.	7,293	2,428	41	0.21
Southwest	+1/2 mi.	29,471	2,980	23	0.24
	$\leq 1/2$ mi.	5,005	2,892	19	0.22
West	+1/2 mi.	41,652	1,930	42	0.18
	$\leq 1/2$ mi.	4,148	1,788	61	0.18

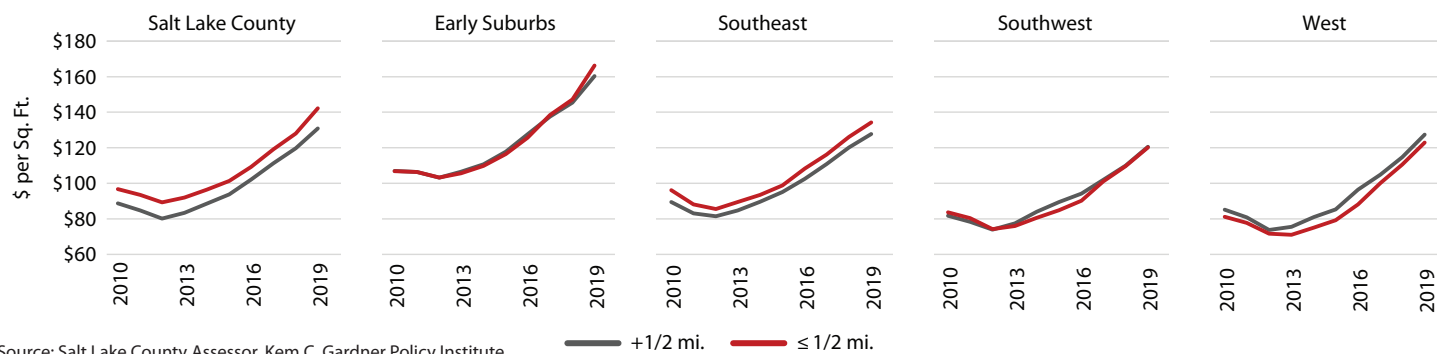
Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 3: Median Market Value of Single-Family Homes by Distance to Nearest Apartment



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 4: Median Market Value per Square Foot of Single-Family Homes by Distance to Nearest Apartment



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

farther away. Homes located $\leq 1/2$ mile in the Early Suburbs area are 14 years older than those that aren't. Southeast area homes are the same age, while those in the Southwest area that are located $\leq 1/2$ mile of new apartments are four years newer than those located farther. Homes in the West area average 19 years older, the largest age difference between homes that are $\leq 1/2$ mile of new apartments and those that are farther away.

Lot size is another key category that influences overall value. In suburban Salt Lake County, lot sizes average 0.02 acre smaller for homes located $\leq 1/2$ mile of new apartments. For homes located in the Early Suburbs area, lots are 0.05 acre smaller for homes $\leq 1/2$ mile from new apartments. Home lots in the Southeast, Southwest, and West areas are 0.02 acre smaller for those located $\leq 1/2$ mile of apartments.

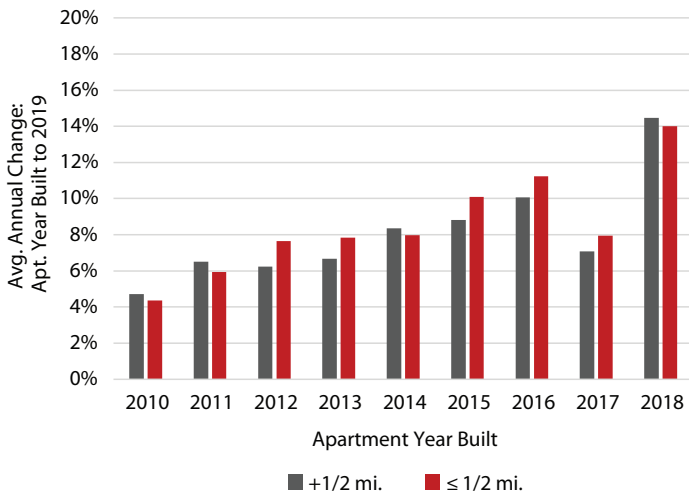
Results

The median market value of single-family homes is greater for those that are located more than 1/2 mile away from new apartments. Between 2010 and 2019, those that are farther than 1/2 mile averaged a 4.7% higher median value (see Figure 3). Homes located in the Early Suburbs area have the greatest discrepancies in values when compared by distance, with the difference averaging 34.6%. This is due to the fact that some of the most expensive and largest homes are located in the areas of Sugar House and Holladay. The average difference in value for homes located in the Southeast area over the last decade is 12.3%. Homes in the Southwest area show the median value

disparity lessening with time. Between 2010 and 2016 the difference by distance was 9.1%; however, the disparity narrowed to 3.5% between 2016 and 2019. This was driven by a 10.4% increase in median building square feet for homes within 1/2 mile of an apartment, leading to an overall increase in home values. The median value for homes in the West area has averaged 13.6% between 2010 and 2019.

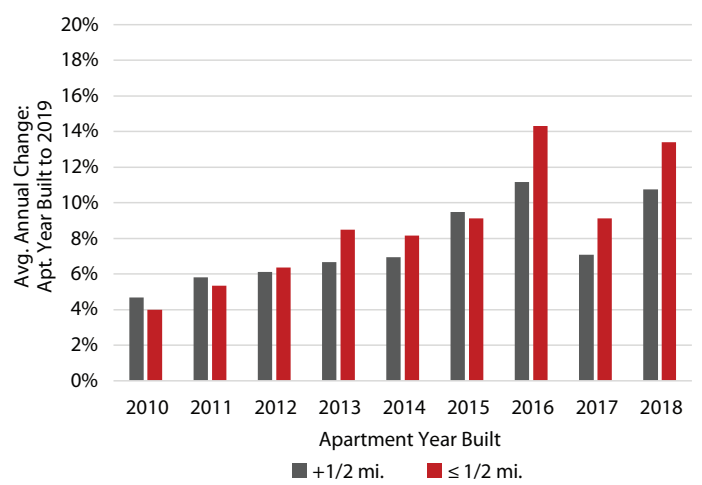
While the total median market value is greater for those single-family homes farther than 1/2 mile from new apartment construction, the opposite is true when measuring the median value per square foot (PSF). Between 2010 and 2019, homes

Figure 5: Average Annual Change in Median Price, Year of Apartment Built to 2019, Salt Lake County



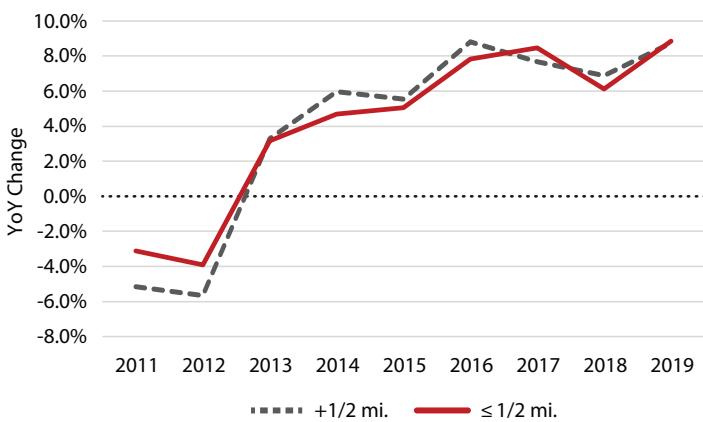
Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 7: Average Annual Change in Median Price, Year of Apartment Built to 2019, Early Suburbs



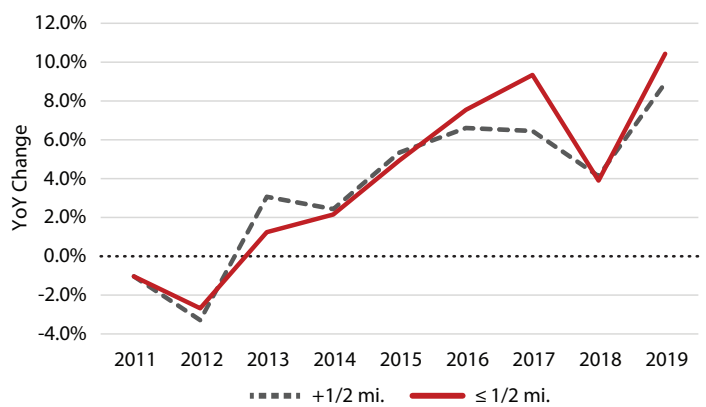
Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 6: Year-Over Change of Median Market Value, Salt Lake County



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 8: Year-Over Change of Median Market Value, Early Suburbs



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

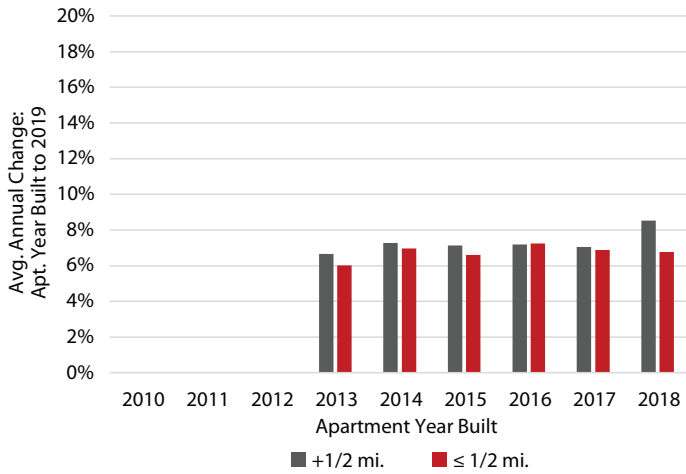
that are located ≤1/2 mile averaged an 8.8% higher PSF median value compared with those farther away (see Figure 4). Although the Early Suburbs area shows the highest discrepancy in total median market value in Figure 3, comparing values on a PSF basis shows there to be little to no difference between the two distances. PSF home values in the Southeast area averaged 5.3% higher for homes located ≤1/2 mile over the last decade. Similar to the trend seen in total median values, the PSF discrepancies in the Southwest favored homes that were farther away between 2013 and 2016, but shows no substantial difference since. The West area shows homes located ≤1/2 mile of a new apartment averaged 5.2% less in median value PSF over the decade when compared with homes farther away. The reason for this disparity is likely due to the homes' age. Homes located ≤1/2 mile of new apartments in the West area average 19 years older than those farther away.

