



**Town of Westport**  
Planning and Zoning Commission  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Tel: 203-341-1030 Fax: 203-454-6145  
[www.westportct.gov](http://www.westportct.gov)

June 18, 2021

*The following meeting of the Planning & Zoning Commission was held remotely using Zoom Technology:*

## **Planning and Zoning Commission Minutes**

**June 17, 2021**

**Meeting Started: 6:00P.M.**

### **P&Z Commission Members and Alternates in attendance:**

**Danielle Dobin, Paul Lebowitz, Michael Cammeyer, Neil Cohn, Amie Tesler, & Patrizia Zucaro.**

### **P&Z Staff & Others:**

**Michelle Perillie, P&Z Deputy Director  
Ira Bloom, Town Attorney**

### **I PUBLIC MEETING**

**6:00PM**

1. Commission to potentially vote to go into Executive Session to discuss:
  - A. Pending litigation: Cross Street LLC v. Westport Planning and Zoning Commission (Docket No. HHD-CV18-6103065-S).  
**Action: Unanimous approval to go into Executive Session.**

### **II EXECUTIVE SESSION**

1. Discuss Pending litigation: Cross Street LLC v. Westport Planning and Zoning Commission (Docket No. HHD-CV18-6103065-S).  
**Action: Discussed.**

### **III PUBLIC MEETING**

**6:30PM**

1. Discussion and potential vote on a Settlement Agreement in the case of: Cross Street LLC v. Westport Planning and Zoning Commission (Docket No. HHD-CV18-6103065-S).  
**Action: Testimony received; item closed**  
**Approved: 4-1(Zucaro)-0**

### **IV WORK SESSION**

**Approval of Minutes- 5/6/21, 5/12/21, 5/13/21, 5/27/21-Unanimously approved: 6-0**

## V PRE-APPLICATION

- Submitted by Andy Soumelidis to discuss draft text amendment to modify Sections 6-3.3, 13-5, and 14-5 of the Zoning Regulations to permit additional building height for structures located within a FEMA designated Special Flood Hazard Area (SFHA).

**Action: Commission discussed and gave feedback.**

## VI PUBLIC HEARING

- 1. 50 Compo Mill Cove:** Coastal Site Plan Appl# PZ-20-00851 submitted by Tom Ryder of LANDTECH for property owned by Pasquale Malpeso Jr. for a request to modify Coastal Site Plan approval #16-038 to change approved vegetated slope and to find consistency with the Coastal Area Management Act, located in the Residence A District, PID# E04091000.

**Action: Testimony received, item closed**

**Approved: 5-0-1 (Lebowitz), see resolution.**
- 2. 35 Elm Street:** §8-24, Municipal Improvement Appl.# PZ-21-00361, Request by the Department of Public Works on behalf of the First Selectman for a report from the Planning and Zoning Commission regarding a project to redesign and reconstruct the Baldwin Parking Lot and to make findings related to the project's consistency with the Coastal Area Management (CAM) Act, for property located in the Residence A/Village District Overlay (VDO)/Westport Center, PID #C10143000.

**Action: Testimony received, item closed.**

**Positive Report: 6-0-0, see resolution.**
- 3. 35 Elm Street:** Special Permit/Coastal Site Plan Appl. #PZ-21-00362 submitted by the Department of Public Works for a project to redesign and reconstruct the Baldwin Parking Lot, for property located in the Residence A/Village District Overlay (VDO)/Westport Center, PID #C10143000.

**Action: Testimony received, item closed.**

**Granted: 6-0-0, see resolution.**
- 4. 118 Wilton Road:** Special Permit/ CAM Site Plan Appl. #PZ-21-00075 submitted by Tom Ryder, LANDTECH for property owned by Victoria Fuller for after-the-fact approval for excavation and fill activities and to find consistency with the Coastal Area Management Act, for property located in the Residence AA District, PID#C10070000.

