

Memorandum

To: Members, Planning and Zoning Commission
From: Michelle Perillie, AICP
Date: January 25, 2017
Re: Amendment #725/Apl. #16-055
 New §24B, General Business District/Residential (GBD/R)

Statutory Time Lines

Application Submission Date: 12/7/16
 Application Receipt Date: 12/8/16
 65 Days from Date of Receipt (*when public hearing must open*): 2/18/17
 Public Hearing Opened (*scheduled to open*): 2/2/17
 35 Days from Public Hearing Commencing (*when hearing must close*): 3/9/17
 65 Days from Close of Public Hearing (*when decision required*):

Summary

Have all documents been submitted as required in accordance with §42?	Yes
Does the application appear to meet all applicable zoning requirements?	Yes
Has the application received all necessary prior approvals?	Prior approvals are not required. The application was referred to the Department of Energy and Environmental Protection, Office of Long Island Sound Programs (DEEP, OLISP), and the regional planning agencies consistent with Connecticut General Statutes. The application was also referred to Town Department heads for comments consistent with past practices. Review by the Architectural Review Board was conducted on 1/10/17. All comments received to date are listed and/or attached herein.
Other comments?	Members of the Planning and Zoning Commission should consider whether the amendment is consistent with the Zoning Regulations, Zoning Map and the <i>2007 Plan of Conservation and Development</i> as required in accordance with C.G.S. §8-2, Regulations. The Planning and Zoning Commission should also determine if the Explanatory Statement and any testimony offered at the public hearing is persuasive in concluding the amendment will benefit the Town, in accordance with §42 of the Westport Zoning Regulations.

Description of Application

Applicant	William J. Fitzpatrick III, Esq. applicant
Requested Action	Text Amendment approval
Purpose	<p>To add new section §24B, General Business District/Residential (GBD/R) by adopting language that:</p> <ol style="list-style-type: none"> 1. Allows residential and office use; 2. Provides public access to the river by a public walkway, public access from the street frontage, and public parking; and 3. Improves the streetscape and landscape.
2007 Plan of Conservation and Development	<p>Chapter 4 (<i>Preserve Open Space and Natural Beauty</i>) contains the following Historic Preservation and Open Space Goals:</p> <p><i>“Preserve historic structures and other significant amenities in order to retain Westport history over time. Assure that Westport, as it changes, retains a sense of community, beauty, and history.”</i> Pg 4-1</p> <p><i>“In addition to preserving open space where opportunities can be found, The Plan recommends, as a priority, that Westport strive over the long term to create a “greenway” system of open spaces and pathway connections:</i></p> <ul style="list-style-type: none"> • <i>a “shoreway” - extending from Fairfield to Norwalk along and near Long Island Sound,</i> • <i>a “riverway” - from Long Island Sound to Weston along and near the Saugatuck River (and</i> • <i>a “trailway” - from Norwalk to Fairfield within the right-of-way of the Merritt Parkway. “ Pg 4-2</i> <p><i>“Scenic resources are one of the factors that contribute to community character. They include scenic areas that are viewed from elsewhere, and scenic vistas, which are locations affording scenic views from them.</i></p> <p><i>Some major scenic resources, such as coastal areas and the sound itself, are located on the map on the facing page. Other scenic resources include stone walls, barns, fences, tree canopies, and scenic roads. Since these resources enhance the character of Westport and would compromise the unique beauty of the Town if not given special consideration, increased efforts must be made to identify, maintain, and preserve these and other scenic resources. “ Pg. 4-6</i></p> <p><i>“Protect Historic Resources. Westport is committed to preserving its unique historic character and beauty. In so doing, it fosters community pride, conserves the personality and architecture of</i></p>

its historic residential neighborhoods and commercial areas, enables citizens and visitors to enjoy and learn about local history, and provides a framework for making appropriate preservation planning decisions.

The identification, conservation and protection of its historic and archaeological heritage are the Town's responsibility, aided by nonprofit organizations that help to educate the citizenry about Westport's history.

Westport must protect its inventory of significant historical properties from destruction or architectural degradation by employing the full range of methods available to protect and enhance Westport's historic and cultural resources." Pg 4-8

Enact additional zoning regulations which will help protect historic resources including use flexibility, dimensional flexibility, or both. Pg. 4-13

Chapter 6, (Create a Range of Housing Opportunities and Choices), includes the following goals:

"Seek ways to expand the variety of housing choices and options of Westport in order to help meet the needs of existing and future residents while maintaining the character and integrity of the town." Pg. 6-1

"When asked whether some locations in Westport might be appropriate for potential new apartments, condos and other multi-family housing, respondents felt that locations in and near Westport Center (62 %), along Post Road (60 %), and in and near Saugatuck Center (54 %) might be appropriate. Any new housing in these areas must be appropriately designed and take into consideration proximity to services, transportation and existing infrastructure. In all instances, the density of each area must be evaluated and impacts on the town should be studied." Pg. 6-2

"As Westport work towards providing more housing choices, it will do so in ways that are appropriate for the community and that protect the public health and safety. In addition, Westport will consider ways of integrating affordable, workforce and market rate housing in future projects in partnerships with public and private organizations." Pg. 6-3

"Require that all housing construction in Westport either provide affordable housing units or pay into an affordable housing trust fund." Pg. 6-4

"Consider requiring that any multi-family development provide affordable housing units." Pg. 6-4

Chapter 7, (Maintain Distinctive Centers with a Strong Sense of Place), identifies:

"Therefore, with respect to Westport Center, the overall goals of the Plan are to:

	<ul style="list-style-type: none"> • <i>Create a dynamic, attractive, centrally focused yet expansive downtown area with varied points of interest for community life.</i> • <i>Encourage the creation and execution of an overall, comprehensive conceptual design and plan that integrates and coordinates the extended physical elements already in the Center.” Pg.7-4</i> <p><i>“Encourage and facilitate pedestrian life through establishment of new and expanded areas and uses for pedestrian convenience and community access – pocket parks; benches and places to sit, stroll.” Pg 7-4</i></p> <p><i>“The Plan recognizes and supports redevelopment of existing commercial properties in Westport Center when such redevelopment is designed to be in keeping with its distinctive character. The Plan also promotes an energetic Westport Center with businesses and other attractions that will draw shoppers and patrons alike to the downtown area.” Pg. 7-10</i></p> <p><i>“Add a component of residential housing to any development program in the downtown area. “ Pg. 7-16</i></p> <p><i>“Development of river banks should provide for public views and public access. “ Pg 7-16</i></p>
<p>Applicable Regulations</p>	<p>§24B, General Business District/Residential, GBD/R (New)</p> <p>Standards for review of a Text Amendment are found in §42, Amendment of Zoning Regulations.</p>

Background/Proposal/Analysis

This application is for a text amendment to create a new zoning district, §24B, General Business District/Residential (GBD/R) . The application was submitted by Attorney William Fitzpatrick on behalf of his client the owners of 54 Wilton Road (the former Save the Children property).

The Architectural Review Board reviewed the amendment at their 1/20/17 meeting and recommended approval. The Western Connecticut Council of Governments (WestCOG) offered comments stating the proposal is of local interest and with minimal intermunicipal impact. Therefore, it is not being forwarded to adjacent municipalities and the regional staff is making no comment.

Amendment #703

The Planning & Zoning Commission heard two pre-application reviews for the development of this property, one on November 6, 2014 and the second on March 12, 2015. A similar text amendment application (#703) by the same applicant was heard in December 2015 and January 2016 and was subsequently denied by the Commission (Resolution #15-050). The reasons for denial include the following:

1. The Planning and Zoning Commission finds there is no town-wide benefit from the amendment if adopted, rather it appears to serve only a single property.
2. The Planning and Zoning Commission finds that the benefits of this application do not outweigh the trade-offs of increased building height, increased coverage, increased floor area and a lack of on-site affordable housing.

3. The Planning and Zoning Commission felt that the building height in particular was inconsistent with the goals and objectives of the Commission and could potentially lead to other buildings of a similar height being requested.
4. The Commission also expressed concern about the proposed floor area that this amendment proposed and that such a large building would not be in keeping what is appropriate for this area.
5. The Commission was very concerned that the passage this amendment did not guarantee the benefits that the applicant proposed would occur if a project were to be built using this regulation.

Public Waterfront Access

On November 7, 2013 the Planning & Zoning Commission adopted Text Amendment #664 which required public waterfront access and river views for redevelopment of all Non-Residential zones and Special Permit uses that are adjacent to the Saugatuck River. The standards and requirements are found in §31-10.7.4 which is called Public Waterfront Access (PWA).

Downtown Plan

On June 5, 2015, the Board of Selectman adopted the "*Downtown Westport Master Plan*". This plan contains a number of recommendations for Downtown Westport, including recommending support for the redevelopment of the West side of the Saugatuck River in recommendation #P6 which is found on page 41 of the report. Also on page 41, is recommendation #P7 which recommends the construction of a pedestrian bridge across the Saugatuck at the north end of Parker Harding Plaza. It should be noted that the Planning & Zoning Commission has not formally adopted the Downtown Plan.

Amendment #725

Text Amendment #725 proposes adding an entire new section to the Zoning Regulations, §24B, General Business District/Residential (GBD/R). The following pages will provide a summary of each proposed section followed by an analysis of the regulation and a comparison between the proposed language and language proposed in Text Amendment #703, attached for your reference.

1. (New) §24B-1, Purpose

This section provides a purpose statement of the proposed regulation. It includes five (5) specific criteria (a thru f) which include growing the vitality of downtown Westport by including a residential population, mitigation of traffic impacts to improve public safety on local street and intersections, mitigation of traffic generation and parking demand during peak periods on local streets, encouragement of residential and office uses, encouragement of visual and physical access to the waterfront and improvement to streetscape and landscape attractiveness.

The purpose statement also includes locational criteria for the proposed zone including:

1. access to public water and sewers,
2. access to mass transit,
3. frontage on Saugatuck River and a State highway,
4. located within the General Business District (GBD), and
5. located within Westport Center as defined in the 2007 Plan of Conservation and Development (POCD).

The purpose of Amendment #703 included the following proposed purpose “to preserve the visual character and appearance of a Historic Structure as defined in §5 of the Regulations.” The locational requirements included the property be limited to areas where a building located or to be relocated on-site is an Historic Structure as defined in § 5 of the Regulations. The preservation of an historic structure is not included in Amendment #725.

Analysis

The proposed purpose spells out the goals and objectives of the proposed zone. The majority of the zoning districts in the Westport Zoning Regulations have a Purpose Statement. The goals noted in the purpose statement and objectives that would also appear to be in keeping with the POCD such as minimizing traffic and parking impacts and encouraging waterfront access and views.

The proposed §24B-1 also includes locational criteria for the location of the proposed zone. The applicant has provided an analysis of the properties where this zone could be located. Based upon the locational requirements 54 Wilton Road would be the only property eligible to be rezoned to GBD/R.

Comments were received from the Connecticut Department of Energy and Environmental Protection on 1/26/17. These comments state, “While residential construction in AE-zones is allowed by FEMA in accordance with all applicable standards, those standards merely protect property while still allowing people to be placed in hams way. Therefore, we are concerned that increasing residential density on any site in the GBD that currently does not contain residential uses may be potentially inconsistent with the Connecticut Coastal Management Act (CCMA).”

Staff recommends the language in this section be changed to read,

“The Riverwalk District shall be limited to areas where areas that are served by public water supply, suitable power supply and public sanitary sewer; where areas are served by mass transit, where areas have frontage on a State Highway and on the Saugatuck River, are zoned General Business District as of the effective date of this regulation., and are within “Westport Center” a set forth in the 2007 ~~Town~~ Plan of Conservation and Development.”

The applicant should also clarify what is meant by “mass transit”.

2. (New) §24B-2, Special Permit Uses

§24B-2, Special Permit Uses contains three subsections. This section requires that all uses in the GBD/R Zone be approved by Special Permit. This is similar to other zones such as the HDD and the GBD/S zones.

§24B-2.1 provides the allowable list of Special Permit Uses. It specifically allows residential units of up to 3 bedrooms and 2,100 SF, surface parking and office use, but excludes healthcare professional and medical offices.

§24B-2.2, Accessory Uses, Buildings and Uses, allows most of the common accessory uses but specifically adds Boat Docks, Boardwalks and other Riverfront Amenities.

§24B-2.3 is a list of prohibited uses and is similar to the list of prohibited uses found in other zones in the Westport Zoning Regulations.

Amendment #703 permitted residential units of up to three (3) bedrooms and 2,700 SF. The proposed amendment reduces the allowable square footage from 2,700 SF to 2,100 SF. The permitted uses also included in-door commercial recreation and entertainment uses; retail stores and retail service establishments; and Commercial Wireless telecommunication service facilities, in conformance with §32-16, which have been removed from Amendment #725.

Analysis

This section allows for multi-family housing but specifically avoids the requirements of §32-12 which provides for the requirements for multi-family housing in almost all of the Non-Residential Zoning Districts. Thus it also eliminates that need for 20% on-site affordable housing but instead in §24B-15 the applicant is proposing a 10% off-site affordable housing requirement. All affordable housing in Westport is required on-site except for the Residence C zone where the Commission approved a Fee-in-Lieu requirement. It should be noted that no developments to date have been sought or approved with the Fee-in-Lieu of affordable housing requirement.

