



Town of Westport
Planning and Zoning Commission
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Westport, CT 06880
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www.westportct.gov

To be inserted in The Westport News
On: February 11, 2022
Friday

LEGAL NOTICE OF DECISION

Notice is hereby given that at a meeting held on **February 7, 2022**, the Westport Planning and Zoning Commission took the following action:

1. **ADOPTED AS MODIFIED: Text Amendment #812:** Appl. #PZ-22-00036 submitted by the Westport Planning and Zoning Commission to remove the prohibition on limiting tenant size to 10,000 SF in the Business Center District (BCD) and Business Center District/Historic (BCD/H) as modified to require Special Permit/Site Plan approval from the Planning and Zoning Commission for any tenant exceeding 10,000 SF in size in the BCD and BCD/H. A copy of the adopted text amendment is available on-line at www.westportct.gov is on file in the Westport Town Clerk's Office and is on file in the Westport Planning and Zoning Office. **Effective Date: 2/18/22**
2. **ADOPTED: Text Amendment #811:** Appl. #PZ-22-00035 submitted by the Westport Planning and Zoning Commission to eliminate the prohibition on Retail use above the First Floor in the Business Center District (BCD) and Business Center District/Historic (BCD/H). A copy of the adopted text amendment is available on-line at www.westportct.gov is on file in the Westport Town Clerk's Office and is on file in the Westport Planning and Zoning Office. **Effective Date: 2/18/22**

Dated at Westport, Connecticut this 11th day of February 2022 Danielle Dobin, Chairman, Planning and Zoning Commission

Text Amendment #811 to Remove Retail Prohibition above the First Floor in the BCD & BCD/H

Submitted: 1/18/22

Received: 1/20/22

Public Hearing: 2/7/22

Adopted: 2/7/22

Effective date: 2/18/22

Deleted language is ~~struck out and in brackets and highlighted~~, See §29-2.1.2a and §29A-2.1.2a, below

FROM §29, Business Center District (BCD)

29-1 Purpose

The purpose of the Business Center District is to allow general commercial and office development in designated areas located along arterial streets, limiting the intensity of development with parking provided by existing private lots, municipal lots, and on-street parkingspaces. Automotive and similar drive-in type establishments shall be prohibited.

29-2 Permitted Uses

In a Business Center District, 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:

29-2.1 Principal Uses

29-2.1.1

Any use permitted in the Residence AAA District, subject to the same approvals and conditions specified in §11-2, herein.

29-2.1.2

The following additional uses are permitted subject to Site Plan approval in accordance with §43, herein:

- a. Stores and shops where goods are sold and services are rendered primarily at retail, ~~not above the first floor~~.
- b. Grocery stores, delicatessens; and Retail Food Establishments.
- c. Restaurants.
- d. Cafes and taverns.
- e. Business, professional, medical, healthcare professional, insurance, real estate

and other offices.

- f. Banks
- g. Indoor theaters and assembly halls.
- h. Undertakers' establishments.
- i. Newspaper and job printing establishments.
- j. Off-street parking lots, decks and garages.

29-2.2 Special Permit Uses

29-2.2.1

Veterinary hospitals and animal clinics. There shall be no more than one outside exercise area for animal runs. The use of such area shall be limited to the period from 8:00 a.m. to 8:00 p.m.

29-2.2.2

Golf driving ranges, paddle tennis courts, tennis courts, bowling alleys, skating rinks and other indoor and outdoor commercial recreation and entertainment uses, except game rooms.

29-2.2.3

Commercial marinas, including accessory boat sales. No boat shall be occupied or used as a dwelling or dwelling unit.

29-2.2.4

Inclusionary two-family and multi-family dwelling units, subject to the provisions of §32-12, herein. No existing dwelling unit above the first floor can be changed to a non-residential use.

29-2.2.5

Commercial Wireless telecommunication service facilities, in conformance with §32-16.

29-2.2.6

Bank drive-in within 500 feet of another bank drive-in as permitted by §29-2.3.3.

29-2.3 Accessory Uses

29-2.3.1

Uses customarily accessory to a permitted principal use including the manufacturing, processing or assembly of goods which is incidental to the conduct of a retail business conducted on the premises, subject to the provisions of §32-7, herein.

29-2.3.2

Outdoor storage and display is permitted in accordance with §32-6, herein.

29-2.3.3

Bank drive-in; except that no lot shall be used for a drive-in bank, if such lot is located within a radius of 500 feet from any other lot used for a bank drive-in, provided that the Planning & Zoning Commission may permit, upon a Special Permit Approval in accordance with §43 of the regulations, and so long as the Commission shall find that such use shall maintain or improve the traffic level of service and safety conditions in and around the site. The application must be accompanied by a traffic report supplied by the applicant.

29-2.3.4

Wholesaling and warehousing.

29-2.3.5

Outdoor Eating Areas for Restaurants, Cafes, Taverns and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

29-2.3.6

Game Rooms, subject to the following conditions:

- a. That a Zoning Permit be obtained from the Zoning Enforcement Officer.
- b. The number of coin operated amusement devices shall be limited to not more than three (3) per lot.
- c. The hours of operation of said game room shall not exceed those of the principle use. In no case shall the hours of operation extend beyond 11:00 p.m., except in establishments with liquor licenses for on premise consumption.

29-2.3.7

One attached dwelling unit provided the density does not exceed twenty (20) bedrooms per acre.

29-2.4 Prohibited Uses

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

29-3 Lot Area (See Definitions)

No minimum requirement, except that no lot shall have less than fifty (50) feet of frontage on at least one street.