**Action: Item opened and continued to 6/24/21.**

## VII WORK SESSION

*(The following items will be discussed and voted on as time permits. The public may observe the work session, but not participate.)*

### **New Business:**

- **40 Fullin Road-** Referral from City of Norwalk for comments on pending Special Permit to redevelop property for 40 Units of elderly housing.  
**Action: Postponed to 6/24/21 meeting.**

*Meeting Ended 9:15pm*

*Respectfully submitted by S. McNally, June 18, 2021*



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Tel: 203-341-1030 Fax: 203-454-6145  
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Meeting: June 17, 2021  
Decision: June 17, 2021

June 18, 2021

Honorable James Marpe, First Selectman  
110 Myrtle Avenue  
Westport, CT 06880

**RE: 35 Elm Street (Baldwin Parking Lot), #PZ-21-00361/§8-24 Municipal Improvement to redesign the Baldwin Parking Lot and for a finding of consistency with the Coastal Area Management Act**

Dear First Selectman Marpe:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on June 17, 2021, it was moved by Mr. Lebowitz and seconded by Mr. Cammeyer to adopt the following resolution:

**RESOLUTION #PZ-21-00361**

In response to your request for a report pursuant to CGS §8-24, Municipal Improvement, the Planning and Zoning Commission offers the following findings and recommendations as listed in the staff report dated 6/1/21 which are available for review in the Planning and Zoning Office:

**Findings**

1. The Baldwin Parking Lot is located on 1.946 acres of Town-owned property at 35 Elm Street in the Residence A district/Village District Overlay/Westport Center. A 6,700 SF portion of the lot adjacent to Elm Street is zoned Business Center Retail Residential District/VDO and is improved with a two story mixed use building (retail and residential) constructed in 2018. A 6,500 SF portion of the lot also adjacent to Elm Street is zoned Business Center District /Historic and contains the Kemper Gunn House which was relocated from 35 Church Street in 2014.
2. The parking lot is located within the Residence A (1/2-acre) zoning district and the Village District Overlay. The property is within the Coastal Area Management (CAM) boundary established by the State of Connecticut. It is outside the Waterway Protection

Line Ordinance (WPLO) jurisdiction, and outside the 100-year floodplain.

3. This existing lot contains an outdated parking and circulation pattern, storm drainage, an electrical service, retaining walls, asphalt pavement and curbing, sidewalks, lighting, the majority of which are at the end of their service life and in need of replacement, according to the applicant. There is no storm water management. Also, a portion of the parking area exists at an elevation that allows for flooding in times of heavy rainfall and is served by a storm drainage system that is partially non-functional.

### Project Description

4. The First Selectman forwarded a request from John Broadbin, Deputy Public Works Director, for a report pursuant to CGS §8-24, Municipal Improvement, to redesign and reconstruct the Baldwin Parking Lot to improve public safety and for a finding of consistency with the Coastal Area Management Act.
5. Special Permit/Site Plan #PZ-21-00362 was simultaneously submitted by Mr. Broadbin Redniss to redesign and reconstruct the Baldwin Parking Lot to improve public safety and for a finding of consistency with the Coastal Area Management Act. The §8-24 Request and Special Permit applications were reviewed by the Commission on June 17, 2021.
6. The Joint Committee reviewed the proposal at their 6/2/21 meeting and recommended the design be approved as submitted.
7. The project involves 2,540 CY of fill over an 84,810 SF area which exceeds the CAM exemption in §31-10.6. The Connecticut Coastal Management Manual encourages appropriate storm water management adjacent to coastal resources including reducing storm water runoff and/or improving the quality of the runoff before it reaches adjacent coastal resources. As listed herein, drainage improvements including infiltration, vegetated swales, catch basin sumps are being used to protect the quality of the storm water discharge.
8. The Planning and Zoning Commission finds this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22-a-92 (b) (2) of the Coastal Area Management Act (CCMA); and it will not adversely affect adjacent coastal resources identified in Sections 22-93 (a) (7) of said Act.
9. Notices were sent to property owners within a 250' radius of the project in envelopes marked "Urgent Notice Letter," in advance of the Public Meeting notifying residents of the meeting, how to submit comments for the Commission's consideration, and how to learn more about the project, pursuant to the §8-24 Procedures approved by the Commission on 2/6/20, with the vote clarified on 3/5/20.