The proposed uses in this zone appear most similar to the list of uses found in the HDD Zone which does not require affordable units and has boat docks riverfront amenities as allowable accessory uses. The Commission may wish to consider having the applicant more clearly define what is considered allowable riverfront amenities.

Staff recommends the language be modified to allow for above-ground parking garages similar to one across the street from 54 Wilton Road. The applicant should also clarify the reasoning for not allowing retail use as retail use along waterfront will attract pedestrians.

Staff recommends the applicant add "*Healthcare Professionals and Medical*" to the list of Prohibited Uses in §24B-2.3 instead of in this section to avoid confusion administering this regulation in the future.

3. (New) §24B-3, Lot Area

The section on Lot Area proposes a minimum lot size of 87,120 SF (2 acres) and a shape requirement with a minimum requirement of 200 feet on each side.

Text Amendment #703 proposed a minimum lot size of 80,000 SF and a minimum frontage requirement of 50 feet. Staff commented that 80,000SF was unusual since is between 1 1/2 and 2 acres. The applicant has addressed this with the new proposal.

Analysis

The 200-foot square shape requirement is fairly unusual as only the Highway Service District (HSD) and Corporate Park District (CPD) have a shape requirement. The requirement in the HSD is 100-foot square and the CPD is 200-foot square. The Res. AAA zone also requires a 200-foot square.

The 2 acre lot size requirement is also fairly unusual in many Non-Residence Districts, since only four Non-Residential zones have a minimum lot size with 40,000 SF required in the GBD/S, ½ acre (21,780 SF) required in the HSD, 1 acre (43, 560 SF) required in the DDD and 1½ acres (65,340 SF) required in the CPD. The lot area minimum if adopted would be the largest minimum lot size for any Non-Residential Zone.

The applicant should clarify if the minimum lot size requirement was intended to be Lot Area, as defined as in §5-2, or to require two (2) acres of Gross Lot Area. If Gross Lot Area was intended, the regulation would need to be modified.

4. (New) §24B-4, Setbacks

This section proposes a 30 foot front yard and distance to a Residence Zone, 15 foot side yard and 25 foot rear yard. It also proposes for accessory structures a 30 foot front yard and distance to a Residence Zone and 15 foot side and rear yards. It also requires a building spacing of twenty (20) feet for residential buildings with a building height of thirty-five (35) feet or less and twenty-five (25) feet for residential buildings with a building height of over thirty-five (35) feet.

The title of the section refers back to regulations in §31-4 through §31-8, which is consistent with other zoning district setback regulations.

The front, side and rear setback requirements are the same in Amendment #703 and #725. However, Amendment #703 allowed for a parking structure within 20 feet of Residence Zone and for Historic Structures to be built right up to the front lot line and within the front landscape area. Both of these regulations have been removed in Amendment #725.

Analysis

The principal and accessory structure setbacks are in keeping with many of the other Non-Residential Zones. The Fire Department has not yet submitted comment so it is recommended that hearing be held open for their feedback on Building Spacing.

The location criteria requires the property have frontage on the Saugatuck River; therefore the 25 foot setback from waterbodies, watercourses and wetlands should be complied with as required in §31-7.

(New) §24B-5, Height

The proposed height in the GBD/R Zone would be twenty-five (25) feet with an additional allowance of twenty-two (22) feet for residential buildings located within the 100-year flood zone that are required to be elevated for a total permitted building height of forty-seven (47) feet.

Text Amendment #703 permitted a height of thirty-five (35) feet with an additional allowance of thirteen (13) feet for buildings located within the 100-year flood zone that are required to be elevated for a total permitted building height of forty-eight (48) feet. The applicant took into account concerns expressed by the Commission and slightly reduced the allowable height.

Text Amendment #703 also proposed that the reconstruction, rehabilitation or restoration of Historic Structures can be exempted from flood zone requirements. Since the proposed text in Amendment #725 does not consider preserving a historic structure and concerns were expressed during public hearing for Amendment #703, it was removed from the proposal.

Analysis

The proposed height in this zone starts out at twenty-five (25) feet which is already consistent with many other Non-Residential Zoning Districts. Unlike most other zoning districts, the applicant has also not specified a minimum number of stories for this zone and this is inconsistent with the regulations. Staff recommends the applicant modify language to add number of stories requirement.

The Commission did not feel this was acceptable during the review of Amendment #703 and stated in Resolution #15-050,

“The Planning and Zoning Commission finds that the benefits of this application do not outweigh the trade-offs of increased building height, increased coverage, increased floor area and a lack of on-site affordable housing.

The Planning and Zoning Commission felt that the building height in particular was inconsistent with the goals and objectives of the Commission and could potentially lead to other buildings of a similar height being requested.”

It is unclear why they are proposing the need for an additional twenty-two (22) feet for structures in the flood zone when a maximum of five (5) feet would seem sufficient to allow these structures to have the first floors elevated above the Base Flood Elevation (BFE).

Staff suggests language similar to §24A-5(GBD/S) be considered which states,

“No building or other structure shall exceed two and one half (2 1/2) stories and a height of

either twenty-five (25) feet to the top of a flat roof or thirty (30) feet to the mid-point of a pitched roof. However, the Planning and Zoning Commission may allow a height of thirty-five (35) feet to the mid-point of a pitched roof on sites located within the 100-year floodplain that require the building to be elevated, and/or where the site is sloped.”

(New) §24B-6, Coverage

This section is proposing a maximum building coverage of 30% which is the same as that which was proposed in Amendment #703.

Analysis

The proposed building coverage of 30% is greater than other Non-Residential Zoning Districts except the BCD and BCD/H Zones, which are already developed, therefore pre-existing conditions create this situation

The applicant should clarify why more coverage is needed than what is traditionally permitted in non-residential zoning districts. Staff recommends that rather than allowing the additional coverage as of right, the applicant use language in the GBD/S §24A-6.2 Coverage Exemptions, which states,

“The Planning and Zoning Commission may exempt up to an additional minimal amount of coverage associated with open porches, decks, balconies and other similar open structural projections from building coverage; provided that such open structural projection will benefit public access, safety or convenience or will further the intent to preserve and/or enhance the historic character and appearance of the area, and at the discretion of the Commission at the time of Special Permit approval on sites that include at least 20% affordable housing.”

5. (New) §24B-7, Building Area

This section is proposing a maximum building footprint of 20,000 SF which is the same as that which was proposed in Amendment #703.

Analysis

Other than RPOD, RORD and BPD, no other zones have building area limits. In these three zones, the building area limit is 2,500 SF. The Commission should consider the implications of a building footprint that is close to half an acre large.

6. (New) §24B-8, Floor Area

This section permits a Floor Area Ratio (FAR) requirement of 0.75 for all proposed uses provided the total of all non-residential floor area shall not be less than 0.20 FAR and shall not exceed 0.25 FAR. Further this section exempts parking and loading areas from FAR.

Amendment #703 started out with a base Floor Area Ratio (FAR) requirement of 0.5 but allowed an additional 0.2 FAR for residential floor area. There was also a minimum 0.15 FAR and a maximum of 0.25 FAR for Non-Residential Uses.

§24B-8.2 requires that the average residential unit size not exceed 2,100 SF which is a reduction from the 2,700 SF permitted in Amendment #703. However, the proposed 2,100SF unit size is still larger than any other district regulation.

Analysis

The proposed FAR of 0.75 is higher than the FAR for all Non-Residence Districts. It should be noted that floor area for parking and loading areas is already exempt under the definition of floor area and thus this wording can be eliminated.

The explanatory statement states as an example, *“on a site with 2.5 acres the required office use encompasses a minimum, in round numbers, of 22,000 sq. ft. and a maximum of 27,000 sq. ft. Total FAR in the zone is limited to 0.75, and all development on site--over the 0.20 to 0.25 office use--to the maximum proposed FAR of 0.75, is required to be residential in nature.”*

7. (New) §24B-9, Residential Density

The residential density section proposes a maximum of twenty (20) bedrooms per acre and ten (10) units per acre. This is similar to both the GBD/S zone and the multi-family density in §32-12.

The number of units per acre has been reduced to ten (10) from the eighteen (18) that was proposed in Amendment #703.

8. (New) §24B-10, Architectural Design

The regulation proposes four specific principles including: scale and appearance, public waterfront access, compliance with FEMA flood zone requirements and concealment of rooftop mechanical units.

The “stepped roof” design principle proposed in Text Amendment #703 has been removed but other principles are still in proposed language.

Analysis

The architectural design standards are generally similar to those found in other Non-Residential Zones.

9. (New) §24B-11, Public Waterfront Access

This section refers back to the definition of Public Waterfront Access (PWA) and §31-10.7.4.

Analysis

§31-10.7.4 requires PWA for all Non-Residential zones along the Saugatuck River so it good to see that the applicant has sought not to exempt this zone from that requirement. PWA also has provision to provide views of the river for up to 25% of the street frontage. This was discussed with the applicant during their two pre-application reviews. Further the 2007 POCD and the 2015 Downtown Master Plan encourages public access along the river.

Staff recommends that the language in this section be modified to require the PWA not just refer to another section.

10. (New) §24B-12, Signs

This section requires compliance with §33, Signage Regulations. This is a standard requirement in Non-Residence Zones.

The applicant should consider adding standards to §33 as there are no current standards for the GBD/R.

11. (New) §24B-13 – Parking & Loading

This section requires compliance with Off Street Parking and Loading requirements in §34. This is a standard requirement in Non-Residence Zones.

The applicant should clarify how to administer the suggestion that off-street parking does not have to be provided for Office use but *“existing parking may be utilized for office use.”*

Amendment #703 proposed that the Planning & Zoning Commission be allowed to modify standards for loading spaces, parking area trees and islands, parking stall width to 8 feet, parking lot aisles and other designs commensurate with public safety. The regulation also proposed allowing tandem parking for residential uses if approved by the Commission. This language has been removed from Amendment #725.

12. (New) §24B-14, Landscaping Screening and Buffer Areas

This section requires compliance with Landscaping requirements in §35. This is a standard requirement in Non-Residence Zones.

Amendment #703 proposed that the Commission have the ability to waive these requirements but they give no rationale or criteria for such waivers and the language is not proposed in Amendment #725.

13. (New) §24B-15, Affordability Requirement and Plan

The applicant is proposing an affordable housing requirement which would require 20% affordable housing with requirement that it be satisfied by a fee-in-lieu to be payable to the Town of Westport, to be used for constructing, acquiring, rehabilitating, or repairing housing in Westport.

Analysis

There are a number of different affordability requirements within the Westport Zoning Regulations. These sections are summarized below:

1. §16-2.12	Mobile Home Replacement Units	80% affordable
2. §18	Residence C Zone	15% affordable
3. §19	Affordable Housing Zone	30% affordable
4. §19A	Affordable Housing Zone/Workforce	20% affordable 10% work force
5. §20	Municipal Housing Zone	100% affordable
6. §32-1	Supportive Housing	100% affordable
7. §32-12	Inclusionary 2 family & Multi-family Housing	20% affordable
8. §32-15A	Senior Residential Community	60% affordable
9. §32-17	Affordable/Middle Income Housing on Town Land	50% affordable 50% (80% AMI)
10. §39A	Inclusionary Housing Zone	20% affordable

The only other zone that permits a fee-in-lieu of affordable housing is the Res. C zone. However, no units have ever been requested or approved as part of a Fee-In-Lieu project.

The applicant has submitted information regarding how other municipalities administer the fee-in-lieu funds. See attached letter from Katherine Zalantis, dated 1/19/17. Additionally, the Commission may consider doing as New Canaan and allowing the Housing Authority to administer the funds.

Staff recommends a dedicated fund, such as Fee-In-Lieu of Open Space Fund, be created to allocate these funds. The Commission may consider seeking comments from the Finance Director if interested in knowing more about this process.

14. (New) §24B-16, Development Caps

This section only permits two (2) GBD/R developments. This is a new section which was not proposed as part of Amendment #703.

15. (New) §24B-17, Exclusion from Condo Cap

This section exempts the multi-family dwelling units in this regulation from §4-5, Maximum Multi-Family Developments. This is a new section which was not proposed as part of Amendment #703.

The applicant should provide justification for this exemption. The Commission has permitted this in one other instance, in Text Amendment #714, which adopted Residential-Rental Housing Opportunity/Workforce Zone District (R-RHOW). The property at 1177 Post Road East (an §8-30g application) was rezoned to R-RHOW and therefore those units are exempt from §4-5, Maximum Multi-Family Development.

The applicant should explain why the exemption of the multi-family dwelling units from §4-5, Maximum Multi-Family Development should be permitted for this text amendment. Staff also suggests modifying the Title of the section to "*Exemption from Maximum Multi-Family Development Regulation*".

Maximum Allowable Multi-Family Dwellings

§4-5 of the Westport Zoning Regulations requires the total number of multi-family dwelling units shall not exceed 10% of the total number of single family dwelling units within the Town as reported in the most recent official U.S. Census. The 2010-2014 American Community Survey reported that there are 9,146 single-family, detached dwelling units in Westport. Therefore 915 multi-family are permitted.

The limit imposed by §4-5 has not yet been exceeded, but the Town is growing closer to exceeding the cap. To date, Planning and Zoning staff calculates there are already 818 approved market rate units, allowing only 97 additional units to be approved before the cap is exceeded.