29-4 Setbacks (See §31-4 through §31-8, also.)

No principal building, structure or use or accessory building or structure shall extend closer than thirty (30) feet from the East Post Road front lot lines or twenty (20) feet from any other front lot line. Side and rear setbacks shall be determined by the physical site characteristics and surrounding buildings, structures and uses; provided that any two adjacent buildings shall be setback at least 6 feet from the lot line or shall have a fire wall on the lot line.

29-4.1 Setback from the Front Lot Line within the Village District Overlay

29-4.1.1 New and Substantial Reconstruction within the Village District Overlay.

Within the Village District Boundary (see §36 Village District Overlay), the main façade of a principle building, structure or use shall be no more than ten (10) feet from the front lot line. This setback requirement applies to all new construction and rehabilitation (as defined in §5-2) that alters the location of the main façade.

29-4.1.2 Maintenance and Minor Repairs

Existing buildings that are within the Village District Boundary and do not conform with the requirement to be set back thirty (30) feet from the front lot line are considered conforming for the purposes of maintenance or minor repairs (as defined in §5-2 Specific Terms) to existing façade elements. No Site Plan review is required.

29-5 Height

No building or structure shall exceed two (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.

29-6 Coverage (See Definitions)

The building coverage shall not exceed seventy-five (75%) of the area of the lot which lies within the BCD.

29-7 Building Area

No mandatory requirement.

29-8 Floor Area

29-8.1 Maximum

No one building or single retail establishment, restaurant, business or other commercial establishment shall exceed ten thousand (10,000) square feet of gross interior floor space.

29-8.2 FAR (see definitions)

No buildings or structures in any Single or Multiple Use Development, as defined herein, shall exceed a Floor Area Ratio (FAR) of 0.25 on the lot that lies within the BCD zone; except for two-family or multi-family dwellings. No buildings or structures in any Single or Multiple Use Development, which contains two-family or multi-family dwellings, shall exceed an FAR of 0.35, except that a new use or change of use above a first floor (street level) for two-family or multi-family dwellings in a Multiple Use Development shall not exceed an FAR of 1.0. In any Multiple Use Development containing two-family or multi-family dwellings, any incremental increase in floor area above the maximum allowable FAR for the non-residential uses shall be used for dwelling(s) units, only. No dwelling unit approved under these bonus provisions shall thereafter be changed to any non-residential use. Floor area used for parking and loading shall be excluded from the FAR.

29-9 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 older buildings in the BCD District 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, in whole or in part.

Roof-top mechanical equipment, other than solar energy panels, shall be concealed from all sides.

29-9A Village District Overlay Site Plan Review

The following actions require Site Plan Review for properties within a Village District Boundary (see §36 Village District Overlay):

29-9A.1 Exterior Alterations

Site Plan Review under §36 Village District Overlay is required for exterior reconstruction,

alteration, or addition to any existing structure or new construction that alters the exterior appearance from a building visible from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

29-9A.2 New Construction or Substantial Reconstruction and Rehabilitation of Existing Facades within Public View

Site Plan Review under §36 Village District Overlay is required for new construction or for substantial repairs or reconstruction to existing facades within view either from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

29-9A.3 Documentation of Existing Conditions

Existing façade elements and setback from the front lot line must be documented to the satisfaction of the Planning and Zoning Commission with photographs, a survey or other relevant methods.

29-10 Signs

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

29-11 Parking and Loading

Parking and Loading shall be provided by existing private lots, municipal lots, and on-street spaces. Existing on-site parking as of 11/1/99 must be retained whether an existing building is destroyed, constructed, reconstructed or expanded. Additional floor area constructed after 11/1/99 will be required to provide additional on-site parking at one space per each one hundred-eighty (180) square feet. Any new construction of 10,000 square feet or more of gross interior floor area will be required to provide concealed parking as noted in §34-12 of the Supplementary Regulations.

29-12 Landscaping, Screening and Buffer Areas

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

29-13 First Floor Defined

For purposes of this section only, the "first floor" of the building is the building entrance opening to Main Street, Post Road, Bay Street and Taylor Place. There can be only one first floor per building.

FROM §29A, Business Center District/Historic (BCD/H)

29A-1 Purpose

The purpose of the Business Center District/Historic is to prevent the potential loss of significant exterior historic features and to allow the preservation of buildings with historic interest to the community as determined by the Historic District Commission on the Town of Westport updated Historic Resources Inventory (see "Historic Structures" as defined in §5). In so doing, it fosters community pride, conserves the architecture of historic commercial areas and enables people to learn about local history. This zone will offer the property owners of these historically significant properties zoning regulations that are somewhat more flexible than those that apply to properties in the BCD. Provisions are also included which allow for relocation of Historic Structures. If a

historic building or a historic portion of a building, as described in the most recent Westport Historic Resources Inventory, is to be demolished, the property will be subject to the permitted uses, lot area, setbacks, height, coverage, floor area, architectural design, signs, parking and loading, and landscaping provisions in the Business Center District regulations, and §29A-14 shall not apply.

29A-2 Permitted Uses

In a Business Center District/Historic, 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:

29A-2.1 Principal Uses

29A-2.1.1

Any use permitted in the Residence AAA District, specified in §11-2, herein subject to a special permit approval.

29A-2.1.2

The following additional uses are permitted subject to Site Plan approval in accordance with §43, herein:

- a. Stores and shops where goods are sold and services are rendered primarily at retail, [~~not above the first floor~~].
- b. Grocery stores, delicatessens and Retail Food Establishments.
- c. Restaurants.
- d. Cafes and Taverns.
- e. Business, professional, medical, healthcare professional, insurance, real estate and other offices.
- f. Banks.
- g. Indoor theaters and assembly halls.
- h. Undertakers' establishments.
- i. Newspaper and job printing establishments.
- j. Off-street parking lots, decks and garages.

