

OPEN COMMUNITIES TRUST, LLC; 2	:	SUPERIOR COURT OF
ORCHARD ROAD LLC; GARDEN	:	CONNECTICUT
HOMES FUND; SALLY CONNOLLY; and	:	
CARY GROSS,	:	JUDICIAL DISTRICT OF NEW HAVEN
Plaintiffs,	:	AT NEW HAVEN
	:	
v.	:	
	:	August 30, 2022
TOWN PLAN & ZONING COMMISSION	:	
OF THE TOWN OF WOODBRIDGE,	:	
CONNECTICUT, and TOWN of	:	
WOODBRIDGE, CONNECTICUT,	:	
Defendants.	:	

COMPLAINT

INTRODUCTION

1. Plaintiffs are the Open Communities Trust, LLC (“OCT”); 2 Orchard Road LLC; and Garden Homes Fund, which collectively seek to enable the building of multifamily and affordable housing in the Town of Woodbridge, Connecticut, including on a parcel in Residence District A owned by 2 Orchard Road LLC and leased and optioned to OCT; and Sarah Elizabeth (“Sally”) Connolly and Cary Gross, each of whom is a white non-Hispanic resident of Woodbridge, who desires to live in an economically and racially integrated community and accordingly seeks to ensure that Woodbridge allows a diversity of housing options.

2. Plaintiffs request injunctive, compensatory, and declaratory relief on the grounds that the Zoning Regulations for the Town of Woodbridge (the “Zoning Regulations”) adopted by Defendant Woodbridge Town Planning & Zoning Commission (“TPZ”), acting on behalf of Defendant Town of Woodbridge (“Woodbridge” or “the Town”), violate the Connecticut Zoning Enabling Act, C.G.S. § 8-2; the Connecticut Fair Housing Act (“CFHA”), C.G.S. § 46a-64c; the general welfare requirement of the Due Process and Equal Protection Clauses of article first, §§ 8, 10, and 20 of the Connecticut Constitution; and the Anti-Segregation Clause of article first, §

20 of the Connecticut Constitution.

3. Woodbridge, a town directly northwest of the City of New Haven, excludes multifamily housing (residential dwellings with three or more household units) from 98.4 percent of its residential land, based on estimates by a Town consultant, and impedes its construction in the remaining 1.6 percent of residential land.

4. As the Connecticut Commission on Human Rights and Opportunities has recognized, multifamily housing is generally less expensive than single- or two-family housing.

5. Limitations on the development of multifamily housing, especially multifamily rental housing, restrict the development of housing that is affordable to households with low and moderate incomes (“affordable housing”).

6. In the region encompassing Woodbridge, households with low and moderate incomes and, in particular, renter households with low and moderate incomes, are disproportionately Black and Hispanic.

7. Thus, Black and Hispanic households in the region disproportionately need affordable housing.

8. Recipients of housing assistance also need rental housing that is affordable to households with low and moderate incomes due to the pecuniary value of typical governmental assistance.

9. Woodbridge has few households with low and moderate incomes, a small combined Black non-Hispanic and Hispanic (of any race) population, and few households receiving housing assistance.

10. From the 1930s until September 7, 2021, Woodbridge’s zoning prohibited the development of non-age-restricted multifamily housing as a principal use throughout the Town

(i.e., multifamily housing that is not restricted to older adults and that is permitted as the principal land use on a site rather than an accessory use that must be subordinate to another primary land use on a site).

11. Currently, Zoning Regulations 2.4.E.a and 2.4.E.b collectively ban multifamily housing in all residential areas of the Town that are not served by public water and sewer infrastructure.

12. The Zoning Regulations banning multifamily development in residential areas not served by public water and sewer apply even to low or moderate density multifamily housing developments (for example, a multifamily development comprised of three or four residential units) that meet the floor area, frontage, height, and other bulk and dimensional requirements for single-family homes, as well as the requirements of the Connecticut Public Health Code: On-site Sewage Disposal Regulations and Technical Standards for Subsurface Sewage Disposal Systems (the “Public Health Code”) .

13. Due to modern on-site water systems (including, but not limited to, wells) and on-site waste-water systems (including but not limited to septic technologies and practices), low to moderate density multifamily housing could be developed in Woodbridge on parcels not served by public water and sewer infrastructure in full compliance with the Public Health Code and with environmental health and safety implications comparable to those of single-family housing.

14. Under the Zoning Regulations, non-age-restricted multifamily housing can only be built in the remaining 1.6% of residential land if the TPZ votes to grant a special exception for a specific proposed multifamily development after a public hearing.

15. This special exception requirement applies even to low or moderate density multifamily housing that meets the bulk and dimensional requirements for single-family housing

and complies with the Public Health Code.

16. In contrast, two-family and single-family development in the same 1.6% of the Town's residential land requires only a zoning permit obtained from Town zoning staff, without need for a public hearing or a discretionary vote by the TPZ.

17. The Zoning Regulations that limit multifamily development to residential areas with public water and sewer infrastructure and that require a special exception for such development are referred to herein as the Multifamily Regulations.

18. Woodbridge has effectively built a wall around its borders, abusing its State-delegated zoning power to keep multifamily and affordable housing (and the people who live in multifamily and affordable housing) out.

19. The Zoning Regulations violate several of the Town's obligations under State law.

20. The Zoning Regulations as a whole, and the Multifamily Regulations in particular, fail to promote and provide for the development of multifamily housing and affordable housing at a level sufficient to meet the Town's affirmative obligations under State law to provide for such housing.

21. Specifically, the Zoning Regulations as a whole and the Multifamily Regulations in particular fail to: promote the general welfare; address significant disparities in housing needs and in access to educational, occupational, and other opportunities; provide for the development of multifamily and other housing opportunities for all residents of Woodbridge and the surrounding planning region; promote housing choice and economic diversity in housing, including for households with both low and moderate incomes; and expressly allow for development that will meet the housing needs identified in the State's Consolidated Plan for

Housing and Community Development (the “Consolidated Plan”), all in violation of the Zoning Enabling Act.

22. The Multifamily Regulations, individually and collectively and in operation with other aspects of the Zoning Regulations, disproportionately burden Black and Hispanic households and perpetuate the segregation of Black and Hispanic households and recipients of housing assistance in violation of the Connecticut Fair Housing Act.

23. The Multifamily Regulations, individually and collectively and in operation with other aspects of the Zoning Regulations, violate the Due Process and Equal Protection Clauses of article first, §§ 8, 10, and 20 of the Connecticut Constitution since they contravene the general welfare of the State’s citizens.

24. The Multifamily Regulations, individually and collectively and in operation with other aspects of the Zoning Regulations, violate the Anti-Segregation Clause of article first, § 20 of the Connecticut Constitution because they result in, perpetuate, and reinforce segregation on the basis of race without a sufficient, legally valid justification.

PARTIES

25. Plaintiff OCT is a limited liability corporation with an office in Hartford, Connecticut, whose sole member is the civil rights non-profit organization Open Communities Alliance, Inc. and whose mission is to overcome exclusionary zoning practices and facilitate the creation of affordable housing in areas with higher levels of community resources, such as high-performing schools, and lower levels of challenges such as violent crime and poverty concentration.

26. OCT leases and has an option to purchase a 1.5-acre parcel of land at 2 Orchard Road, located in Woodbridge’s Residence A Zone, from 2 Orchard Road LLC.

27. OCT engaged a homebuilder who worked with an architect and engineer to develop a conceptual plan for a four-unit multifamily development on the 2 Orchard Road site, which would include a mix of market rate and affordable rental units (the “2 Orchard Road Development”) that could be built on the site consistent with the Public Health Code, if the Zoning Regulations did not ban multifamily housing in that area.

28. However, the Zoning Regulations, including the Multifamily Regulations, prevent the construction of the 2 Orchard Road Development and any other small-scale multifamily development that includes affordable units on the property.

29. Plaintiff 2 Orchard Road LLC is a domestic limited liability corporation with an office in Stamford, Connecticut; its sole member is Garden Homes Fund. 2 Orchard Road LLC is the owner of the 2 Orchard Road property. 2 Orchard Road LLC purchased the property to enable it to be used for the development of small-scale multifamily housing that includes affordable units.

30. Plaintiff Garden Homes Fund is a non-profit corporation with an office in Stamford, Connecticut. In 2020, Garden Homes Fund purchased the 2 Orchard Road property, through 2 Orchard Road LLC, as a first step toward its goal of enabling the construction of multifamily and affordable housing throughout Woodbridge, including on the 2 Orchard Road property.

31. Plaintiff Sally Connolly is a white resident of Woodbridge who seeks the benefits of living in a racially and economically integrated community with a diversity of housing options for families of varying income levels. Ms. Connolly is retired.

32. Plaintiff Cary Gross is a white resident of Woodbridge who seeks the benefits of living in a racially and economically integrated community with a diversity of housing options

for families of varying income levels. Dr. Gross works full time as a Professor of Medicine and Public Health and the Director of the National Clinical Scholars Program at the Yale School of Medicine.

33. Defendant Town of Woodbridge, whose address is 11 Meetinghouse Lane, Woodbridge, Connecticut 06525, is a municipality within the State of Connecticut and is organized under the laws of the State of Connecticut.

34. Defendant Town Plan and Zoning Commission of the Town of Woodbridge is the agency to which the Town has delegated, under Connecticut General Statutes § 8-1, the responsibility to exercise the power of zoning, as set forth in General Statutes Chapter 124, and the power of planning, including adoption of a Plan of Conservation and Development, as set forth in General Statutes Chapter 126.

FACTUAL ALLEGATIONS

I. Statutory And Constitutional Provisions

35. The Connecticut Zoning Enabling Act, General Statutes § 8-2, places an affirmative obligation on municipal zoning regulations adopted pursuant thereto, as Woodbridge's are, to, among other things:

- a. promote the general welfare;
- b. address significant disparities in housing needs and access to educational, occupational, and other opportunities;
- c. affirmatively further the purposes of the federal Fair Housing Act;
- d. provide for the development of multifamily and other housing opportunities for all residents of the municipality and planning region in which the municipality is located;
- e. promote housing choice and economic diversity in housing, including housing for

households with low and moderate incomes; and

- f. expressly allow for development of housing that meets the needs identified in the State's Consolidated Plan.

36. The Connecticut Fair Housing Act, General Statutes § 46a-64c, prohibits zoning regulations that disproportionately burden, or perpetuate the segregation of, protected groups, such as racial groups or recipients of housing assistance, without a legally sufficient justification.

37. Inherent in the Due Process and Equal Protection Clauses of article first, §§ 8, 10 and 20 of the Connecticut Constitution is the requirement that all exercises of the State's police powers, including zoning regulations, promote the general welfare.

38. The Anti-Segregation Clause of article first, § 20 of the Connecticut Constitution prohibits segregation on the basis of race.

II. Woodbridge's History Of Exclusionary Zoning And Resulting Lack of Multifamily And Affordable Housing

A. The Connecticut Commission On Human Rights And Opportunities Documented Woodbridge's Restrictive Zoning In The 1970s

39. In April 1978, the Connecticut Commission on Human Rights and Opportunities issued a report on zoning entitled "A Study of Zoning in Connecticut," with the goal of "identify[ing] the prevalence in Connecticut of governmental regulations that prevent the construction of housing at a cost affordable by low and moderate income residents."

40. The zoning study placed all municipalities in Connecticut into groups based on an assessment of the restrictiveness of their zoning, and it listed Woodbridge among those municipalities with the "most severely restricted" zoning.