The following sections present a summary of each individual study area's findings, starting with a summary for Salt Lake County.

Figures 5, 7, 9, 11, and 13 measure the average annual rate of value change from the year the nearest apartment was constructed to 2019. This measure is used to understand the overall impact new apartments have on existing single-family homes. Figures 6, 8, 10, 12, and 14 show year-over percent change of median market value to measure annual fluctuations.

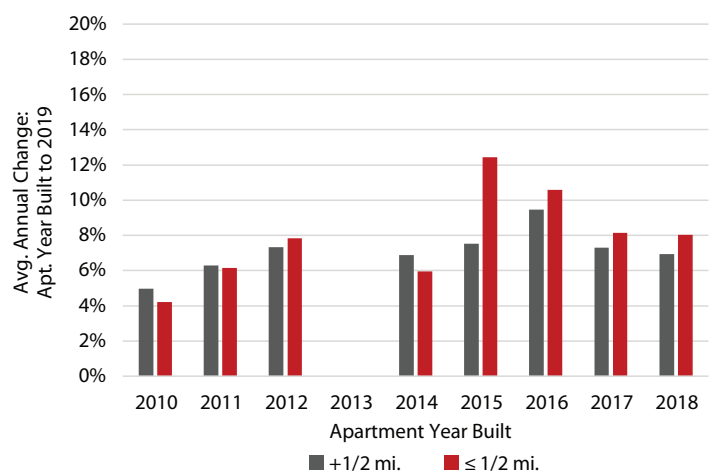
In suburban Salt Lake County, from the year of construction to 2019, single-family homes located ≤1/2 mile of a new apartment experienced a 10.0% average annual increase in value, while the value of homes farther away increased 8.6% on average annually (see Figure 5). Homes that were located more than 1/2 mile in 2010 and 2011 experienced a 1.9-percentage-point larger decline in their value than those that were closer to

Figure 9: Average Annual Change in Median Price, Year of Apartment Built to 2019, Southeast



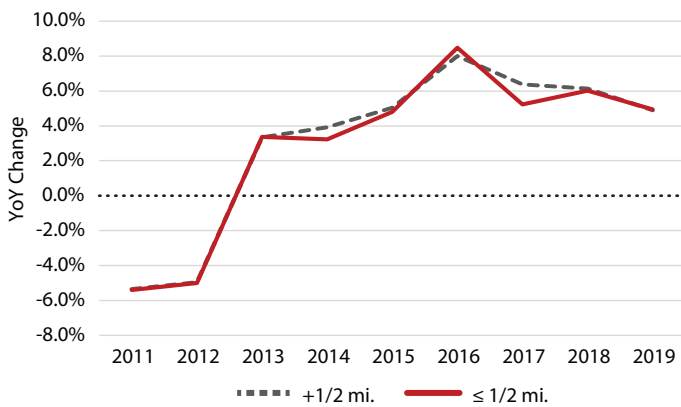
Note: There was no new apartment construction between 2010 and 2012.
Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 11: Average Annual Change in Median Price, Year of Apartment Built to 2019, Southwest



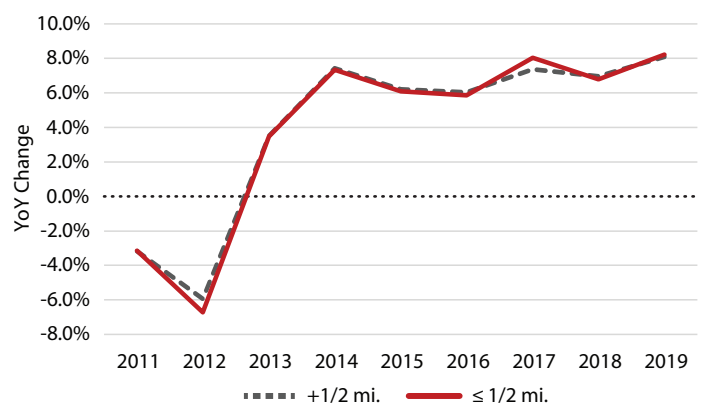
Note: There was no apartment construction in 2013.
Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 10: Year-Over Change of Median Market Value, Southeast



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 12: Year-Over Change of Median Market Value, Southwest



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

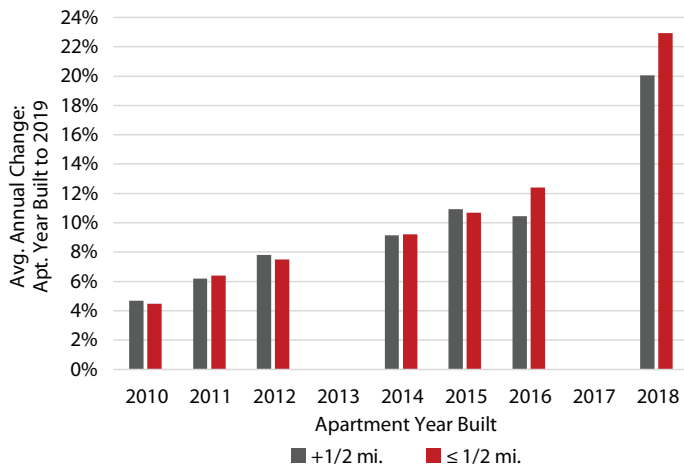
a new apartment building, showing that apartment proximity had a positive impact overall on preserving value during the recession (see Figure 6).

From the year of construction to 2019, homes in the Early Suburbs area that are located ≤1/2 mile of a new apartment experienced a 10.7% average annual increase in value, while the value for homes farther away increased 7.6% annually on average (see Figure 7). Year-over changes have shown some disparities over the last decade. Homes farther than 1/2 mile saw a more positive appreciation from 2012 to 2015, while homes located ≤1/2 mile outperformed those farther away between 2016 and 2019 (see Figure 8).

The Southeast area is the only instance where homes that are more than 1/2 mile away from new apartment construction experienced higher average price appreciation than those located ≤1/2 mile (see Figure 9). Homes farther away

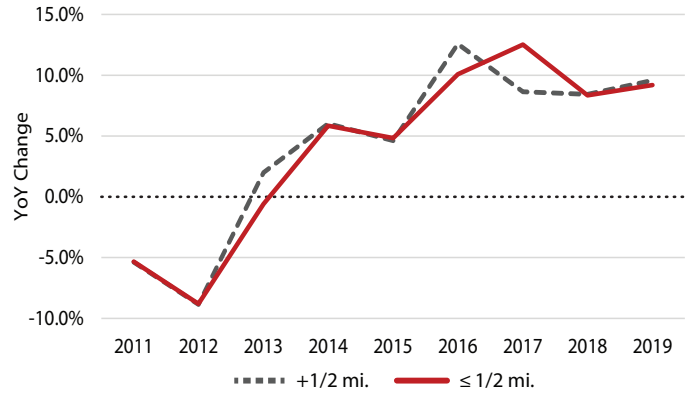
experienced an annual appreciation of 7.3% between year the apartment was constructed to 2019, and those located ≤1/2 mile saw their values increase 6.8% annually. The likely explanation for this discrepancy is that there is a higher concentration of larger retail development near those homes that are located ≤1/2 mile of apartments than in any other study areas. In the other three study areas, homes located ≤1/2 mile of an apartment were near an average of 20% less retail space when compared with homes farther away. In the Southeast area, there is 84% more retail space near homes that are closer to new apartment construction compared with those farther away. Year-over annual trends stayed similar for both distance categories with the exception of 2014 and 2017, when homes farther than 1/2 mile experienced slightly greater annual growth (see Figure 10).

Figure 13: Average Annual Change in Median Price, Year of Apartment Built to 2019, West



Note: There was no new apartment construction in 2013 and 2017.
Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

Figure 14: Year-Over Change of Median Market Value, West



Source: Salt Lake County Assessor, Kem C. Gardner Policy Institute

In the Southwest area, from the year of construction to 2019, single-family homes located ≤1/2 mile of a new apartment experienced a 9.7% average annual increase in value, while the value for homes farther away increased 7.7% on average annually (see Figure 11). Median value year-over trends in the Southwest area show little or no difference between apartment proximities (see Figure 12).

Homes in the West area that are located ≤1/2 mile of a new apartment experienced a 13.7% average annual increase in value, while the value for homes farther away increased 10.5%

annually on average (see Figure 13). Year-over trends show some fluctuation through the last decade. Homes farther than 1/2 mile outperformed annual price growth in 2013, 2016, and 2019, while homes located ≤1/2 mile outperformed in 2017, with the remaining years showing relatively similar year-over price shifts (see Figure 14).

Conclusion

The public perception about high-density housing continues to be a point of conflict in growing communities across Utah and the country. While many stereotypes and generalizations about negative impacts are brought up in public settings, high density development does not actually appear to depress home values.¹¹ From the year an apartment was constructed to 2019, in Salt Lake County, single-family homes that were located within 1/2 mile of new apartment construction realized 1.4% more in annual price appreciation than those single-family homes that were located farther away. This is likely because new apartment construction brings new demand and new dollars to a community and redevelops an older piece of property, thus bringing more vibrancy and “buzz” to the area.