Demonstration Site Plan, 54 Wilton Road

The applicant states that the proposal is to utilize the proposed GBD/R for submission of map amendment and special permit/site plan applications for the property at 54 Wilton Road. This property contains 2.59 acres and is presently zoned General Business District (GBD). The existing building on site is over 420 feet long, significantly reducing views of the river.

A demonstration plan for 54 Wilton Road has been designed by the noted architectural firm of Roger Ferris & Partners, LLC located at 11 Wilton Road, showing the proposed residential and office uses.

The proposed regulation provides for the parking required for the proposal to be located on site. Provision for utilization of the parking attributed to the commercial building by the abutting commercial property is anticipated.

Additional Analysis

If the Commission adopts this amendment, it will trigger future applications including a rezoning of any relevant properties and ultimately a Coastal Site Plan/Special Permit application. One of the issues that will need to be addressed in the future, depending on the site maybe the need for a change to the Future Land Use Plan (FLUP) found in the POCD. If the chosen site has a different designation than the one on the FLUP the Commission will have to consider whether or not an amendment to the POCD is required.

Considerations

The Planning and Zoning Commission should consider the following before rendering any decision, as required by the Westport Zoning Regulations and the Connecticut General Statutes. §42-3.3 of the Zoning Regulations describes the process for submission of a text amendment. Words to be deleted shall be bracketed and stricken out and additions shall be underlined. The application needs to be revised to conform to this requirement.

§42-3.5 requires submission of an Explanatory Statement explaining the need for the amendment and identifying any benefits to the Town. This Statement from the applicant is attached and describes the amendment is designed to fulfill objectives found in the purpose statement as well as the following benefits:

1. Reduction in traffic congestion at Route 33/US 1 intersection by the replacement of a larger office use that generated significant commuter peak hour traffic with a mixed-use project consisting of a smaller office use and a substantial residential use;
2. Addition to the downtown land mix of high quality residential units and a significantly smaller office building;
3. Extension to the north of pedestrian walkway along the west bank of the Saugatuck River;
4. Inclusion of view corridors from Route 33 to the Saugatuck River as per the requirements of Section 31-10.7.4;
5. Enhancement of public safety by the construction of FEMA compliant buildings, and
6. Complementary uses (i.e. office/residential) maximizing available parking and minimizing peak hour demand.

The amendment may further the Town of Westport goals as listed in the POCD including:

1. *“Strive to create a range of housing opportunities and choices. pg. 6-1*
2. *Diversify Westport’s Housing Types. pg. 6-2*
3. *Promote Housing Affordability. pg. 6-3*
4. *Create a “riverway”, pg. 4-2*
5. *Add residential housing to any development program in the downtown area. “ Pg. 7-16*
6. *Development of river banks should provide for public views and public access. “ Pg 7-16*

The Commission should determine whether sufficient information was offered to guarantee these “benefits” listed will be realized. The Commission should also determine whether sufficient information was offered to demonstrate the Institute of Traffic Engineers would agree with projected reduction in traffic generation. The Commission should also consider comments received by CT DEEP regarding the proposal’s consistency with the CCMA.

C.G.S. §8-2, *Regulations*, requires consideration by the Planning and Zoning Commission that any regulations shall be made in accordance with a comprehensive plan. The Comprehensive Plan is the zoning scheme for the community and it includes the land use development plan, the zoning regulations and the zoning map. In the analysis section above there are a number of proposals which should be evaluated for consistency with the Comprehensive Plan and there are proposed changes which are not found anywhere else within the Zoning Regulations.

The Commission should note that this is a unique zoning district (not an overlay); therefore, the Heithaus law case is not in play and the Commission is acting in their legislative capacity.

Summary of Staff Recommendations

The Planning and Zoning Commission may adopt, modify, or deny any or all of the amendments proposed. As stated herein and agreed to be the applicant, if the amendments are adopted Planning and Zoning Staff recommend the following changes:

1. The language in §24B-1, Purpose, be changed to read,
“The Riverwalk District shall be limited to areas where areas that are served by public water supply, suitable power supply and public sanitary sewer; where areas are served by mass transit, where areas have frontage on a State Highway and on the Saugatuck River, are zoned General Business District as of the effective date of this regulation, and are within “Westport Center” a set forth in the 2007 ~~Town~~ Plan of Conservation and Development.”
2. The applicant should clarify what is meant by “mass transit” in §24B-1.
3. The applicant should modify language to allow for above-ground parking garages in §24B-2.1.
4. The applicant should more clearly define what is considered allowable “Other Riverfront Amenities” in §24B-2.2.2.
5. The applicant should clarify the reasoning for not allowing retail use as retail use along the waterfront will attract pedestrians.
6. The applicant should add “Healthcare Professionals and Medical” to the list of Prohibited Uses in §24B-2.
7. The applicant should clarify if the minimum lot size requirement in §24B-3 was intended to be Lot Area, as defined as in §5-2.
8. The applicant should modify the language to add number of stories requirement in §24B-5.
9. The applicant should clarify why more coverage is needed than what is traditionally permitted in non-residential zoning districts. Staff recommends that rather than allowing the additional coverage as of right, the applicant use language in the GBD/S §24A-6.2 Coverage Exemptions.
10. The applicant should modify the language in §25B-11 to require PWA, not just refer to another section.
11. The applicant should consider adding standards to §33 as there are no current standards for the GBD/R.
12. The applicant should clarify language in §24B-13 and offer ways to administer the suggestion that off-street parking does not have to be provided for Office use but that “existing parking may be utilized for office use.”
13. The applicant should modify the Title of §24B-17 to “Exemption from Maximum Multi-Family Development Regulation”.
14. The applicant should explain why §24B-17 exempts the multi-family dwelling units from §4-5, Maximum Multi-Family Developments.

Staff recommends the hearing be left open for comments from CT DEEP and the Fire Department.

Notice to the Public

A legal notice appeared in the local newspaper and was posted in the Town Clerk’s Office as required in accordance with C.G.S. §8-7d. A press release was prepared and sent to various media outlets to promote awareness of this amendment.

Department Comments

Building Official:	Referral sent 12/14/16.
Conservation Director:	Referral sent 12/14/16.

Fire Chief:	Referral sent 12/14/16.
WWHD Director:	“It is proposed that the Riverwalk District be limited to areas that area served by a public water supply, and the municipal sewers. As such, the Health District has no objections to the proposal.” 12/22/16
Parks & Rec, Director:	Referral sent 12/14/16.
Police Chief:	“We have no comment on the proposal.” 12/16/16
Public Works Director:	Referral sent 12/14/16.
Town Attorney’s Office:	Referral sent 12/14/16.
Architectural Review Board (ARB):	Recommended for approval as presented. 1/10/17
Greater Bridgeport Regional Council:	Referral sent 12/14/16.
Western Connecticut Council of Governments (WCCOG)	“The opinion of the WestCOG staff is that the proposal is of local interest and with minimal intermunicipal impact. Therefore, it is not being forwarded to adjacent municipalities and the regional staff is making no comment.” 12/15/16
CT DEEP/OLISP:	“While residential construction in AE-zones is allowed by FEMA in accordance with all applicable standards, those standards merely protect property while still allowing people to be placed in hams way. Therefore, we are concerned that increasing residential density on any site in the GBD that currently does not contain residential uses may be potentially inconsistent with the Connecticut Coastal Management Act (CCMA).” 1/26/17

Attached

Explanatory Statement, prepared by the applicant, stamp dated 12/7/16

Text Change, prepared by the applicant, received by P&Z 1/19/17

Letter, prepared by Katherine Zalantis, dated 1/19/17

Location Map Engineers, prepared by Langan, dated 12/13/16

Demonstration Plans (2 sheets) by Roger Ferris +Partners, LLC, stamp dated 1/19/17

Resolution #703, dated 3/7/16

CT DEEP comments, dated 1/26/17

TEXT AMENDMENT EXPLANATION AND ANALYSIS

RECEIVED

OWNER/APPLICANT: STC GREEN, LLC

DEC 07 2016 - 555

WESTPORT P. & Z. C.

The intent of the applicant is to create a new section of the Westport Zoning Regulations to be referred to as the General Business District/Residential zone. For ease of reference, the proposed zoning district has been designated Section 24B.

The proposed General Business District/Residential (GBD/R) zone is designed to grow the vitality of downtown Westport by the inclusion of a significant residential component. The GBD/R promotes a utilization of approximately two-thirds (66.6%) of the proposed floor area as residential and one-third (33.3%) of the proposed floor area in the zone as office commercial. As noted, the commercial use within the GBD/R is restricted to office use.

No retail use in the zone is permitted.

The residential/office split use ensures a substantial residential component. The presence of a substantial residential piece both reduces *peak hour* traffic generated by a commercial use and reduces *overall* traffic impact, improving public safety on local streets. Equally important, it adds a residential population to downtown Westport area, providing retail shoppers, restaurant patrons, joggers, sightseers and others, both residents and their guests.

The GBD/R promotes the construction of high-end residential units in the zone by virtue of the minimum average floor area requirement per unit of 2,100 sq. ft. The large average interior floor area requirement in turn limits the number of units on site, which reduces parking requirements. No more than ten (10) units per acre can be built in this zoning district.

Office use, the only permitted commercial use in the proposed GBD/R, is mandated to be .20 to .25 floor area ratio (FAR). For instance, on a site with 2.5 acres the required office use encompasses a minimum, in round numbers, of 22,000 sq. ft. and a maximum of 27,000 sq. ft. Total FAR in the zone is limited to 0.75, and all development on site--over the 0.20 to 0.25 office use--to the maximum proposed FAR of 0.75, is required to be residential in nature.

The GBD/R mandated residential/office use results in an overall traffic reduction, as well as a peak hour utilization reduction, when compared to a full office use.

The GBD/R requires frontage on the Saugatuck River and provides public access to the river by a public walkway, public access from the street frontage, and public parking. In addition, scenic vistas of the river are maintained by the GBD/R through the application of the provisions of 31-10.7.4 of the regulations.

The GBD/R incorporates a fee-in-lieu of affordable housing provision. The fee in lieu calculation set forth in the proposed regulation ensures the Town of Westport will receive significant sums paid, which can be used as seed money for the acquisition or construction of affordable housing units in Town.

The height section of the GBD/R (Section 24B-5) limits the height of a commercial structure to 25 feet with a limited exception for roof top mechanicals and elevator rooms.

Residential buildings are permitted, per the regulation language, an additional 22 feet under specific conditions. This height permits the construction of a three story residential building with parking below.

The GBD/R includes a minimum lot area requirement of 2.0 acres as well as the provision that the lot shall be of such shape that a square with 200 feet on each side will fit on the lot.

The intent of the applicant is to utilize the proposed GBD/R for submission of change of zone and special permit/site plan applications pertaining to the property at 54 Wilton Road. This property contains 2.59 acres and is presently zoned General Business District (GBD). The existing building on site is over 420 feet long, significantly reducing views of the river.

A demonstration plan for 54 Wilton Road has been designed by the noted architectural firm of Roger Ferris & Partners, LLC located at 11 Wilton Road, showing the proposed residential and office uses.

The proposed regulation provides for the parking required for the proposal to be located on site. Provision for utilization of the parking attributed to the commercial building by the abutting commercial property is anticipated.

The proposed text amendment creating the General Business District/Residential (GBD/R), if applied to 54 Wilton Road property, provides the following attributes:

1. Reduction in traffic congestion at Route 33/US 1 intersection by the replacement of a larger office use that generated significant commuter peak hour traffic with a mixed-use project consisting of a smaller office use and a substantial residential use.
2. Addition to the downtown land mix of high quality residential units and a significantly smaller office building.
3. Extension to the north of pedestrian walkway along the west bank of the Saugatuck River.

4. Inclusion of view corridors from Route 33 to the Saugatuck River as per the requirements of Section 31-10.7.4.
5. Enhancement of public safety by the construction of FEMA compliant buildings.
6. Complementary uses (i.e. office/residential) maximizing available parking and minimizing peak hour demand.

1/19/17

§ 24B GENERAL BUSINESS DISTRICT/RESIDENTIAL (GBD/R)

RECEIVED

24B-1 Purpose

JAN 19 2017

The purpose of the General Business District/Residential is to:

WESTPORT P. & Z. C.

- (a) grow the vitality of downtown Westport by including a residential population;
- (b) mitigate traffic impacts to improve public safety on local streets and intersections;
- (c) mitigate traffic generation and parking demand during peak periods on the local streets;
- (d) encourage residential and office uses;
- (e) encourage visual and physical access to and along the waterfront;
- (f) improve streetscape and landscape attractiveness.

file copy

The General Business District/Residential (GBD/R) shall be limited to areas where areas are served by a public water supply, suitable power supply and public sanitary sewers; where areas are served by mass transit; where areas have frontage on a State Highway and on the Saugatuck River, are zoned General Business District, and are within "Westport Center" as set forth in the 2007 Town Plan of Conservation and Development.

24B-2 Special Permit Uses – In the General Business District/Residential (GBD/R), no land, building or structure shall be used and no building shall be hereafter erected, altered, or added to, unless otherwise provided in these regulations, except for one (1) or more of the following uses:

24B-2.1 Special Permit Uses

The following uses are permitted subject to Special Permit and Site Plan Review in accordance with §43 & 44, herein.