41. The report highlighted Woodbridge as among the "most affluent communities in the state" and stated that Woodbridge and others had "made little effort to build [publicly] assisted housing," with Woodbridge having "built no units."

B. Woodbridge Declined Numerous Opportunities To Enable The Development Of Multifamily And Affordable Housing

42. Between 1981 and 2019, Woodbridge's TPZ received and rejected multiple proposals for zoning amendments to facilitate the development of multifamily housing and affordable housing.

43. Other such proposals were withdrawn by applicants after being criticized by Woodbridge residents and/or TPZ members.

44. In 1981, applicants submitted a proposal to allow the construction of multifamily dwellings in the then-Residence Districts C and D but, after receiving public criticism and after TPZ members expressed concerns about the effect of higher density housing on the "character" of the surrounding area, the applicants withdrew it.

45. The TPZ rejected a modified proposal by applicants in 1982 and a related proposal in 1983, citing a lack of public support and concerns about the impact of higher density housing on the Town's character.

46. In 1993, an applicant proposed amending the Zoning Regulations to allow multifamily dwellings in the then-Residential Districts C and D and the Town's General Business District and to create a process for the approval of multifamily housing developments that set aside at least 20% of their dwelling units as affordable housing.

47. The TPZ did not offer suggested revisions and instead recommended that the applicant take "the opportunity to withdraw the application," which the applicant did.

48. In 1994, an applicant proposed amending the Zoning Regulations to allow a 120-unit residential development with 60 units for which rent would have been capped at \$900 per month, or 30% of the income of a household earning 80% of the area median income ("AMI"). The applicant explained that the proposed development targeted "families earning \$30,000 to

\$40,000 per year.”

49. Residents presented the TPZ a petition with 179 signatories opposing the proposal.

50. One resident expressed fear at a public hearing on the proposal that affordable-housing residents would “climb over a fence and hurt my children or steal my car.”

51. The TPZ voted unanimously to deny the proposal.

52. In 2007, an applicant proposed creating an overlay “Integrated Mixed Housing District” in the A Zone (Woodbridge’s largest residential zone, which has comprised the vast majority of its residential land area and has been subject to large minimum lot size requirements for much of the Town’s history) that would have allowed “multifamily affordable housing” in addition to the existing single-family residential uses allowed in that zone, and facilitated a specific development in the zone.

53. The proposal received public opposition, including from one Woodbridge resident who expressed concern about “the beauty of the Town.”

54. The applicant withdrew the proposal in exchange for TPZ approval of a separate application that did not propose any zoning amendments or provide for affordable housing.

55. In 2018, as part of a general review and update of the Town’s Zoning Regulations, the TPZ proposed allowing multifamily dwellings in a proposed new T-4 zone.

56. Multiple residents opposed the TPZ proposal during public hearings; one resident predicted that lower housing prices would induce people from “Hamden, New Haven, and West Haven” to “come with their family” to Woodbridge, while voicing a preference for “young professionals.” Hamden, New Haven and West Haven all have significantly larger Black and Hispanic or Latino populations than does Woodbridge.

57. In a meeting on March 5, 2018, the Chairman of the TPZ said he had “been pressured by Town Hall, the First Selectman, and Town Counsel” and “had relented.”

58. The TPZ’s final package of revisions to the Town’s zoning code omitted the TPZ’s multifamily amendment for the proposed T-4 zone.

C. Woodbridge Limited Infrastructure And Purchased Property With The Stated Goal Of Preventing Denser Residential Development

59. The Town has, since the 1970s, sought to limit the expansion of public sewer and water infrastructure, at times expressly stating that the goal of such limitation was to prevent an increase in housing density.

60. The Town’s 1974 Review of Plan of Development stated:

The extension of sewer mains, as well as water mains, could result in pressure for an intensification of density ... resulting in a change of the overall open space character of the neighborhood ... [and] necessitating the re-evaluation of the need for ... additional school and other public facilities. Thus great care should be exercised in the extension of sewers.

61. More recently, Woodbridge claimed in its 2005-2015 Plan of Conservation and Development (“2005 POCD”) that expanding sewers threatened to “irreversibly change the rural small-town charm so important to many residents,” as “[a]vailability of sewer lines would diminish the need for larger sized lots since space for primary and reserve septic areas would not be necessary.”

62. Since the 2005 POCD, the Town has continued to avoid building or seeking to build public water and sewer infrastructure.

63. While Woodbridge has avoided building or permitting the building of sewer infrastructure in order to avoid the construction of multifamily housing, as described in more detail below, there is no legitimate health, safety, or environmental reason to categorically prohibit multifamily development in areas without public water and sewer access, a fact

supported by publications of the United States Environmental Protection Agency (“EPA”), among other reputable sources.

64. In 2009, the Town purchased the Country Club of Woodbridge (“CCW”), a 150-acre property.

65. As Town officials explained in a public meeting, they purchased the CCW to “control its development” because otherwise private developers could develop the property in ways that could result in “an increase in the school enrollment” and/or proposals for affordable housing.

66. The Town Attorney stated at that public meeting:

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

D. The TPZ's Periodic Review of the Town's Plan of Conservation and Development Has Featured Opposition To Affordable Housing

67. Pursuant to C.G.S. § 16a-14c, the State designated Woodbridge as a member of the South Central Planning Region (“SCR”), along with the municipalities of Bethany, Branford, East Haven, Guilford, Hamden, Madison, Meriden, Milford, New Haven, North Branford, North Haven, Orange, Wallingford, and West Haven. These municipalities have formed the South Central Regional Council of Governments (“SCRCOG”).

68. In June 2004, in connection with a review of the Town's Plan of Conservation and Development, the TPZ considered a report prepared by the SCRCOG.

69. The SCRCOG's report concluded that the SCR was suffering a "housing crisis" with "the need for affordable housing in the region [at] a critical point" and called for "an effective regional approach to this regional problem."

70. In comments shared with the SCRCOG in response to the report, the Woodbridge TPZ asserted that "it is not the [TPZ's] opinion that 'housing is the problem' but rather the regional business climate," noting "people with well paying jobs can purchase houses."

71. During public hearings regarding the 2015-2025 Plan of Conservation and Development ("2015 POCD"), residents and Town officials opposed suggestions for increases in housing density.

72. A former TPZ member expressed concern that consultants were focused on "increased density," citing "problems in town with rental homes," and called upon the TPZ to "independently act" to make a "major overhaul" of the Plan of Conservation and Development "or it can lead to the destruction of the town."

73. Another former TPZ member stated that the proposed 2015 POCD was a "Trojan Horse [seeking] to change the zoning (soul of the town) to 3 family housing."

74. A resident stated that allowing multifamily housing downtown "would deteriorate the area," in which residents "used to be blue collar workers but are now white collar workers."

75. Multiple residents stated that permitting higher-density housing would be counter to their and many others' reasons for moving to Woodbridge.

76. In March 2015, Town consultants advised the TPZ of the high cost of housing in Woodbridge and lack of affordable units, but the TPZ voted unanimously to approve a revised 2015 POCD that removed several references to affordability concerns, the housing needs of racial minorities and households with low and moderate incomes, and suggested steps to increase

density.

E. Woodbridge Lacks Sufficient Multifamily, Affordable, And Assisted Housing

77. Pursuant to C.G.S. 8-30g, the Connecticut Department of Housing (“DOH”) annually updates a list of units in each municipality that are governmentally assisted, tenant rental assisted, have Single Family CHFA or USDA Mortgages, or are subject to certain affordability deed restrictions (“assisted units” or “assisted housing”).

78. The level of multifamily housing or assisted housing in a given area is measured by computing the share of the area’s housing that is multifamily housing or assisted housing.

79. The affordability of housing within a given area is generally measured by calculating the share of the area’s housing that is priced at levels affordable to households with incomes at different levels relative to the median income of households in that area.

80. For Woodbridge, these standard measures, standing alone and in comparison to the SCR, demonstrate that Woodbridge has minimal multifamily housing, as well as minimal affordable, rental, and assisted housing.

1. Woodbridge Has Minimal Multifamily And Affordable Housing

81. The U.S. Census Bureau’s 2016-2020 American Community Survey 5-year dataset (“American Community Survey data”) shows that Woodbridge has minimal multifamily housing:

- a. There are over 3,100 housing units in Woodbridge.
- b. Only 149 (4.8%) of Woodbridge’s housing units are in multifamily structures.
- c. In contrast, across the SCR, 31.4% of units are in multifamily structures.
- d. Of all municipalities in the SCR, Woodbridge has the second lowest percentage of housing units in multifamily structures.

- e. The 2,894 single-family homes in Woodbridge make up 92.7% of the town's housing supply, while only 58.2% of units across all of the SCR are in single-family structures.
- f. Compared to other municipalities in the SCR, Woodbridge has the third-highest percentage of housing units that are single-family homes.

82. Data from the 2019 American Community Survey shows that it is cheaper to rent than to own a home across the state of Connecticut and that, across Connecticut's five major metro areas, renting is at least \$850 per month cheaper than owning a home.

83. Many households with low incomes can only afford to rent rather than to purchase a home, including because such households often lack sufficient wealth to make the down payment required to purchase a home.

84. The American Community Survey data shows that Woodbridge has minimal rental housing:

- a. Of the 2,935 occupied housing units in Woodbridge, only 314 (10.7%) are rental units, while, across all of the SCR, 39.5% of occupied units are rental units;
- b. On information and belief, nearly 200 of these rental units are studio or 1-bedroom rentals in assisted living or otherwise age-restricted complexes.
- c. Compared to other municipalities in the SCR, Woodbridge has the third-lowest percentage of occupied housing units that are rental units;
- d. The median gross rent for occupied rentals in Woodbridge is \$1,681 per month, which is the highest median gross rent of any municipality in the SCR.

85. A household would need an income of at least \$67,240 annually to afford Woodbridge's median gross rent without being cost-burdened, that is, spending more than 30%

of their income on rent.

86. The median household in the City of New Haven, with an annual income of \$44,507 according to the American Community Survey data, cannot afford to rent in Woodbridge without being cost-burdened.

87. According to the American Community Survey data, Woodbridge has a minimal and comparatively low supply of rental housing affordable to households of four earning 80%, 50%, and 30% of the Area Median Income (“AMI”), even without excluding elderly or age-restricted rental housing and without excluding rental units too small for families of four:

- a. Rental units affordable to a household of four earning 80% of the AMI comprise only 7.8% (229 units) of Woodbridge’s occupied housing but 36.4% of the SCR’s occupied housing.
- b. Rental units affordable to a household of four earning 50% of AMI comprise only 2.4% of Woodbridge’s occupied housing (71 units), compared to 26.0% of the SCR’s occupied housing.
- c. Rental units affordable to a household of four earning 30% of AMI comprise only 0.0% (0 rental units) of Woodbridge’s occupied housing but 7.3% of the SCR’s occupied housing.
- d. Rental housing affordable to households of four at 80%, 50%, and 30% of AMI comprises a larger share of the occupied housing in the SCR than it does in Woodbridge.

88. According to American Community Survey data, the median value of owner-occupied homes in Woodbridge is \$472,400, which is the highest of any municipality in the SCR and exceeds the second highest median value by over \$48,000.