The challenges of housing affordability are not going away anytime soon. While density is a solution to alleviate costs, zoning is the mechanism that allows or denies it. Zoning regulations, more than any other local policies, govern the annual supply of single-family and multifamily housing. In recent years, the supply of housing has not met the demand, creating a housing shortage.¹² This shortage has tremendous impacts on Utah’s future. The shortage has also excluded many from homeownership, added to substantial increases in doubling-up of households, delayed marriages, and discouraged young people from forming new households.

Endnotes

1. National Association of Realtors
2. <https://gardner.utah.edu/wp-content/uploads/May2018HousingReport.pdf>
3. Haughey, R. "Higher Density Development Myths and Facts." Urban Land Institute - ULI. Washington, D.C. 2005
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8. Arthur C. Nelson and Mitch Moody, "Price Effects of Apartments on Nearby Single-Family Detached Residential Homes," Working Draft (Blacksburg, Virginia: Virginia Tech University, 2003).
9. Arthur C. Nelson, "Top Ten State and Local Strategies to Increase Affordable Housing Supply," *Housing Facts & Findings*, vol. 5, no. 1.
10. Robert Dunphy and Kimberly Fisher, "Transportation, Congestion, and Density: New Insights," *Transportation Research Record*, 1996.
11. https://furmancenter.org/files/media/Dont_Put_It_Here.pdf
12. <https://gardner.utah.edu/wp-content/uploads/Best-Practices-Dec2020.pdf>

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2019 WL 5424771

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK
COURT RULES BEFORE CITING.Superior Court of Connecticut,
Judicial District of Hartford at Hartford.

DAKOTA PARTNERS, INC.

v.

NEWINGTON TOWN PLAN
AND ZONING COMMISSION

HHDCV186103767S

1

August 28, 2019

Opinion

Hon. William A. Mottolese, Judge Trial Referee

*1 In this affordable housing appeal, governed by the terms of [§ 8-30g of the General Statutes](#), the Newington Town Plan and Zoning Commission (“the commission”) denied the plaintiff’s application¹ for approval of an “assisted housing” development as that term is defined in subsection (a)(3) of that statute. The development calls for construction of 108 “workforce”² rental housing units in three buildings consisting of twenty-seven one-bedroom and eighty-one two-bedroom apartments. Ninety percent of the units (97) will be preserved for households earning between \$18,000 and \$43,000 per year. The property consists of 7.6 acres and is located in the PD (Plan Development) zone which permits a variety of uses by special permit including dwelling units at a density of 4,500 square feet per unit. The property is located on Cedar Street which is State Route 175 and is bordered on two sides by commercial and industrial uses and on the third side by a railroad track which serves the New Haven/Hartford line. 8.2% of Newington’s housing stock qualifies as affordable under [§ 8-30g](#). Newington has no discreet set of affordable housing regulations as such but, as will be demonstrated *infra*, has enacted some regulations which may be considered “inclusionary” under G.S. § 8-2i(2). The commission denied the application and made several findings to support its decision.


AGGRIEVEMENT

The parties have filed a written stipulation which establishes the fact that the plaintiff has been the contract purchaser of the property which is the subject of this appeal not only at the time the application was filed but at all times during the pendency of this proceeding. Accordingly, the plaintiff is found to be aggrieved. [Goldfeld v. Planning and Zoning Commission](#), 3 Conn.App. 172, 177 (1985).

STANDARD OF REVIEW

“In conducting its review in an affordable housing appeal, the trial court must first determine whether “the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record.” [General Statutes § 8-30g\(g\)](#). Specifically, the court must determine whether the record establishes that there is more than a mere theoretical possibility, but not necessarily a likelihood, of a specific harm to the public interest if the application is granted. If the court finds that such sufficient evidence exists, then it must conduct a plenary review of the record and determine independently whether the commission’s decision was necessary to protect substantial interests in health, safety or other matters that the commission legally may consider, whether the risk of such harm to such public interests clearly outweighs the need for affordable housing, and whether the public interest can be protected by reasonable changes to the affordable housing development.” [River Bend Associates, Inc. v. Zoning Commission](#), 271 Conn. 1, 26 (2004).

*2 The expression “more than a mere theoretical possibility” has been refined to mean that “the record must contain evidence of a quantifiable probability that specific harm will result if the application is granted. [Avalon Bay Communities, Inc. v. Zoning Commission](#), 130 Conn.App. 36, 58 (2011), cert. den. 303 Conn. 909 (2011). Our courts have further instructed that trial courts must make an independent, plenary review of the record which includes the responsibility to review that record scrupulously. [Quarry Knoll II Corp. v. Planning and Zoning Commission](#), 256 Conn. 674, 730 (2001). In conducting the review the court does not become a fact finder, *de novo*. The commission remains the fact finder. But the process requires a mixed factual

and legal determination, the legal components of which are subject to plenary review by the trial court. In asserting its independence in the review process the court cannot be influenced by the commission's judgment but must make its own judgment by weighing the record evidence. With these principles as guidance each reason will be subjected to the two-part exercise.  *River Bend Associates, Inc. v. Zoning Commission*, 271 Conn. at 23-24.

THE COMMISSION'S DECISION

The commission issued three separate decisions (“Certificates of Action”) on the application, one each for the text change, zoning map and the site plan. Each decision, though basically the same, differs in certain ways which are not material to the court's analysis of whether the commission has satisfied its burden of proof that its decision and the reasons therefor are supported by sufficient evidence. On the other hand, these findings are material to the court's analysis under subparts (A), (B) and (C) of subsection (g)(1) of the statute.

Essentially, the commission's denial is based predominately, if not totally, on its determination that the proposal as designed will create a traffic safety hazard to pedestrians of two distinct classifications, viz: (i) children waiting for boarding and alighting from school buses; and (ii) pedestrians whom the commission predicts will walk from the site along the shoulder of Cedar Street which has no sidewalk, to a CT Fastrak bus depot³ located more than 1,200 feet away.⁴

School Bus Safety

Based upon demographic data compiled by Rutgers University the plaintiff estimated that 28-30 school age children could reside at the development. Because the town Board of Education will not, as a matter of general policy, send a school bus onto private property to pick up students (except for the handicapped), the plaintiff proposed the creation of a bus shelter 20 feet back from its frontage on Cedar Street. While it is obvious that a pull off lane would promote optimum child safety the plaintiff explained that such a facility is impossible because its location would conflict with a requirement of the Newington Wetlands Commission that a building proposed for the development be located at that very spot.

The parties offer different interpretations of the evidence in the record as to whether the bus shelter would adequately satisfy child safety requirements. Several persons in various capacities weighed in on this issue. The commission claims that the testimony (unsworn) of Lou Jachimowicz, a representative of the Board of Education whose exact responsibility was not specified, amply supports its burden of proof. Mr. Jachimowicz stated at public hearing that “the community should expect that there will be either 3 or 4 stoppages of traffic both in the morning and afternoon to allow loading and unloading of students. This type of bus stop would be inherently dangerous because of the speed, traffic counts and lane changing that occurs on Cedar Street ...” Mr. Jachimowicz recommended a loop access road at the southeast corner of the site on which a “gathering area for students/bus riders would be provided along the north side of this access road.” The plaintiff explained that construction of such a loop access road is impossible for the same reason that a bus pull off is impossible, namely, lack of space on the property. In its reply brief (pg. 4), the commission characterizes this statement as an expression of “serious concern.” On the contrary, Dean Barnes, the Director of Transportation for the Board of Education, suggested that if certain changes were made to the design, the bus stop location would be acceptable. Moreover, even Jachimowicz recommended certain improvements which would alleviate if not eliminate his concern, to which the plaintiff agreed.

*3 The plaintiff engaged the traffic engineering firm of Alfred Benesch & Company to conduct a traffic study of the site in relation to Cedar Street and its environs. The study was prepared under the supervision of Stephen R. Ulman who is the firm's lead traffic engineer. Mr. Ulman is a Connecticut licensed professional engineer and an expert in his field. After conferring with town officials who had responsibility for traffic and pedestrian safety, Mr. Ulman opined that the design and location of the bus stop would be adequate to protect the safety of school children. Moreover, the record reflects that the town traffic authority,⁵ acting through Lieutenant Michael Morgan, offered no critical comments of the plan except to state that “the traffic signal at the driveway should be set to continuous red-yellow-green and not blinking during the early hours of the morning.” Additionally, he stated that he had no objection to the traffic impact study as long as during the nighttime hours the traffic light was placed on flash and a right-turn restriction was included in order to reduce sightline impairment. The plaintiff readily agreed to this. In addition, the site plan was reviewed by the town engineer who was satisfied that all outstanding issues could be addressed

satisfactorily. The court believes that it is disingenuous for the commission to argue in its brief that because these officials did not expressly endorse the plan the court should infer a lack of approval of traffic safety issues because the commission should have recognized that it was the sworn responsibility of these officials to protect the safety of the Newington public either directly as in the case of the traffic authority or indirectly in the case of the town planner and town engineer. See, *Lury v. Zoning Board*, 150 Conn. 136, 145 (1962); *Old Farms Crossing Associates Ltd. Partnership v. Planning and Zoning Commission*, 1996 WL367734 (1996).

Notwithstanding the plaintiff's substantially lower estimate derived from the Rutgers study (See p. 4 above), the commission concluded that "nearly fifty school age children would reside in the development" and then stated that "it is reasonable to assume that several school buses will stop here twice a day. That presents an unacceptable safety concern." It cannot be disputed that if school age children reside in this development school buses will stop in front of the site at least twice a day to transport them to and from school. Such an assumption accords with common experience and the plaintiff does not dispute this assumption. What the plaintiff does dispute, as being unsupported by sufficient evidence is the conclusion that this condition will create an unacceptable safety hazard.