29A-2.2 Special Permit Uses

29A-2.2.1

Veterinary hospitals and animal clinics. There shall be no more than one outside exercise area for animal runs. The use of such area shall be limited to the period from 8:00 A.M. to 8:00 P.M.

29A-2.2.2

Golf driving ranges, paddle tennis courts, tennis courts, bowling alleys, skating rinks and other indoor and outdoor commercial recreation and entertainment uses, except game rooms.

29A-2.2.3

Commercial marinas, including accessory boat sales. No boat shall be occupied or used as a dwelling or dwelling unit.

29A-2.2.4

Inclusionary two-family and multi-family dwelling units, subject to the provisions of §32-12, herein. No existing dwelling unit above the first floor can be changed to a non-residential use.

29A-2.2.5

Commercial Wireless telecommunication service facilities, in conformance with §32-16.

29A-2.2.6

Exterior reconstruction, alteration, or addition to any existing structure or a new construction requires a special permit with a combined recommendation from a joint meeting of the Historic District Commission and the Architectural Review Board. Ordinary maintenance and repair for which no building permit is required shall be exempted from this requirement provided there is no change to the exterior appearance of the building. This paragraph does not apply to buildings within the Village District Overlay. See §29A-9A Village District Overlay Site Plan Review.

29A-2.2.7

Bank drive-in within 500 ft. of another Drive-in Bank as permitted by §29A-2.3.3.

29A-2.3 Accessory Uses

29A-2.3.1

Uses customarily accessory to a permitted principal use including; manufacturing, processing or assembly of goods which is incidental to the conduct of a retail business conducted on the premises, subject to the provisions of §32-7, herein.

29A-2.3.2

Outdoor storage and display is permitted in accordance with §32-6, herein.

29A-2.3.3

Bank drive-in; except that no lot shall be used for a drive-in bank, if such lot is located within a radius of 500 feet from any other lot used for a drive-in bank, provided that the Planning & Zoning Commission may permit upon a Special Permit Approval in accordance with §43 of the regulations, and so long as the Commission shall find that such use shall maintain or improve the traffic level of service and safety conditions in and around the site. The application must be accompanied by a traffic report supplied by the applicant.

29A-2.3.4

Wholesaling and warehousing.

29A-2.3.5

Outdoor Eating Areas for Restaurants, Cafes, Taverns and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

29A-2.3.6

Game Rooms, subject to the following conditions:

- a. That a Zoning Permit be obtained from the Zoning Enforcement Officer.
- b. The number of coin operated amusement devices shall be limited to not more than 3 per lot.
- c. The hours of operation of said game room shall not exceed those of the principle use. In no case shall the hours of operation extend beyond 11 p.m., except in establishments with liquor licenses for on premise consumption.

29A-2.3.7

One attached dwelling unit, provided the density does not exceed 20 bedrooms per acre.

29A-2.4 Prohibited Uses

The following uses in addition to those listed in §32-7, herein, shall be prohibited: gasoline filling stations, automobile services establishments, motor vehicle repair garages, any lot, establishment, agency or dealer for new, rental or used motor vehicles, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor-inns, and drive-in restaurants. (Also see §38-2, Prohibited Uses in the Aquifer Protection Overlay Zone).

29A-3 Lot Area (See Definitions)

No minimum requirement, except that no lot shall have less than 50 feet of frontage on at least one street.

29A-4 Setbacks (See §31-4 through §31-8, also.)

Except as set forth in §29A-15, no principal building, structure or use and no accessory building or structure shall extend closer to the front, side and rear lot line than the setbacks existing on the lot on the effective date of the BCD/H, 6/1/04. (Also see §29A-9).

29A-5 Height

No building or structure shall exceed the height of either 25 feet to the top of a flat roof or 30 feet to the midpoint of a pitched roof, whichever is less; except for an addition or alteration that cannot exceed the existing main roof line of an existing building on a lot on the effective date of the BCD/H, 6/1/04. There shall be no restriction on the number of stories allowed within the height limit. The Planning & Zoning Commission may allow incidental architectural features to exceed the height limit by up to three (3) additional feet (Also see §29A-9).

29A-6 Coverage (See Definitions)

The building coverage shall not exceed the existing building coverage on the lot at the effective date of the BCD/H (6/1/04), or 75% of the area of the lot within the BCD/H, whichever is greater.

29A-7 Building Area

No mandatory requirement.

29A-8 Floor Area

29A-8.1 Maximum

No one building or single retail establishment, restaurant, business or other commercial establishment shall exceed 10,000 square feet of gross interior floor space.

29A-8.2 FAR (see definitions)

Except as set forth in §29A-15, no buildings or structures in any Single or Multiple Use Development, as defined herein, shall exceed a Floor Area Ratio (FAR) of 0.25 on the lot that lies within the BCD/H zone; except for two-family or multi-family dwellings. No buildings or structures in any Single or Multiple Use Development, which contains two-family or multi-family dwellings, shall exceed an FAR of 0.35; except that a new use or change of use above a first floor (street level) for two-family or multi-family dwellings in a Multiple Use Development shall not exceed an FAR of 1.0. In any Multiple Use Development containing two-family or multi-family dwellings, any incremental increase in floor area above the maximum allowable FAR for the non-residential uses shall be used for dwelling(s) units, only. No dwelling unit approved under these

bonus provisions shall thereafter be changed to any non-residential use. Floor area used for parking and loading shall be excluded from the FAR. No building or structure shall exceed the FAR existing on a lot on the effective date of the BCD/H (6/1/04), or 0.25 FAR, whichever is greater.