- 89. As of July 2022, the Zillow Home Value Index for Woodbridge was \$569,000.
- 90. Woodbridge is aware of its high housing costs and lack of affordability.
- 91. While preparing the March 2015 update to Woodbridge's Plan of Conservation and Development, the Town's consultants reported that "single-family housing prices [in Woodbridge] have remained the highest in the area by \$50,000 or more," that only 1.12% of Woodbridge housing units met "state affordability standards," and that "1 in 3 Woodbridge households and a majority of renters pay unaffordable housing prices (>30% of income)."

2. Woodbridge Has Few Assisted Housing Units

- 92. Data from DOH's 2021 Affordable Housing Appeals List shows that, in absolute numbers and compared to other municipalities in the SCR, Woodbridge has few Assisted Units:
 - a. Woodbridge had only 41 Assisted Units as of 2021.
 - b. These 41 units represent 1.18% of the Town's housing supply according to DOH's calculations.
 - c. By comparison, approximately 13.71% of the SCR's housing units are Assisted Units.
 - d. The percentage of housing units that qualify as Assisted Units is lower in Woodbridge than in all but one other municipality in the SCR.
 - e. The SCR towns of New Haven, Hamden, and West Haven all have significantly greater shares of Assisted Units than Woodbridge, ranging from the 9.33% of Hamden's housing stock (more than seven times the 1.18% of housing in Assisted Units in Woodbridge), to 15.76% in West Haven (more than 13 times greater than Woodbridge's rate), to 33.01% in New Haven (more than 27 times greater than Woodbridge's rate).
 - f. While Woodbridge supplies 1.28% of the SCR's total housing stock, it supplies

only 0.12% of the SCR's Assisted Units.

93. Moreover, as reflected in DOH's 2019 Affordable Housing Appeals List, 30 of the Assisted Units in Woodbridge were located within an elderly housing development that, due to age-restrictions, is inaccessible to households without elderly residents, including the vast majority of families with school-age children.

3. Woodbridge Is Not Meeting Its Workforce's Housing Needs

94. As of 2021, the three most common occupations of persons employed in Woodbridge (which represent the occupations of 1,552 Woodbridge employed persons collectively) have adjusted median annual earnings of between \$23,000 and \$34,000.

95. As of 2021, six of the top ten largest employment sectors in Woodbridge (which collectively supply 2,635 jobs) have adjusted average annual earnings ranging from \$21,781 to \$66,522.

96. Households with incomes at and below the adjusted median annual earnings of the three most common Woodbridge occupations or the adjusted average annual earnings of six of the ten largest employment sectors in Woodbridge cannot afford Woodbridge's median gross rent of \$1,681 per month without being cost-burdened (*i.e.*, spending more than 30% of their income on rent).

97. Residents of Woodbridge hold only 6.6% of Woodbridge jobs, while approximately a third of Woodbridge's jobs are occupied by commuters from more racially and socioeconomically diverse municipalities such as New Haven (12.9%), Hamden (7.1%), West Haven (6.9%), and Bridgeport (5.8%).

F. Woodbridge's Lack Of Affordable Housing Contributes To The Shortage Of Such Housing Throughout The Region and State

98. Both the State and the region encompassing Woodbridge, including as defined by

the SCR, are suffering from a shortage of affordable housing.

99. The SCRCOG has recognized that the SCR's housing market is not meeting the need of households within the SCR for affordable housing.

100. In a June 2004 report, the SCRCOG stated that the SCR was suffering a "housing crisis" with "the need for affordable housing in the region [at] a critical point," and called for "an effective regional approach to this regional problem."

101. Nearly twenty years later, in its 2018-2028 Regional Plan of Conservation and Development, the SCRCOG explained that housing "affordability remains a concern [in the SCR]."

102. For decades, the State's Consolidated Plan, as well as earlier State reports on housing, have identified a need to significantly increase Connecticut's supply of affordable housing.

103. The 2020-2024 State of Connecticut Consolidated Plan for Housing and Community Development (the "2020 Consolidated Plan") established that "[s]tatewide, 77% of households with incomes under 50%" of the applicable AMI and "78% of the lowest income households (households with incomes at 30% AMI or less)" are cost burdened (meaning they pay more than 30% of their income on housing).

104. The 2020 Consolidated Plan further found that, statewide, 381,205 households with total household income under 80% of AMI are cost burdened, and that 214,105 households with total household income under 80% of AMI are severely cost burdened (meaning they pay more than 50% of their income on housing).

105. The 2020 Consolidated Plan highlighted the need for affordable housing in New Haven County, where Woodbridge is located.

106. The 2020 Consolidated Plan stated that “it is extremely important to ... add to the affordable housing stock ... especially ... in certain target areas ... such as New Haven and Fairfield counties, where the cost of living is generally higher than in other areas of the state.”

107. The Housing Needs Assessment of the 2020 Consolidated Plan examined housing needs at various percentages of AMI and varying degrees of cost burden:

- a. The 2020 Consolidated Plan determined that, statewide, the housing need for households earning no more than 30% of AMI and paying more than 30% of their income for housing was 111,095 renter households and 55,560 owner households, for a total of 166,655 households.
- b. The 2020 Consolidated Plan determined that, statewide, the housing need for households earning no more than 30% of AMI and paying more than 50% of their income for housing was 89,940 renter households and 46,110 owner households, for a total of 136,050 households.

108. With regard to estimating the “most critical” need for affordable housing at the regional level in June 2004, the SCRCOG examined “those households that earn 50% or less of the area median income and pay 30% or more of their income for housing,” noting that “information on income and the percentage of income spent by households on housing” is “used by communities throughout the country as the basis for the allocation of housing funds under a wide range of housing programs.”

109. Using this approach for assessing the need for affordable housing in the SCR region, the SCRCOG found in that June 2004 report that there were “35,937 households earning less than 50% of median income and paying more than 30% of income for housing in the region.”

110. In 2020, OCA released an estimate of the statewide and regional needs for affordable housing in Connecticut using a more conservative approach that relied on the population of households who are extremely low income (less than 30% of AMI) and severely cost burdened (paying more than 50% of income for housing). Under this approach, OCA estimated the statewide need for affordable housing to be 135,740 households and the SCR's need as 25,889.

111. There are various ways of allocating a region's need for affordable housing among its municipalities to determine each municipality's share of the regional need for affordable housing:

- a. For example, based on Woodbridge's share of the SCR's land area, for Woodbridge to house its proportionate share of the 35,937 households that the SCRCOG estimated as exhibiting "the most critical housing need," Woodbridge would need approximately an additional 1,855 units affordable to such households.
- b. Using a different approach that takes into account variation in SCR towns' fiscal resources to support vital local services, household incomes, poverty rates, and existing multifamily housing stock, OCA in 2020 estimated that Woodbridge should provide an additional 1,842 units affordable to households with low and moderate incomes over 20 years to address the SCR's housing need, which OCA conservatively estimated as requiring 25,889 affordable housing units.

G. Woodbridge's History Of Restrictive Zoning Regulations

112. Until recent changes to the Zoning Regulations took effect in September 2021, Woodbridge's Zoning Regulations banned non-age-restricted multifamily housing as a principal use throughout the entire Town.

113. Prior to September 2021, Section 3.3DD of Table 3.1 of the Zoning Regulations

(“Allowed Uses by Zone”) showed that Woodbridge did not allow “Multi-Family Dwellings” anywhere in the Town.

114. The only category of multifamily housing that Woodbridge’s Zoning Regulations permitted as a principal use until September 2021 was “Congregate Community Designed Exclusively for Occupancy by Elderly Persons.”

115. The Zoning Regulations in place until September 2021 provided in Section 3.2, Table 3.1 3.3EE that a “mixed use” “Active Adult Community (55+)” (“AAC 55+”) was allowed by special exception in the Dev 1 Development (“Dev 1”) and Dev 2 Development (“Dev 2”) zones.

116. The “55+” and “Adult Community” language reflects that such development is age-restricted to households with persons 55 years old and older.

117. Prior to September 2021, the Zoning Regulations allowed for up to four multifamily units of no more than 650 square feet each “when accessory to a legal non-residential use” in the Greater Business Overlay (“GBA”) zone.

118. Since such units were only allowed as an accessory use, they did not provide the opportunity to develop multifamily housing as a principal use in Woodbridge.

119. In practice, any unit that is 650 square feet or less is likely to be a one-bedroom, studio, or efficiency unit.

120. Thus, these provisions for accessory multifamily units in the GBA zone effectively prohibit units with two or more bedrooms, which families in need of affordable housing and in search of educational opportunities like those available in Woodbridge are likely to need.

H. OCT And 2 Orchard Road LLC’s Application To Amend Woodbridge’s Zoning Regulations

121. In September 2020, OCT, and 2 Orchard Road LLC presented the TPZ with a proposal to amend the Town's Zoning Regulations (the "Application").

122. The Application stated that it was "an initial remedial measure [that] will begin addressing the [Town's] longstanding exclusion of multi-family and affordable housing" and called for the Town to, in addition to approving the Application, "develop and adopt a plan for residential zoning and planning that will fully correct and remedy the Town's history of exclusionary land use policies and practices, by enacting zoning regulations and adopting other measures needed to prioritize, promote, and facilitate the development of affordable housing sufficient to meet the Town's 'fair share' of the region's need for such housing."

123. The Application proposed amending the Zoning Regulations to allow multifamily housing to be constructed by zoning permit throughout most of the Town's residential areas.

124. The Application proposed that for any multifamily housing developed pursuant to the proposed zoning amendment, a certain percentage of the units be subject to affordability protections to ensure that they were affordable to and occupied by households with low and moderate incomes or households receiving housing assistance.

125. The Application's proposed amendments would have required that any new multifamily development meet the bulk and dimensional standards that apply to the Town's single-family homes.

126. Under the Application's proposed zoning amendments, multifamily housing would also have had to comply with all applicable public health and building code requirements imposed by State law.

127. The only difference between the lot and building requirements for the single-family homes that the Zoning Regulations already permitted and the multifamily buildings that

the Application proposed to allow was the number of dwelling units permitted within a structure.

128. To illustrate the type of multifamily housing that could be constructed under the proposed amendments, the Application presented a conceptual plan for the 2 Orchard Road Development that consisted of a four-unit structure, with an on-site water system and on-site waste-water system, with one three-bedroom unit and one two-bedroom unit that would be leased to housing assistance recipients and one two-bedroom unit and one one-bedroom unit that would be leased at market rents.

129. The Application noted that the housing assistance recipients that would live in two of the units would “likely ... be Black or Hispanic in view of the racial makeup of the recipients of the rental assistance programs in the surrounding region and the affirmative marketing that will be conducted.”

130. While the Application did not seek the TPZ’s approval to construct this conceptual plan, OCT would have been able to develop the project outlined in the conceptual plan as of right if the TPZ had adopted the amendments proposed in the Application.

131. The plan illustrated how multifamily housing containing one or more units required to be affordable to households with low and moderate incomes or to households receiving housing assistance could be constructed within the parameters of the existing bulk and dimensional requirements, consistent with the Application’s proposed zoning amendments, on the 2 Orchard Road property and other parcels in Woodbridge that lack access to public water and sewer infrastructure.

132. In particular, the conceptual four-unit site plan exemplified the minimal to nonexistent risk of environmental harms from allowing multifamily housing in areas not served by public water and sewer given the moderate density of the multifamily developments that the

proposed amendments would have enabled.

133. Woodbridge's Zoning Regulations already allow with minimal procedural and substantive requirements single-family development and other uses in the areas not served by public sewer and water.