- (a) Residential Units (apartments, condos and/or co-ops) not to exceed 3 bedrooms and averaging more than 2,100 square feet of interior floor area;
- (b) Surface parking lots and parking below building;
- (c) Business, professional, insurance, real estate and other offices, (excluding healthcare professional and medical);

24B 2.2 Accessory Buildings, Structures and Uses

Uses customarily accessory to a permitted principal use subject to the provisions of §32-7, herein.

24B -2.2.1 Boat docks.

24B -2.2.2 Boardwalks and other Riverfront Amenities.

24B 2.3 Prohibited Uses

The following uses in addition to those listed in §32-7, herein, shall be prohibited: gasoline filling stations, automobile service establishments, motor vehicle repair garages, any lot, establishment, agency or dealer for new, rental or used motor vehicles, automobiles, motor cycles, trucks, mobile homes, trailers, campers, farm or other heavy equipment, hotels, motels, motor inns, and drive-in restaurants.

24B-3 Lot Area (See Definitions)

Each lot shall have a minimum area of two (2) acres (87,120 square feet) and shall be of such shape that a square with two hundred (200) feet on each side will fit on the lot.

24B-4 Setbacks (See §31-4 through §31-8, also.)

No principal building, structure or use shall extend closer than thirty (30) feet from any front lot line or Residential District Boundary Line, fifteen (15) feet from any side lot line or twenty-five (25) feet from any rear lot line. No accessory building or structure shall extend closer than thirty (30) feet from any front lot line or Residential District Boundary, and fifteen (15) feet from the side and rear lot lines. There shall be a building separation of twenty (20) feet for residential building heights of thirty-five (35) feet or less, and a building separation of twenty-five (25) feet for residential building heights over thirty-five (35) feet.

24B-5 Height

No building or other structure shall exceed a height of twenty-five (25) feet. The Planning and Zoning Commission may, provided the applicant demonstrates, to the satisfaction of the Commission, present or future public benefits, allow an additional twenty-two (22) feet in height for residential buildings to the top of a flat roof, or highest ridge of a pitched roof on sites located within the 100-year floodplain that require the building to be elevated, subject to Fire Department review and approval.

The provisions of this section shall not apply to roof-top mechanical equipment and elevator rooms provided:

- 1) All roof-top mechanical equipment shall be screened; and
- 2) All roof-top mechanical equipment and associated screening shall be set back ten (10') feet from the nearest parapet wall or, if no parapet wall, the nearest edge of roof; and
- 3) The structure shall not extend more than 5 feet above the ridge of the roof or top of flat roof on which it is located.

24B-6 Coverage

24B-6.1 Building Coverage

The building coverage shall not exceed 30% of the area of the lot within the GBD/R.

24B-7 Building Area

No building shall exceed a footprint of 20,000 square feet.

24B-8 Floor Area

24B-8.1 FAR (see definitions)

The total floor area of all proposed uses shall not exceed a Floor Area Ratio (FAR) of 0.75 provided the total of all non-residential floor area shall not be less than 0.20 FAR and shall not exceed 0.25 FAR. Floor area utilized for parking and loading spaces shall be excluded from the FAR.

24B-8.2 Residential Unit Sizes:

The average interior floor area per dwelling unit shall be more than 2100 square feet.

24B-9 Residential Density

The maximum allowable density shall not exceed twenty (20) bedrooms per gross acre. The maximum number of units per acre shall not exceed ten (10).

24B-10 Architectural Design

The architectural design, scale and mass of buildings and other structures, including, among other elements, the exterior building material, color, roof-line, and building elevations shall be of such character as to harmonize and be compatible with the other buildings in the Saugatuck River area so as to preserve and improve the appearance and beauty of the community. New construction or reconstruction shall adhere to the design purposes of this district.

- (a) Buildings designed to achieve appropriate scale and appearance shall be encouraged
- (b) Public pedestrian access to the water and a Riverwalk along the water shall be provided on all sites adjacent to the water
- (c) Buildings shall be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible, while balancing the needs of FEMA and Flood Compliance
- (d) Roof top mechanical equipment, other than solar energy panels, shall be concealed from all sides.

24B-11 Public Waterfront access (PWA)

See Definitions and §31-10.7.4 herein.

24B-12 Signs

Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

24B-13 Parking and Loading

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations, except that existing parking may be utilized for office uses.

24B-14 Landscaping, Screening and Buffer Areas

Landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations.

24B-15 Affordability Requirement and Plan

In conjunction with residential units proposed as part of a GBD/R development, the applicant shall, in lieu of the creation of affordability units on-site, pay a fee-in-lieu per unit based on an affordability requirement of 20% of the proposed units. Fractional units at 0.5 and above shall be rounded up.

Such fee shall take the form of a one-time cash contribution to a housing trust fund, to be administered by the Town of Westport, to be used for constructing, acquiring, rehabilitating, or repairing housing in Westport that is affordable to persons and families of low and moderate income who meet the income limits in C.G.S. § 8-30g. Said funds shall be paid prior to the issuance of the Zoning Permit. The cash contribution to be provided shall be calculated based on 225% of the most recently published Standard Metropolitan Statistical Area (SMSA) Median Family Income for a Family of Four encompassing Westport, as published by the U.S. Department of Housing and Urban Development (HUD).

Example:

A. Offsite (Fee-in-Lieu):

20% requirement for 18 units = 3.6 affordable units

SMSA income family of 4 = \$111,000 X 225% = \$249,750 fee per unit

4 X \$249,750 = \$999,000

24B-16 Development Cap

No more than two (2) General Business District/Residential developments shall be permitted within the Town of Westport.

24B-17 Exclusion from Condo Cap

The total number of multi-family units located in the GBD/R district shall be exempt from the provisions of § 4-5.



Law Offices
Talleyrand Office Park
220 White Plains Road, 5th Floor
Tarrytown, New York 10591
Tel. (914) 682-0707
Fax. (914) 682-0708
www.szlawfirm.net

January 19, 2017

Via Hand Delivery

Mary Young, Director
Planning and Zoning Department
Town of Westport
110 Myrtle Avenue, Room 203
Westport, CT 06880

RECEIVED

JAN 19 2017

WESTPORT P. & Z. C.

Re: Application of STC Green, LLC for zoning text amendment

*file
copy*

Dear Ms. Young:

We represent STC Green and write in response to your inquiry about how other municipalities have implemented and utilized regulations to allow a payment in lieu of providing affordable housing. We reviewed the zoning regulations for all of the municipalities in Fairfield County and found that three municipalities, Darien, Stamford and Norwalk, have mandatory affordable housing requirements and also have provisions to allow a "payment in lieu" of providing the requisite affordable housing. The relevant zoning text for Darien, Stamford and Norwalk are attached for your reference as Exhibits "A", "B" and "C", respectively.

In reviewing the "payment in lieu" provisions for these municipalities, we found that they all incorporate similar concepts. Below is an outline of each concept, followed by a discussion of how each municipality addressed it, including STC Green's proposed language for the proposed GBD/R zone.

- 1) **Calculation of payment.** This is the most complicated concept because all of the calculations involve multiple factors that vary for each municipality. However, the general principle is the same: a median income is multiplied by a set percentage; the total is the amount of the required payment per unit of affordable housing the developer is not providing. Depending upon (1) how the municipality defines the median income; (2) the percentage established by the municipality; and (3) the amount of affordable housing required by the municipality, the total payment in lieu of providing the requisite affordable housing can vary considerably among the municipalities. In addition to the discussion below, attached as Exhibit "D" is a

spreadsheet prepared by our client with some sample calculations for your reference.

Darien: The “median income” is the most recently available State Median Income available from the U.S. Department of Housing and Urban Development. The percentage set forth in the regulations is 300%. Multiplying these two numbers together is the amount of the payment for each unit of required affordable housing not being provided. Darien requires that 12% of multi-family developments be affordable.¹

In Darien, even if the developer is going to provide the requisite affordable housing, if based upon the calculation above the number of required units is not a whole number, the fee includes the fraction of the unit that it is not providing.²

Darien Payment = 300% of State Median Income x total number of units x 12% affordable unit requirement

Stamford: Stamford utilizes the most recent Stamford Standard Metropolitan Statistical Area (“SMSA”) Median Income and adjusts it based upon the size of the unit of affordable housing that was going to be provided. For instance, if it was a one-bedroom unit, they use the median income for a family a two; for a two-bedroom unit, they use the median income for a family of four; and for a three-bedroom unit, they use the median income for a family of five.

The percentage that the median income has to be multiplied by varies depending upon the level of income of the prospective tenants of the affordable housing units. For instance, if the unit was for someone earning 25% of the SMSA median income, then you multiply the median income by 240%; if the unit was for someone earning 50% of the SMSA median income, then you multiply the median income by 145%; and if the unit was for someone earning 60% of the SMSA median income, then you multiply the median income by 110%. The result of the applicable median income times the applicable percentage is the amount the developer has to pay per applicable unit of affordable housing not being provided.³

In Stamford, the amount of affordable units required varies depending upon the district. For instance, in the R- D Designed Residential District, 10% of the units must be below market rate;⁴ in the P-D Planned Development District, the greater of 1/3 of the number of units of the density bonus or 10% of the total number of dwelling units must be below market rate;⁵ and in the TCDD Transportation Center Design District, 12% of the units must be below market rate.⁶

Stamford Payment = [110-240%] of Stamford Standard Metropolitan Statistical Area (“SMSA”) Median Income (multiplier based on unit size) x total number of units x % affordable unit requirement (based on zone).

¹ See Darien Zoning Regulations, §§ 588(e) & 588(e), Appendix “E”, subsection “B.”

² See Darien Zoning Regulations, § 588(e), Appendix “E”, subsection “A.”

³ See Stamford Zoning Regulations, § 7.4(C)(4)(d).

⁴ See Stamford Zoning Regulations, § 9(A)(2)(h)(1).

⁵ See Stamford Zoning Regulations, § 9(AA)(3)(h).

⁶ See Stamford Zoning Regulations, § 9(BB)(5)(h).

Norwalk: Norwalk utilizes the State Median Income and the calculation is based upon the size of the units of affordable housing proposed to be provided (as set forth in an affordability plan submitted by the applicant). For a unit intended for someone earning 60% of the State Median Income, then you multiply the median income by 370%; for a unit intended for someone earning 80% of the State Median Income, you multiply the median income by 270%; and for a unit intended for someone earning 100% of the State Median Income, you multiply the median income by 220%.⁷

Norwalk's code states that, where applicable, 10% of the total number of units, rounded up to the nearest whole number, shall be affordable housing.⁸

Norwalk Payment = [220-370%] of State Median Income (multiplier based on unit size) x total number of units x 10% affordable unit requirement.

Proposed Westport: Westport Payment = 225% of SMSA Median Family Income for a Family of Four encompassing Westport x total number of units x 20% affordable unit requirement.

2) **Timing of payment.**

Darien: Paid prior to issuance of zoning permit⁹

Stamford: None stated¹⁰

Norwalk: Payment schedule as follows: 25% prior to issuance of building permit; 25% prior to the renting or sale of 25% of the dwellings; and 50% prior to the renting or sale of 50% of the dwellings.¹¹

Proposed Westport language: Paid prior to issuance of zoning permit.

3) **To whom the payment should be made.**

Darien: "Town of Darien housing trust fund, or other Commission approved non-profit or for-profit organization dedicated to affordable housing initiatives."¹²

Stamford: "City of Stamford fund, or other approved non-profit or for-profit organization dedicated to affordable housing initiatives."¹³

Norwalk: "City of Norwalk fund, or other Commission approved nonprofit or for-profit organization dedicated to affordable housing initiatives."¹⁴

⁷ See Norwalk Zoning Regulations, §118-1050(G)(2).

⁸ See Norwalk Zoning Regulations, §118-1050(G)(2).

⁹ See Darien Zoning Regulations, § 588(e).

¹⁰ See Stamford Zoning Regulations, § 7.4.

¹¹ See Norwalk Zoning Regulations, §118-1050(G)(4).

¹² See Darien Zoning Regulations, § 588(e).

¹³ See Stamford Zoning Regulations, § 7.4(C)(4)(d).

¹⁴ See Norwalk Zoning Regulations, §118-1050(G)(2).

Proposed Westport language: “[H]ousing trust fund, to be administered by the Town of Westport.”

4) Authority of municipality to determine when developer can utilize option to make payment in lieu of providing affordable housing.

Darien: “The Commission, at its absolute discretion, may require the applicant to pay a fee in lieu of constructing some, or all, of the required affordable housing units.”¹⁵

Stamford: “Pursuant to an application for Special Exemption, Zoning Board in its sole discretion may approve alternative methods” of satisfying below market rate housing requirements.¹⁶

Norwalk: “Pursuant to application for special exception, the Commission shall allow alternative method of satisfying the workforce housing requirement, including the payment of an appropriate in-lieu housing fee.”¹⁷

Proposed Westport language: “In conjunction with residential units proposed as part of a GBD/R development, the applicant shall, in lieu of the creation of affordability units on-site, pay a fee-in-lieu per unit based on an affordability requirement of 20% of the proposed units.”

We also note that some other municipalities have required payments related to the development of affordable housing that varies from the provisions set forth above. For instance, New Canaan does not require that developers include affordable housing as part of a proposed multi-family development, but instead requires that for any new development an “inclusionary zoning fee” be paid in an amount of \$10 for every \$1,000 in construction value (i.e. 1%) and put into a housing trust fund for affordable housing.