Twenty-five percent (25%) of the FAR existing on a lot on the effective date of the BCD/H (6/1/04) may be relocated on the same lot within the allowable height, coverage and setback standards, provided there is adequate storage space as determined by the Planning and Zoning Commission.

However, the Planning & Zoning Commission may allow the extension of an existing mezzanine, balcony or partial upper floor with related increase in FAR inside a building existing on a lot on the effective date of the BCD/H (6/1/04), provided the expanded floor area is utilized for residential and/or restaurant uses only.

29A-9 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 older buildings in the BCD/H District 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, in whole or in part.

Roof-top mechanical equipment, other than solar energy panels, shall be concealed from all sides.

Proposed new buildings on the same lot as the historic building, exterior building additions and alterations and roof top mechanical units shall be submitted to the Historic District Commission and the Architectural Review Board for a combined recommendation from a joint meeting. Their guidelines for review will be the most recent Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation.

29A-9.1 Removal of historic buildings

If a historic building or a historic portion of a building, as described in the most recent Westport Historic Resources Inventory, is to be demolished, the property will be subject to the permitted uses, lot area, setbacks, height, coverage, floor area, architectural design, signs, parking and loading, and landscaping provisions in the Business Center District regulations and §29A-14 shall not apply. Also see §6-2.3, Restoration.

29A-9.2 Removal of non-historic additions to historic buildings

If an existing addition to an historic building is not described as historically significant in the most recent Westport Historic Resources Inventory, that addition may be removed and another structure built no greater than the existing footprint, setback and height as the removed addition. The new structure will complement the historic period of the retained portion and will not alter the historic portion as stated in the most recent Secretary of the Interior's Standards for Treatment of Historic Properties, Standards for Rehabilitation. FAR must be adhered to. Also see §29A-8.2.

29A-9.3 New additions and infill to historic buildings and additional buildings on the lot

Except as set forth in §29A-15, additions or infill to historic structures and new buildings on the lot must be no greater than the height and setbacks of the original historic structure. Additions must complement the historic period of the historic structure and will not alter the historic portion as stated in the most recent Secretary of the Interior's Standards for Treatment of Historic Properties, Standards for Rehabilitation. FAR must be adhered to. Also see §29A-8.2.

29A-9A Village District Overlay Site Plan Review

The following actions require Site Plan Review for properties within a Village District Boundary (see §36 Village District Overlay):

29A-9A.1 Exterior Alterations

Site Plan Review under §36 Village District Overlay is required for exterior reconstruction, alteration, or addition to any existing structure or new construction that alters the exterior appearance from a building visible from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

29A-9A.2 New Construction or Substantial Reconstruction and Rehabilitation of Existing Facades within Public View

Site Plan Review under §36 Village District Overlay is required for new construction or for substantial repairs or reconstruction to existing facades within view either from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

29A-9.3 Documentation of Existing Conditions

Existing façade elements and setback from the front lot line must be documented to the satisfaction of the Planning and Zoning Commission with photographs, a survey or other relevant methods.

29A-10 Signs

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

29A-11 Parking and Loading

Except as set forth in §29A-15, parking and Loading shall be provided by existing private lots, municipal lots, and on-street spaces. Existing on-site parking as of 11/1/99 must be retained whether an existing building is destroyed, constructed, reconstructed or expanded. Additional floor area constructed after February 9, 2015 must provide additional on-site parking as required pursuant to §34-5, Parking Requirements Table.

29A-12 Landscaping, Screening and Buffer Areas

Except as set forth in §29A-15, landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations.

29A-13 First Floor Defined

For purposes of this section only, the "first floor" of the building is the building entrance opening to Main Street, East Post Road, Bay Street and Taylor Place. There can be only one first floor per building.

29A-14 Exemption of Floodplain Regulations

The rehabilitation or restoration of structures in the BCD/H shall be exempt from the provisions of §31-9, Flood Plain Regulations, provided that:

1. A determination is made by the Planning and Zoning Commission that the proposed rehabilitation or restoration will not destroy the historic character and design of the building;
2. A determination that the rehabilitation or restoration will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance,

cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

29A-14.1 Written Notice Required

Upon approval of any such rehabilitation or restoration, the Planning and Zoning Commission shall give written notice to the applicant specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25 for \$100 of insurance coverage and shall maintain the records of all such actions and any appeals there from for the benefit of FEMA.

29A-15 Relocation of Historic Structures

A Historic Structure may be relocated within the BCD/H in the event it is not possible to preserve the Historic Structure in its original location. The provision of §29A shall apply however the following exceptions to certain requirements are listed below to facilitate the preservation of Historic Structures when relocation is a viable option.

29A-15.1 Setbacks for Relocated Historic Structures

A relocated Historic Structure shall comply with the minimum setbacks established in §29-4 Setback in the Business Center District (BCD) except the front yard setback may be reduced to 6 feet for local roads (as listed on the Vehicular Circulation Plan of the Westport Plan of Conservation & Development) to encourage pedestrian oriented frontages and maintain existing street walls.

29A-15.2 Floor Area for Relocated Historic Structures

The floor area for a relocated Historic Structure shall be the same as the floor area of said structure on the effective date of the application for relocation of said structure. Any additions or extensions necessary to comply with building code requirements for egress or accessibility requirements consistent with the Americans with Disabilities Act may be allowed. There shall be no maximum FAR requirement for a relocated Historic Structure that meets the setback requirements on the relocated lot as described in §29A-15.1 above.