134. For example, the Zoning Regulations did not restrict impervious coverage on properties in the Town's watershed, and permitted uses such as swimming pools, tennis courts, and golf courses that potentially involved large tracts of land, significant earth removing, routine use of pollutants, and significant impervious coverage.

135. During the hearings regarding the Application, members of the TPZ recognized that environmental concerns surrounding the lack of water and sewer supply do not represent a barrier to allowing multifamily development.

136. Commissioner Lawrence Greenberg voiced "trouble with the concept that the rest of the zones would not share in the obligation to provide housing—a variety of housing." He noted that "[g]iven the sophistication of septic systems and well water," he thought "it [*i.e.*, multifamily housing] can be done in other areas as well."

137. Commissioner Yonatan Zamir similarly recognized that objections to multifamily housing based on outdated environmental reports ignored the fact that "there have been some pretty tremendous advances in water treatment for individual homes and buildings" allowing for higher density.

138. OCT engaged a homebuilder who planned to proceed with the 2 Orchard Road Development, had the Application been approved.

139. The conceptual plan demonstrated how affordable housing could be built in Woodbridge if the Town's Zoning Regulations were amended, consistent with the Application,

to allow it as of right.

140. Pursuant to C.G.S. § 8-3b, since the Application affected land use within 500 feet of a municipal boundary, the regional councils of government overseeing Woodbridge and its neighboring municipalities, SCRCOG and the Naugatuck Valley Council of Governments (the “NVCOG”), required written notice of the Application.

141. The SCRCOG’s Regional Planning Commission stated that the Application was “consistent with the policies and goals identified in both the State and Regional Plans of Conservation and Development.”

142. The NVCOG said that “the proposed text amendments” would “create both positive inter-municipal and inter-regional impacts to all affected communities.”

143. However, Woodbridge residents submitted commentary opposing the Application, with some focused on the prospective residents of multifamily and affordable housing.

144. In a letter submitted to the TPZ, one resident expressed concerns that granting the Application would change “the complexion of the town.”

145. Another resident’s letter contended that the amendments would increase “criminal acts,” “drug dealing and domestic disputes,” and “rodent infestation of neighboring properties.”

146. Another comment from a Woodbridge resident stated: “I do not want to see our town turn into a greater section of New Haven. ...Don’t open any doors because you don’t know what is lurking behind them.”

147. Another Woodbridge resident wrote that “[w]ith this zoning application and the ‘outsider diversity propaganda’ it is starting to smell of a strategy to change this town.”

148. A letter to the TPZ warned about “the type of people this zoning would bring in.”

149. Another Woodbridge resident commented that “[t]o invite low-income residents in multifamily dwellings threatens those qualities that made Woodbridge attractive” and would invite “a myriad of social pathologies that Woodbridge has so far been spared.”

150. On March 1, 2021, TPZ Commissioner Yonatan Zamir addressed the “elephant in the room” of “a longstanding history of structural racism that has happened” in the Town.

151. On May 3, 2021, Commissioner Zamir remarked, “I think there were also a slice [of the public comments] that were based ... [on] some fear and some ignorance ... we definitely heard that in the comments[.]”

152. On June 7, 2021, in response to the Application, the TPZ voted to adopt amendments to the Zoning Regulations rather than approving the Application.

153. The amended Zoning Regulations became effective September 7, 2021.

154. By letter, the TPZ notified 2 Orchard Road LLC and OCT of its vote to adopt amendments to the Zoning Regulations effective as of September 7, 2021.

155. In that letter, the TPZ agreed that “there was a need in Woodbridge for greater housing opportunities.”

156. However, the Zoning Regulations, as amended, still ban multifamily housing in 98.4% of Woodbridge’s residential land and, in the remaining 1.6% of residential land, permit multifamily development only if the TPZ votes, after a public hearing, to grant a special exception for a specific proposal.

157. The amendments did not otherwise expand opportunities for multifamily housing.

158. The Zoning Regulations remain unchanged as to the permissibility and requirements of a Congregate Community Designed Exclusively for Occupancy by Elderly Persons, an AAC 55+ development, and accessory multifamily units in the GBA zone.

III. Woodbridge's Zoning Regulations Unreasonably Restrict Multifamily And Affordable Housing Development

A. Multifamily Development Does Not Always Require Public Water And Sewer

159. Modern on-site water systems (including but not limited to wells) and waste-water systems (including but not limited to septic) make it feasible, far more so than in past decades, to develop multifamily dwellings in areas not served by public water and sewer in compliance with applicable public health codes and with environmental health and safety implications that are comparable to those for single-family housing.

160. Any new development, including multifamily development, with on-site waste-water systems (including but not limited to septic) must abide by existing public health codes administered by regional and State authorities.

161. As recognized by the EPA, these codes already account for the potential cumulative environmental impacts of denser development, including by imposing more stringent onsite septic disposal capacity requirements upon multifamily homes than single-family homes.

162. The EPA's Onsite Wastewater Treatment Systems Manual (2002) notes that the onsite wastewater treatment systems industry "has developed many new treatment technologies that can achieve high performance levels on sites with size, soil, ground water and landscape limitations that might preclude installing conventional systems."

163. The 2013-2018 Connecticut Plan of Conservation and Development explicitly rejected the use of density limits as a strategy to protect watersheds and instead encouraged towns to adopt impervious surface restrictions, which place limits on property owners' ability to cover their land in surfaces like concrete that cannot effectively absorb rainfall.

164. As noted in the State's response to public comments on the 2013-2018 statewide Plan of Conservation and Development, denser development can better reduce environmental

impacts than suburban sprawl, because “compact development results in less impervious cover on a per unit basis, primarily due to the reduced amount of transportation infrastructure.”

165. Restricting impervious coverage or peak runoff rate for single family and multifamily development would be a more effective means of addressing environmental health and safety concerns than limiting multifamily housing to areas with only public water and sewer access.

B. The Multifamily Regulations

1. Woodbridge Prohibits Multifamily Housing In The 98.4 Percent Of The Town’s Residential Land Not Served By Public Water and Sewer Infrastructure

166. Woodbridge’s Zoning Regulations condition multifamily development on public sewer and water infrastructure through two different zoning regulations.

167. First, Zoning Regulation 2.4.E.a prohibits the construction of multifamily housing in a 6,411 acre area of Zone A that is designated a public water supply watershed area (the “watershed”) and that comprises 58.5% of residentially-zoned land in Woodbridge.

168. Second, Zoning Regulation 2.4.E.b prohibits the development of multifamily housing in the areas of Zones A and B that do not receive public water and public sewer services.

169. 4,365 acres in Zones A and B, or 39.8% of Woodbridge’s residential land, are outside of the watershed but are not served by public water and sewer.

170. The combined effect of these two provisions of the Zoning Regulations is that multifamily housing is, based on estimates by a Town consultant, prohibited as a principal use in all but 1.6% of the Town’s residential land.

171. Typically, property owners can seek a variance that allows the property owner to use their property in a manner not permitted by the Zoning Regulations.

172. However, the amendments to the Zoning Regulations that became effective

September 7, 2021 contain a “Limitation on Variance,” which provides that the “uses permitted by this Section 3.4” (that is, “multiple-unit residential structures”) “shall not be permitted by variance in districts in which such uses are not otherwise allowed.”

173. Multifamily housing may only be constructed in the 1.6% of the residential area of Woodbridge that today has public water and sewer infrastructure service.

174. The 1.6% of Woodbridge’s residential land area (179.3 acres) served by public water and sewer infrastructure consists of zones T3-C, T3-D, T3-BB, and a portion of zone A.

175. In that 1.6% of the Town’s residential land area, multifamily buildings may not exceed 2.5 stories, may not exceed 15 residential units per acre, and may not exceed lot coverage limits ranging from 15% to 50%.

176. By banning the development of multifamily housing in the 98.4% of residential land lacking public sewer and water infrastructure (10,776.1 acres), the Zoning Regulations 2.4.E.a and 2.4.E.b strictly limit the quantity of multifamily housing that can be developed in Woodbridge.

2. Woodbridge Unjustifiably Subjects Small-Scale Multifamily Development To Special Exception Requirements

177. In the 1.6% of residential land where multifamily housing is not banned, Woodbridge’s Zoning Regulations unjustifiably subject multifamily developments that meet the bulk and dimensional requirements applicable to single family homes (“small-scale multifamily developments”) to a special exception requirement that does not apply to any form of single-family or two-family housing in the same area.

178. Building single-family homes in any residential zone in Woodbridge or two-family homes in the 1.6% of Woodbridge’s residential area served by public water and sewer requires only a zoning permit, regardless of the bulk or any other aspects of the proposal.

179. Pursuant to Zoning Regulation 6.5, Town zoning staff will issue a zoning permit if: the applicant submits a site map demonstrating that its proposal complies with the Zoning Regulations, zoning staff determine that the location of the foundation and building or structure to be erected on it do not encroach on any building lines or violate the Zoning Regulations prior to the placement of any material for the foundation, and the applicant pays the applicable fees.

180. Under the Zoning Regulations, issuance of a zoning permit requires neither TPZ involvement nor a public hearing.

181. If an applicant submits a map that complies with Zoning Regulation 6.5(B)(2), complies with the foundation inspection provisions of Zoning Regulation 6.5(C), and pays the applicable fees, the Town's zoning staff do not have discretion to deny the zoning permit.

182. On the other hand, in the same 1.6% of Woodbridge's residential area with public sewer and water infrastructure, the Zoning Regulations require property owners or option holders (collectively, "property owners") to obtain a special exception from the TPZ to build any form of multifamily housing, even small-scale multifamily housing that meets the bulk and dimensional requirements for single-family housing and complies with the Public Health Code.

183. Zoning Regulation 6.3(A) requires applicants for a special exception to submit: a site plan, a narrative statement describing the proposed use, and data regarding the proposed use.

184. The site plan produced to obtain a special exception under Zoning Regulation 6.3(A)(1) must comply with the site plan requirements set forth in Zoning Regulation 6.4.

185. The Zoning Regulations require applicants for a special exception to submit details and information as part of their site plan that applicants for a zoning permit need not submit.

186. Zoning Regulation 6.5(B)(2) delineates 16 requirements for the site map that an

applicant must submit to obtain a zoning permit.

187. In contrast, Zoning Regulation 6.4(B)(3)(d) lists 28 requirements for the site plan that an applicant must submit to obtain a special exception.

188. Any special exception application must also undergo a public hearing process.

189. The public hearing process can involve multiple hearings over the course of many months and sometimes an even longer period of time, and it gives local residents who oppose a proposal the chance to express their opposition to that proposal to the TPZ.

190. The TPZ has discretion as to whether to grant a special exception by majority vote based not only on compliance with the application requirements of Zoning Regulation 6.3(A) described below, but also the Zoning Regulation 6.3(C) factors as to which the TPZ “shall give consideration” in “deciding whether to grant a Special Exception.”

191. Zoning Regulation 6.3(C) includes discretionary, non-quantifiable considerations for the TPZ to assess, such as the “harmony and appropriateness of the use and site design in relation to the general area and adjacent properties.”

192. Thus, an applicant for a special exception cannot be sure that its application for a special exception will be approved, or a denial overturned on appeal, even if the applicant complies with all applicable Zoning Regulations.