It is well established that lay members of a land use agency are entitled to rely on their own personal knowledge of traffic congestion and street safety. *Central Bank for Savings v. Planning and Zoning Commission*, 13 Conn.App. 448, 456 (1988). It is also well established that the credibility of witnesses is a matter solely within the province of the agency. *Calandra v. Zoning Commission*, 176 Conn. 439, 440 (1979). Moreover, "the commission may rely on statements of neighborhood residents about the nature of existing roads in the area and the existing volume of traffic." *American Institute for Neuro-Integrative Development, Inc. v. Town Plan and Zoning Commission*, 189 Conn.App. 332, 350 (2019). There is, however, a well-recognized exception to this precept and that is where there is expert testimony, that a given proposal will not unduly expose pedestrians to traffic dangers, the record must contain evidence which undermines either the credibility or the ultimate conclusions of that expert and if absent, the commission must credit the expert testimony. *Id.* Moreover, the commission has the burden of showing evidence in the record to support its decision not to believe the experts. Additionally, in the absence of contrary expert testimony the commission was required to

point to other probative evidence showing that the proposal implicated a substantial public interest. *Kaufman v. Zoning Commission*, 232 Conn. 122, 157 (1995).

In the present case, in addition to the traffic safety expert's ultimate conclusion, multiple town officials either expressly or impliedly voiced their approvals of the plan for the bus stop or failed to raise any objection. They have been identified above as the town traffic authority, the town engineer, the director of transportation of the school board and the town planner. In the final analysis, in the face of multiple vocal area residents who expressed themselves in opposition at the public hearings, the commission elected to disregard the expert and quasi-expert testimony and interpose the members' own personal notions that traffic conditions on Cedar Street would present an "unacceptable safety concern." The court notes that ordinarily in land use cases, general, nonspecific concerns do not qualify as sufficient evidence. As noted above, the sufficient evidence standard requires that the record establish more than a theoretical possibility that these children will be unduly exposed to harm. Indeed, the record must contain evidence as to a *quantifiable probability* that a specific harm will result. *Avalon Bay Communities, Inc. v. Planning and Zoning Commission*, 103 Conn.App. 842, 853-54 (2007). (Emphasis added.)


*4 The record evidence reveals the following: (1) approximately thirty school age children are estimated to reside in the development; (2) Cedar Street is a two-lane state highway with single lane in each direction; (3) the speed limit on Cedar Street ranges from 35 to 50 miles per hour; (4) traffic accidents were documented at three nearby intersections but none directly in front of the site; (5) for the period 2015 through 2017 over 100 vehicle crashes occurred at these intersections; (6) of this number 558 were rear-enders which did not involve injuries or pedestrians; (7) none of these crash patterns warranted geometric improvement; (8) no pedestrian injuries of any kind were documented.

Relevant to the commission's concern are *General Statutes* § 14-277, § 14-279 and 14-300f which set forth the requirements of both the operator of a school bus and the operator of an approaching motor vehicle. These statutes provide in pertinent part as follows:

Sec. 14-277.

Operator's duties on stopping bus. Notwithstanding the provisions of subsections (a) to (c), inclusive, of section 14-242, the operator of any school bus, when about to bring his bus to a stop to receive or discharge passengers, shall signal his intention to do so by causing the flashing signal lights to be displayed for not less than fifty feet before he brings the bus to a stop so as to be clearly visible to the operator of any oncoming or overtaking vehicle or motor vehicle, except that the operator of any school bus equipped with amber flashing signal lights shall signal such intention by causing the amber flashing lights to be displayed for not less than one hundred feet before he brings the bus to a stop. The operator of any school bus, having brought his vehicle to a stop, shall not open the door to receive or discharge passengers until all vehicles approaching from the front and overtaking from the rear have stopped in compliance with the indicated signal to stop. The operator of any school bus equipped with amber flashing signal lights and a stop semaphore, having brought his vehicle to a stop, shall cause the red flashing signal lights to be displayed and the stop semaphore to be extended and shall not open the door until all vehicles approaching from the front and overtaking from the rear have stopped in compliance with the indicated signal to stop. After all passengers are safely aboard or discharged and safely off the highway, the operator shall extinguish the stop lights and the operator of any school bus equipped with a stop semaphore shall withdraw the stop semaphore. He may then permit all standing traffic to pass before resuming forward progress. While such school bus is in motion the doors shall remain closed at all times and all passengers shall be required to remain seated. No operator of any school bus shall stop his vehicle on the main traveled portion of the highway to receive or discharge passengers when existing highway shoulders or adequate highway width is available or where curbs, bus stops or special facilities exist. No such operator may receive or discharge any passenger on a highway with separate roadways unless (1) a boarding passenger may reach the bus stop and a discharged passenger may reach his residence or other destination without crossing such highway, or (2) he stops the bus at a location having a traffic control signal or crossing guard.

(c) Any person who violates any provision of this section shall, for a first offense, be deemed to have committed an infraction and for each subsequent offense shall be fined not less than one hundred dollars nor more than five hundred dollars.”

 **Sec. 14-279.** *“Vehicles to stop for school bus. Penalties. Written warning or summons.* (a) The operator of any vehicle or motor vehicle, including an authorized emergency vehicle, as defined in section 14-1, shall immediately bring such vehicle to a stop not less than ten feet from the front when approaching and not less than ten feet from the rear when overtaking or following any registered school bus on any highway or private road or in any parking area or on any school property when such bus is displaying flashing red signal lights, except at the specific direction of a traffic officer. Vehicles so stopped for a school bus shall not proceed until such school bus no longer displays flashing red signal lights, except that a stopped authorized emergency vehicle may proceed as long as such authorized emergency vehicle is operated pursuant to section 14-283. At the intersection of two or more highways vehicular turns toward a school bus receiving or discharging passengers are prohibited. The operator of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway.

*5 (b) Any person who violates any provision of subsection (a) of this section shall be fined four hundred fifty dollars for the first offense and for each subsequent offense, not less than five hundred dollars nor more than one thousand dollars or imprisoned not more than thirty days or both.”

Sec. 14-300f. *“Vehicles to stop for school crossing guard. Penalties. Issuance of warning or summons upon report of school crossing guard.* (a) The operator of a motor vehicle shall immediately bring the motor vehicle to a stop not less than ten feet from a location on any highway or private road where a school crossing guard is on duty when the school crossing guard specifically directs the operator to do so. Any motor vehicle so stopped for a school crossing guard shall not proceed until the school crossing guard specifically directs the operator to do so.

(b) Any person who violates any provision of subsection (a) of this section shall be fined four hundred fifty dollars for the first offense and, for each subsequent offense, not less than five hundred dollars nor more than one thousand dollars or imprisoned not more than thirty days, or both.


(c) Upon receipt of a written report from any school crossing guard specifying the license plate number, color and type of any motor vehicle observed by such school crossing guard violating any provision of subsection (a) of this section and the date, approximate time and location of such violation, a

police officer may issue a written warning or summons to the owners of such vehicle.” As in *Avalon Bay Communities, Inc. v. Planning and Zoning Commission*, 103 Conn.App. at 852, the commission based its conclusion that the bus stop situation presented an “unacceptable safety concern” on a “reasonable assumption” as to human behavior. The notable difference between *Avalon Bay* and the present case is that in the former, the assumption was based on the testimony of experts whereas here, there was no evidence of any kind to support the assumption. Rather, the conclusion was based solely on the personal knowledge of the individual commission members and the unsubstantiated fears expressed by members of the public. Significantly, the *Avalon Bay* court called that out as “speculation,” because “the record did not identify the probability that specific harm would ensue.” *Id.* at 853-54. In the present case the record is devoid of any evidence offered by the Board of Education, any member of the public, any expert or the commission itself as to the number of school bus accidents or pupil casualties which may have occurred in the same or similar locations in Newington. To characterize the proposed school bus stop as “inherently dangerous” without any facts to support it is not only conclusory but is nothing more than an expression of general concern. Therefore, this reason was not supported by sufficient evidence in the record.

Pedestrian Safety

There is no question that pedestrian safety constitutes a substantial public interest warranting protection. In a proper case it even constitutes a valid and pertinent reason for a zoning commission to deny an application for a change of zone as well as a site plan. See G.S. 8-2(a) (Zoning Regulation to “secure safety from dangers”); *First Hartford Realty Corporation v. Plan and Zoning Commission*, 165 Conn. 533, 543-44 (1973).

*6 The commission gave the following reason for denying site plan approval. “The applicants have not proposed to construct a sidewalk from 550 Cedar Street to the CT Fastrak station on Fenn Road. The absence of such a sidewalk presents an unacceptable traffic hazard. As “workforce” housing it must be assumed that many of Cedar Pointe residents will want to use CT Fastrak to get to work. The lack of sidewalks will not deter those who do not have access to a car from attempting to walk to the CT Fastrak station on Fenn Road, at great risk of injury.”