29A-15.3 Additions to Relocated Historic Structures

Additions to relocated Historic Structures may be allowed if in compliance with the FAR provisions of §29A-8.2 and the Architectural Design requirements of §29A-9.

29A-15.4 Parking and Loading for Relocated Historic Structures

Parking & loading shall be provided by existing private lots, municipal lots and on-street spaces.

29A-15.5 Landscaping, Screening and Buffer Area for Relocated Historic Structures

The Front Landscaping Areas pursuant to §35-2.2 may be reduced to six (6) feet for relocated Historic Structures in order to coincide with the front yard setback.

Text Amend #812 to Remove 10,000SF Limit on Single-Tenant Occupancies in BCD & BCD/H

Submitted: 1/19/22

Received: 1/20/22

Public Hearing: 2/7/22

Adopted as Modified: 2/7/22

Effective date: 2/18/22

Deleted language is ~~[struck out and in brackets]~~, New language is underlined.
All changes are highlighted. See §29-8.1 & §29A-8.1

FROM §29, Business Center District (BCD)

1. **Purpose**

The purpose of the Business Center District is to allow general commercial and office development in designated areas located along arterial streets, limiting the intensity of development with parking provided by existing private lots, municipal lots, and on-street parking spaces. Automotive and similar drive-in type establishments shall be prohibited.

2. Permitted Uses

In a Business Center District, 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:

29-2.1 Principal Uses

29-2.1.1

Any use permitted in the Residence AAA District, subject to the same approvals and conditions specified in §11-2, herein.

29-2.1.2

The following additional uses are permitted subject to Site Plan approval in accordance with

§43, herein:

- a. Stores and shops where goods are sold and services are rendered primarily at retail, not above the first floor.
- b. Grocery stores, delicatessens; and Retail Food Establishments.
- c. Restaurants.
- d. Cafes and taverns.
- e. Business, professional, medical, healthcare professional, insurance, real estate and other offices.
- f. Banks
- g. Indoor theaters and assembly halls.
- h. Undertakers' establishments.
- i. Newspaper and job printing establishments.
- j. Off-street parking lots, decks and garages.

9-2.2 Special Permit Uses

29-2.2.1

Veterinary hospitals and animal clinics. There shall be no more than one outside exercise area for animal runs. The use of such area shall be limited to the period from 8:00 a.m. to 8:00 p.m.

29-2.2.2

Golf driving ranges, paddle tennis courts, tennis courts, bowling alleys, skating rinks and other indoor and outdoor commercial recreation and entertainment uses, except game rooms.

29-2.2.3

Commercial marinas, including accessory boat sales. No boat shall be occupied or used as a dwelling or dwelling unit.

29-2.2.4

Inclusionary two-family and multi-family dwelling units, subject to the provisions of

§32-12, herein. No existing dwelling unit above the first floor can be changed to a non-residential use.

29-2.2.5

Commercial Wireless telecommunication service facilities, in conformance with §32-16.

29-2.2.6

Bank drive-in within 500 feet of another bank drive-in as permitted by §29-2.3.3.

29-2.3 Accessory Uses

29-2.3.1

Uses customarily accessory to a permitted principal use including the manufacturing, processing or assembly of goods which is incidental to the conduct of a retail business conducted on the premises, subject to the provisions of §32-7, herein.

29-2.3.2

Outdoor storage and display is permitted in accordance with §32-6, herein.

29-2.3.3

Bank drive-in; except that no lot shall be used for a drive-in bank, if such lot is located within a radius of 500 feet from any other lot used for a bank drive-in, provided that the Planning & Zoning Commission may permit, upon a Special Permit Approval in accordance with §43 of the regulations, and so long as the Commission shall find that such use shall maintain or improve the traffic level of service and safety conditions in and around the site. The application must be accompanied by a traffic report supplied by the applicant.

29-2.3.4

Wholesaling and warehousing.

29-2.3.5

Outdoor Eating Areas for Restaurants, Cafes, Taverns and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

29-2.3.6

Game Rooms, subject to the following conditions:

- a. That a Zoning Permit be obtained from the Zoning Enforcement Officer.
- b. The number of coin operated amusement devices shall be limited to not more than three (3) per lot.
- c. The hours of operation of said game room shall not exceed those of the principle use. In no case shall the hours of operation extend beyond 11:00 p.m., except in establishments with liquor licenses for on premise consumption.

29-2.3.7

One attached dwelling unit, provided the density does not exceed twenty (20) bedrooms per acre.

29-2.4 Prohibited Uses

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

29-3 Lot Area (See Definitions)

No minimum requirement, except that no lot shall have less than fifty (50) feet of frontage on at least one street.

29-4 Setbacks (See §31-4 through §31-8, also.)

No principal building, structure or use or accessory building or structure shall extend closer than thirty (30) feet from the East Post Road front lot lines or twenty (20) feet from any other front lot line. Side and rear setbacks shall be determined by the physical site characteristics and surrounding buildings, structures and uses; provided that any two adjacent buildings shall be setback at least 6 feet from the lot line or shall have a fire wall on the lot line.

29-4.1 Setback from the Front Lot Line within the Village District Overlay

29-4.1.1 New and Substantial Reconstruction within the Village District Overlay.

Within the Village District Boundary (see §36 Village District Overlay), the main façade of a principle building, structure or use shall be no more than ten (10) feet from the front lot line. This setback requirement applies to all new construction and rehabilitation (as defined in §5-2) that alters the location of the main façade.