193. Special exception requirements make approval unpredictable.

194. Special exception requirements also delay and can effectively prevent the construction of housing.

195. Due to the actual and perceived risk of the TPZ declining to approve a special exception for a multifamily development, together with the risk that months will pass before the TPZ decides to grant the special exception or before an appeal results in reversal of the TPZ’s

denial of a special exception, it is financially risky for would-be home builders to purchase land in Woodbridge for multifamily development, and it is further difficult and financially risky for would-be homebuilders to obtain an option to purchase land in Woodbridge for multifamily development.

196. Obtaining an option to purchase land conditional on the TPZ's approval of a special exception is both challenging (since a seller would typically prefer to sell the property than grant someone an option) and costly (because the option-holder must typically make monthly option payments for as long as it takes the TPZ to consider the application).

197. In contrast, purchasing land or obtaining an option to purchase land for single-family development, which requires only a permit, is less financially risky since issuance of a permit is not discretionary, is guaranteed if the applicant complies with the Zoning Regulations, and does not entail potentially protracted public hearings.

198. In addition, an applicant must generally retain and pay for expert and legal assistance to satisfy the special exception application and public hearing requirements.

199. Together, the property acquisition costs, preparation of a special exception application, and the public hearing process can cost an applicant hundreds of thousands of dollars.

200. The costs, burdens, and risk of discretionary disapproval associated with special exception applications deter would-be builders of multifamily and affordable housing from seeking to build such housing in Woodbridge and thereby impede the development of multifamily housing and affordable housing in Woodbridge.

201. The special exception requirement for multifamily housing in the 1.6% of Woodbridge served by public water and sewer service significantly impedes the development of

multifamily housing in the only area of Woodbridge’s residential land where the Zoning Regulations permit such housing.

202. Woodbridge lacks a legally cognizable justification for subjecting small-scale multifamily development to a different approval requirement than single-family and two-family housing in the same area, when small-scale multifamily housing can be constructed within the same bulk and dimensional requirements as single-and two-family housing and with health and environmental impacts comparable to those of single and two-family housing.

C. Allowing Single-Family and Two-Family Housing And Accessory Dwelling Units Does Not Meet The Need For Affordable Housing

203. Woodbridge’s Zoning Regulations permitting single-family and two-family housing and Accessory Dwelling Units (“ADUs”), along with Zoning Regulations permitting multifamily units of no more than 650 square feet as an accessory to non-residential uses in the GBA overlay zone, do not meet the local, regional, or State needs for affordable housing or offset the discriminatory effects of the Multifamily Regulations.

204. The GBA is a small overlay zone.

205. The Zoning Regulations permit, in conjunction with any non-residential primary use, a maximum of four multifamily units of no more than 650 square feet each.

206. That such multifamily units may be no larger than 650 square feet limits the households which may occupy them.

207. There are no incentives or requirements for affordability applicable to multifamily dwellings accessory to non-residential uses in the GBA.

208. Single-family and two-family housing is generally more expensive than multifamily housing.

209. Land acquisition costs are one of the most significant expenses in building a

home.

210. Land acquisition costs per unit increase as zoning regulations require larger lot sizes.

211. In 58.5% of Woodbridge's residential area, Zoning Regulations impose a two-acre minimum lot size for single- and two-family homes.

212. In 39.8% of Town, Zoning Regulations impose a minimum lot size of 1.5 acres for single- and two-family homes.

213. By comparison, the National Association of Homebuilders reports that the median lot size for new single-family detached homes sold in 2019 in the United States was 0.188 of an acre.

214. Woodbridge's 2015 POCD acknowledges that Zone A has "large lot sizes."

215. Land acquisition costs can be passed onto renters in the form of higher rents.

216. A property owner who develops a single-family or two-family rental building must recoup the land acquisition costs from the rent of only one or two units, whereas a property owner who constructs a multifamily building on the same lot can recoup the land cost from rents paid by multiple units and can accordingly charge lower per-unit rents.

217. Across the 15 municipalities in the SCR, the cost of owning a single-family home is approximately 31% higher than the cost of owning a non-single-family home, and is approximately 67% higher than the cost of renting non-single-family housing.

218. For these reasons, Woodbridge's Zoning Regulations allowing single-family and two-family development do not facilitate the development of affordable housing.

219. Woodbridge's Zoning Regulations allowing ADUs to be constructed on single-family parcels also do not meet the need for affordable housing.

220. Single-family parcels on which ADUs are permitted are still subjected to the same lot size requirements as other single-family homes in the applicable zone.

221. Under Zoning Regulation 3.3(CC)(2)(a), ADUs can be no more than 1000 square feet.

222. This size limitation substantially reduces the viability of ADUs as a means for housing families with children, especially families that may require units with three or more bedrooms.

223. ADUs are only available to homeowners who remain in either the primary dwelling or ADU on their property, limiting their adoption to owner-occupied households.

224. In practice, ADUs are often constructed to house family members free of charge, or marketed as short-term rentals for family members, friends, and tourists, instead of as a long-term housing option available to renters without a personal connection to the owner.

225. Each of these limitations reduces the likelihood that ADUs will be rented at prices households with low and moderate incomes, including those receiving housing assistance.

226. Each of these limitations, and, in particular, the 1,000 square foot maximum, reduces the viability of ADUs as a means for housing families with children.

227. To meet the local, regional, and State needs for affordable housing, Woodbridge's Zoning Regulations must facilitate the development of multifamily housing.

228. Indeed, the Connecticut Commission on Human Rights and Opportunities has recognized that because multifamily housing is "less expensive" than other forms of housing, zoning regulations that "exclud[e] [multifamily housing] will generally exclude low and moderate income households and minorities from the community."

229. Similarly, the Connecticut Department of Housing's 2015 report on barriers to

fair housing in the State, *State of Connecticut Analysis of Impediments to Fair Housing Choice*, recognizes that “one of the most cost effective ways to create affordable housing is through the development of multifamily housing” and lists “[r]estrictions in zoning ordinances on multifamily or affordable housing” including “Special Permit” requirements, as a “Zoning Barrier[] to Affordable Housing.”

D. Woodbridge's “Affordable Housing District” Does Not Facilitate The Development of Affordable Housing

230. Woodbridge’s “Affordable Housing District,” as described in Section 3.3DD of the Zoning Regulations, does not facilitate the development of affordable or multifamily housing.

231. The “Affordable Housing District” does not allow any non-age restricted multifamily housing, instead permitting only single-family housing and elderly housing.

232. In addition, the district imposes set-back, parking, and approval requirements that exceed those in other residential districts.

233. For example, to build in the Affordable Housing District, property owners must obtain TPZ approval for a zone change, a special exception for an Affordable Housing District Development Plan, and a special exception for a site plan.

234. Town records indicate the Affordable Housing District regulations have never been used to obtain approval for a development since their adoption over 26 years ago.

E. Woodbridge's Regulations Permitting Elderly Housing Do Not Adequately Address The Need For Affordable Housing

235. Insofar as Woodbridge’s Zoning Regulations allow the development of congregate communities for residents 62 years and older and the development of AAC 55+ housing, they do not adequately address the local, regional, or state needs for affordable housing or offset the discriminatory effects of the Multifamily Regulations.

236. The congregate communities, which provide housing with medical services, are age-restricted, and thus unable to serve households other than those with residents 62 years old and older.

237. The AAC 55+ provisions are similarly age-restricted to households with a member who is 55 years old or older and do not even explicitly authorize multifamily housing.

238. There are no affordability incentives or requirements for AAC 55+ or congregate community developments.

IV. The Multifamily Regulations Have Harmful and Discriminatory Effects

239. The Multifamily Regulations have a disparate impact on Black and Hispanic households and perpetuate the segregation of Black and Hispanic households and households receiving housing assistance in the region encompassing Woodbridge, including as defined by the SCR.

A. The Multifamily Regulations Disproportionately Burden And Perpetuate The Segregation Of Black And Hispanic Households

1. Woodbridge Has A Comparatively Low Black and Hispanic Population

240. The American Community Survey data shows that Black and Hispanic individuals comprise a smaller share of the population of Woodbridge than of the region encompassing Woodbridge, including as defined by the SCR:

- a. Whereas 13.8% of the SCR's population is Black, only 3.8% of Woodbridge residents are Black.
- b. Whereas 17.9% of the SCR's population is Hispanic, only 5.3% of Woodbridge residents are Hispanic.
- c. More than 72% of Woodbridge residents are white, as compared to 60.8% of SCR residents.

241. Low and moderate income Black and Hispanic households, in particular, are underrepresented in Woodbridge.

242. The U.S. Department of Housing and Urban Development (“HUD”) designates households earning 80% or less of the AMI to be low income, households earning 50% or less of the AMI to be very low income, and those earning 30% or less of the AMI to be extremely low income.

243. Households earning more than 80 percent but less than or equal to 100 percent of the AMI fall into the range of moderate income households.

244. The following data from HUD’s 2014-2018 Comprehensive Housing Affordable Strategy dataset shows that Black and Hispanic households in many of these income brackets comprise a smaller share of Woodbridge’s population than of the SCR’s population:

- a. Woodbridge has no Black or Hispanic households that are extremely low income (30% or less of the AMI).
- b. Yet the SCR is home to approximately 7,990 Black and 6,960 Hispanic extremely low income households, respectively comprising 23.5% and 20.4% of SCR households with extremely low incomes.
- c. Woodbridge has no Black or Hispanic households with very low incomes.
- d. However, the SCR has approximately 5,338 Black and 5,435 Hispanic very low income households (income that is greater than 30% but less than or equal to 50% of the AMI), which respectively comprise 19.2% and 19.5% of SCR households in that income bracket and which each constitute 2.4% of all SCR households.
- e. Woodbridge has no low income Black households and only 20 low income Hispanic households (incomes greater than 50% but less than or equal to 80% of

the AMI), with the 20 Hispanic households comprising 8.7% of Woodbridge households in that income bracket and 0.7% of all Woodbridge households.

- f. Yet the SCR has 4,863 Black and 5,964 Hispanic low income households with incomes greater than 50% but less than or equal to 80% of the AMI, respectively comprising 14.8% and 18.1% of SCR households in that income bracket and 2.2% and 2.7% of all SCR households.
- g. Woodbridge has no moderate income Black households (incomes greater than 80% but less than or equal to 100% of the AMI), and only four moderate income Hispanic households, with the latter group comprising 3.5% of Woodbridge households in that income bracket and 0.1% of all Woodbridge households.
- h. Meanwhile, the SCR has approximately 2,924 Black and 2,814 Hispanic moderate income households, respectively representing 13.8% and 13.3% of SCR households in that income bracket and which each represent 1.3% of all SCR households.

245. Collectively, Black households with extremely low, very low, and low incomes (income less than or equal to 80% of the AMI) comprise 0% of Woodbridge households, but 8.2% (18,191) of all SCR households.

246. Hispanic households with extremely low, very low, and low incomes collectively comprise just 20 households in Woodbridge, or 0.7% of all Woodbridge households, while the SCR has 18,359 such households, which represent 8.3% of all SCR households.

247. The proportion of all SCR households who are Hispanic with extremely low, very low, or low incomes is more than 12 times greater than the proportion in Woodbridge.

248. Woodbridge has no Black households with extremely low, very low, low, or

moderate incomes (less than or equal to 100% of the AMI), while there are 21,115 such households in the SCR, comprising 9.5% of all households in the region.

249. Woodbridge has only 24 Hispanic households with extremely low, very low, low, or moderate incomes, comprising 0.8% of all households in Town, while the SCR has 21,173 such households, comprising 9.5% of all SCR households.