10. Additionally, a public hearing notice was published on the Town’s website 10-days prior to the public meeting.
11. A remote public hearing of the Planning and Zoning Commission was held on June 17, 2021, due to COVID-19. The meeting was live streamed on the Town’s website and shown live on Optimum Government Access Channel 79 and Frontier Channel 6020.

**THEREFORE BE IT RESOLVED A POSITIVE REPORT IS ISSUED for 35 Elm Street:** §8-24, Municipal Improvement Appl.# PZ-21-00361, Request by the Department of Public Works on behalf of the First Selectman for a report from the Planning and Zoning Commission regarding a project to redesign and reconstruct the Baldwin Parking Lot and to make findings related to the project’s consistency with the Coastal Area Management (CAM) Act, for property located in the Residence A/Village District Overlay (VDO)/Westport Center, PID #C10143000.

**Reasons**

1. The project represents a public safety improvement as it provides improved circulation pattern, storm drainage, electrical service, sidewalks, lighting and landscaping;
2. The project is consistent with goals in the 2017 Plan of Conservation and Development that recommend maintaining town facilities to reduce long term costs;
3. The project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22-a-92 (b) (2) of the Coastal AreaManagement Act (CCMA); and it will not adversely affect adjacent coastal resources identified in Sections 22-93 (a) (7) of said Act; and
4. The project is designed to allow future connection between the Baldwin Lot and Avery Place Lot which is consistent with the 2015 Downtown Master Plan which recommends the connection to potentially gain parking spaces, and to make circulation improvements so that traffic could flow directly from the Avery Place lot to Elm Street.

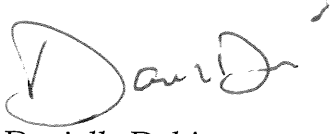
**Recommendation**

1. Consideration should be given to the inclusion of bicycle racks in the redesign of the Baldwin Parking Lot.

**VOTE:**

AYES	-6-	{Dobin, Lebowitz, Cammeyer, Cohn, Tesler, Zucaro}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

A handwritten signature in black ink, appearing to read "Danielle". The signature is fluid and cursive, with a small mark above the final letter.

Danielle Dobin  
Chairman, Planning & Zoning Commission

cc: Gary Conrad, Finance Director  
Peter Ratkewich, Public Works Director  
Nate Gibbons, Fire Marshal  
Steve Smith, Building Official  
Alicia Mozian, Conservation Director  
Elaine Daignault, Human Services Director  
Velma Heller, RTM Moderator  
Matt Mandell, Chairman, RTM P&Z Committee  
Ira Bloom, Town Attorney  
Eileen Flug, Assistant Town Attorney



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June 24, 2021

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on June 17, 2021 it was moved by Mr. Lebowitz and seconded by Mr. Cohn to adopt the following resolution:

**RESOLUTION**

Resolved, the settlement agreement dated June 3, 2021 in case of *Cross Street, LLC v Westport Planning and Zoning Commission, Docket Number AC 44460* is approved.

**VOTE:**

AYES	-6-	{Dobin, Lebowitz, Cammeyer, Cohn, Tesler, Zucaro}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

Danielle Dobin, Chair  
Planning and Zoning Commission

cc: Ira Bloom and Peter Gelderman, Berchem Moses PC, Town Attorney's Office  
John Fallon, Esq., 53 Sherman Street, Fairfield, CT 06824  
Joel Green, Esq., Green and Gross P.C., 1087 Broad Street, Bridgeport, CT 06604





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Planning and Zoning  
Commission** Town Hall, 110  
Myrtle Avenue Westport,  
CT 06880  
Tel: 203-341-1030 Fax: 203-454-6145  
www.westportct.gov

Hearing: June 17, 2021  
Decision: June 17, 2021

June 23, 2021

Tom Ryder  
LANDTECH  
518 Riverside Avenue  
Westport, CT 06880

**RE: 50 Compo Mill Cove, Coastal Site Plan #PZ-20-00851**

Dear Mr. Ryder:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on June 17, 2021 it was moved by Ms. Dobin and seconded by Mr. Cohn to adopt the following resolution:

**RESOLUTION #PZ-20-00851**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on June 17, 2021 and made the following findings:

Property Description/Background

1. The property is currently non-conforming to lot size due to the loss of land through beach erosion and the landward movement of the Mean High Water line. The lot is improved with a residence with two decks, several patio areas, pool, shed, outdoor kitchen and fountain located on the property.
2. The lot is located in the Residence A district on Compo Mill Cove. Compo Mill was originally developed over 100 years ago as an area for summer cottages for seasonal residents. Pedestrian access only is available on Compo Mill Cove. There is no driveway on the property. Parking for residents is available nearby in the Old Mill Road parking lot. The property is served by sanitary sewer.
3. 50 Compo Mill Cove is located within the Coastal Area Management (CAM) boundary. It is adjacent to Long Island Sound. Portions of the property are in the AE 13', and VE 14' flood zones. The lot is generally level within the A-Zone portion of

the property. The survey shows the property is at El. 11' (NAVD88). The property slopes down to the water's edge within the V-Zone portion of the property. The Coastal Jurisdiction Line (CJL) is located at 5.4' (NAVD88) and the Mean High Water line is located at 3.3' (NAVD88) and both are indicated on the survey.

4. The existing shoreline of the Compo Mill barrier beach includes a degraded upland dune complex that slopes into a sandy beach. The beach slope transitions into intertidal sand flats that extend into Long Island Sound. The beach has experienced significant erosion in recent years and has currently eroded to within a few feet of an existing in-ground pool. The Compo Mill Cove Association has conducted beach nourishment projects repeatedly but has used fine-grained material from the near shore sand flats as a source of material. The material has proven too fine to resist wave energy experienced along the beach, so the placed sand has been washed away in short order.

5. In 2016 a Coastal Site Plan (Res. #16-038) was approved, and a Zoning Permit was issued to remove the illegal seawalls that were built without permits following storms Irene and Sandy. The work to be conducted under these approvals included the removal of the illegal seawalls, adding a 12" thick stone veneer to the waterward face of the pool and stabilization of the area to the west of the pool with native beach plantings. The Coastal Site Plan approval required that this work be completed by 11/16/17 and a ZCC was issued on 11/16/17.

6. The Certificate of Permission issued on 2/8/18 shows the "aged wall" to remain; however, in early 2019 the wall was removed and re-constructed within both the town's and the state's regulatory jurisdiction without having first received prior approvals. The wall was determined to meet the definition of a Shoreline Flood and Erosion Control Structure and to be inconsistent with the Coastal Area Management Act policies.

7. It was determined by CT DEEP that they were unable to issue an after-the-fact license to authorize the wall. The "aged wall" was then removed by the applicant on 10/29/19 and a letter from RACE, dated 10/29/19, confirmed the removal of the wall.

8. A complaint was filed by John Gaucher of CT DEEP on 3/19/19 regarding the construction of a new wall between the pool and western return wall within the restoration area required by Res. #16-038.

9. A Cease and Desist Order was issued on 7/15/19 from the Planning and Zoning Office for construction of two shoreline flood and erosion control structures (aged lower wall and upper landscape wall) without approvals, regrading without excavation and fill approval as there were piles of material on the property and non-compliance with conditions of Res. #16-038 which required the vegetated slope.

10. The applicant appealed the issuance of the Cease and Desist Order and the Zoning Board of Appeals voted to uphold the decision of the staff on 1/7/20.

11. In July 2020, the Planning and Zoning Commission denied Coastal Site Plan Appl. #19-063 which requested after-the-fact approval to retain a stone planter on the west property line, the associated wall parallel to the water and located between the pool and the property line and approval to restore the previously approved vegetated slope, pursuant to Res. #16-038 .

12. This property lies within the Coastal Area Management (CAM) boundary, as defined by C.G.S. §22a-94 and therefore, a CAM review is required in accordance with C.G.S. §22a-109 and the Town of Westport Zoning Regulations §31-10.6. §31-10.5 of the zoning regulations states that no use, activity or project for which a Coastal Site Plan is required by §22a-105 (b) of the CAM Act shall commence until a Coastal Site Plan has been approved by the P&Z Commission or the Zoning Board of Appeals in accordance with the requirements of §22a-105 through 22a-109 of the CAM Act.