29-4.1.2 Maintenance and Minor Repairs

Existing buildings that are within the Village District Boundary and do not conform with the requirement to be set back thirty (30) feet from the front lot line are considered conforming for the purposes of maintenance or minor repairs (as defined in §5-2 Specific Terms) to existing façade elements. No Site Plan review is required.

29-5 Height

No building or structure shall exceed two (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.

29-6 Coverage (See Definitions)

The building coverage shall not exceed seventy-five (75%) of the area of the lot which lies within the BCD.

29-7 Building Area

No mandatory requirement.

29-8 Floor Area

29-8.1 Maximum

No one building [~~or single retail establishment, restaurant, business or other commercial establishment~~] shall exceed ten thousand (10,000) square feet of gross interior floor space. ~~No single retail establishment, restaurant, business or other commercial establishment shall exceed ten-thousand (10,000) square feet of gross interior floor space unless approved by the Planning and Zoning Commission by Special Permit in accordance with §43 of the regulations.~~

29-8.2 FAR (see definitions)

No buildings or structures in any Single or Multiple Use Development, as defined herein, shall exceed a Floor Area Ratio (FAR) of 0.25 on the lot that lies within the BCD zone; except for two- family or multi-family dwellings. No buildings or structures in any Single or Multiple Use Development, which contains two-family or multi-family dwellings, shall exceed an FAR of 0.35, except that a new use or change of use above a first floor (street level) for two-family or multi- family dwellings in a Multiple Use Development shall not exceed an FAR of 1.0. In any Multiple Use Development containing two-family or multi-family dwellings, any incremental increase in floor area above the maximum allowable FAR for the non-residential uses shall be used for dwelling(s) units, only. No dwelling unit approved under these bonus provisions shall thereafter be changed to any non-residential use. Floor area used for parking and loading shall be excluded from the FAR.

29-9 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 older buildings in the BCD District 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, in whole or in part.

Roof-top mechanical equipment, other than solar energy panels, shall be concealed from all sides.

29-9A Village District Overlay Site Plan Review

The following actions require Site Plan Review for properties within a Village District Boundary (see §36 Village District Overlay):

29-9A.1 Exterior Alterations

Site Plan Review under §36 Village District Overlay is required for exterior reconstruction, alteration, or addition to any existing structure or new construction that alters the exterior appearance from a building visible from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

29-9A.2 New Construction or Substantial Reconstruction and Rehabilitation of Existing Facades within Public View

Site Plan Review under §36 Village District Overlay is required for new construction or for substantial repairs or reconstruction to existing facades within view either from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

29-9 A.3 Documentation of Existing Conditions

Existing façade elements and setback from the front lot line must be documented to the satisfaction of the Planning and Zoning Commission with photographs, a survey or other relevant methods.

29-10 Signs

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

29-11 Parking and Loading

Parking and Loading shall be provided by existing private lots, municipal lots, and on-street spaces. Existing on-site parking as of 11/1/99 must be retained whether an existing building is destroyed, constructed, reconstructed or expanded. Additional floor area constructed after 11/1/99 will be required to provide additional on-site parking at one space per each one hundred-eighty (180) square feet. Any new construction of 10,000 square feet or more of gross interior floor area will be required to provide concealed parking as noted in §34-12 of the Supplementary Regulations.

29-12 Landscaping, Screening and Buffer Areas

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

29-13 First Floor Defined

For purposes of this section only, the "first floor" of the building is the building entrance opening to Main Street, Post Road, Bay Street and Taylor Place. There can be only one first floor per building.

FROM §29A, Business Center District/Historic (BCD/H)

29A-1 Purpose

The purpose of the Business Center District/Historic is to prevent the potential loss of significant exterior historic features and to allow the preservation of buildings with historic interest to the community as determined by the Historic District Commission on the Town of Westport updated Historic Resources Inventory (see "Historic Structures" as defined in §5). In so doing, it fosters community pride, conserves the architecture of historic commercial areas and enables people to learn about local history. This zone will offer the property owners of these historically significant properties zoning regulations that are somewhat more flexible than those that apply to properties in the BCD. Provisions are also included which allow for relocation of Historic Structures. If a historic building or a historic portion of a building, as described in the most recent Westport Historic Resources Inventory, is to be demolished, the property will be subject to the permitted uses, lot area, setbacks, height, coverage, floor area, architectural design, signs, parking and loading, and landscaping provisions in the Business Center District regulations, and §29A-14 shall not apply.

29A-2 Permitted Uses

In a Business Center District/Historic, 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:

29A-2.1 Principal Uses

29A-2.1.1

Any use permitted in the Residence AAA District, specified in §11-2, herein subject to a special permit approval.

29A-2.1.2

The following additional uses are permitted subject to Site Plan approval in accordance with

§43, herein:

- a. Stores and shops where goods are sold and services are rendered primarily at retail, not above the first floor.
- b. Grocery stores, delicatessens and Retail Food Establishments.
- c. Restaurants.
- d. Cafes and Taverns.
- e. Business, professional, medical, healthcare professional, insurance, real estate and other offices.
- f. Banks.
- g. Indoor theaters and assembly halls.
- h. Undertakers' establishments.
- i. Newspaper and job printing establishments.
- j. Off-street parking lots, decks and garages.

29A-2.2 Special Permit Uses

29A-2.2.1

Veterinary hospitals and animal clinics. There shall be no more than one outside exercise area for animal runs. The use of such area shall be limited to the period from 8:00 A.M. to 8:00 P.M.

29A-2.2.2

Golf driving ranges, paddle tennis courts, tennis courts, bowling alleys, skating rinks and other indoor and outdoor commercial recreation and entertainment uses, except game rooms.