250. The proportion of all SCR households who are Hispanic with extremely low, very low, low, or moderate incomes is more than 11 times greater than the proportion in Woodbridge.

2. Black and Hispanic Households Are Segregated In The Region Encompassing Woodbridge

251. Black and Hispanic households are segregated in the region encompassing Woodbridge, including as defined by the SCR.

252. The dissimilarity index measures residential racial segregation in a region.

253. The dissimilarity index compares two racial or ethnic groups within a given area and determines what percentage of the members of either group would have to move in order for the two groups to be evenly distributed relative to each other throughout the region.

254. The dissimilarity index provides values on a scale from zero to one. If the populations are already evenly distributed in the region relative to each other, the dissimilarity index would be zero. If the populations are completely segregated from one another, the dissimilarity index would be one.

255. HUD's "Affirmatively Furthering Fair Housing Data Mapping Tool (AFFH-T) Data Documentation" states that dissimilarity index values above 0.55 reflect "High Segregation."

256. The dissimilarity index for the SCR's Black and white populations is 0.65.

257. Based on the dissimilarity index, the Black and white populations in the SCR are

segregated from one another.

258. The dissimilarity index for the SCR's Hispanic and white populations is 0.55.

259. Based on the dissimilarity index, the Hispanic and white populations in the SCR are segregated from one another.

260. The isolation index also measures residential racial segregation.

261. The isolation index is a weighted average across the census tracts of a defined area that measures the likelihood that members of a baseline racial or ethnic group live among members of that same racial or ethnic group as opposed to members of a comparison racial or ethnic group. A higher index value, up to a maximum of 1.0, indicates that the baseline racial group is more isolated from the comparison racial group.

262. The SCR's isolation index for its white population from its Black population is 0.890.

263. The SCR's isolation index for its white population from its Hispanic population is 0.844.

264. The isolation index indicates that the SCR's white population is isolated from both the SCR's Black and Hispanic populations.

265. Woodbridge's isolation index for its white population from its Black population is 0.951.

266. Woodbridge's isolation index for its white population from its Hispanic population is 0.932.

267. The isolation index indicates that Woodbridge's white population is isolated from both the Town's Black and Hispanic populations.

268. Woodbridge's white population is even more isolated from both the Town's

Black and Hispanic populations than the SCR's white population is from its Black and Hispanic populations.

269. The SCRCOG has recognized the need to address segregation in the SCR.

270. The 2018-2028 SCRCOG Plan of Conservation and Development underscored that "[a] large proportion of low-income and minority regional residents are located within the central core and inner ring suburbs ... with limited economic and housing opportunities.... [such that] there is a need to promote racial and economic integration."

3. Black And Hispanic Households Disproportionately Need Multifamily, Affordable, and Assisted Housing

271. Black and Hispanic households in the region encompassing Woodbridge, including as defined by the SCR, represent a disproportionately large share of households with low incomes and households that are cost-burdened.

272. The 2020 Consolidated Plan underscored that "[i]n Connecticut there is disproportionate need for affordable housing among people of color ... and people with a source of income other than employment," emphasizing that "two groups of households tend to experience cost burden at a higher rate – Black/African American and Hispanic households. This is even more evident for households paying in excess of 50% of their income on housing costs."

273. While the SCR's overall population is 13.8% Black, Black households comprise, according to HUD's 2014 – 2018 Comprehensive Housing Affordable Strategy dataset:

- a. 23.5% of SCR households with extremely low incomes (income at or below 30% of the AMI);
- b. 19.2% of SCR households with very low but not extremely low incomes (income greater than 30% but less than or equal to 50% of the AMI); and
- c. 14.8% of SCR households with low incomes (income greater than 50% but less

than or equal to 80% of the AMI).

274. The SCR's overall population is 17.9% Hispanic, but Hispanic households comprise, according to HUD's 2014 – 2018 Comprehensive Housing Affordable Strategy dataset:

- a. 20.4% of SCR households with extremely low incomes;
- b. 19.5% of SCR households with very low incomes; and
- c. 18.1% of SCR households with low incomes.

275. The American Community Survey data shows that Black and Hispanic households are especially overrepresented among renters with low and moderate incomes.

276. While 13.8% of the SCR's overall population is Black, Black households comprise, according to HUD's 2014 – 2018 Comprehensive Housing Affordable Strategy dataset:

- a. 28.4% of renter households in the SCR with extremely low incomes;
- b. 25.8% of renter households in the SCR with very low incomes;
- c. 18.6% of SCR renter households with low incomes; and
- d. 17.4% of renter households in the SCR moderate incomes.

277. Similarly, while 17.9% of the SCR's population is Hispanic, Hispanic households comprise, according to HUD's 2014 – 2018 Comprehensive Housing Affordable Strategy dataset:

- a. 25.2% of SCR renter households extremely low incomes;
- b. 27.6% of SCR renter households with very low incomes;
- c. 26.3% of SCR renter households with low incomes; and
- d. 20.7% of SCR renter households with moderate incomes.

278. In contrast, white households comprise 60.8% of the SCR's population, but, according to HUD's 2014 – 2018 Comprehensive Housing Affordable Strategy dataset only:

- a. 48.7% of SCR households with extremely low incomes (income at or below 30% of the AMI);
- b. 54.7% of SCR households with very low but not extremely low incomes (income greater than 30% but less than or equal to 50% of the AMI); and
- c. 45.1% of SCR households with low but not very or extremely low incomes (income greater than 50% but less than or equal to 80% of the AMI).
- d. 38.4% of renter households in the SCR with extremely low incomes,
- e. 39.1% of renter households in the SCR with very low but not extremely low incomes,
- f. 31.4% of SCR renter households with low but not very or extremely low incomes, and
- g. 51.2% of renter households in the SCR moderate incomes.

279. Additionally, according to the 2016-2020 American Community Survey Data:

- a. 34.3% of Black SCR households and 29.1% of Hispanic SCR households have extremely low incomes (income at or below roughly 30% of the AMI), compared to 16.0% of white SCR households;
- b. 18.1% of Black SCR households and 22.2% of Hispanic SCR households have very low but not extremely low incomes (income greater than roughly 30% but less than or equal to roughly 50% of the AMI), compared to 12.1% of white SCR households; and
- c. 18.5% of Black SCR households and 17.6% of Hispanic SCR households have low

but not very or extremely low incomes (income greater than roughly 50% but less than or equal to roughly 80% of the AMI), compared to 16.1% of white SCR households.

280. Because Black and Hispanic households in the region encompassing Woodbridge, including as defined by the SCR, disproportionately have low and moderate incomes and comprise a disproportionate share of renters with low and moderate incomes, they have an outside need for affordable and multifamily housing, and particularly rental affordable and multifamily housing.

281. Black and Hispanic households comprise a disproportionate share of recipients of housing assistance in the region encompassing Woodbridge, including as defined by the SCR.

282. For example, Black and Hispanic households make up a disproportionate share of the residents of HUD-subsidized units in the SCR.

283. While the SCR's population is 13.8% Black, Black households comprise about 35% of all HUD-subsidized unit occupants in the SCR, according to the 2021 HUD Picture of Subsidized Households data.

284. Similarly, although the SCR's population is 17.9% Hispanic, Hispanic households occupy approximately 33% of the HUD-subsidized units in the SCR, according to the 2021 HUD Picture of Subsidized Households data.

285. In contrast, whereas the SCR's population is 60.8% white, white households comprise about 30.3% of all HUD-subsidized unit occupants in the SCR.

286. And, whereas 14.1% of the Black SCR population and 10.2% of the Hispanic SCR population reside in HUD subsidized units, only 2.7% of the white SCR population resides in such units.

4. Affordable and Assisted Housing Is Concentrated In Areas With High Black and Hispanic Populations In The Region Surrounding Woodbridge

287. In the region encompassing Woodbridge, including the SCR, affordable housing and Assisted Housing are concentrated in areas with relatively high Black and Hispanic populations.

288. A recent report funded by DOH found that evidence “indicate[s] that land use restrictions are preventing the creation of market-rate affordable housing in suburbs surrounding core cities” such that “urban centers (which have ... higher Black and Latino populations) bear the greatest burden for providing ... affordable multifamily housing.”

289. About 73% of all HUD subsidized units in the SCR are located in census tracts where non-Hispanic white residents are not a majority of the population. Most of these census tracts are predominantly Black and/or Hispanic.

290. Assisted Units also are concentrated in Black and Hispanic areas of the SCR.

291. New Haven has 23.0% of all the housing units in the SCR according to the American Community Survey Data, but, as DOH’s 2021 Affordable Housing Appeals list shows, accounts for 55% of the SCR’s Assisted Units.

292. New Haven is 62.7% Black or Hispanic (31.8% Black, 30.8% Hispanic) according to the American Community Survey data.

293. A June 2004 SCRCOG report noted that “the region’s assisted housing stock ... [was] disproportionately shared by a few communities,” with “New Haven, Meriden, West Haven, and Hamden[] account[ing] for 84% of the entire region’s assisted housing stock.”

294. The SCRCOG’s 2018-2028 Regional Plan of Conservation and Development observed that “[a]ffordable housing is concentrated within a few communities in the Region.”

295. The State’s 2020 Consolidated Plan found that “there tend to be larger

concentrations of ethnic minorities and low-income families in our more populated areas” such that “[i]ncreasing the supply of affordable housing and locating it in communities throughout the state will promote integration.”

5. The Multifamily Regulations Disparately Impact And Perpetuate The Segregation Of Black And Hispanic Households

296. The Multifamily Regulations disparately impact and perpetuate the segregation of Black and Hispanic households in the region encompassing Woodbridge, including as defined by the SCR.

297. The Multifamily Regulations, individually and collectively and in operation with other Woodbridge Zoning Regulations, block the development of the multifamily, affordable, and Assisted Housing that Black and Hispanic households disproportionately need by:

- a. limiting the area in which of multifamily housing can be developed;
- b. thereby limiting the quantity of multifamily housing that can be developed; and
- c. limiting, deterring and delaying the development of multifamily housing through the imposition of the special exception requirement on small-scale multifamily development that is capable of being developed within the bulk and dimensional requirements imposed on single-family housing.

298. By blocking the development of multifamily housing, affordable housing, and Assisted Housing, the Multifamily Regulations, individually and collectively and in operation with other Woodbridge Zoning Regulations:

- a. operate to exclude from Woodbridge’s borders Black and Hispanic households;
and
- b. thereby perpetuate segregation within the region encompassing Woodbridge, including as defined by the SCR.

299. Because Black and Hispanic households in the region encompassing Woodbridge have an outsized need for affordable housing, Woodbridge's lack of such housing disproportionately harms Black and Hispanic households.

300. Given the demographics of the households in need of affordable housing in the region, including as defined by the SCR, the development of multifamily developments, including small-scale multifamily developments, would increase housing opportunities for Black and Hispanic households in Woodbridge.

301. The Connecticut Commission on Human Rights and Opportunities has found that "Connecticut is one of the most racially segregated states in the nation," and identifies "zoning policy" as "[o]ne of the tools of segregation."

302. The Connecticut Commission on Human Rights and Opportunities has recognized that because multifamily housing is "less expensive" than other forms of housing, zoning regulations that "exclud[e] [multifamily housing] will generally exclude low and moderate income households and minorities from the community."

B. The Multifamily Regulations Perpetuate The Segregation Of Recipients Of Housing Assistance

303. The Multifamily Regulations perpetuate the segregation of recipients of housing assistance in the region encompassing Woodbridge, including as defined by the SCR.