13. The following coastal resources have been identified on the site or within the influence of the project: General Resources, Beaches and Dunes, Coastal Hazard Areas, Intertidal Flats and Shellfish Concentration Area.

#### Proposal

14. The application is requesting approval to revise the design of the vegetated slope approved per Res. #16-038 on 11/17/16. The new proposal is to construct an encapsulated tiered beach face to restore the beach area between the existing pool wall and the western property boundary wall with an erosion resilient system. This area has been subject to both periodic washouts and persistent erosion due to its location in and near the higher reaches of predicted tides.

15. The proposed fill lift system is to be covered in beach sand and planted with beach grass, the roots of which can extend up to 20 inches below grade. The design would allow for the roots of the vegetation to grow into the fabric, thus providing for a more erosion resilient slope, according to the applicant. The previously approved slope was designed at 2:1 pitch from the pool fence to the seawall. The top of slope was designed at elevation 11.4. This slope and elevation were set to accommodate an "aged wall" that was to remain. The previous design contained no erosion control matting on the surface. The slope extended out a few feet past the wall along the south side of the pool.

16. The applicant indicates that since the "previous design washed out a couple times before the plants could fully establish, and since the 'aged wall' had been removed, a revised design was prepared that is better suited to this site".

17. The design consists of compacted sand installed in one foot high lifts and wrapped in geotextile matting along the entire length of the slope. Each lift is secured

to the substrate via duck bill anchors. The lifts will be covered by an erosion control matting. The proposed revised slope does not extend beyond the southern pool wall. The slope will then be planted with American beach grass. The toe of the slope will be protected by six coir logs (previous design had 3 logs).

18. Comments from John Gaucher, Environmental Analyst III at CT DEEP dated 1/7/21 suggested significantly reducing the proposed slope to more closely resemble the natural beach slope. Staff determined based on these comments that the plan did not in fact comply with §32-8.3.2 which requires that slopes not exceed five (5) horizontal to one (1) vertical (20%) unless approved by the Town Engineer.

19. The applicant revised the plans on 4/19/21 to proposed a 1:5 (20%) slope which extended the grading into CT DEEP jurisdiction and required a Certificate of Permission (COP). COP #202103512 was issued on 5/19/21 and granted approval to construct an approximately 18' wide by 25.3' long tiered natural filter-fabric filled lift system to create a 1:5 beach slope planted with beach grass and having a top elevation of 10.4 NAVD.

20. The Staff Reports prepared by Michelle Perillie, dated 1/21/21 and 6/8/21, conclude the application is consistent with CAM policies as it does not adversely impact the adjacent coastal systems.

21. The Westport Planning and Zoning Commission has determined that this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22a-92 (b) (2) of the Connecticut Coastal Management Act; that it will not adversely affect adjacent Coastal Resources (General Resources, Beaches and Dunes, Coastal Hazard Areas, Intertidal Flats and Shellfish Concentration Area) identified in Sections 22-93 (a) (7) of said Act.

22. The Staff Report dated 6/8/21 includes the following recommended modifications:

- A. The use of any synthetic, metal, or any material other than those solely comprising natural, degradable fibers to contain the sand mix is prohibited.
- B. Except for native beach cobble and small gravel, all rock excavated to construct the soil lift system shall be removed from the site and disposed of at an upland facility approved for the disposal of such material.
- C. As required in CT DEEP permit, the applicant shall submit the following photographs within 30 days of completion of the project:
  - A. A photograph showing the installed coir logs;

- B. A photograph of the work area after it has been excavated, but prior to the installation of the first course of the natural fiber filter lift system;
  - C. A photograph showing the first course of natural fiber lift system installed; and
  - D. A photograph of the completed lift system installed but prior to placement of the 8" of sand covering.
- D. The proposed snow fence to be located furthest waterward shall be removed by no later than 30 days after the placement of sand atop of the proposed lift system.