Thank you for your consideration of this matter.

Very truly yours,

SILVERBERG ZALANTIS LLP



Katherine Zalantis

KZ/cta
Enclosures

¹⁵ See Darien Zoning Regulations, § 588(e).

¹⁶ See Stamford Zoning Regulations, § 7.4(C)(4).

¹⁷ See Norwalk Zoning Regulations, §118-1050(G)(1).

EXHIBIT A

SECTION 580. INCLUSIONARY ZONING

581. Background and Purposes

These regulations are intended to encourage the development of below market rate dwelling units within the Town of Darien, consistent with Section 8-2(i) of the General Statutes of Connecticut.

582. Applicability

Inclusionary Zoning Regulations shall apply to all zones that allow dwelling units as a principal or special permit use.

583. Affordable Requirements

Developments resulting in the creation of additional multi-family dwelling units shall designate a minimum of twelve percent (12%) of the total number of dwelling units as affordable housing as defined by Connecticut General Statutes. For the purpose of this regulation, the term multi-family is defined as a single property with two or more dwelling units, whether attached or detached. Dwelling units constructed pursuant to Section 405e. are exempt from the requirements of this regulation.

Single-family subdivisions or re-subdivisions resulting in a total of five or more building lots shall designate a minimum of twelve percent (12%) of the total number of dwelling units as affordable housing as defined by Connecticut General Statutes. All other single family subdivisions are exempt from the requirements of this regulation.

The affordable housing requirement shall be satisfied by: providing affordable housing units on the subject property; providing affordable housing units elsewhere within the Town of Darien; or paying a fee in lieu; or providing some combination thereof.

All affordable housing units shall be affordable to households with an income equal to or less than 80 percent of the State Median Income (SMI) for the State of Connecticut. Household incomes are published by the United States Census Bureau and periodically updated by the U.S. Department of Housing and Urban Development (HUD). Income levels are to be adjusted for household size per HUD requirements.

584. Below Market Rate Dwelling Unit

A below market rate (BMR) dwelling unit is defined as a dwelling unit occupied by an income-eligible household as described in the Section 583 where the maximum sales price or rent shall be restricted for forty years or the life of the unit, which ever is longer, using the methodology for maximum housing payment calculations outlined in Section 8-30g-8 of the Regulations of Connecticut State Agencies.

585. Incentives

Developments subject to the provisions of Section 580, except for single-family subdivisions, may, at the absolute discretion of the Commission, be eligible for an increase in permitted density up to 50 percent greater than the allowed density provided at least 25 percent of such incentive units are designated as below market rate and the Commission determines that such incentives do not adversely affect the health, safety and welfare of the public in general, and the immediate neighborhood. In such cases, the Commission may, at the absolute discretion of the Commission, allow any or all of the following waivers, provided the Commission finds that such waiver encourages the development of below market rate housing and is consistent with the surrounding neighborhood:

- a. Recreational or open space requirements may be reduced.
- b. Minimum yard requirements may be reduced.
- c. Maximum building coverage requirements may be increased.
- d. Parking requirements may be reduced.
- e. Height may be increased to allow three stories.
- f. Height may be increased to allow up a maximum building height of 32.5 feet by Special Permit.

In no case shall the Commission approve a waiver described in a. through e. above, resulting in a requirement that deviates by more than 25% from the originating regulation. On lots less than 0.6 acres in area in the Designed Business One Zone (DB-1), the Commission may increase building coverage by up to 50 percent from the originating regulation, provided that the Commission shall find that the height and bulk of the proposed buildings on the subject site shall not adversely impact abutting residential properties.

586. Affirmative Fair Housing Marketing Plan

The applicant shall submit an affirmative fair housing marketing plan for the below market rate dwelling units. All dwelling units shall be offered for sale or rent in compliance with all applicable Federal and State Fair Housing laws.

587. Program Administration

Prior to the issuance of any Certificate of Occupancy, any application under Section 580 shall identify the non-profit entity or property manager who will be responsible for program administration. The program administrator is subject to the approval of the Commission or its designated representative. The program administrator shall:

- a. Annually review and certify to the Commission the annual income of households residing in below market rate dwelling units in accordance with a procedure established in advance and approved by the Commission.
- b. Maintain a list of eligible households in each category, as described in Section 586, who have applied for participation in the program. Applicants within each category shall be selected by lottery, conducted in accordance with a procedure established in advance of said lottery and approved by the Commission, or its designated representative.
- c. Annually certify to the Commission that the selected household actually resides in the below market rate dwelling unit.
- d. Certify to the Commission that below market rate dwelling units sold or re-sold do not exceed the maximum purchase price as calculated in a manner consistent with the methodology for maximum housing payment calculations in set-aside developments outlined in Section 8-30g-8 of the Regulations of Connecticut State Agencies, as adjusted for family size.
- e. Certify to the Commission that below market rate dwelling units for rent shall not exceed the maximum monthly rent as calculated in a manner consistent with the methodology for maximum housing payment calculations in set-aside developments outlined in Section 8-30g-8 of the Regulations of Connecticut State Agencies, as adjusted for family size.

588. Additional Standards

- a. On-Site: Affordable units shall be reasonably dispersed throughout the development and shall contain, on average, the same number of bedrooms and shall be indistinguishable from market rate units with respect to the exterior finishes, including landscaping, but interiors may include standard finishes and need not be of 'luxury' quality. Those units shall be designed and located to maintain the architectural elements and character of the neighborhood. Examples of how to calculate the number of units required are shown in Appendix E of the Zoning Regulations.
- b. Phasing: Affordable units shall be developed simultaneously with or prior to the development of the other units on a pro rata basis.

- c. Deed Restrictions: In order to maintain affordable dwelling units for at least forty years or the life of the unit, whichever is longer, the following restrictions shall apply:
- (1) Affordable units for sale shall be restricted by title to require that, in the event of any resale by the owner or any successor, the resale price shall not exceed the then maximum sales price for said dwelling unit, as determined in accordance with Subsection 587d above or the sum of the original purchase price and the cost of any documented fixed improvements made by the owner, whichever is greater.
 - (2) Affordable units for rent shall be restricted by title to require that the rents for said units shall not exceed the maximum rent as determined annually in accordance with Subsection 587e above.
- d. Alternative Sites: The Commission may, at its absolute discretion, approve the construction or rehabilitation of the required affordable units on another site in Darien, provided that such off-site affordable units shall be maintained for at least forty years or the life of the unit, whichever is longer, in the same manner as on-site units. The Commission may condition the issuance of certificates of occupancy for the development project with the completion of the off-site affordable units or establish other reasonable performance conditions necessary to insure that the off-site units will be built in a timely manner.
- e. Payment of a Fee: The Commission, at its absolute discretion, may require the applicant to pay a fee in lieu of constructing some, or all, of the required affordable housing units. Such fee shall take the form of a one time cash contribution to a Town of Darien housing trust fund, or other Commission approved non-profit or for-profit organization dedicated to affordable housing initiatives. Said funds shall be paid prior to the issuance of the first Zoning Permit. Units created with such funds shall be designated as affordable in the same manner as required in Section 584. An example of Fee In Lieu Payment Calculations is in Appendix E.
- f. Where the contribution is targeted to assist an identified off-site project providing below market rate dwelling units, the Commission may, at its absolute discretion, condition the issuance of certificates of occupancy for the development project with the completion of the off-site below market rate dwelling units or establish other reasonable performance conditions necessary to insure that the off-site units will be built in a timely manner.

EXHIBIT B

SECTION 7.4 – BELOW MARKET RATE DWELLING UNITS

A. FINDINGS

It is the public purpose and policy of the City of Stamford, the Southwestern Regional Planning Agency and the State of Connecticut to achieve a diverse and balanced community with housing available for households of all income levels. Economic diversity fosters social and environmental conditions that protect and enhance the social fabric of the City and are beneficial to the health, safety and welfare of its residents and to the environmental quality and economy of the region.

The Stamford Master Plan 2002 has documented a growing affordability gap between the supply of housing and the demand for housing. This affordability gap is driven by several broad trends including the fact that home sale prices have grown as fast or faster than household earnings, that rents in newer apartment developments are well out of reach of most low and moderate income households, and that the limited inventory of affordable market-rate apartments and condos coupled with the inventory of assisted housing units is inadequate to meet the demand for affordable housing.

A significant cause of this affordability gap and crisis in the availability of a diversity of housing opportunities is the rapid increase in employment in the City. Employment in Stamford increased by 8,000 jobs between 1980 and 1990 and is projected to add 9,000 more jobs by the year 2000 and an additional 7,700 jobs by the year 2010.

The Master Plan establishes the goal of providing decent, affordable housing for all of the residents of Stamford, whatever their economic conditions. To address the continuing loss of affordable housing, coupled with the increasing affordability gap and growing housing demand, the City of Stamford has established the goal of producing a minimum of 8,000 affordable housing units, in addition to what is currently available.

The Master Plan recommends, as a key element of a coordinated housing strategy, that the City's Zoning Regulations incorporate a mandatory inclusionary housing requirement, with appropriate incentives, consistent with established planning principles and contextual development.

The inclusionary housing program defined herein is necessary to provide continuing housing opportunities for low and moderate income households and working people. It is necessary to help maintain a diverse housing stock and to allow working people to have better access to jobs and upgrade their economic status. The regional trend toward increasing housing prices will, without intervention, result in inadequate supplies of affordable housing and will negatively impact the ability of local employers to attract and maintain an adequate work force. Because remaining opportunity for new residential development within the city is limited, it is essential that a reasonable proportion of new development be devoted to housing that is affordable to low and moderate income residents and working people.

Therefore, to implement the policies of the Master Plan, it is essential that new residential development contain housing opportunities for households of low and moderate income, and that the City provide a regulatory and incentive framework that ensures development of an adequate

supply and mix of new housing to meet the future housing needs of all income segments of the community.

B. AUTHORITY

These regulations are enacted under the authority of the Charter of the City of Stamford and Section 8-2(i) of the Connecticut General Statutes.

C. STANDARDS

The purpose of this section is to establish uniform definitions, standards and procedures to apply in all cases where Below Market Rate (BMR) Dwelling Units are required under the terms of these Regulations. Standards for the level of affordability and the number of required BMR units and other special standards are established separately by zoning district and are stated elsewhere in these Regulations.

1.) The term "Below Market Rate Dwelling Unit" (BMR) shall be defined to be a dwelling unit restricted as to sale or rent based on the most current statistics of median family income for the Stamford Standard Metropolitan Statistical Area (SMSA) as published and periodically revised by the U.S. Dept. of Housing and Urban Development. The criteria for pricing one-bedroom BMR units shall be the SMSA median income for families of two persons; two-bedroom BMR units shall be priced based on the SMSA median income for families of four persons; and three-bedroom BMR units shall be priced based on the SMSA median income for families of five persons. BMR units offered for sale shall be limited to a selling price that is affordable to a purchaser with an income not exceeding the criteria family income, according to unit type as set forth above, based on industry-standard mortgage underwriting guidelines, and based on prevailing interest rates and a ten percent (10%) down payment. BMR units offered for rent shall be restricted to a maximum annual rent, inclusive of all basic utilities except telephone, not to exceed 30% of the criteria family income, according to unit type as set forth above.

Rental restrictions shall remain in full force and effect for so long as the building or development exists, and shall be administered in accordance with written guidelines as adopted and periodically revised by the Zoning Board. BMR units offered for sale shall remain subject to resale controls for so long as the building or development exists, and shall not exceed a resale price equal to the current BMR sale price for a comparable unit, as set forth above. The allowable resale price may be reduced if the physical conditions reflect abnormal wear and tear due to neglect, abuse or insufficient maintenance. BMR sale and resale requirements shall be administered in accordance with written guidelines as adopted and periodically revised by the Zoning Board, with suitable restrictive covenants in deeds, running with the land and senior to all financing instruments, to carry out and effectuate these obligations.

ELIGIBLE FAMILY INCOME LIMITS - YEAR 2006

AFFORDABILITY	FAMILY SIZE					
	one	two	three	four	five	six
25% of Median	\$20,352	\$23,260	\$26,168	\$29,075	\$31,401	\$34,769
50% of Median	\$40,705	\$46,520	\$52,335	\$58,150	\$62,802	\$67,454
60% of Median	\$48,846	\$55,824	\$62,802	\$69,780	\$75,363	\$80,945

2.) Below Market Rate Dwelling Units shall be designed, constructed, sold or rented, managed

and controlled as to resale in accordance with such other necessary written administrative policies, definitions and guidelines as officially adopted by the Zoning Board and/or the City of Stamford, as amended from time to time. When located within the development, such BMR units shall be constructed with floor area, finishes and amenities comparable to the market rate units within the development, and shall be reasonably distributed throughout the project and provided in a mix of unit types, as determined by the Zoning Board, provided that the average floor area of BMR units shall be comparable to the average floor area of two-bedroom market rate units within the development. When more than the minimum number of required BMR units are proposed, the total floor area of BMR units divided by the minimum number of required BMR units shall remain comparable to the average floor area of the two-bedroom market rate units.