The commission identified as a potential hazard to pedestrians the proximity of the Fastrak bus station which the commission predicted many residents will use to get to work. As mentioned above, the bus station is located approximately 1,200 feet distant from the site and will be accessible to residents walking to, from and along the Cedar Street frontage. The commission based this prediction on an assumption that because the bus station has no vehicle parking facilities of its own, the only way to get there is by walking. The plaintiff estimated that approximately ten percent of the residents or eleven of 108 units would not have automobiles. The plaintiff predicted that these residents would utilize taxis or ride-call services such as Uber or Lyft. Here again, the commission “assumed that many of the Cedar Point residents will want to use [the bus station] to get to work.” There was no traceable evidence in the record to support this assumption. “In relying on assumptions as to how individuals will behave under a particular set of circumstances, the commission rested on speculation to support its safety concerns.” *Avalon Communities, Inc. v. Planning and Zoning Commission*, 103 Conn.App. at 853. In order to reach this conclusion the commission had to indulge in several assumptions. First, it had to assume that “many” of the residents will seek access to the bus station to get to work, for shopping or for any other purpose. Second, it had to assume that many of the residents will walk to the bus station when only ten percent will be without their own cars, and consequently that these ten percent will not avail themselves of ride-call services or any other means of conveyance. Finally, the commission had to assume that pedestrians and motor vehicle operators will break the law.⁶ While not appearing in the record, counsel revealed at trial that pedestrians have worn a dirt path on the adjacent shoulder of Cedar Street presumably to access desired destinations. At the same time, the record contains no history of pedestrian casualties on either Cedar Street or any of its relevant intersections. Similarly, in  *Avalon Bay Communities, Inc. v. Planning and Zoning Commission*, 130 Conn.App. 36, 57 (2011), the court reversed a trial court's finding that there was evidence to support the commission's determination that a head-on collision would likely occur if a vehicle encountered a firetruck traveling in the middle of the road in the opposite direction because G.S. § 14-283(e) requires an oncoming vehicle to yield passage to an emergency vehicle which has engaged its warning devices. Implicit in this reliance on public observance of the state motor vehicle laws is the concept that unless there is more than a theoretical possibility that the laws will be violated, an 8-30g developer is entitled to rely on a belief that a motor vehicle operator will obey the law. Just as a zoning authority

when reviewing an application for a zoning permit should not anticipate that a property will be used in violation of the applicable zoning regulations, so too it is impermissible for a zoning authority to anticipate that both motor vehicles and pedestrians will violate these statutes in their use of our highways. See, *Armstrong v. Zoning Board of Appeals*, 158 Conn. 158, 168 (1969). The foregoing analysis requires this court to conclude that this particular reason was not supported by sufficient evidence in the record.

Other Reasons for Denial

*7 The record reveals that the commission's trial brief defends at least one reason which was never articulated by the commission. Additionally, other reasons actually assigned by the commission are not mentioned in the commission's briefing. The commission's briefing argues that because the plaintiff's traffic safety expert admitted that "site lines to the west do not meet the required site line distances" the public interest "of traffic safety has been implicated. It is noted that this condition does not appear as a reason for denial in any of the commission's certificates of action nor can the condition be reasonably inferred from any articulated reason.

It is now well established that under G.S. § 8-30g "if a town denies an affordable housing land use application, it must state its reason on the record, and that statement must take the form of a formal official, collective statement of reasons for its actions. These requirements strongly suggest that the town be obligated, when it renders its decision, to identify those specific public interests that it seeks to protect by that decision, so that the court in reviewing that decision will have a clear basis on which to do so." (Emphasis added.)

JPI Partners, LLC v. Planning and Zoning Board, 259 Conn. 675, 688-89 (2002). It therefore logically follows that if articulated reasons are essential under § 8-30g then it is improper for a zoning commission to advance a reason on appeal which it did not adopt as part of its decision (certification of action). *Id.* at 680. It is further noted that the obscured site line is easily ameliorated by adjusting the timing on the traffic light which will be installed at the driveway on Cedar Street. Remarkably, this site line issue is demonstrably dissimilar to the site line involved in *Stefanoni v. Planning and Zoning Commission*, 2012 WL5476918 where the site line was obscured by the crest of a hill on State

Route 136 which unlike the traffic light in this case, could not be remedied.

At the same time, the commission offers no discussion at its briefing of reason number five which the commission assigned as a ground for denial of the proposed zoning text amendment. That reason reflects the commission's determination that the proposed regulation is not consistent with Newington's plan of conservation and development which seeks to promote "naturally occurring affordable housing," for the elderly, persons with disabilities and veterans. Our courts have consistently held that a plan of conservation and development adopted under G.S. § 8-23 is advisory only. *Avalon Bay Communities, Inc. v. Orange*, 256 Conn. 557, 575 (2001). "The nature and purpose of such a plan is to set forth the most desirable use of land and an overall plan for the town," *Id.* Enjoying such status, the plan constitutes a public interest which deserves to be protected and promoted. *Calandra v. Zoning Commission*, 176 Conn.

at 441, *supra*. However, § 8-30g is a remedial statute which must be liberally construed in favor of those whom the legislature intended to benefit, *Town Close Associates v. Planning and Zoning Commission*, 42 Conn.App. 94, 105 (1996). Moreover, if an affordable housing application may not be denied because it does not comply with the underlying zoning of the area, *a fortiori*, the application cannot be denied because it is not consistent with a plan of development and conservation, *Wisniowski v. Planning and Zoning Commission*, 37 Conn.App. 303, 312 (1995).

Likewise, the commission offers no analysis of reasons 2, 3 or 4 contained in the same Certificate of Action. These reasons find unacceptable the apartment sizes, the as of right nature of the proposed regulations and the level of quality of construction materials. Lack of briefing may well be attributed to the fact that such considerations are largely irrelevant to the approval of an § 8-30g application. See, especially § 8-30g(b)(1). It is well settled that issues which were adjudicated at trial but not substantively discussed in a trial brief are deemed to be abandoned, see *Connecticut Light and Power Company v. Department of Public Utility Control*, 266 Conn. 108, 120 (2003).

*8 Under § 8-30g jurisprudence, having determined that none of the reasons assigned by the commission is supported by sufficient evidence in the record and therefore the commission has failed in its burden of proof, the court's

scope of review would ordinarily end. Nevertheless, because affordable housing applications under § 8-30g implicate substantial public policy goals, this court interprets its duty under prevailing case law to include the need to evaluate the commission's action under § 8-30g(g)(1)(A), (B) and (C) if for no other reason than to provide further guidance to the commission should the commission have other 8-30g applications, bearing in mind that the statute is remedial in purpose.⁷

Reason #1 given as grounds for denial of the text change unmistakably contains an implicit balancing exercise of the need to protect the identified public interest against the need for affordable housing in Newington.⁸ It is now well settled that the “need” for affordable housing to which the statute refers is a local, not regional or statewide need, *Christian Activities Council, Congregational v. Town Council*, 249 Conn. 566, 598 (1999). Certainly, the commission treated the application in the same manner. Examination of the two sections of the regulations which are cited to support a finding of lack of need of additional affordable housing reveals that the first section cited (Sec. 3.7.2) deals only with elderly (55 or older) housing and Sec. 3.7.3, not 3.7.4 as incorrectly stated in the Certificate of Action, permits single-family entry level housing at a cost of not more than 30% of “area median income.” There are significant differences between affordable housing envisioned, under § 8-30g and these two provisions. First, § 3.7.2 housing is not open to the general population but is age restricted and therefore limits eligibility. Section 3.7.3 by its terms is limited to single-family homes approved by special permit which can only be located on “a separate, subdivided lot and be intended for private ownership.” By their very nature these regulations are exclusionary. First, § 3.7.2 denies affordable housing to the age group that predominately populates a workforce. Second, under Sec. 3.7.3, single-family entry level housing excludes multi-family housing and rental occupancy by mandating ownership.⁹ Finally, § 3.13.5 (not mentioned by the commission) authorizes, by special permit, a density bonus for affordable housing but only in the B-TC Business Town Center zone. Examination of the Newington zoning district map reveals that this zone exists of a very small percentage of the total area of the town. Indeed by its very title it is limited to the business center of town.

*9 Long before the enactment of Sec. 8-30g, section 8-2(a) has mandated that each municipality which adopts zoning regulations “shall encourage the development of housing opportunities, including opportunities for multi-family dwellings.” (Emphasis added.) The statute also mandates that “such regulations shall also promote housing choice and economic diversity in housing, including housing for both low and moderate income households, and shall encourage the development of housing which will meet the housing needs identified in the state's consolidated plan for housing and community development prepared pursuant to section 8-37t and in the housing component and the other components of the state plan of conservation and development prepared pursuant to section 16a-26.” Moreover, the legislature has demonstrated its preference for “inclusionary zoning” by enacting Sec. 8-2i which not only authorizes municipalities to enact inclusionary zoning regulations but defines it as a regulation designed to promote affordable housing for families of low and moderate income.

The second part of reason #1 is that the proposal does not significantly add to the range of affordable housing options in Newington. This statement does not correspond with the facts. The Cedar Street site is located in the PD (Planned Development zone). In Sec. 3.19, this zone authorizes by special permit, up to seventy-three housing units on the site. The plaintiff's application calls for the construction of an additional thirty-five units or roughly 48% more than is potentially allowed by special permit. By any rational standard, 48% more is a significant addition notwithstanding the commission's contrary finding. The commission's final characterization of the application as not significantly increasing the range of affordable housing options is likewise misguided. On the contrary, workforce housing fills a need which is universally recognized in Connecticut, namely the need to house members of the police and fire departments, school teachers, and other municipal employees as well as non-governmental workers in the community who could not afford to live in Newington but for affordable housing. In a word, workforce housing provides an option which clearly does not exist under the Newington zoning regulations. Creating housing opportunities as described in the town's plan of conservation and development by waiting for “naturally occurring affordable housing units”¹⁰ creates an option which may never be fulfilled in the lifetime of a needy member of the Newington workforce. Undeniably then, the need for affordable housing in Newington clearly outweighs the need to protect a public interest which the court has already labeled nothing more than a theoretical possibility.

In summary, the court concludes that the commission has failed to satisfy its evidentiary burden because there is only a theoretical possibility and no quantifiable probability that denial of the application is necessary to protect the identified public interests. Furthermore, a plenary review of the record fails to disclose any basis for concluding that the need to protect the identified public interest outweighs the need for affordable housing in Newington. Accordingly, the appeal is sustained and the case is remanded to the commission with direction to approve all three applications subject to all conditions previously imposed by the commission.

