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LIVERY, C. J., dissenting. I respectfully dissent from the majority’s conclusion that the commission failed to meet its burden of proving, by sufficient evidence, that a substantial public interest in health or safety clearly outweighed the need for the plaintiffs’ housing units for senior citizens. Accordingly, I would affirm the judgment of the trial court dismissing the plaintiffs’ appeal from the decision of the commission denying their application to construct housing units for elderly residents.

As noted by our Supreme Court in *Christian Activities Council, Congregational v. Town Council*, 249 Conn. 566, 585, 735 A.2d 231 (1999), sufficient evidence in this context means “less than a preponderance of the evidence, but more than a mere possibility. We stated that the zoning commission need not establish that the effects it sought to avoid by denying the application are definite or more likely than not to occur, but that such evidence must establish more than a mere possibility of such occurrence. . . . Thus, the commission was required to show a reasonable basis in the record for concluding [as it did]. The record, therefore, must contain evidence concerning the potential harm that would result if the zone were changed . . . and concerning the probability that such harm in fact would

occur.” (Citation omitted; internal quotation marks omitted.) In an affordable housing land use appeal, as in a traditional zoning appeal, “[t]he zone change must be sustained if even one of the stated reasons is sufficient to support it.” (Internal quotation marks omitted.) *West Hartford Interfaith Coalition, Inc. v. Town Council*, 228 Conn. 498, 513, 636 A.2d 1342 (1994).

One of the reasons stated by the commission in its memorandum of decision for denying the plaintiffs’ application was that the proposed development would have a negative impact on traffic in the area. The commission reached that conclusion not on the basis of speculation, but with support from specific testimony placed before it. As the trial court noted from the record: “Many neighbors spoke about the on-street parking problem that currently exists, one neighbor describing the traffic flow on Judson Place as ‘horrendous’ when both sides of the street were used for parking. . . . One neighborhood resident reported that the public works project currently underway at the intersection of Main Street and East Broadway was undertaken because of the high volume of traffic through the streets. Other neighbors pointed out the East Broadway [construction]. Because this construction includes the installation of new traffic signals and a rerouting of traffic through this intersection, the traffic patterns will change as a result. Traffic on East Broadway will no longer be able to turn onto Main Street, meaning that more cars will likely be using Judson Place as the route for entering I-95. The proposed project has a single driveway for traffic to enter and exit from Judson Place. As mentioned above, neighbors also testified that on-street parking on Judson Place adds to the congestion at all times of the day and weekends from activities of the churches and organizations in the neighborhood, sometimes reducing the street into a single lane of traffic, a point the traffic engineer conceded. This evidence is sufficient to call into question the expert’s turning movement analysis, and his conclusion about future traffic congestion during off peak hours.”¹

I conclude, as did the trial court, that this evidence was sufficient for the commission to have concluded that the project as proposed would greatly add to traffic congestion in the area. Traffic safety is a substantial public interest and adequately justifies the commission’s denial of the plaintiffs’ application.

Accordingly, I respectfully dissent.

¹ The traffic report submitted by the plaintiffs and noted by the majority, which tends to support the conclusion that the proposed development would not significantly increase area traffic, states that traffic generated by elderly housing of this type is minimal and that the planned parking will not be fully occupied because the housing would consist of an elderly population. The trial court questioned the reliability of such a statement given that the term “elderly housing” might not adequately describe the development. The trial court stated: “There was much dispute about what the actual makeup of the residents of the project would be. Even if restricted as ‘elderly housing,’ only one resident must be 62 or older, meaning the resulting mix could need

more or less parking than the 'average' elderly housing project. Therefore, any conclusions based on the elderly designation of the project are suspect."