304. The Multifamily Regulations, individually and collectively and in operation with other Woodbridge Zoning Regulations, block the development of housing affordable to recipients of housing assistance and thereby exclude such recipients from Woodbridge's borders and force such recipients to obtain housing in areas with higher concentrations of recipients of housing assistance.

305. A former Woodbridge Selectman stated in December 2015 that Woodbridge's

“high property values” are a “direct result of our longstanding, far sighted zoning regulations.”

1. Households Receiving Housing Assistance Are Segregated In The Region Encompassing Woodbridge

306. According to the Connecticut Department of Housing’s 2015 report on barriers to fair housing in the State, *State of Connecticut Analysis of Impediments to Fair Housing Choice*, subsidized housing is highly concentrated in particular areas.

307. Households receiving housing assistance are segregated in the region encompassing Woodbridge, including as defined by the SCR.

308. Woodbridge has a low population of individuals with low incomes and of households receiving housing assistance, relative to other municipalities in the region encompassing Woodbridge, including as defined by the SCR.

309. Data from HUD’s 2014-2018 Comprehensive Housing Affordable Strategy dataset, shows that Woodbridge has a low population of households with low incomes:

- a. Households with extremely low incomes (less than or equal to 30% of the AMI) comprise 15.4% of the SCR’s households but only approximately 4.3% of Woodbridge’s households;
- b. Households with very low incomes (above 30% and less than or equal to 50% of the AMI) comprise 12.5% of SCR households and approximately 11.1% of Woodbridge households;
- c. Households with low incomes (more than 50% of the AMI and less than or equal to 80% of the AMI) comprise 14.8% of the SCR households but only approximately 7.8% of Woodbridge households; and
- d. Households with moderate incomes (more than 80% and less than or equal to 100% of the AMI) comprise 9.6% of SCR households but only approximately

3.9% of Woodbridge households.

310. According to the American Community Survey data, the median household income in Woodbridge is \$169,155, which is the highest median household income of any SCR municipality and exceeds the second highest median household income in the SCR by more than \$18,000.

311. Individuals living in households with household income below the federal poverty level comprise only 2.5% of Woodbridge's population but approximately 11% of the SCR's population according to the American Community Survey data.

312. The American Community Survey data shows that Woodbridge has the third-lowest percentage of individuals living below the federal poverty level of any municipality in the SCR.

313. There are disproportionately few households receiving governmental rental assistance in Woodbridge, as shown by data from DOH's 2021 Affordable Housing Appeals List and the American Community Survey:

- a. There are only eight Assisted Units in Woodbridge where the household receives portable tenant-based federal or State rental assistance (e.g., Section 8 or the Connecticut Rental Assistance Program).
- b. These eight households with rental assistance represent just 0.3% of all Woodbridge households.
- c. By comparison, there are 12,163 Assisted Units occupied by households receiving portable federal or State rental assistance throughout the SCR, comprising 5.5% of all households in the SCR, which is more than 20 times the equivalent percentage for Woodbridge.

314. As reflected in DOH's 2021 Affordable Housing Appeals list and demonstrated below, recipients of portable tenant-based State and federal rental assistance within the SCR are heavily concentrated in New Haven, West Haven, and Meriden, and moderately concentrated in Hamden, Milford, East Haven, and Wallingford, while there are few such tenants in Woodbridge and the other remaining SCR towns:

- a. New Haven, West Haven, and Meriden account for 87.3% of the households receiving portable tenant-based State and federal rental assistance in the SCR – 58.7% in New Haven, 17.4% in West Haven, and 11.2% in Meriden.
- b. New Haven had 7,142 households receiving such assistance (12.9% of total New Haven households), West Haven had 2,119 (9.4% of total West Haven households), and Meriden had 1,360 (5.3% of total Meriden households).
- c. Hamden, Milford, East Haven, and Wallingford account for an additional 11.3% of the households receiving portable tenant-based State and federal rental assistance in the SCR – 6.7% in Hamden, 2.0% in Milford, 1.4% in East Haven, and 1.2% in Wallingford.
- d. Together, New Haven, West Haven, Meriden, Hamden, Milford, East Haven, and Wallingford contain 98.6% of SCR households receiving portable tenant based State and federal rental assistance.
- e. Hamden had 818 households receiving such assistance (3.3% of total Hamden households), Milford had 244 (1.1% of total Milford households) East Haven had 167 households (1.3% of total East Haven households), and Wallingford had 142 (0.7% of total Wallingford households).
- f. By contrast, extremely few households in Woodbridge or any of the remaining

SCR towns receive portable tenant-based State or federal rental assistance, with Woodbridge having 8 such households (0.1% of all recipients of such assistance in the SCR and 0.2% of total Woodbridge households) and each of the remaining SCR towns (Bethany, Branford, Guilford, Madison, North Branford, North Haven, and Orange) having fewer than 75 such units, each representing 0.5% or less of all recipients of such assistance in the SCR and each having 0.6% or less of its total households receiving such assistance.

2. Woodbridge Rents Exceed Section 8 Voucher Payment Standards

315. Current rents in Woodbridge are not affordable for recipients of housing assistance.

316. Recipients of housing assistance for rental units require access to rental housing within the value of their governmental assistance.

317. The only Housing Choice Voucher administrator whose jurisdiction covers Woodbridge is DOH.

318. Woodbridge is part of the New Haven-Meriden HUD metropolitan fair market rent (“FMR”) area.

319. In the New Haven-Meriden FMR area, the DOH payment standard (the potential value of a Housing Choice Voucher) for an “efficiency” (i.e., studio) unit is \$1,257 per month, for a one-bedroom unit is \$1,423 per month, for a two-bedroom unit is \$1,736 per month, and for a three-bedroom unit is \$2,146 per month.

320. The median gross rent in Woodbridge of \$1,681 is greater than the potential value of a DOH Housing Choice Voucher in Woodbridge for an efficiency unit or a one-bedroom unit.

321. According to the American Community Survey data, the median gross rent in

Woodbridge for a three-bedroom unit specifically is \$2,331, which is greater than the potential value of a DOH Housing Choice Voucher for such a unit in Woodbridge.

322. An increase in the supply of multifamily housing in Woodbridge would lead to a decrease in rental prices.

323. By restricting the supply of multifamily housing in Woodbridge, the Zoning Regulations keep Woodbridge's rental prices at a level unaffordable to recipients of housing assistance.

C. Residential Segregation Contributes To Segregated Schools

324. Residential segregation contributes to segregated public schools.

325. The Woodbridge School District, which consists of a single elementary pre-kindergarten through sixth grade elementary school, has a student population that is 66.7% white while being less than 0.7% Black (the data is suppressed when there are fewer than six students in a category) and 7.7% Hispanic.

326. The Woodbridge School District has 118 students (14.4%) that are eligible for free and reduced-price meals and has 24 students (2.9%) identified as English language learners.

327. The Amity Regional School District, which consists of two middle schools and one high school serving students from Woodbridge, Bethany, and Orange, has a student population that is 72.6% white, 3.6% Black, and 5.2% Hispanic.

328. The Amity Regional School District has 281 students (12.9%) that are eligible for free and reduced-price meals and has 18 students (0.8%) identified as English language learners.

329. The neighboring New Haven School District has a student population that is 11.6% white, while being 35.6% Black and 47.4% Hispanic, with 69.9% of students eligible for free and reduced-price meals and 17.9% of students identified as English language learners.

V. PLAINTIFFS' STANDING

330. Woodbridge's exclusionary Zoning Regulations have harmed and continue to harm OCT, Garden Homes Fund, and 2 Orchard Road LLC.

331. OCT has taken steps towards facilitating the development of mixed-income, multifamily affordable housing in Woodbridge. It has leased the 2 Orchard Road property with an option to purchase from 2 Orchard Road LLC. OCT, together with 2 Orchard Road LLC and Garden Homes Fund, plan to facilitate the development of the 2 Orchard Road Development, which would include at least one three-bedroom unit and one two-bedroom unit that would be leased to families receiving rental assistance under the federal Housing Choice Voucher Program or the State's Rental Assistance Program as well as two market-rate units. Given the racial makeup of the regional recipients of these rental assistance programs, the affordable units would likely be leased to Black or Hispanic families.

332. Woodbridge's Zoning Regulations deny OCT, Garden Homes Fund, and 2 Orchard Road LLC the opportunity to build the 2 Orchard Road Development, and have caused OCT, Garden Homes Fund, and 2 Orchard Road LLC economic injury. Woodbridge's regulations have also frustrated the efforts of OCT, Garden Homes Fund, and 2 Orchard Road LLC to achieve their objective of facilitating the development of affordable housing for low and moderate income in Woodbridge.

333. The TPZ's Zoning Regulations have deprived OCT of the opportunity to build the 2 Orchard Road Development because it is located in the 98.4% of residential land not served by public water and sewer infrastructure where the Zoning Regulations prohibit multifamily housing. OCT, together with 2 Orchard Road LLC, petitioned the TPZ to amend its Zoning Regulations in a manner that would enable construction of the 2 Orchard Road Development, but the adopted Zoning Regulations do not do so.

334. Garden Homes Fund is a private foundation whose charitable mission includes the development of affordable housing in wealthy, well-resourced towns in Connecticut to provide families living in higher poverty areas with a chance to make the choice to move to these towns if they wish. Garden Homes Fund has expended significant time and resources on its efforts to enable the construction of affordable housing in Woodbridge. Garden Homes Fund, sole member of 2 Orchard Road LLC, spent \$295,000 to purchase the house at 2 Orchard Road in May 2019 and has expended \$54,000 since on taxes, insurance, maintenance, and professional fees.

335. By preventing the development of multifamily housing including affordable units in a low poverty, high-resource area, Woodbridge's Zoning Regulations frustrate OCT's mission to address exclusionary zoning and facilitate the creation of desirable affordable housing in low poverty Connecticut towns.

336. The Zoning Regulations have also denied Plaintiffs Cary Gross and Sally Connolly the opportunity to live in a racially and economically integrated community. Dr. Gross has lived in Woodbridge for 20 years. During that time, Dr. Gross has observed a lack of both racial and economic diversity in the town of Woodbridge. Ms. Connolly has lived in Woodbridge for 28 years. During that time, she has also observed a lack of both racial and economic diversity in Woodbridge. The Zoning Regulations discourage the construction of a diversity of housing options for households at varying income levels, thereby depriving Dr. Gross and Ms. Connolly of the benefits of living in a racially and economically integrated community.

337. There exists an actual controversy between the parties regarding the duties of the TPZ and Woodbridge under Connecticut State Law. Accordingly, Plaintiffs are entitled to declaratory relief.

338. Unless enjoined, Woodbridge and the TPZ will continue to refuse to conform Woodbridge's Zoning Regulations to the requirements of Connecticut State Law. Plaintiffs have no adequate remedy at law. Plaintiffs are now suffering and will continue to suffer irreparable injury from the TPZ and Town unless relief is provided by this Court. Accordingly, Plaintiffs are entitled to injunctive relief.

COUNTS

First Count

(Declaratory Judgment, under C.G.S. § 52-29, That Woodbridge Zoning Regulations Violate C.G.S. § 8-2)

339. Plaintiffs reallege and incorporate by reference the preceding paragraphs of the Complaint as if fully set forth herein.