Notwithstanding the above conclusion, as a final act of review, the court is required under [§ 8-30g\(g\)\(1\)\(C\)](#) to determine whether the record reveals any reasonable change that could have been made to the proposed development which would protect against the potential safety hazards which the commission has identified. It is obvious that a school bus pull-off and a linear-shoulder sidewalk would mitigate, if not totally eliminate, the perceived safety hazards arising from the assumption of potentially risky conduct by school children and pedestrians. As stated earlier, the pull-off cannot be constructed because there is no room on the site given the stricture of wetlands regulation. As for the sidewalk, the commission acknowledges that it had no power to condition approval on construction of a sidewalk because the highway right of way is controlled by the Connecticut Department of Transportation and not the town of Newington. Nevertheless, the commission requested that the plaintiff endeavor to obtain approval for the construction of such a sidewalk from the Department of Transportation. In response, the plaintiff reported that it had reached agreement “in principle” with the DOT and as a result, committed to

pay up to \$260,000 to fund the improvement. The court is acutely mindful that “affordable housing appeals statutes authorize trial courts to employ more expansive remedies than are available to courts in traditional zoning appeals.”

[Avalon Bay Communities v. Zoning Commission](#), 284 Conn. 124, 141 n.15 (confirming power of a court to order commission to grant application or to provide the court with more evidence; see also [Brenmor Properties v. Planning and Zoning Commission](#), 162 Conn.App. 678, 710-11 (2016)). Therefore, without making it a condition, the achievement of which is beyond the parties' control, the commission shall delay issuance of final site plan approval until completion of the following. Consistent with the plaintiff's deadline for obtaining governmental financial assistance and not beyond, and based upon the plaintiff's expressed willingness to move forward, the plaintiff shall promptly engage in a good faith effort with the Connecticut Department of Transportation to seek approval for construction of a sidewalk along or within the Route 135 right of way from the Cedar Point driveway to the closest practicable point in proximity to the Fastrak bus facility. Successful completion of negotiations will tend to alleviate the commission's safety concerns and to some extent those of the verbalized public. However, in no event shall this delay jeopardize the plaintiff's funding application or any other essential element of the project so that approval of the plaintiff's three-part application must issue upon written notice from the plaintiff that negotiations have failed.

***10 SO ORDERED.**

All Citations

Not Reported in Atl. Rptr., 2019 WL 5424771

Footnotes

- 1 The application consisted of a proposed zoning text amendment, zoning map amendment and a site plan.
- 2 “Workforce assisted housing” is defined in the proposed zoning regulations as “apartment units that will meet the needs of both (income levels) households” and which “is intended to promote housing choice and economic diversity within the town of Newington.”
- 3 CT Fastrak is a public bus transit system created to serve the greater Hartford region, including New Britain, Newington and Hartford.
- 4 The commission also gave as a reason for denial the fact that the site is bordered on one side by a high speed railroad track which makes the site unsafe for children. At trial, the parties represented that the railroad

track is no longer an issue because the plaintiff agreed to install a fence along the tracks designed to prevent pedestrian access.

5 “Traffic authority” means the board of police commissioners of any city, town or borough, or the city or town manager, the chief of police, the superintendent of police or any legally elected or appointed official or board, or any official having similar powers and duties, of any city, town or borough that has no board of police commissioners but has a regularly appointed force ... G.S., Sec. 14-297(6).


6 Two of our statutes are particularly applicable here:

Sec. 14-300e. *Pedestrian use of roads and sidewalks.* Required to yield to emergency vehicle. (a) No pedestrian shall walk along and upon a roadway where a sidewalk adjacent to such roadway is provided and the use thereof is practicable. Where a sidewalk is not provided adjacent to a roadway each pedestrian walking along and upon such roadway shall walk only on the shoulder thereof and as far as practicable from the edge of such roadway. Where neither a sidewalk nor a shoulder adjacent to a roadway is provided each pedestrian walking along and upon such roadway shall walk as near as practicable to an outside edge of such roadway and if such roadway carries motor vehicle traffic traveling in opposite directions each pedestrian walking along and upon such roadway shall walk only upon the left side of such roadway.

(b) No pedestrian shall suddenly leave a curb, sidewalk, crosswalk or any other place of safety adjacent to or upon a roadway and walk or run into the path of a vehicle which is so close to such pedestrian as to constitute an immediate hazard to such pedestrian.

Sec. 14-300i. *Vehicle operator to exercise reasonable care when near vulnerable user on a public way.* (a) As used in subsection (b) of this section, (1) “vulnerable user” means: (A) A pedestrian; (B) a highway worker; (C) a person riding or driving an animal; (D) a person riding a bicycle or an electric bicycle; (E) a person using a skateboard, roller skates or in-line skates; (F) a person operating or riding on an agricultural tractor; (G) a person using a wheelchair or motorized chair; and (H) a person who is blind and such person’s service animal, and (2) “public way” includes any state or other public highway, road, street, avenue, alley, driveway, parkway or place, under the control of the state or any political subdivision of the state, dedicated, appropriated or opened to public travel or other use.

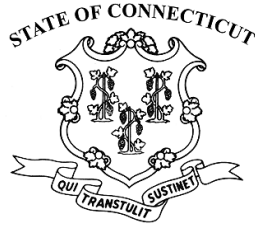
(b) Any person operating a motor vehicle on a public way who fails to exercise reasonable care and causes the serious physical injury or death of a vulnerable user of a public way, provided such vulnerable user has shown reasonable care in such user’s use of the public way, shall be fined not more than one thousand dollars.

7 “... it is the court’s duty to examine the record scrupulously to determine whether the commission’s reasons for denying the application ‘clearly outweigh the need for affordable housing.’” Therefore, there is no need for the commission to recite the precise words of the weighing process.  [Quarry Knoll II Corp. v. Planning and Zoning Commission, 256 Conn. at 730, supra.](#)

8 Reason #1 provides as follows. “Affordable Housing Options: The Newington zoning regulations currently provide for the creation of two types of affordable housing: “Affordable Age-Restricted Housing for Seniors” (Section 3.7.2), and “Single Family Entry Level Housing” (Section 3.7.4). Both of these housing options are currently allowed on Cedar Street. The proposed regulation does not make any significant addition to the range of affordable housing options in Newington.”

9 Sec. 3.7.3 contains many other restrictive provisions, e.g. (i) site must contain not less than 10 contiguous acres, (ii) lot size no less than 6,000 square feet, (iii) frontage not less than 70 feet.

- 10 If this expression is intended to limit affordable housing to where permitted by the existing Newington zoning regulations then Newington has failed to recognize its responsibility under G.S. 8-2(a), 8-2i and 8-30g.



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Public Act No. 21-28

AN ACT CONCERNING PEDESTRIAN SAFETY, THE VISION ZERO COUNCIL, SPEED LIMITS IN MUNICIPALITIES, FINES AND CHARGES FOR CERTAIN VIOLATIONS AND THE GREENWAYS COMMEMORATIVE ACCOUNT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 14-300 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(c) Except as provided in subsection (c) of section 14-300c, at any crosswalk marked as provided in subsection (a) of this section or any unmarked crosswalk, provided such crosswalks are not controlled by police officers or traffic control signals, each operator of a vehicle shall grant the right-of-way, and slow or stop such vehicle if necessary to so grant the right-of-way, to any pedestrian crossing the roadway within such crosswalk.], provided such pedestrian steps off the curb or into the crosswalk at the entrance to a crosswalk or is within that half of the roadway upon which such operator of a vehicle is traveling, or such pedestrian steps off the curb or into the crosswalk at the entrance to a crosswalk or is crossing the roadway within such crosswalk from that half of the roadway upon which such operator is not traveling.] For the purposes of this subsection, a pedestrian is "crossing the roadway

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within such crosswalk" when the pedestrian (1) is within any portion of the crosswalk, (2) steps to the curb at the entrance to the crosswalk and indicates his or her intent to cross the roadway by raising his or her hand and arm toward oncoming traffic, or (3) indicates his or her intent to cross the roadway by moving any part of his or her body or an extension thereof, including, but not limited to, a wheelchair, cane, walking stick, crutch, bicycle, electric bicycle, stroller, carriage, cart or leashed or harnessed dog, into the crosswalk at the entrance to the crosswalk. No operator of a vehicle approaching from the rear shall overtake and pass any vehicle, the operator of which has stopped at any crosswalk marked as provided in subsection (a) of this section or any unmarked crosswalk to permit a pedestrian to cross the roadway. The operator of any vehicle crossing a sidewalk shall yield the right-of-way to each pedestrian and all other traffic upon such sidewalk.

Sec. 2. (*Effective from passage*) (a) There is established a Vision Zero Council to develop a state-wide policy and interagency approach to eliminate all transportation-related fatalities and severe injuries to pedestrians, bicyclists, transit users, motorists and passengers. The council shall consider ways to improve safety across all modes of transportation by using data, new partnerships, safe planning and community-based solutions to achieve the goal of zero transportation-related fatalities.

(b) The council shall consist of the Commissioners of Transportation, Public Health and Emergency Services and Public Protection, or their designees, and any other commissioner of a state agency, or such commissioner's designee, invited to participate by the Commissioners of Transportation, Public Health and Emergency Services and Public Protection. The Commissioner of Transportation or the commissioner's designee shall serve as chairperson of the council and shall schedule the first meeting of the council not later than September 1, 2021. The Department of Transportation shall serve as administrative staff of the

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council.

(c) The council may establish committees at any time to advise the council in carrying out its duties.

(d) The council shall assist in the development of any public awareness campaign undertaken by the Department of Transportation to educate the public concerning ways to reduce transportation-related fatalities and severe injuries to pedestrians, bicyclists, transit users, motorists and passengers, and to increase awareness and improve behaviors of all users of the highways of this state.

(e) On or before February 1, 2022, and annually thereafter, the council shall submit the state-wide policy and interagency approach and any other recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to transportation, in accordance with the provisions of section 11-4a of the general statutes.