### Public Participation

- 23. A hearing was held on June 17, 2021, to receive testimony from members of the public as required pursuant to State Statutes.
- 24. The public hearing was held remotely using electronic means due to the COVID-19, as Town Hall remains closed. The public hearing was broadcast live on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer "live" testimony.
- 25. All application materials, and public comments received were posted on the Town's website consistent with the Governor's Executive Order to maintain transparency while conducting remote meetings during COVID-19.
- 26. A member of the public requested that the photographs required as a condition of the COP be submitted to the Planning & Zoning Department within 48 hours of the completion of each stage of the construction, so that department staff can monitor the activities to ensure compliance, and that the Applicant not be permitted to proceed with the next stage of construction unless and until the photographs are submitted.
- 27. The Commission expressed concern during the hearing regarding ensuring compliance with approved plans and timeliness of construction.

**NOW THEREFORE, BE IT RESOLVED 50 Compo Mill Cove:** Coastal Site Plan Appl. #PZ-20-00851 submitted by Tom Ryder of LANDTECH for property owned by Pasquale Malpeso Jr. for a request to modify Coastal Site Plan approval #16-038 to change approved vegetated slope and to find consistency with the Coastal Area Management Act, located in the Residence A District, PID# E04091000 is **APPROVED** subject to the following modifications:

- 1. Conformance to Site Plan prepared by LANDTECH, revised 6/1/21.

2. Conformance to the recommendations in the Staff Report dated 6/8/21.
3. Conformance to the Certificate of Permission (COP) #202103152-COP from Connecticut Department of Energy and Environmental Protection (CTDEEP) dated 5/19/21 specifically:
  - A. The use of any synthetic, metal, or any material other than those solely comprising natural, degradable fibers to contain the sand mix is prohibited.
  - B. Except for native beach cobble and small gravel, all rock excavated to construct the soil lift system shall be removed from the site and disposed of at an upland facility approved for the disposal of such material.
4. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
  - A. Name and contact information of the Site Monitor who will provide weekly reports to the Planning and Zoning Department.
5. A Zoning Permit must be obtained and construction, including removal of rock material, must commence within two weeks of the approval or by July 1, 2021.
6. Photographs are required to be submitted to the Planning and Zoning Office within 48 hours of completion of each stage of construction as described below:
  - A. A photograph showing the installed coir logs;
  - B. A photograph of the work area after it has been excavated, but prior to the installation of the first course of the natural fiber filter lift system;
  - C. A photograph showing the first course of natural fiber lift system installed; and
  - D. A photograph of the completed lift system installed but prior to placement of the 8" of sand covering.
7. The applicant should not progress to the next phase of construction until written confirmation is received from the Planning and Zoning Department.
8. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit the following:
  - A. An as-built Planting Plan is submitted demonstrating the proposed landscaping improvements were completed.
9. All new utilities shall be placed underground.
10. Trees shall not be removed from Town property.

11. All plantings shall be maintained in a healthy growing condition and all fences and walls shall be maintained in good physical condition throughout the duration of the use. Plants, fences or walls not so maintained shall be replaced with new materials no later than the beginning of the next immediately following growing season.
12. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Commission.
13. All work approved pursuant to this Special Permit/Site Plan shall be completed within by September 30, 2021.
14. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

**ENFORCEMENT** Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

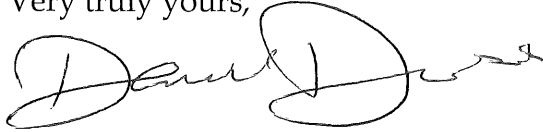
**Reasons:**

The application as conditioned has been found to be in conformance with all applicable zoning regulations and is consistent with the 2017 Plan of Conservation and Development.

**VOTE:**

AYES	-5-	{Dobin, Cammeyer, Cohn, Tesler, Zucaro}
NAYS	-1-	{Lebowitz}
ABSTENTIONS	-0-	

Very truly yours,

A handwritten signature in black ink, appearing to read "Danielle Dobin". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke extending to the right.

