

HELLER, HELLER & McCOY

Attorneys at Law

736 Norwich-New London Turnpike

Uncasville, Connecticut 06382

Sidney F. Heller (1903-1986)

Harry B. Heller (hheller@hellermccoy.com)

William E. McCoy (bmccoy@hellermccoy.com)

Mary Gagne O'Donal (mgodonal@hellermccoy.com)

Telephone: (860) 848-1248

Facsimile: (860) 848-4003

October 21, 2024

Town of Montville Planning and Zoning
Commission
310 Norwich-New London Turnpike
Uncasville, CT 06382

Re: Proposed text amendment to Section 4.11.5.2 of the Montville Zoning Regulations

Dear Commissioners:

Unfortunately, I will not be able to attend the public hearing scheduled for Tuesday, October 22, 2024 on the above referenced text amendment application as I have a commitment to a public hearing in another jurisdiction that evening. However, it is my opinion that this proposed text amendment is sufficiently significant to the development of good, sustainable affordable housing in the Town of Montville to voice my opinion, in writing, with respect to the proposed amendment.

In submitting my testimony, please note that I have reviewed the text amendment application itself, the memorandum for the record with respect to the text amendment application submitted by Meredith Badalucca, Assistant Planner, under date of October 2, 2024 and the supporting documentation submitted therewith.

Section 4.11.5.2, as currently written, and as interpreted by the Montville Town Attorney, does not promote the most effective and functional development of multi-family housing within any zoning district in which multi-family housing is currently regulatorily permitted. I would submit to the Commission that the regulation, as currently structured, actually has the potential to promote less than favorable multi-family development design. A prime example of this is the design of "The Meadows" located on Leffingwell Road in the Town of Montville. It is my opinion that regulatory parameters which encourage greater flexibility in design promote better development. Flexibility in design allows land planners and developers greater opportunity to fit a project into the topographical context in which it is proposed, provide more efficient design of and access to available utilities and create greater propensity for the development of a community atmosphere within a multi-family housing project.

Projects developed with a courtyard setting with the facades of buildings facing the courtyard or a private access rather than a “street” create a much more pleasing neighborhood setting. It is therefore my unequivocal recommendation that the language of Section 4.11.5.2 be amended. However, as to the form of that amendment, I submit the following additional thoughts for your consideration.

First, I note that Section 9.2.9 of the current Montville Zoning Regulations permits multi-family housing as a use permitted with site plan approval in the R-20 Zoning District. The text amendment currently being considered by the Montville Planning and Zoning Commission focuses on the R-20-M Zoning District as well as the Route 32 Overlay Zone. In my opinion, if the proposed amendment to Section 4.11.5.2 encourages better project design and a more pleasant community atmosphere, there is no rational reason to limit the applicability of the proposed text amendment to the R-20-M and Route 32 Overlay Zones only. Since it is my position that the proposed modification to Section 4.11.5.2 encourages better development for the Town as a whole, it is my further opinion that its scope should be applied to all zoning districts in which multi-family housing is allowed pursuant to the terms and provisions of the Regulations.

Since the current application before you for consideration, by its terms, is limited to the R-20-M and Route 32 Overlay Zones only, it is my further opinion that the extension of the applicability of the text amendment to the R-20 Zone would exceed the scope of the notice of the public hearing on this application which has been published; and, therefore, may very well be considered impermissible by a court of competent jurisdiction reviewing the proceedings of the Commission with respect to this application if it was to be so extended. I would therefore suggest that, in the future, the Commission, on its own application, seriously consider a further amendment to Section 4.11.5.2 to extend the availability of greater design flexibility to developers seeking to develop multi-family housing in the R-20 Zoning District.

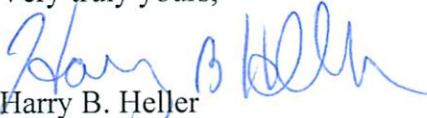
Second, with respect to the language of the amendment that is currently before you for consideration, I support the draft motion proposed by the Assistant Planner as the “Amended Motion” for approval as there is no rational reason why the applicability of the revised regulation should be limited only to properties that are both within the R-20-M and the Route 32 Overlay Zone. The substitution of the word “or” for the word “and” is consistent with my thoughts expressed above. In addition, I would also recommend the elimination of the word “collectively” from the text. The word adds nothing to the proposed revised regulation and could create confusion. If a future application to the Commission for multi-family housing development is submitted with respect to multiple properties that lie within differing zoning districts, your regulations provide that the application would need to comply with the requirements of the most restrictive zoning district; or, in the alternative, the developer would need to seek a zone change.

In summary, I support the proposed text amendment, as modified in the draft “Amended Motion” and as further modified by the elimination of the word “collectively”. This text

Montville Planning and Zoning Commission
October 21, 2024
Page 3 of 3

amendment, if adopted, will provide greater flexibility in the design and implementation of multi-family housing in the Town of Montville and will result in the development of better projects which benefit both developers seeking to invest in our community as well as the Town as a whole.

Very truly yours,


Harry B. Heller

HBH/rmb