Sec. 3. Subsection (d) of section 14-311 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(d) In determining the advisability of such certification, the Office of the State Traffic Administration shall include, in its consideration, highway safety, bicycle and pedestrian access and safety, the width and character of the highways affected, the density of traffic thereon, the character of such traffic and the opinion and findings of the traffic authority of the municipality wherein the development is located. The [Office of the State Traffic Administration] office may require improvements to be made by the applicant to the extent that such improvements address impacts to highway safety or bicycle and pedestrian access and safety created by the addition of the applicant's proposed development or activity. If the [Office of the State Traffic Administration] office determines that such improvements, including

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traffic signals, pavement markings, channelization, pavement widening or other changes or traffic control devices, are required to handle traffic safely and efficiently, one hundred per cent of the cost thereof shall be borne by the person building, establishing or operating such open air theater, shopping center or other development generating large volumes of traffic, except that such cost shall not be borne by any municipal agency. The Commissioner of Transportation may issue a permit to said person to construct or install the changes required by the [Office of the State Traffic Administration] office.

Sec. 4. (NEW) (*Effective October 1, 2021*) (a) For the purposes of this section, "moving traffic" includes, but is not limited to, a motor vehicle, bicycle, electric bicycle or electric foot scooter using a highway for the purpose of travel and a pedestrian or a person riding a bicycle, electric bicycle or electric foot scooter on a sidewalk, shoulder or bikeway for the purpose of travel, and "bikeway" has the same meaning as provided in subsection (a) of section 13a-153f of the general statutes.

(b) No person shall open the door of a motor vehicle in such a manner as to cause physical contact with moving traffic with such door, provided moving traffic is traveling at a reasonable rate of speed and with due regard for the safety of all persons and property.

(c) No person shall leave the door of a motor vehicle open for a period of time longer than necessary to load or unload passengers and in such a manner as to cause physical contact with moving traffic with such door.

(d) Any person who violates any provision of this section shall have committed an infraction.

Sec. 5. Subsection (d) of section 51-56a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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(d) Each person who pays in any sum as a fine or forfeiture for any violation of sections 14-218a, as amended by this act, 14-219, as amended by this act, 14-222, as amended by this act, 14-223, 14-227a, 14-227m, 14-227n, sections 14-230 to 14-240, inclusive, sections 14-241 to 14-249, inclusive, section 14-279 for the first offense, sections 14-289b, 14-299, 14-300, as amended by this act, 14-300d, sections 14-301 to 14-303, inclusive, section 4 of this act, or any regulation adopted under said sections or ordinance enacted in accordance with said sections shall pay an additional fee of [twenty] twenty-five dollars. The state shall remit to the municipalities in which the violations occurred the amounts paid under this subsection. Each clerk of the Superior Court or the Chief Court Administrator, or any other official of the Superior Court designated by the Chief Court Administrator, on or before the thirtieth day of January, April, July and October in each year, shall certify to the Comptroller the amount due for the previous quarter under this subsection to each municipality served by the office of the clerk or official.

Sec. 6. Section 14-218a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) (1) No person shall operate a motor vehicle upon any public highway of the state, or road of any specially chartered municipal association or any district organized under the provisions of chapter 105, a purpose of which is the construction and maintenance of roads and sidewalks, or on any parking area as defined in section 14-212, or upon a private road on which a speed limit has been established in accordance with this subsection, or upon any school property, at a rate of speed greater than is reasonable, having regard to the width, traffic and use of highway, road or parking area, the intersection of streets and weather conditions.

(2) The Office of the State Traffic Administration may determine speed limits which are reasonable and safe on any state highway, bridge

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or parkway built or maintained by the state, and differing limits may be established for different types of vehicles, and may erect or cause to be erected signs indicating such speed limits. [The]

(3) Except as provided in subsection (c) of this section and section 7 of this act, the traffic authority of any town, city or borough may establish speed limits on streets, highways and bridges or in any parking area for ten cars or more or on any private road wholly within the municipality under its jurisdiction; provided such limit on streets, highways, bridges and parking areas for ten cars or more shall become effective only after application for approval thereof has been submitted in writing to the Office of the State Traffic Administration and a certificate of such approval has been forwarded by the office to the traffic authority; and provided such signs giving notice of such speed limits shall have been erected as the [Office of the State Traffic Administration] office directs, provided the erection of such signs on any private road shall be at the expense of the owner of such road. The presence of such signs adjacent to or on the highway or parking area for ten cars or more shall be prima facie evidence that they have been so placed under the direction of and with the approval of the [Office of the State Traffic Administration] office. Approval of such speed limits may be revoked by the [Office of the State Traffic Administration] office at any time if said office deems such revocation to be in the interest of public safety and welfare, and thereupon such speed limits shall cease to be effective and any signs that have been erected shall be removed.

(4) Any speed in excess of [such limits] a speed limit established in accordance with this section or section 7 of this act, other than speeding as provided for in section 14-219, as amended by this act, shall be prima facie evidence that such speed is not reasonable, but the fact that the speed of a vehicle is lower than such [limits] speed limit shall not relieve the operator from the duty to decrease speed when a special hazard exists with respect to pedestrians or other traffic or by reason of weather

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or highway conditions.

(b) The Office of the State Traffic Administration shall establish a speed limit of sixty-five miles per hour on any multiple lane, limited access highways that are suitable for a speed limit of sixty-five miles per hour, taking into consideration relevant factors including design, population of area and traffic flow.

(c) (1) The traffic authority of any town, city or borough may establish, modify and maintain speed limits on streets, highways and bridges or in any parking area for ten cars or more or on any private road wholly within the municipality under its jurisdiction without approval from the Office of the State Traffic Administration, provided:

(A) The municipality, by vote of its legislative body, or in the case of a municipality in which the legislative body is a town meeting, its board of selectmen, permits the traffic authority to assume responsibility and authority for the establishment, modification and maintenance of the speed limits on all streets, highways and bridges and in parking areas for ten cars or more or on any private road wholly within the municipality under its jurisdiction. Such permission is not required if such legislative body or board of selectmen is also the traffic authority;

(B) The traffic authority notifies the office in writing that the traffic authority is permitted under subparagraph (A) of this subdivision and intends to assume such responsibility and authority;

(C) The traffic authority establishes, modifies and maintains the speed limits on all streets, highways and bridges and in parking areas for ten cars or more or on any private road wholly within the municipality under its jurisdiction;

(D) The traffic authority conducts an engineering study described in subdivision (3) of this subsection; and

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(E) The traffic authority notifies the office of each change to a speed limit on such street, highway, bridge and parking area wholly within the municipality under its jurisdiction so the office may maintain a state-wide inventory of speed limits. Any speed limit approved by the office pursuant to the provisions of subsection (a) of this section shall remain in effect until modified by a traffic authority.

(2) (A) The traffic authority shall not establish or reduce a speed limit lower than twenty-five miles per hour unless (i) the speed limit is in a pedestrian safety zone pursuant to section 7 of this act, or (ii) the engineering study described in subdivision (3) of this subsection finds that a speed limit lower than twenty-five miles per hour is reasonable.

(B) The traffic authority shall not reduce a speed limit by more than ten miles per hour without approval from the municipality, by vote of its legislative body, or in the case of a municipality in which the legislative body is a town meeting, its board of selectmen, if such legislative body or board of selectmen is not also the traffic authority.

(C) If the traffic authority reduces a speed limit by more than ten miles per hour, the traffic authority shall erect reduced speed limit ahead signs in accordance with the standards contained in the Federal Highway Administrations Manual on Uniform Traffic Control Devices for Streets and Highways, as amended from time to time.

(D) On any street or highway that runs into an adjoining municipality, a traffic authority shall not reduce the speed limit within one thousand feet of the boundary of the adjoining municipality by more than ten miles per hour from the speed limit on such road in the adjoining municipality without (i) approval of the adjoining municipality, by vote of its legislative body, or in the case of a municipality in which the legislative body is a town meeting, its board of selectmen, and (ii) the approval required under subparagraph (B) of this subdivision.

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(E) If a traffic authority reduces the speed limit on any street or highway that runs into an adjoining municipality between one thousand feet and one mile of the boundary of the adjoining municipality by more than ten miles per hour from the speed limit on such road in the adjoining municipality, the traffic authority shall provide written notice of the reduced speed limit to the adjoining municipality.

(3) Prior to establishing or modifying a speed limit pursuant to the provisions of subdivision (1) of this subsection, the traffic authority shall conduct an engineering study in accordance with the Federal Highway Administration's Manual on Uniform Traffic Control Devices for Streets and Highways, as amended from time to time, and other generally accepted engineering principles and guidance. The study shall be completed by a professional engineer licensed to practice in this state and shall consider factors, including, but not limited to, pedestrian activity, type of land use and development, parking and the record of traffic accidents in the jurisdiction of the traffic authority.

(4) The Office of the State Traffic Administration may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this subsection.

~~[(c)]~~ (d) Any person who operates a motor vehicle at a greater rate of speed than is reasonable, other than speeding, as provided for in section 14-219, as amended by this act, shall commit the infraction of traveling unreasonably fast.

Sec. 7. (NEW) (*Effective October 1, 2021*) (a) The traffic authority of any town, city or borough may establish a pedestrian safety zone on any street, highway and bridge or in any parking area for ten cars or more or on any private road wholly within the municipality under its jurisdiction without approval from the Office of the State Traffic Administration, provided: (1) The municipality, by vote of its legislative

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body, or in the case of a municipality in which the legislative body is a town meeting, its board of selectmen, grants general authority to the traffic authority to establish pedestrian safety zones within the municipality. Such general authority is not required if such legislative body or board of selectmen is also the traffic authority; (2) the traffic authority conducts an engineering study described in subsection (b) of this section; (3) the posted speed limit for such zone is not less than twenty miles per hour; (4) such zone encompasses a clearly defined downtown district or community center frequented by pedestrians or is adjacent to hospital property or, in the opinion of the traffic authority, is sufficiently close to hospital property as to constitute a risk to the public safety; and (5) the traffic authority satisfies the requirements of subparagraphs (C) to (E), inclusive, of subdivision (2) of section 14-218a of the general statutes, as amended by this act, if applicable.