Danielle Dobin

Chairman, Planning & Zoning Commission

cc: Peter Ratkiewich, Public Work Director  
Alicia Mozian, Conservation Director  
John Gaucher, CT DEEP





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**Planning and Zoning Commission**  
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Hearing: June 17, 2021

Decision: June 17, 2021

John Broadbin  
Deputy Public Works Director  
110 Myrtle Avenue  
Westport, CT 06880

**RE: 35 Elm Street, Special Permit/Coastal Site Plan #PZ-21-00362**

Dear Mr. Broadbin:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on June 17, 2021 it was moved by Mr. Cohn and seconded by Mr. Lebowitz to adopt the following resolution:

**RESOLUTION #PZ-21-00362**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on June 17, 2021 and made the following findings:

Property Description/Background

1. The Baldwin Parking Lot is located on a 1.946 acre Town-owned property at 35 Elm Street in the Residence A district/Village District Overlay/Westport Center. A 6,700 SF portion of the lot adjacent to Elm Street is zoned Business Center Retail Residential District/VDO and is improved with a two story mixed use building (retail and residential) constructed in 2018. A 6,500 SF portion of the lot also adjacent to Elm Street is zoned Business Center District /Historic and contains the Kemper Gunn House which was relocated from 35 Church Street in 2014.
2. The property does not contain any steep slopes or wetlands. The property slopes from El 13.3' at the north property line near 99 Myrtle Avenue to El. 6.6' in middle of lot near 81 Myrtle Avenue and back up to El. 20' at Elm Street. The property is outside the 100-year floodplain in Zone X. The site is within the Coastal Area Management (CAM) boundary established by the State of Connecticut.
3. This existing lot contains an outdated parking and circulation pattern, storm drainage,

an electrical service, retaining walls, asphalt pavement and curbing, sidewalks, lighting, the majority of which are at the end of their service life and in need of replacement, according to the applicant. There is no storm water management. Also, a portion of the parking area exists at an elevation that allows for flooding in times of heavy rainfall and is served by a storm drainage system that is partially non-functional.

4. The Department of Public Works is seeking a report on behalf of the First Selectman, pursuant to CGS §8-24, Municipal Improvement, to redesign and reconstruct the Baldwin Parking Lot to improve public safety and for a finding of consistency with the Coastal Area Management Act. The request is scheduled for the June 17, 2021 meeting.

5. This property lies within the Coastal Area Management (CAM) boundary, as defined by C.G.S. §22a-94 and therefore, a CAM review is required in accordance with C.G.S. §22a-109 and the Town of Westport Zoning Regulations §31-10.6. §31-10.5 of the zoning regulations states that no use, activity or project for which a Coastal Site Plan is required by §22a-105 (b) of the CAM Act shall commence until a Coastal Site Plan has been approved by the P&Z Commission or the Zoning Board of Appeals in accordance with the requirements of §22a-105 through 22a-109 of the CAM Act.

6. The following coastal resources have been identified on the site or within the influence of the project: General Resources, Beaches and Dunes, Coastal Hazard Areas, Intertidal Flats and Shellfish Concentration Area.

### Project Description

7. The applicant is seeking Special Permit/Site Plan approval to redesign and reconstruct the Baldwin Parking Lot to improve public safety and for a finding of consistency with the Coastal Area Management Act.

8. The Baldwin lot has been constructed over its lifetime, section by section, not designed as one whole facility so a redesign is imperative, according to the applicant.

9. The parking area will be redesigned into a facility that utilizes the Towns' current standards and materials for parking, dimensional layout, traffic patterns, lighting, drainage, landscaping, storm water management and increased public safety access when re-constructed. Modifications anticipated are similar to those proposed with other Town parking facilities that have been renovated since 2015.

10. The number of parking spaces will be reduced from 203 to 173 due to need to address the existing non-conforming conditions. The design also includes a future possible connection between the Baldwin Lot and the adjacent private parking lot on Avery Place should the Town and adjacent owner wish to provide access and parking through both lots, which is listed as a strategy in the 2015 Westport Downtown Plan.