29A-2.2.3

Commercial marinas, including accessory boat sales. No boat shall be occupied or used as a dwelling or dwelling unit.

29A-2.2.4

Inclusionary two-family and multi-family dwelling units, subject to the provisions of §32-12, herein. No existing dwelling unit above the first floor can be changed to a non-residential use.

29A-2.2.5

Commercial Wireless telecommunication service facilities, in conformance with §32-16.

29A-2.2.6

Exterior reconstruction, alteration, or addition to any existing structure or a new construction requires a special permit with a combined recommendation from a joint meeting of the Historic District Commission and the Architectural Review Board. Ordinary maintenance and repair for which no building permit is required shall be exempted from this requirement provided there is no change to the exterior appearance of the building. This paragraph does not apply to buildings within the Village District Overlay. See §29A-9A Village District Overlay Site Plan Review.

29A-2.2.7

Bank drive-in within 500 ft. of another Drive-in Bank as permitted by §29A-2.3.3.

29A-2.3 Accessory Uses

29A-2.3.1

Uses customarily accessory to a permitted principal use including; manufacturing, processing or assembly of goods which is incidental to the conduct of a retail business conducted on the premises, subject to the provisions of §32-7, herein.

29A-2.3.2

Outdoor storage and display is permitted in accordance with §32-6, herein.

29A-2.3.3

Bank drive-in; except that no lot shall be used for a drive-in bank, if such lot is located within a radius of 500 feet from any other lot used for a drive-in bank, provided that the Planning & Zoning Commission may permit upon a Special Permit Approval in accordance with §43 of the

regulations, and so long as the Commission shall find that such use shall maintain or improve the traffic level of service and safety conditions in and around the site. The application must be accompanied by a traffic report supplied by the applicant.

29A-2.3.4

Wholesaling and warehousing.

29A-2.3.5

Outdoor Eating Areas for Restaurants, Cafes, Taverns and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

29A-2.3.6

Game Rooms, subject to the following conditions:

- a. That a Zoning Permit be obtained from the Zoning Enforcement Officer.
- b. The number of coin operated amusement devices shall be limited to not more than 3 per lot.
- c. The hours of operation of said game room shall not exceed those of the principle use. In no case shall the hours of operation extend beyond 11 p.m., except in establishments with liquor licenses for on premise consumption.

29A-2.3.7

One attached dwelling unit, provided the density does not exceed 20 bedrooms per acre.

29A-2.4 Prohibited Uses

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

§38-2, Prohibited Uses in the Aquifer Protection Overlay Zone).

29A-3 Lot Area (See Definitions)

No minimum requirement, except that no lot shall have less than 50 feet of frontage on at least one street.

29A-4 Setbacks (See §31-4 through §31-8, also.)

Except as set forth in §29A-15, no principal building, structure or use and no accessory building or structure shall extend closer to the front, side and rear lot line than the setbacks existing on the lot on the effective date of the BCD/H, 6/1/04. (Also see §29A-9).

29A-5 Height

No building or structure shall exceed the height of either 25 feet to the top of a flat roof or 30 feet to the midpoint of a pitched roof, whichever is less; except for an addition or alteration that cannot exceed the existing main roof line of an existing building on a lot on the effective date of the BCD/H, 6/1/04. There shall be no restriction on the number of stories allowed within the height limit. The Planning & Zoning Commission may allow incidental architectural features to exceed the height limit by up to three (3) additional feet (Also see §29A-9).

29A-6 Coverage (See Definitions)

The building coverage shall not exceed the existing building coverage on the lot at the effective date of the BCD/H (6/1/04), or 75% of the area of the lot within the BCD/H, whichever is greater.

29A-7 Building Area

No mandatory requirement.

29A-8 Floor Area

29A-8.1 Maximum

No one building [or single retail establishment, restaurant, business or other commercial establishment] shall exceed ten thousand (10,000) square feet of gross interior floor space. No single retail establishment, restaurant, business or other commercial establishment shall exceed ten-thousand (10,000) square feet of gross interior floor space unless approved by the Planning and Zoning Commission by Special Permit in accordance with §43 of the regulations.

29A-8.2 FAR (see definitions)

Except as set forth in §29A-15, no buildings or structures in any Single or Multiple Use Development, as defined herein, shall exceed a Floor Area Ratio (FAR) of 0.25 on the lot that lies within the BCD/H zone; except for two-family or multi-family dwellings. No buildings or structures in any Single or Multiple Use Development, which contains two-family or multi-family dwellings, shall exceed an FAR of 0.35; except that a new use or change of use above a first floor (street level) for two-family or multi-family dwellings in a Multiple Use Development shall not exceed an FAR of 1.0. In any Multiple Use Development containing two-family or multi-family dwellings, any incremental increase in floor area above the maximum allowable FAR for the non-residential uses shall be used for dwelling(s) units, only. No dwelling unit approved under these bonus provisions shall thereafter be changed to any non-residential use. Floor area used for parking and loading shall be excluded from the FAR. No building or structure shall exceed the FAR existing on a lot on the effective date of the BCD/H (6/1/04), or 0.25 FAR, whichever is greater.

Twenty-five percent (25%) of the FAR existing on a lot on the effective date of the BCD/H (6/1/04) may be relocated on the same lot within the allowable height, coverage and setback standards, provided there is adequate storage space as determined by the Planning and Zoning Commission.

However, the Planning & Zoning Commission may allow the extension of an existing mezzanine, balcony or partial upper floor with related increase in FAR inside a building existing on a lot on the effective date of the BCD/H (6/1/04), provided the expanded floor area is utilized for residential and/or restaurant uses only.