(b) Prior to establishing a pedestrian safety zone, the traffic authority shall conduct an engineering study in accordance with the Federal Highway Administration's Manual on Uniform Traffic Control Devices for Streets and Highways, as amended from time to time, and other generally accepted engineering principles and guidance. The study shall be completed by a professional engineer licensed to practice in this state and shall consider factors, including, but not limited to, pedestrian activity, type of land use and development, parking and the record of traffic crashes in the area under consideration to be a pedestrian safety zone. If the study recommends the establishment of a pedestrian safety zone, the study shall also include a speed management plan and recommend actions to achieve lower motor vehicle speeds.

(c) In a municipality where the Office of the State Traffic Administration approves speed limits on the streets, highways and bridges or in any parking area for ten cars or more or on any private road wholly within the municipality in accordance with section 14-218a of the general statutes, as amended by this act, the traffic authority shall

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notify the office in writing of the establishment of any pedestrian safety zone and confirm that the requirements of this section have been satisfied.

(d) If the Commissioner of Transportation or a traffic authority of any town, city or borough seeks to establish a pedestrian safety zone on a state highway that passes through a downtown or community center, the commissioner or traffic authority shall submit a written request to the Office of State Traffic Administration and include with such request the engineering study and speed management plan conducted pursuant to subsection (b) of this section. The office shall be the sole authority for establishing a pedestrian safety zone on a state highway and shall provide a written explanation of the reasons for denying any such request.

(e) The Office of the State Traffic Administration may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of this section.

Sec. 8. Subsection (a) of section 14-36 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) Except as otherwise provided by this section and section 14-40a, no person shall operate a motor vehicle on any public highway of this state or private road on which a speed limit has been established in accordance with [subsection (a) of] section 14-218a, as amended by this act, or section 7 of this act, until such person has obtained a motor vehicle operator's license.

Sec. 9. Subsections (a) and (b) of section 14-219 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) No person shall operate any motor vehicle (1) upon any highway,

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road or any parking area for ten cars or more, at such a rate of speed as to endanger the life of any occupant of such motor vehicle, but not the life of any other person than such an occupant; (2) at a rate of speed greater than fifty-five miles per hour upon any highway other than a highway specified in subsection (b) of section 14-218a, as amended by this act, for which a speed limit has been established in accordance with the provisions of said subsection; (3) at a rate of speed greater than sixty-five miles per hour upon any highway specified in subsection (b) of section 14-218a, as amended by this act, for which a speed limit has been established in accordance with the provisions of said subsection; or (4) if such person is under eighteen years of age, upon any highway or road for which a speed limit of less than sixty-five miles per hour has been established in accordance with [subsection (a) of] section 14-218a, as amended by this act, or section 7 of this act, at a rate of speed more than twenty miles per hour above such speed limit.

(b) Any person who operates a motor vehicle (1) on a multiple lane, limited access highway other than a highway specified in subsection (b) of section 14-218a, as amended by this act, for which a speed limit has been established in accordance with the provisions of said subsection at a rate of speed greater than fifty-five miles per hour but not greater than seventy miles per hour, (2) on a multiple lane, limited access highway specified in subsection (b) of section 14-218a, as amended by this act, for which a speed limit has been established in accordance with the provisions of said subsection at a rate of speed greater than sixty-five miles per hour but not greater than seventy miles per hour, (3) on any other highway at a rate of speed greater than fifty-five miles per hour but not greater than sixty miles per hour, or (4) if such person is under eighteen years of age, upon any highway or road for which a speed limit of less than sixty-five miles per hour has been established in accordance with [subsection (a) of] section 14-218a, as amended by this act, or section 7 of this act, at a rate of speed more than twenty miles per hour above such speed limit, shall commit an infraction, provided any such

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person operating a truck, as defined in section 14-260n, shall have committed a violation and shall be fined not less than one hundred dollars nor more than one hundred fifty dollars.

Sec. 10. Subsection (a) of section 14-222 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) No person shall operate any motor vehicle upon any public highway of the state, or any road of any specially chartered municipal association or of any district organized under the provisions of chapter 105, a purpose of which is the construction and maintenance of roads and sidewalks, or in any parking area for ten cars or more or upon any private road on which a speed limit has been established in accordance with the provisions of section 14-218a, as amended by this act, or section 7 of this act or upon any school property recklessly, having regard to the width, traffic and use of such highway, road, school property or parking area, the intersection of streets and the weather conditions. The operation of a motor vehicle upon any such highway, road or parking area for ten cars or more at such a rate of speed as to endanger the life of any person other than the operator of such motor vehicle, or the operation, downgrade, upon any highway, of any motor vehicle with a commercial registration with the clutch or gears disengaged, or the operation knowingly of a motor vehicle with defective mechanism, shall constitute a violation of the provisions of this section. The operation of a motor vehicle upon any such highway, road or parking area for ten cars or more at a rate of speed greater than eighty-five miles per hour shall constitute a violation of the provisions of this section.

Sec. 11. Subdivision (1) of subsection (b) of section 14-283 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(b) (1) The operator of any emergency vehicle may (A) park or stand

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such vehicle, irrespective of the provisions of this chapter, (B) except as provided in subdivision (2) of this subsection, proceed past any red light or stop signal or stop sign, but only after slowing down or stopping to the extent necessary for the safe operation of such vehicle, (C) exceed the posted speed limits or other speed limits imposed by or pursuant to section 14-218a, as amended by this act, [or] 14-219, as amended by this act, or section 7 of this act as long as such operator does not endanger life or property by so doing, and (D) disregard statutes, ordinances or regulations governing direction of movement or turning in specific directions.

Sec. 12. Section 53a-213 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) A person is guilty of drinking while operating a motor vehicle when [he] such person drinks any alcoholic liquor while operating a motor vehicle upon a public highway of this state or upon any road of any specially chartered municipal association or of any district organized under the provisions of chapter 105, a purpose of which is the construction and maintenance of roads and sidewalks, or in any parking area for ten cars or more, or upon any private road on which a speed limit has been established in accordance with the provisions of section 14-218a, as amended by this act, or section 7 of this act or upon any school property. As used in this section, "alcoholic liquor" has the same meaning as provided in section 30-1.

(b) Drinking while operating a motor vehicle is a class C misdemeanor.

Sec. 13. Subsection (h) of section 14-296aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(h) Any person who violates this section shall be fined [one] two

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hundred [fifty] dollars for a first violation, three hundred seventy-five dollars for a second violation and [five] six hundred twenty-five dollars for a third or subsequent violation.

Sec. 14. Section 14-21i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) [On and after January 1, 1998, the] The Commissioner of Motor Vehicles shall issue greenways commemorative number plates of a design to enhance public awareness of, [the] and provide funding for, state and local efforts to preserve, restore and protect greenways. The design shall be determined by agreement between the Commissioner of Energy and Environmental Protection and the Commissioner of Motor Vehicles. No use shall be made of such plates except as official registration marker plates.

(b) (1) The Commissioner of Motor Vehicles shall [establish, by regulations adopted in accordance with chapter 54, a fee to be charged] charge a fee of fifty dollars for a greenways commemorative number [plates] plate, with letters and numbers selected by the commissioner, in addition to the regular fee or fees prescribed for the registration of a motor vehicle. [The fee shall be for such number plates with letters and numbers selected by the Commissioner of Motor Vehicles. The Commissioner of Motor Vehicles may establish a higher fee for: (1) Such number plates which contain letters in place of numbers as authorized by section 14-49, in addition to the fee or fees prescribed for plates issued under said section; and (2) such number plates which are low number plates, in accordance with section 14-160, in addition to the fee or fees prescribed for plates issued under said section.] The commissioner shall deposit fifteen dollars of such fee into an account controlled by the Department of Motor Vehicles to be used for the cost of producing, issuing, renewing and replacing such commemorative number plates, and thirty-five dollars of such fee into the greenways commemorative account established pursuant to subsection (d) of this section.

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(2) The commissioner shall charge a fee of seventy dollars for a greenways commemorative number plate that (A) contains letters in place of numbers as authorized by section 14-49, or (B) is a low number plate in accordance with section 14-160, in addition to the fee or fees prescribed for plates issued under said sections. The commissioner shall deposit fifteen dollars of such fee into an account controlled by the Department of Motor Vehicles to be used for the cost of producing, issuing, renewing and replacing such commemorative number plates, and fifty-five dollars of such fee into the greenways commemorative account.

(c) No additional renewal fee shall be charged for renewal of registration for any motor vehicle bearing greenways commemorative number plates which contain letters in place of numbers, or low number plates, in excess of the renewal fee for greenways commemorative number plates with letters and numbers selected by the Commissioner of Motor Vehicles. No transfer fee shall be charged for transfer of an existing registration to or from a registration with greenways commemorative number plates.

(d) There is established an account to be known as the "greenways commemorative account" which shall be a separate, nonlapsing account within the General Fund. The account shall contain any moneys required by law to be deposited in the account. The funds in the account shall be expended by the Commissioner of Energy and Environmental Protection to fund the greenways capital grant program established pursuant to section 23-101 and the bikeway, pedestrian walkway, recreational trail and greenway grant program described in section 23-103.

[(d)] (e) The Commissioner of Motor Vehicles [, in consultation with the Commissioner of Energy and Environmental Protection, shall] may adopt regulations, in accordance with the provisions of chapter 54, to establish standards and procedures for the issuance, renewal and

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replacement of greenways commemorative number plates.

Approved June 7, 2021