11. This work will be accomplished by a competitively bid construction contract, designed and overseen by the Westport Department of Public Works. The duration of the work is approximately four months. It is anticipated the project will commence in Spring

2022. Specific modifications include:

- Installing 2,540 CY of fill over an 84,810 SF area in order to raise the parking lot to minimize flooding.
- Install six (6) electric vehicle charging stations,
- Install a "Blue Light" personal safety system, and closed circuit video monitoring system,
- Improvements to vehicle and pedestrian access and egress, including crosswalks and ADA compliance,
- Installing a rain garden,
- Reduction of total coverage,
- Privacy fence along residential boundary line, and
- Adding landscaping to bring the site into greater zoning compliance.

12. The Staff Report prepared by Michelle Perillie, dated 6/10/21, conclude the application is consistent with CAM policies as it does not adversely impact the adjacent coastal systems.

13. The Westport Planning and Zoning Commission has determined that this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22a-92 (b) (2) of the Connecticut Coastal Management Act; that it will not adversely affect adjacent Coastal Resources (General Resources and Shorelands) identified in Sections 22-93 (a) (7) of said Act.

14. §8-24 Request #PZ-21-00361 was simultaneously submitted by Mr. Broadbin to redesign and reconstruct the Baldwin Parking Lot to improve public safety and for a finding of consistency with the Coastal Area Management Act. The §8-24 Request and Special Permit applications were reviewed by the Commission on June 17, 2021.

### Public Participation

15. A hearing was held on June 17, 2021, to receive testimony from members of the public as required pursuant to State Statutes.

16. The public hearing was held remotely using electronic means due to the COVID-19, as Town Hall remains closed. The public hearing was broadcast live on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer "live" testimony.

17. All application materials, and public comments received were posted on the Town's website consistent with the Governor's Executive Order to maintain transparency while conducting remote meetings during COVID-19.

**NOW THEREFORE, BE IT RESOLVED 35 Elm Street:** Special Permit/Coastal Site Plan Appl. #PZ-21-00362 submitted by the Department of Public Works for a project to redesign and reconstruct the Baldwin Parking Lot, for property located in the Residence A/Village District Overlay (VDO)/Westport Center, PID #C10143000 is **GRANTED** subject to the following modifications:

1. Conformance to Existing Conditions Survey (Sheet VB-101) prepared by Langan, revised 5/31/21.
2. Conformance to Site Plan (Sheets CS101, CS501-CS502) prepared by Langan, revised 5/10/21 further revised to include a bike rack(s) in the design.
3. Conformance to Grading and Drainage Plan (Sheets CG101 and CG 501) prepared by Langan, revised 5/10/21.
4. Conformance to Planting Plan (Sheets LP101 and LP 501) prepared by Langan, revised 5/10/21.
5. Conformance to Lighting Plan (Sheets LL101 and LL 501) prepared by Langan, revised 5/10/21.
6. Conformance to the recommendations in the Staff Report dated 6/10/21.
7. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
  - A. Proof of filing the approval resolution on the Land Records.
8. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit a Certified "As-Built" survey stamped by a registered Engineer or Surveyor inclusive of a Zoning Chart.
9. All new utilities shall be placed underground.
10. Trees shall not be removed from Town property.
11. All plantings shall be maintained in a healthy growing condition and all fences and walls shall be maintained in good physical condition throughout the duration of the use. Plants, fences or walls not so maintained shall be replaced with new materials no later than the beginning of the next immediately following growing season.
12. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Commission.

13. All work approved pursuant to this Special Permit/Site Plan shall be completed within 5 years of date of approval, by June 17, 2026.
14. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

**ENFORCEMENT** Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

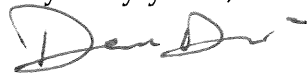
**Reasons:**

The application as conditioned has been found to be in conformance with all applicable zoning regulations, with the 2017 Plan of Conservation and Development, and the Site Plan and Special Permit standards listed in §44-5 and §44-6.

**VOTE:**

AYES	-6-	{Dobin, Lebowitz, Cammeyer, Cohn, Tesler, Zucaro}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,



Danielle Dobin  
 Chairman, Planning & Zoning Commission

cc: Peter Ratkiewich, Public Work Director  
 Alicia Mozian, Conservation Director