29A-9 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 older buildings in the BCD/H District 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, in whole or in part.

Roof-top mechanical equipment, other than solar energy panels, shall be concealed from all sides.

Proposed new buildings on the same lot as the historic building, exterior building additions and alterations and roof top mechanical units shall be submitted to the Historic District Commission and the Architectural Review Board for a combined recommendation from a joint meeting. Their guidelines for review will be the most recent Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation.

29A-9.1 Removal of historic buildings

If a historic building or a historic portion of a building, as described in the most recent Westport Historic Resources Inventory, is to be demolished, the property will be subject to the permitted uses, lot area, setbacks, height, coverage, floor area, architectural design, signs, parking and loading, and landscaping provisions in the Business Center District regulations and §29A-14 shall not apply. Also see §6-2.3, Restoration.

29A-9.2 Removal of non-historic additions to historic buildings

If an existing addition to an historic building is not described as historically significant in the most recent Westport Historic Resources Inventory, that addition may be removed and another structure built no greater than the existing footprint, setback and height as the removed addition. The new structure will complement the historic period of the retained portion and will not alter the historic portion as stated in the most recent Secretary of the Interior's Standards for Treatment of Historic Properties, Standards for Rehabilitation. FAR must be adhered to. Also see §29A-8.2.

29A-9.3 New additions and infill to historic buildings and additional buildings on the lot

Except as set forth in §29A-15, additions or infill to historic structures and new buildings on the lot must be no greater than the height and setbacks of the original historic structure. Additions must complement the historic period of the historic structure and will not alter the historic portion as stated in the most recent Secretary of the Interior's Standards for Treatment of Historic Properties, Standards for Rehabilitation. FAR must be adhered to. Also see §29A-8.2.

29A-9A Village District Overlay Site Plan Review

The following actions require Site Plan Review for properties within a Village District Boundary (see §36 Village District Overlay):

29A-9A.1 Exterior Alterations

Site Plan Review under §36 Village District Overlay is required for exterior reconstruction, alteration, or addition to any existing structure or new construction that alters the exterior appearance from a building visible from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

29A-9A.2 New Construction or Substantial Reconstruction and Rehabilitation of Existing Facades within Public View

Site Plan Review under §36 Village District Overlay is required for new construction or for substantial repairs or reconstruction to existing facades within view either from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

29A-9.3 Documentation of Existing Conditions

Existing façade elements and setback from the front lot line must be documented to the satisfaction of the Planning and Zoning Commission with photographs, a survey or other relevant methods.

29A-10 Signs

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

29A-11 Parking and Loading

Except as set forth in §29A-15, parking and Loading shall be provided by existing private lots, municipal lots, and on-street spaces. Existing on-site parking as of 11/1/99 must be retained whether an existing building is destroyed, constructed, reconstructed or expanded. Additional floor area constructed after February 9, 2015 must provide additional on-site parking as required pursuant to §34-5, Parking Requirements Table.

29A-12 Landscaping, Screening and Buffer Areas

Except as set forth in §29A-15, landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations.

29A-13 First Floor Defined

For purposes of this section only, the "first floor" of the building is the building entrance opening to Main Street, East Post Road, Bay Street and Taylor Place. There can be only one first floor per building.

29A-14 Exemption of Floodplain Regulations

The rehabilitation or restoration of structures in the BCD/H shall be exempt from the provisions of §31-9, Flood Plain Regulations, provided that:

1. A determination is made by the Planning and Zoning Commission that the proposed rehabilitation or restoration will not destroy the historic character and design of the building;
2. A determination that the rehabilitation or restoration will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

29A-14.1 Written Notice Required

Upon approval of any such rehabilitation or restoration, the Planning and Zoning Commission shall give written notice to the applicant specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25 for \$100 of insurance coverage and shall maintain the records of all such actions and any appeals there from for the benefit of FEMA.

29A-15 Relocation of Historic Structures

A Historic Structure may be relocated within the BCD/H in the event it is not possible to preserve the Historic Structure in its original location. The provision of §29A shall apply however the following exceptions to certain requirements are listed below to facilitate the preservation of Historic Structures when relocation is a viable option.

29A-15.1 Setbacks for Relocated Historic Structures

A relocated Historic Structure shall comply with the minimum setbacks established in §29-4 Setback in the Business Center District (BCD) except the front yard setback may be reduced to 6 feet for local roads (as listed on the Vehicular Circulation Plan of the Westport Plan of Conservation & Development) to encourage pedestrian oriented frontages and maintain existing street walls.

29A-15.2 Floor Area for Relocated Historic Structures

The floor area for a relocated Historic Structure shall be the same as the floor area of said structure on the effective date of the application for relocation of said structure. Any additions or extensions necessary to comply with building code requirements for egress or accessibility requirements consistent with the Americans with Disabilities Act may be allowed. There shall be no maximum FAR requirement for a relocated Historic Structure that meets the setback requirements on the relocated lot as described in §29A-15.1 above.

29A-15.3 Additions to Relocated Historic Structures

Additions to relocated Historic Structures may be allowed if in compliance with the FAR provisions of §29A-8.2 and the Architectural Design requirements of §29A-9.

29A-15.4 Parking and Loading for Relocated Historic Structures

Parking & loading shall be provided by existing private lots, municipal lots and on-street spaces.

29A-15.5 Landscaping, Screening and Buffer Area for Relocated Historic Structures

The Front Landscaping Areas pursuant to §35-2.2 may be reduced to six (6) feet for relocated

Historic Structures in order to coincide with the front yard setback.