3.) Management Plan. A proposal to establish BMR units shall be accompanied by a management plan ("Affordability Plan"), subject to approval of the Zoning Board, providing all of the necessary information and documentation to ensure the construction and continued operation of affordable housing, including the following:

- i) the person or organization responsible for administering the plan, including the application procedures and screening criteria to determine the income eligibility of applicants, and reporting and enforcement mechanisms;
- ii) affirmative fair marketing procedures governing the sale or rental of the BMR units;
- iii) proposed sale or rental prices of BMR units and the basis for their determination;
- iv) identification and timetable for the completion and even distribution of the BMR units among the market-rate units in the development; and
- v) other information as may be required by the Zoning Board.

The Affordability Plan shall encourage the participation of families with Section 8 vouchers and use of other local, State and/or federal programs and initiatives to further write down the affordability of BMR units to families earning less than fifty percent (50%) of the Stamford SMSA median income or to increase the number of BMR units within the project.

4.) Alternative Methods of Compliance: Pursuant to an application for Special Exception, the Zoning Board in its sole discretion may approve alternative methods of satisfying a BMR requirement, including but not limited to the dedication of vacant land, the construction of BMR units on another site, the acquisition and enforcement of rental/sales price restrictions on existing dwelling units, or the payment of an appropriate in-lieu housing fee. Any such proposal shall demonstrate to the satisfaction of the Zoning Board that the alternative method(s) is desirable and will further affordable housing opportunities in the City to a greater extent than the provision of on-site BMR units, either through the production of a greater number of affordable housing units and/or larger bedroom size units and/or units for families below the required targeted income brackets.

- (a) Land Dedication: a BMR requirement may be satisfied by the dedication of land within the City in-lieu of providing affordable housing on-site. The value of land to be dedicated shall be determined by an independent appraiser, at the cost of the developer, who shall be

selected from a list of certified appraisers provided by the City, or by such alternative means of valuation mutually acceptable to the developer and the City. The land to be dedicated shall have a value equal or greater than the fee-in-lieu contribution that would otherwise be required to satisfy the BMR requirement. In addition, the land must be of suitable character and location, and zoned to allow construction of a number of dwelling units equal or greater than the number of BMR units being satisfied.

(b) Dedication of Existing Units: a BMR requirement may be satisfied by restricting the rental or sale price of existing dwelling units within the City, through covenants, contractual arrangements, or resale restrictions, the form and content of which are acceptable to the Zoning Board. The restriction of such existing units must result in the creation of units that are equivalent in value, quality, and size as compared to the on-site BMR units that would otherwise be constructed.

(c) Off-Site Construction of BMR Units: a BMR requirement may be satisfied through the off-site construction or substantial rehabilitation of BMR dwelling units within the City of Stamford, subject to the following standards: (i) the location, architectural design and siting of such units shall be subject to approval by the Zoning Board; (ii) such units shall not serve to displace existing affordable housing units; (iii) off-site BMR units shall be generally consistent with all applicable standards of this section; (iv) the Board shall condition the issuance of certificates of occupancy for the development project with the completion of the off-site affordable units and/or establish other reasonable performance conditions necessary to insure that the off-site BMR units will be built in a timely manner.

(d) Fee-in Lieu Payment: a BMR requirement may be satisfied, in whole or in part, through the payment of a "fee-in-lieu" cash contribution to a City of Stamford fund, or other approved non-profit or for-profit organization dedicated to affordable housing initiatives. Off-site BMR units created with such funds shall be maintained as affordable in a manner similar to on-site BMR units. The cash contribution to be provided shall be calculated based on the applicable SMSA median income, as periodically revised, and based on bedroom size as defined in Subsection 7.4-C-1 above, and the following criteria for each of three required affordable income ranges: BMR units affordable at the 25% of SMSA family income level shall require a cash contribution not less than 240% of the SMSA median income; BMR units affordable at the 50% of SMSA median family income level shall require a cash contribution not less than 145% of the SMSA median income; and BMR units affordable at the 60% of SMSA median family income level shall require a cash contribution not less than 110% of the SMSA median income. Where the contribution is targeted to assist an identified off-site project providing affordable housing, the Board shall condition the issuance of certificates of occupancy for the development project with the completion of the off-site affordable units and/or establish other reasonable performance conditions necessary to insure that the off-site BMR units will be built in a timely manner. (205-11)

EXAMPLE CALCULATIONS OF CASH PAYMENT - YEAR 2006

Cash contribution for a One-Bedroom BMR unit is based upon the Year 2006 Stamford SMSA Median Family Income for a Family of Two = \$93,040. Minimum cash contribution for each affordable income range is as follows:

25% of Median Units:	$\$93,040 \times 240\% = \$223,296$
50% of Median Units:	$\$93,040 \times 145\% = \$134,908$
60% of Median Units:	$\$93,040 \times 110\% = \$102,344$

Cash contribution for a Two-Bedroom BMR unit is based upon the Year 2006 Stamford SMSA Median Family Income for a Family of Four = \$116,300. Minimum cash contribution for each affordable income range is as follows:

25% of Median Units:	$\$116,300 \times 240\% = \$279,120$
50% of Median Units:	$\$116,300 \times 145\% = \$168,635$
60% of Median Units:	$\$116,300 \times 110\% = \$127,930$

Cash contribution for a Three-Bedroom BMR unit is based upon the Year 2006 Stamford SMSA Median Family Income for a Family of Five = \$125,604. Minimum cash contribution for each affordable income range is as follows:

25% of Median Units:	$\$125,528 \times 240\% = \$301,267$
50% of Median Units:	$\$125,528 \times 145\% = \$182,016$
60% of Median Units:	$\$125,528 \times 110\% = \$138,080$

(e) Other Equivalent Actions: a BMR requirement may be satisfied through other in-lieu contributions and efforts that, in the discretion of the Zoning Board, are judged to have a value that is equal or greater than the "fee-in-lieu" cash contribution otherwise required and will further the affordable housing goals and purposes of this section. (203-08)

EXHIBIT C

City of Norwalk, CT
Thursday, January 19, 2017

Chapter 118. Zoning

Article 101. Workforce Housing Regulation

[Added effective 1-16-1987; amended effective 12-30-1988; effective 4-27-1990; effective 1-26-2007]

§ 118-1050. Workforce housing regulation.

- A. Purpose and intent. It is recognized that a shortage of affordable workforce housing exists in Norwalk for persons of moderate income; that such shortage is detrimental to the public health, safety and general welfare and to economic development; and that existing housing programs, by themselves, are insufficient to meet the needs of the workforce and moderate-income households. The purpose of this regulation is to provide for a full range of workforce housing options, with a priority given to ownership housing, and to increase the supply of workforce housing units affordable to persons of moderate incomes by encouraging the construction of such housing units within specified multifamily and mixed-use developments. It is intended that private developers who construct developments with moderately priced workforce housing units pursuant to these regulations will realize a reasonable profit therefrom.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

RESALE

Any transfer of original ownership interest in a workforce housing unit to a new owner other than an original owner's spouse or co-owner.

WORKFORCE HOUSEHOLD

A household with an annual income which does not exceed eighty percent (80%) or, where required, sixty percent (60%) or one hundred percent (100%), of the State of Connecticut median income, as adjusted for family size, as published by the United States Census Bureau and periodically updated by the U. S. Department of Housing and Urban Development (HUD). Household eligibility determinations shall be made in accordance with the income criteria in Section 8-30g-8 of the regulations of Connecticut State Agencies.

WORKFORCE HOUSING UNIT

A dwelling unit occupied by a workforce household where the maximum sale price or rent shall be restricted in perpetuity for the life of the unit in accordance with the maximum housing payment calculations as described in Section 8-30g-8 of the regulations of Connecticut State Agencies.

- C. Regulations for workforce housing.
- (1) Applicability. The workforce housing regulation shall apply to all multifamily and mixed-use developments of twenty (20) or more units in the following zones, in accordance with these workforce housing regulations:
[Amended effective 11-27-2009; effective 1-28-2010; effective 7-27-2012]

D Residence Zone
Hospital Zone
Executive Office Zone
Business No. 1 Zone
Business No. 2 Zone
Golden Hill Village District
Rowayton Avenue Village District
SoNo Station Design District
Neighborhood Business
South Norwalk Business District
Central Business Design District
Marine Commercial Zone
Washington Street Design District
Reed-Putnam Design District
Commercial Planned Residential Development
Industrial Zone No. 1
Light Industrial Zone No. 2
Restricted Industrial Zone

- (2) Where required by these regulations, applicable developments shall provide a minimum of ten percent (10%) of the total number of dwelling units as workforce housing units, affordable to workforce households, in accordance with Section 8-30g-8 of the regulations of Connecticut State Agencies, as delineated below:
 - (a) A minimum of ten percent (10%) of the total number of units, rounded up to the nearest whole number, shall be affordable to workforce households earning no more than eighty percent (80%) of the applicable median income.
 - (3) The workforce housing units shall be offered for sale or rent to workforce households, or to a municipal agency or a nonprofit housing agency, who shall offer the workforce housing units to workforce households, in accordance with the following priority designations:
[Amended effective 2-26-2016]
 - (a) Existing tenants displaced by the proposed new development or the immediate past tenants that previously occupied any of the properties where existing housing units are to be removed.
 - (b) Employees of the City of Norwalk and the Norwalk Board of Education; residents of the City of Norwalk who have resided in the City of Norwalk a minimum of one (1) year prior to the issuance of a certificate of occupancy; and persons employed in the City of Norwalk.
 - (c) All others.
- (4) The annual income of workforce households shall be reviewed and certified by the Commission, or its designee, in accordance with a procedure established in advance and approved by the Commission.
- (5) The Commission, or its designee, shall maintain a list of eligible workforce households in each category. Applicants shall be selected by lottery, conducted in accordance with a procedure established in advance of said lottery and approved by the Commission.
- (6) The Commission, or its designee, shall exhaust all qualified applicants in a given category of priority before proceeding to a lower category of priority.
- (7) The selected workforce household shall reside in the designated workforce housing unit.

- (8) Workforce housing units for sale shall not exceed the maximum purchase price as calculated in accordance with the maximum housing payment calculations in set-aside developments as per Section 8-30g-8 of the regulations of Connecticut State Agencies, as adjusted for family size.
- (9) Workforce housing units for rent shall not exceed the maximum monthly rent as calculated in accordance with the maximum housing payment calculations in set-aside developments as per Section 8-30g-8 of the regulations of Connecticut State Agencies, as adjusted for family size.

D. Bonus provisions.

- (1) Where the workforce housing units are located in one of the zones listed below and constructed on the same site and as an integral part of a new market rate development, the Commission shall allow an increase in the permitted number of dwellings (density) by not more than twenty percent (20%), provided that such bonus units shall comply with the bonus unit criteria shown below:
 - (a) Central Business Design District.
 - (b) SoNo Station Design District.
 - (c) South Norwalk Business District.
 - (d) Washington Street Design District.
 - (e) Reed Putnam Design District.

Density Provisions	Bonus Maximum Income Criteria	Ratio of Bonus Market Rate Household Units to Bonus Workforce Units
Up to additional	60% of state median income	2 market rate: 1 workforce unit
20% bonus density	80% of state median income	1.5 market rate: 1 workforce unit

- (2) Once the above criteria is met, the Commission shall allow an increase in the permitted number of dwellings (density) by an additional ten percent (10%), up to a maximum of thirty percent (30%), provided that the bonus units may comply with the bonus unit criteria shown below:

Density Provisions	Bonus Maximum Household Income Criteria	Ratio of Bonus Market Rate Units to Bonus Workforce Units
Additional 10%	100% of state median income	1 market rate: 1 workforce unit

- (3) In developments where such bonus units are proposed, the Commission shall modify the yard, building area and floor area ratio requirements of the zone in which the property is located, up to a maximum of ten percent (10%) and, permit one (1) additional story, solely where the applicant has demonstrated and the Commission determines that such modifications will not adversely affect adjacent properties or the public health, safety and welfare.

E. Additional standards.

- (1) Workforce housing affordability plan: Workforce housing units shall be reasonably dispersed throughout the development and shall contain, on average, the same number of bedrooms and the same quality of construction as the other units in the development, as detailed in an affordability plan submitted by the applicant. Such plan may allow for equity sharing.
- (2) Workforce housing units shall be developed simultaneously with or prior to the development of the other units.

- (3) Workforce housing deed restrictions: In order to maintain workforce housing units as affordable in perpetuity for workforce households, the following restrictions shall apply:
- (a) Workforce housing units for sale shall be restricted by title to require that, in the event of any resale by the owner or any successor, the resale price shall not exceed the then maximum sales price for said workforce housing unit, as determined in accordance with Subsection C(8) above or the sum of the original purchase price and the cost of any documented fixed improvements made by the owner, whichever is greater.
 - (b) Workforce housing units for rent shall be restricted by title to require that the rents for said units shall not exceed the maximum rent as determined in accordance with Subsection C(9) above.
- (4) Where these regulations result in a fraction, the result shall be rounded up to the nearest whole number.

F. Location of workforce units.
[Amended effective 2-27-2015]

- (1) Workforce housing units shall be built on the same site as the proposed development, as provided herein.