340. The Connecticut Zoning Enabling Act provides, in relevant part, that “[z]oning regulations ... shall”:

341. “promote health and the general welfare”;

342. “address significant disparities in housing needs and access to educational, occupational and other opportunities,”

343. “[p]rovide for the development of housing opportunities, including opportunities for multifamily dwellings, consistent with soil types, terrain and infrastructure capacity, for all residents of the municipality and the planning region in which the municipality is located, as designated by the Secretary of the Office of Policy and Management under section 16a-4a”;

344. “[p]romote housing choice and economic diversity in housing, including housing for both low and moderate income households”; and

345. “[e]xpressly allow 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.”

346. The Zoning Regulations, as alleged herein, violate each of these directives.

347. The Zoning Regulations, as alleged herein, have substantial detrimental effects.

348. The Zoning Regulations, as alleged herein, are not justified by any legitimate purpose of zoning.

349. Based on the facts alleged in this Complaint, the Plaintiffs seek a declaratory judgment under C.G.S. § 52-29 of the following issue regarding the Zoning Enabling Act, C.G.S. § 8-2: Do the Woodbridge Zoning Regulations as alleged herein and as in effect in August 2022 violate the Zoning Enabling Act, C.G.S. § 8-2, as amended by Public Act 21-29?

350. Consistent with Practice Book § 17-55, this declaratory judgment count may be maintained because:

- a. Plaintiffs have an interest, legal or equitable, by reason of danger of loss or of uncertainty as to their rights and other jural relations;
- b. Plaintiffs present actual bona fide and substantial questions or issues in dispute and substantial uncertainty of legal relations which requires settlement between the parties, namely, the validity of Defendants’ acts, practices, and policies complained of herein; and
- c. there is not another form of proceeding that can provide plaintiffs with immediate redress.

Second Count

(Connecticut Fair Housing Act, C.G.S. § 46a-64c)

351. Plaintiffs reallege and incorporate by reference the preceding paragraphs of the

Complaint as if fully set forth herein.

352. The Connecticut Fair Housing Act provides that “it shall be a discriminatory practice in violation of this section: “To ... make unavailable or deny a dwelling to any person because of race, creed, color, national origin, ancestry, sex, gender identity or expression, marital status, age, lawful source of income, familial status, or status as a veteran.” C.G.S. §§ 46a-64c(a)(1).

353. The Multifamily Regulations make unavailable housing because of race and lawful source of income in violation of the Connecticut Fair Housing Act. C.G.S. §§ 46a-64c(a)(1); 46a-98a.

Third Count

(Declaratory Judgment, under C.G.S. § 52-29, That Woodbridge Zoning Regulations Violate Article First, §§ 8, 10, and 20 of the Connecticut Constitution)

354. Plaintiffs reallege and incorporate by reference the preceding paragraphs of the Complaint as if fully set forth herein.

355. The Due Process and Equal Protection clauses of the Connecticut Constitution implicitly require that all exercises of the State’s police powers promote the general welfare.

356. Woodbridge’s Multifamily Regulations are an exercise of the State’s police power, as delegated to municipalities through the Zoning Enabling Act.

357. The Multifamily Regulations, individually, collectively and in operation with other aspects of Woodbridge’s Zoning Regulations, contravene the general welfare of the State’s citizens, including insofar as they:

- a. block the development of affordable and multifamily housing;
- b. exacerbate the ongoing shortage of affordable housing in the region, including the SCR, and the State;

- c. cause, maintain, or perpetuate socioeconomic and racial segregation in housing,
- d. maintain and perpetuate inequalities in the access of low- and moderate- income families to opportunities, including good schools, safe neighborhoods and other critical resources; and
- e. disproportionately burden Black and Hispanic households.

358. No countervailing considerations exist that can overcome these substantial harms to the Town, the region, and the State's welfare.

359. Even if Woodbridge could show that its Multifamily Regulations further some legally cognizable interest, the Town, SCRCOG, and State's interests in integration and the provision of affordable housing outweigh any other consideration.

360. Based on the facts alleged in this Complaint, Plaintiffs seek a declaratory judgment under C.G.S. § 52-29 of the following issues: Do Defendants' acts, practices, and policies complained of herein, including the Woodbridge Multifamily Regulations, contravene the general welfare requirement of the Due Process and Equal Protection Clauses of article first, §§ 8, 10, and 20?

361. Consistent with Practice Book § 17-55, Plaintiffs' declaratory judgment action regarding the Due Process and Equal Protection Clauses of article first, §§ 8, 10, and 20 may be maintained because:

- a. Plaintiffs have an interest, legal or equitable, by reason of danger of loss or of uncertainty as to their rights and other jural relations;
- b. Plaintiffs present actual bona fide and substantial questions or issues in dispute and substantial uncertainty of legal relations which requires settlement between the parties, namely, the validity of Defendants' acts, practices, and policies

complained of herein; and

- c. There is not another form of proceeding that can provide plaintiffs with immediate redress.

Fourth Count

(Declaratory Judgment, under C.G.S. § 52-29, That Woodbridge Zoning Regulations Violate Article First, § 20 of the Connecticut Constitution)

362. Plaintiffs reallege and incorporate by reference the preceding paragraphs of the Complaint as if fully set forth herein.

363. The Anti-Segregation Clause of the Connecticut Constitution prohibits segregation on the basis of race by the State or municipalities without sufficient, legally valid justification.

364. The Multifamily Regulations, individually, collectively, and in operation with other aspects of Woodbridge's Zoning Regulations, exclude Black and Hispanic households from Woodbridge and thereby result in segregation on the basis of race.

365. No countervailing considerations justify this segregation.

366. Based on the facts alleged in this Complaint, the Individual Plaintiffs seek a declaratory judgment under C.G.S. § 52-29 of the following issue: Do Defendants' acts, practices, and policies complained of herein, including the Multifamily Regulations, violate the Anti-Segregation Clause of the Connecticut Constitution, Conn. Const., art. first, § 20?

367. Consistent with Practice Book § 17-55, plaintiffs' declaratory judgment action regarding the Connecticut Constitution, Conn. Const., art. first, § 20 may be maintained because:

- a. Individual Plaintiffs have an interest, legal or equitable, by reason of danger of loss or of uncertainty as to their rights and other jural relations;
- b. Individual Plaintiffs present actual bona fide and substantial questions or issues in

dispute and substantial uncertainty of legal relations which requires settlement between the parties, namely, the validity of Defendants' acts, practices, and policies complained of herein; and

- c. There is not another form of proceeding that can provide Individual Plaintiffs with immediate redress.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

368. Enter a declaratory judgment that:

369. Defendants' Zoning Regulations violate the Zoning Enabling Act. C.G.S. § 8-2;

370. Defendants' acts, practices, and policies complained of herein, including the Multifamily Regulations, are contrary to the public health, safety, and general welfare in violation of the Due Process and Equal Protection clauses of the Connecticut Constitution, Conn. Const., art. I, §§ 8, 10, and 20; and

371. Defendants' acts, practices, and policies complained of herein, including the Multifamily Regulations, result in, perpetuate, and maintain segregation on the basis of race in violation of the Anti-Segregation Clause of the Connecticut Constitution, Conn. Const., art. I, § 20.

372. Order Defendants to:

373. Enact zoning regulations, changes to the Woodbridge Plan of Conservation and Development, and other policies or regulations, as appropriate, and take all necessary and appropriate actions, that comply with the statutory and constitutional provisions identified in this Complaint so as to enable the construction of Woodbridge's fair share of the regional need for multifamily and affordable housing throughout the town within a reasonable time period

forthwith (“Fair Share Obligation”);

374. Enact immediately zoning regulations allowing by permit, on any parcel zoned for residential use, the development of multifamily homes containing affordable units, where such homes comply with the requirements of the Public Health Code, the Building Code, and the provisions of the Zoning Regulations governing single-family homes other than number of units, to remain in force at least until such time as the Court determines that such provisional regulation is no longer necessary because Woodbridge has made significant progress toward achieving its Fair Share Obligation and remedying the segregation caused by the unlawful exclusionary land use policies and practices challenged herein;

375. Take affirmative steps to promote the development of affordable housing in Woodbridge that is accessible to a racially and economically diverse group of households with low and moderate incomes, and ensure that such housing is in fact occupied by households with low and moderate incomes, in accordance with prevailing standards and requirements for affirmative marketing;

376. Take affirmative steps to overcome the effects of past and present discriminatory policies and practices, including conducting, funding and promoting remedial activities and adopting remedial measures necessary to reverse the disproportionate exclusion of Black, Hispanic, and housing assistance-recipient households from Woodbridge, and thereby address regional patterns of segregation on the basis of race, color, national origin, ancestry, and lawful source of income, under the supervision of this Court; and

377. Take such further affirmative actions and steps as are necessary and appropriate to successfully implement all of the foregoing, including, among other things, such steps as are necessary or appropriate to:

378. Cause public water and sewer services in Woodbridge to be expanded significantly.

379. Ensure that town-owned land that may be capable of being developed for multifamily and affordable housing is made realistically available for such development;

380. Provide and procure funding for the advancement of affordable housing and racial and socioeconomic integration in Woodbridge;

381. Ensure that the planning and zoning changes enacted in accordance with the terms of this Order in fact enable the development of multifamily and affordable housing, taking into account appropriate inclusionary zoning strategies and economic feasibility in light of market conditions.

382. Enjoin Defendants from:

383. Engaging in any policies or practices that deprive Plaintiffs of their rights secured by the Connecticut Fair Housing Act, Connecticut Zoning Enabling Act, and Article I, Sections 8, 10 and 20 of the Connecticut Constitution.

384. Enforcing or attempting to enforce in any way the unlawful provisions of the Woodbridge Zoning Regulations, or adopting other zoning provisions that replicate the legal deficiencies in the present Woodbridge Zoning Regulations; and

385. Engaging in any other acts that, without a legally cognizable justification, disparately impact, or that perpetuate or contribute to the segregation of, Black and Hispanic households and households receiving housing assistance in the region surrounding and including Woodbridge.

386. Exercise continuing jurisdiction to ensure Defendants' compliance with the terms of this Court's order.

387. Pursuant to Practice Book §§ 17-54, *et seq.* and the attached Certificate of Notice, approve an order of notice approving all potentially interested parties of the pendency of this case;

388. Award all available damages to Plaintiffs, including, but not limited to, compensatory damages in connection with the 2 Orchard Road development and the TPZ application and compensatory damages for costs borne by OCT, Garden Homes Fund, and 2 Orchard Road LLC;

389. Award litigation expenses, attorneys' fees, and court costs; and

390. Award all such other relief as this Court deems just and equitable.

PLAINTIFFS,
OPEN COMMUNITIES TRUST, LLC; 2
ORCHARD ROAD LLC; GARDEN HOMES
FUND; SALLY CONNOLLY; and CARY GROSS

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² For identification purposes only. This suit has been prepared in collaboration with a clinic operated by Yale Law School, but does not purport to present the school's institutional views, if any.

CERTIFICATE OF NOTICE

Pursuant to Practice Book § 17-56(b), I hereby certify that all persons who have an interest in the subject matter of the requested declaratory judgment that is direct, immediate, and adverse to the interest of one or more of the plaintiffs or defendants in the action have been made parties to the action. In addition, after this matter is returned to court and receives a docket number, the parties will publish in the *Connecticut Law Journal* a notice of the pendency of this action, containing a brief summary of the action and the issues on which a declaratory judgment is being sought.

/s/ _____
Commissioner of the Superior Court