G. Fee-in-lieu payment.

- (1) Alternative method of compliance: Pursuant to an application for a special exception, the Commission shall allow an alternative method of satisfying the workforce housing requirement, including the payment of an appropriate in-lieu housing fee.
- (2) The workforce housing unit requirement may be satisfied, in whole or in part, through the payment of a fee-in-lieu cash contribution to a City of Norwalk fund, or other Commission approved nonprofit or for-profit organization dedicated to affordable housing initiatives. Off-site workforce housing units created with such funds shall be maintained as affordable in perpetuity and in the same manner as on-site workforce housing units. The cash contribution to be provided shall be calculated based on the applicable State of Connecticut median income, as periodically revised, and on the unit (bedroom) size as described in the affordability plan, and on the following criteria:
- (a) Units affordable to households earning sixty percent (60%) of the applicable median income shall require a cash contribution not less than three hundred seventy percent (370%) of the state median income.
 - (b) Units affordable to households earning eighty percent (80%) of the applicable median income shall require a cash contribution not less than two hundred seventy percent (270%) of the state median income.
 - (c) Units affordable to households earning one hundred percent (100%) of the applicable median income shall require a cash contribution not less than two hundred twenty percent (220%) of the state median income.

Sample 2006 Cash Contribution For a Workforce Housing Unit:

Units for households at 60% of state median income:

$$\$81,000 \times 370\% = \$299,700$$

Units for households at 80% of state median income:

$$\$81,000 \times 270\% = \$218,700$$

Units for households at 100% of state median income:

$$\$81,000 \times 220\% = \$178,200$$

- (3) Where the contribution is targeted to assist an identified off-site project providing affordable

workforce housing the Commission shall condition the issuance of certificates of occupancy for the development project with the completion of the off-site workforce housing units and/or establish other reasonable performance conditions necessary to insure that the off-site workforce housing units will be built in a timely manner.

- (4) The in-lieu fee shall be paid according to the following schedule:
 - (a) Twenty-five percent (25%) prior to the issuance of a building permit.
 - (b) Twenty-five percent (25%) prior to the renting or sale of twenty-five percent (25%) of the dwellings.
 - (c) Fifty percent (50%) prior to the renting or sale of fifty percent (50%) of the dwellings.

H. Bonus density for multifamily development by zoning district.

Zone	Existing Density for Multifamily Development	Density With Bonus
SoNo Station Design District	43 units/acre	10% 48 units/acre
	1,000 square feet of lot area per dwelling unit	20% 52 units/acre 30% 56 units/acre
South Norwalk Business District	26 units/acre	10% 29 units/acre
	1,650 square feet of lot area per dwelling unit	20% 32 units/acre 30% 34 units/acre
Central Business Design District	54 units/acre	10% 60 units/acre
	800 square feet of lot area per dwelling unit Subareas A/B;	37 units/acre
	33 units/acre	Subarea C
	1,300 square feet of lot area per dwelling unit Subarea C	20% 65 units/acre Subareas A and B
		40 units/acre Subarea C
		30% 71 units/acre Subareas A and B
Washington Street Design District	No density limit:	
	600 square feet of building area devoted to such uses	
Reed-Putnam Design District	62 units/acre	10% 69 units/acre
	700 square feet of lot area Subarea D;	Subarea D
	29 units/acre	32 units/acre
	1,500 square feet of lot area Subareas C and E	Subareas C and E
	Subareas C and E	20% 75 units/acre Subarea D
		35 units/acre Subareas C and E
	30% 81 units/acre Subarea D	
	38 units/acre Subareas C and E	

EXHIBIT D

Fairfield County Fee In Lieu of Affordable Comparison
 Calculation Comparison w/Sample Property

19-Jan-17

EXHIBIT D

Sample Project Assumptions

Total Units	18
Average unit size (SF)	2,100
Mix of 1,2,3 BR Units	

Comparison Based on Sample Project

Municipality	Median Income Multiplier ¹	Median Income (see detail below) ²	Total # of Units	Affordable Unit %	# of Affordable Units Required ³	Fee per affordable unit	Total Payment In-Lieu Fee
Darien	300%	\$108,592	18	12.0%	2.2	\$325,776	\$703,676
Stamford	145%	\$131,300	18	12.0%	2.2	\$190,385	\$411,232
Norwalk	270%	\$108,592	18	10.0%	2.0	\$293,198	\$586,397
Average	238%	\$116,161	18	11.3%	2.1	\$269,194	\$567,102
Westport (Proposed)	225%	\$131,300	18	20.0%	4.0	\$295,425	\$1,181,700

Notes

- Median Income Multiplier.
 Stamford: Multiplier based on family income % of SMSA, above assumes median value of 50% income of SMSA = 145%
 Norwalk: Multiplier based on family income % of SMSA, above assumes median value of 80% income of SMSA = 270%
 2. SMSA Source Data, summary below.
 Darien: 2016 State Median Income (HUD), assumed family of four.
 Stamford: 2016 Stamford SMSA Median Income, assumed family of four. Regualtions vary based on family size.
 Norwalk: 2016 State Median Income (HUD), assumed family of four.
 Westport: Family of Four Income in SMSA including Westport (Stamford-Norwalk SMSA)
 3. Each municipality has different treatment of fraction for Affordable Units. (eg. Westport and Norwalk round-up at 0.5).

RECEIVED
 JAN 19 2 17 PM '16
 WESTPORT P. Z. C.

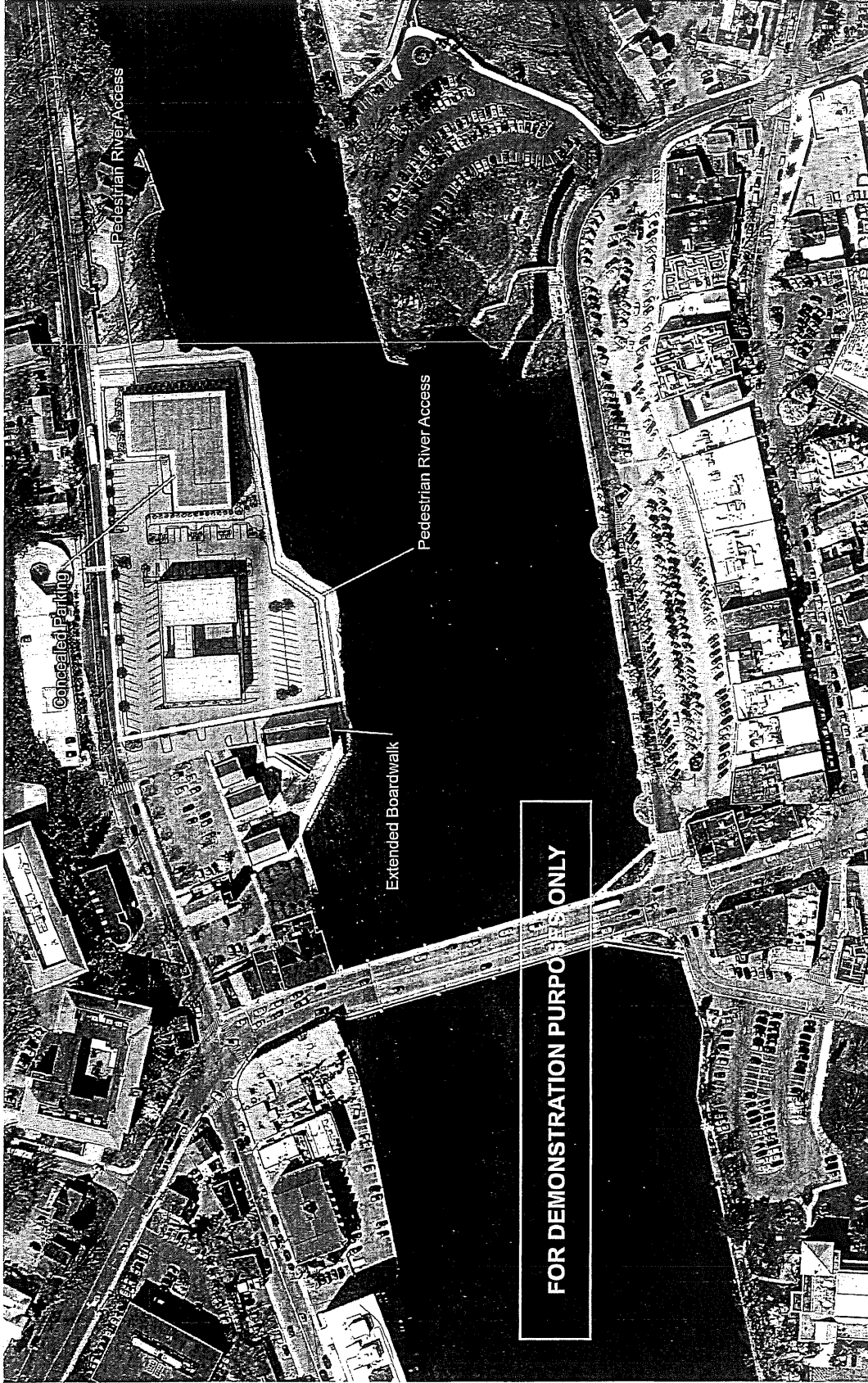
REQUIREMENT	MEETS REQUIREMENT	MAP LEGEND
SERVED BY PUBLIC WATER SUPPLY	✓	
SERVED BY PUBLIC SEWER SERVICE	✓	
SERVED BY MASS TRANSIT	✓	
FRONTAGE ON STATE HIGHWAY	✓	
FRONTAGE ON SAUGATUCK RIVER	✓	
ZONED GENERAL BUSINESS DISTRICT	✓	
LOCATED WITHIN WESTPORT CENTER	✓	
MIN. 3 ACRES LOT	✓	
A 300' X 100' SQUARE WILL FIT ON LOT	✓	
MEETS ALL REQUIREMENTS	✓	



DATE: 1/19/16
 DRAWN BY: J. C. GARDNER
 SCALE: AS SHOWN
LANGAN
 ENGINEERS
 100 WATER STREET, SUITE 200
 WESTPORT, VERMONT 05651
 TEL: 802-878-2222
 FAX: 802-878-2223
 WWW.LANGAN.COM

PROJECT: 54 WILTON ROAD
 DRAWING NO.: 16-001
 SHEET NO.: 1 OF 1
 DATE: 1/19/16
 DRAWN BY: J. C. GARDNER
 CHECKED BY: J. C. GARDNER
 PROJECT NO.: 16-001
 SHEET NO.: 1 OF 1
 DATE: 1/19/16
 DRAWN BY: J. C. GARDNER
 CHECKED BY: J. C. GARDNER

GENERAL BUSINESS DISTRICT/RESIDENTIAL LOCATION MAP
 FIG. 1



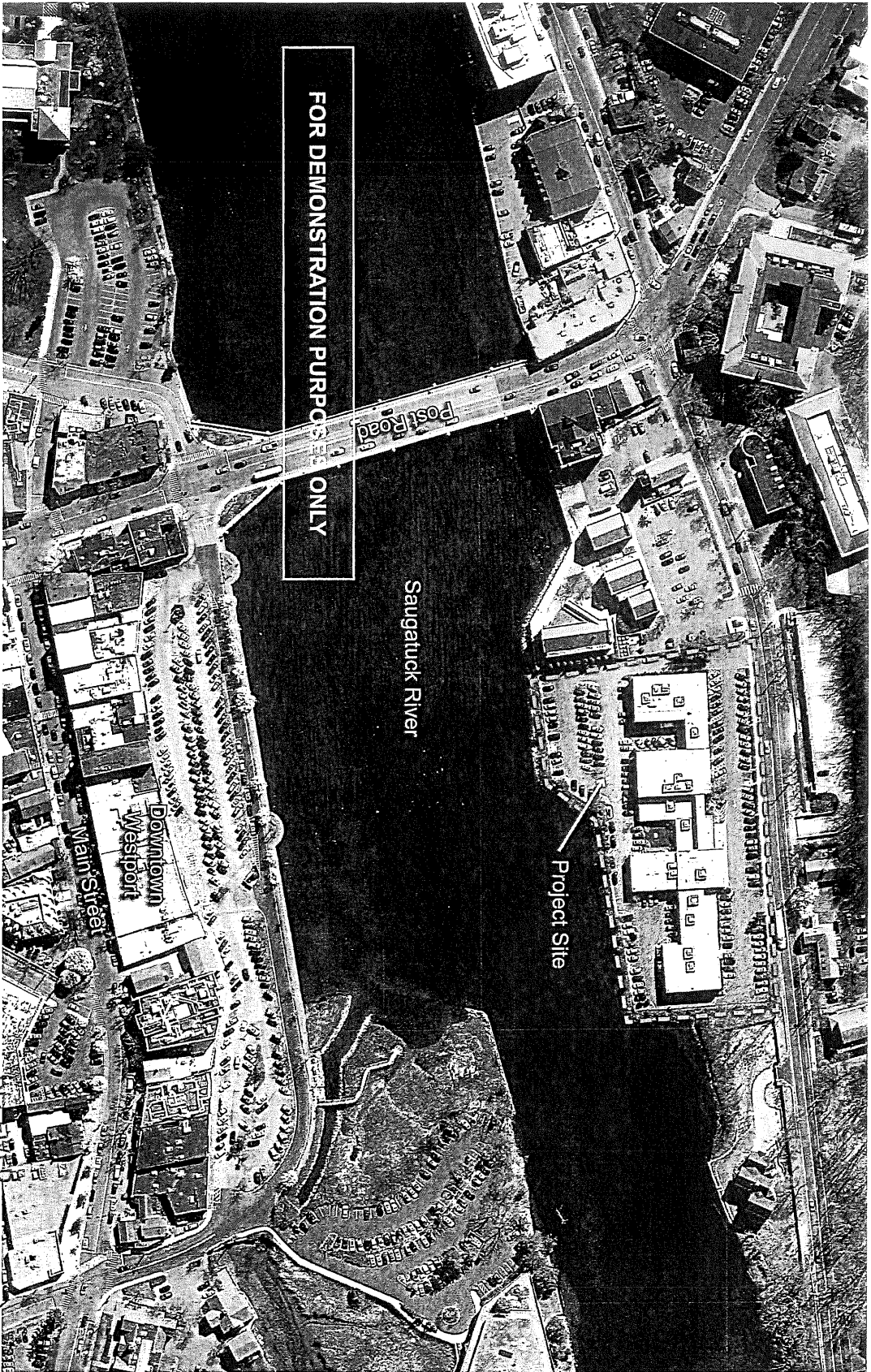
Concealed Parking

Pedestrian River Access

Extended Boardwalk

Pedestrian River Access

FOR DEMONSTRATION PURPOSES ONLY



Project Location / Existing Conditions

54 Wilton Road
STC Green, LLC

JAN 19 2017
WESTPORT P. & Z. C.

Roger Ferris + Partners

(16-0015)



WESTPORT CONNECTICUT

PLANNING & ZONING
TOWN HALL, 110 MYRTLE AVENUE
WESTPORT, CONNECTICUT 06880
(203) 341-1030 • (203) 341-1079
(203) 454-6145 - fax

Hearing Dates: December 3, 2015, January 7, 14 & 28, 2016

Decision: March 3, 2016

March 7, 2016

William J. Fitzpatrick, III
Fitzpatrick, Fray & Bologna, LLC
1735 Post Road - Suite 2C
Fairfield, CT 06824

**RE: Text Amendment #703, (New) §30A, Riverwalk District (RD)
Planning and Zoning Resolution #15-050**

Dear Mr. Fitzpatrick:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on March 3, 2016, it was moved by Carolanne Curry and seconded by Chip Stephens to adopt the following resolution.

RESOLUTION #15-050

WHEREAS, THE PLANNING AND ZONING COMMISSION met on March 3, 2016, and made the following findings:

1. This application is for a text amendment to create a new zoning district called the Riverwalk District (RD). The RD zone was submitted by Attorney William Fitzpatrick on behalf of his client the owners of 54 Wilton Road (the former Save the Children property). The Planning & Zoning Commission heard two Pre-application reviews for the development of this property – one on November 6, 2014 and the second on March 12, 2015. This text amendment application is a result of these discussions with the Planning & Zoning Commission.
2. On November 7, 2013 the Planning & Zoning Commission adopted Text Amendment #664 which required public waterfront access and river views for redevelopment of all Non-Residential zones and Special Permit uses that are adjacent to the Saugatuck River. The standards and requirements are found in §31-10.7.4 which is called Public Waterfront Access (PWA).
3. On June 5, 2015, the Board of Selectman adopted the "*Downtown Westport Master Plan*". This plan contains a number of recommendations for Downtown Westport, including recommending support for the redevelopment of the West side of the Saugatuck River in recommendation #P6 which is found on page 41 of the report. Also on page 41, is recommendation #P7 which recommends the construction of a pedestrian

- bridge across the Saugatuck at the north end of Parker Harding Plaza. It should be noted that the Planning & Zoning Commission has not formally adopted the Downtown Plan.
4. The applicant in the course of the public hearing discussion on this application presented data about the applicability of this proposed zone to other properties. In all 7 properties were analyzed, however when all of the criteria for landing this zone were applied only one property was truly eligible to be rezoned into the RD zone.
 5. The applicant also made a number of changes throughout the course of this hearing to address issues raised by the Commission and other Town Departments. In fact there were at least 3 different revisions to the proposed text.
 6. The Commission recognized that there were some potential benefits that could result from this application including: traffic and safety improvements, relocation of historic structures, greater public access to and over the Saugatuck River and some affordable housing.
 7. However, the Commission also noted some drawbacks of the proposed regulation including increases in building height, increases in building footprint, increases in floor area and affordable housing but it is not located on site.
 8. A majority of the Commission members felt that the relief granted in GBD/S was more appropriate than the relief being sought in this application which exceeds some of the allowances found in the GBD/S Zone.
 9. The Commission heard extensive testimony from the applicant and members of the public about this proposed text on four separate evenings.
 10. At a work session held on 1/28/16 a majority of P&Z Commission members requested that the Planning & Zoning Director prepare a negative resolution on this text amendment.
 11. At a work session held on 2/4/16 a motion to approve by Paul Lebowitz and seconded by David Lessing was withdrawn. A straw vote taken, motion would fail. A motion to approve with modifications was made by Paul Lebowitz and seconded by Andra Vebell. Discussion continued to 2/25/16.

NOW THEREFORE, BE IT RESOLVED that **Amendment #703**: Appl. #15-050 by William J. Fitzpatrick, III for a text amendment to the zoning regulations to add a new section 30A, Riverwalk District, (RD) with a purpose statement that stating the intent of the zone is to preserve the visual character and appearance of a Historic Structure, to mitigate traffic impacts on local streets and intersections, to mitigate traffic generation and parking demand, to encourage residential land uses and allow office/retail uses, to encourage visual and physical access to and along the waterfront and to encourage off-site improvements to serve these purposes. Additionally, there are proposed sections stating: locational requirements, allowable uses by Special Permit, setback, height, coverage and floor area ratio limits, architectural design requirements, public waterfront access requirements, parking and loading exceptions, floodplain regulation exemptions and affordable housing requirements be **DENIED** for the following reasons:

REASONS

1. The Planning and Zoning Commission finds there is no town-wide benefit amendment from the amendment if adopted, rather it appears to serve only a single property.
2. The Planning and Zoning Commission finds that the benefits of this application do not outweigh the trade-offs of increased building height, increased coverage, increased floor area and a lack of on-site affordable housing.
3. The Planning and Zoning Commission felt that the building height in particular was inconsistent with the goals and objectives of the Commission and could potentially lead to other buildings of a similar height being requested.
4. The Commission also expressed concern about the proposed floor area that this amendment proposed and that such a large building would not be in keeping what is appropriate for this area.
5. The Commission was very concerned that the passage this amendment did not guarantee the benefits that the applicant proposed would occur if a project were to be built using this regulation.

VOTE:

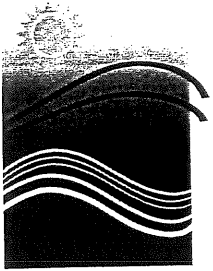
AYES	-4-	{Stephens, Hodge, Walsh, Curry}
NAYS	-3-	{Lessing, Lebowitz, Vebell}
ABSTENTIONS	-0-	

Very truly yours,



Chip Stephens,
 Chairman,
 Planning & Zoning Commission

cc: Ira Bloom Town Attorney
 RTM Moderator
 RTM P&Z Committee Chairman
 First Selectman
 Paul Fria, Tax Assessor



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

RECEIVED
JAN 26 2017
WESTPORT P. & Z. C.

January 26, 2017

Westport Planning and Zoning Commission
c/o Ms. Keisha Fink, Land Use Coordinator
Westport Town Hall
110 Myrtle Avenue
Westport, Connecticut 06880

Subject: Text Amendment #725 General Business District/Residential Zone

Dear Commissioners:

Thank you for notifying this office of the proposed zoning regulation amendment noted above. Acting as the Commissioner's staff, our office has reviewed the amendment for consistency with the policies and standards of the Connecticut Coastal Management Act (CCMA).

Our review has raised concerns regarding the promotion of residential uses in coastal flood hazard areas. Section 22a-92(b)(2)(F) of the Connecticut Coastal Management Act (CCMA) requires the Planning and Zoning Commission to manage coastal flood hazard areas in a way that minimizes hazards to life and property. The Flood Insurance Rate Map for the demonstration property located at 54 Wilton Road shows it is located in an AE-Zone as designated by the Federal Emergency Management Agency (FEMA), with a base flood elevation of 10 feet NGVD (National Geodetic Vertical Datum). While residential construction in AE-zones is allowed by FEMA in accordance with all applicable standards, those standards merely protect property while still allowing people to be placed in harm's way. Therefore, we are concerned that increasing residential density on any site in the GBD that currently does not contain residential uses may be potentially inconsistent with the CCMA.

Further, the Town of Westport's 2007 Plan of Conservation and Development (POCD) states:

With increasing concern over global climate change and sea level rise, zoning regulations for the coastal areas need to encourage a gradual retreat from the vulnerable low-lying waterfront areas. For the near future, Westport should ensure that the amount of development in low-lying, flood prone sections of the coastline is not increased.

We note that multifamily residential uses of similar density are currently allowed within the GBD zone. But in light of the town's POCD and the CCMA's policy that discourage increases in residential density in coastal flood hazard areas, the Commission should not approve the proposed regulation unless it can be demonstrated to the Commission's satisfaction that all hazards to life and property can be adequately minimized or mitigated.


January 26, 2017

We also note that the proposed regulation requires public pedestrian access to the water and a Riverwalk along the water on all sites adjacent to the water. We support this provision and recommend that, if the proposed regulation is approved, that Section 24B-13 be revised to require parking for public access where feasible. This recommendation is also supported by the 2007 POCD which states that public access areas should be marked with adequate signage and be accompanied by parking where feasible.

Please be advised that this consistency determination is based on coastal management considerations only, and does not necessarily reflect other municipal planning and zoning considerations which may apply. These comments are made in response to the review requirement contained in Section 22a-104(e) of the Connecticut General Statutes, which requires that notification be sent to the Commissioner of Energy and Environmental Protection at least 35 days prior to the commencement of the public hearing. Once notified, our office is responsible for reviewing the proposal's consistency with the policies of Section 22a-92 and the criteria of Section 22a-102(b) of the CCMA.

Should you have any questions regarding this letter or any other coastal management or Long Island Sound matter, please feel free to contact me at 860.424.3621.

Sincerely,



Mary-beth G. Hart
Environmental Analyst 3
Land and Water Resources Division

MbGH/h



**WESTPORT, CONNECTICUT
CONSERVATION DEPARTMENT**

TOWN HALL - 110 MYRTLE AVENUE
WESTPORT, CONNECTICUT 06880
(203) 341-1170 • (203) 341-1088

RECEIVED
JAN 26 2017
WESTPORT P. & Z. C.

TO: Planning and Zoning Commission
FROM: Alicia Mozian, Conservation Director
DATE: January 26, 2017

RE: Proposed Text Amendment #725 "General Business District/Residential Zone (GBD/R)"

Project Description: To create a new section of the Zoning Regulations (24B) that would provide 2/3 of the floor area to be residential and 1/3 commercial for office use only. No medical or health care professional offices would be allowed.

Unlike the former, similar text amendment #703, there is no affordability component included in the residential section. In addition, the newly proposed GBD/R eliminates the idea of adding a section eliminating conformance to FEMA regulations and it eliminates the idea of allowing the construction of a pedestrian bridge over the Saugatuck River as of right.

Comments: The Conservation Department offers the following for your consideration:

1. The Conservation Department has read the January 25, 2017 P&Z staff report prepared by Michelle Perillie and concurs with her comments especially those summarized on pages 13 and 14, numbers 1, 3, 4, 8, 9 and 10 as they all relate to the environmentally related components of the proposal. We would add that with regard to Section 24-B4, Setbacks, that there are tidal wetlands to the north of this site and a mean high water line associated with the Saugatuck River to the east. Section 31-7 establishes a 25 ft setback from these resources. Therefore, this section should be amended to include those distances in order to be consistent with Section 31-7.
2. Section 24B 2.2 - Accessory Buildings, Structures and Uses – We are supportive of a boardwalk adjacent to the Saugatuck River as it does provide public access. We are supportive that the pedestrian bridge over the river as an "as of right" use has been dropped from the proposed text language. There are many things to consider with the construction of such a structure that would need close scrutiny.
3. 24B-5 "Height" – This language is confusing. It appears as if the building could be a maximum of 47 ft if the building is within the 100 yr floodplain – which it is, and that it be subject to the approval of the Fire Department. The way it is written it appears that the Fire Dept is the one to determine if the building will need to be elevated. That should be the decision of the P&Z as the Floodplain Managers for the Town. If that was not the intent of the language, perhaps it could be stated more clearly.

Furthermore, a 47 ft tall building may be 17 ft- 22 ft taller than what would otherwise be allowed in the GBD Zone. This height may obstruct views to the river and be inconsistent with CAM policies. The applicant's explanatory statement says that it is the intent to include view corridors but we did not see

that language in the proposed text. The applicant should demonstrate how views will not be obstructed and or will be provided.

4. 24B-10 (c) – Architectural Design – The text states that the buildings will be designed to retain the existing topography and natural features of the land to the “greatest extent possible,” while balancing the need of FEMA and Flood compliance. “We would like the text to also provide that no filling in the floodplain would be allowed.

5. The property does lie within the jurisdiction of the Waterway Protection Line Ordinance. Should this text amendment be approved and an application for site plan approval be submitted, approval from the Conservation Commission and Flood and Erosion Control Board will be required.

Thank you for the opportunity to comment.

Corr-out/pnz text 725 GBD-R 54 Wilton Rd.