



Town of Westport
Planning and Zoning Commission
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www.westportct.gov

September 6, 2022

SPECIAL NOTICE ABOUT PROCEDURES FOR THIS ELECTRONIC MEETING:

Pursuant to "Public Act 22-3", there will be no physical location for this meeting. This meeting will be held electronically and live streamed on www.westportct.gov. This meeting will also be shown on Optimum Government Access Channel 79 and Frontier Channel 6020. Public comments may be received PRIOR to the Public Hearing and should be sent to PandZ@westportct.gov by 12:00pm the day of the hearing. Meeting materials are available at www.westportct.gov, on the Planning and Zoning Department web page under "[P&Z Pending Applications & Recent Approvals](#)".

Instructions to Attend ZOOM Meeting:

Phone: + 1 646 876 9923 US (New York)

Meeting ID: 880 0610 6366

Passcode: 253239

ZOOM Link: <https://us02web.zoom.us/j/88006106366?pwd=ZIRsOXovSlFPK2JGQjVkTTZ6TEcrUT09>

AGENDA Revision #1

PLANNING & ZONING COMMISSION

MONDAY, September 12, 2022

START TIME: 7:00 PM

I WORK SESSION

- Approval of July 2022 Minutes: 7/11/22 and 7/25/22

II PUBLIC MEETING

1. **45 Jesup Road:** 8-24 Municipal Improvement Request by Elaine Daignault, Human Services Director, for a report from the Planning and Zoning Commission on a referral from the First Selectwoman regarding the renovations to the Gillespie Center.

III PUBLIC HEARING

1. **45 Jesup Road:** Special Permit/ Site Plan Appl. #PZ-22-00557, submitted by Elaine Daignault, Human Services Director, on behalf of the Town of Westport, for interior and exterior renovations to the Gillespie Center, owned by the Town of Westport and located in the BCD-VDO district, PID#C09154000.

2. **5 Minute Man Hill:** *(Continued from 7/25/22 hearing, no testimony received.)* Special Permit/Site Plan Appl. #PZ-22-00328 submitted by Brian Nesteriak, B&B Engineering, for property owned by Peter Baiocco for excavation and fill activities associated with new house construction, for property located in the Residence AA District, PID#D04021000.

3. **Text Amendment #819:** Appl. #PZ-22-00387 Submitted by Attorney Eric Bernheim to modify the Westport Zoning Regulations to create a new zoning district, Sec. 24C, General Business District/Saugatuck Marina (GBD/SM), and associated zoning standards for properties that comply with the location criteria requiring property shall be within three-hundred feet (300') northerly of the Saugatuck Train Station and South of Interstate 95. Three (3) new definitions will be added to Sec. 5-2, including: Conference and/or Seminar Facilities, Hotel, and Water Dependent Uses. New language is also proposed in Sec. 33-8, to add permanent wall sign standards applicable to properties in the GBD/SM consistent with what is permitted for properties zoned GBD. New language is also proposed in Sec. 35-2.2.1 providing relief to front landscape standards, to identify the same standards currently applicable to properties in the General Business District/Saugatuck (GBD/S) will be applicable to properties in the GBD/SM. A copy of the proposed 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.

4. **Map Amendment #820:** Appl. #PZ-22-00391 Submitted by Attorney Eric Bernheim to modify the Westport Zoning Map to rezone eleven (11) properties from General Business District (GBD) to proposed General Business District/Saugatuck Marina (GBD/SM), contingent upon approval of Text Amendment #819, including: 2 Railroad Pl., Parcel ID #C05003000, owned by Railroad Pl. of Westport LLC; 16 Railroad Pl., Parcel ID #B05100000 owned by Hanes Realty Corp.; 36 Railroad Pl., Parcel ID #B05099000 owned by Tiger Wynn LLC; 40 Railroad Pl., Parcel ID #B05098000 owned by Hanes Realty Corp.; 601 Riverside Ave., Parcel ID #C06002000 owned by Robert Sloat; 606 Riverside Ave., Parcel ID #B05101000 owned by Hanes Realty Corp.; 609 Riverside Ave., Parcel ID #C05001000 owned by TGN Properties, LLC.; 611 Riverside Ave., Parcel ID# C05002000 owned by Giuseppe A. Boccanfuso, III; 91 Franklin St., Parcel ID B05097000 owned by Hanes Realty Corp. ; 96 Franklin St., Parcel ID #B05096000 owned by Hanes Realty Corp; and 21 Charles St, Parcel ID #B05102000 owned by Robert Sloat. A copy of the proposed map 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.

5. **Text Amendment #817** (*Continued from 6/27/22 meeting with no testimony received, further continued to 7/11/22 with no testimony received and continued 9/12/22 when no testimony will be received, and to be further continued to 9/19/22.*): Appl. #PZ-22-00303 Submitted by Rick Redniss to add new Sec. 6-7, Renovation of Existing Nursing Home or Skilled Nursing Facility, to create standards for expansion and redevelopment of existing nursing homes and skilled nursing facilities into a medical facility specializing in the care of Alzheimer's, Dementia, and/or other memory impairments. A copy of the proposed 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.

6. **Text Amendment #818:** (*Opened with no testimony on 7/11/22 and continued 9/12/22 when no testimony will be received, and to be further continued to 9/19/22.*) Appl. #PZ-22-00323 Submitted by Rick Redniss to modify §6-6 to add redevelopment standards for Split Zoned Properties; modify §24-2.2, to add motels, hotels, motor inns, and tourist courts to list of Special Permit uses in the GBD; to add a hotel parking standard to §34-5. A copy of the proposed 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.

7. **1595 Post Road East:** (*Opened with no testimony on 7/11/22 and continued 9/12/22 when no testimony will be received, and to be further continued to 9/19/22.*) Special Permit/Site Plan Appl. #PZ-22-00325 submitted by Rick Redniss, for property owned by WI Associates to redevelop the 117-room Westport Inn Hotel into approx. 85 Hotel Rooms with an onsite restaurant, bar area, event/meeting space, fitness center, pool, and site improvements, at property located in the General Business District/Residence A Zone, PID#H09120000.

8. **25 Kings Highway South** (*Continued from 7/25/22 hearing and to be further continued to 9/19/22*): Special Permit/Site Plan Appl. #PZ-22-00373 submitted by Andy Soumelidis, LANDTECH, for property owned by The Birchwood Country Club Inc. for excavation and fill activities associated with constructing four pickle ball courts new drainage and new landscaping, for property located in the Residence AAA District, PID#B07044000. (*Must close by 10/22/22 with 65-day extension*)

Old Business

No old Business.

Revised September 1, 2022 (Full Context)

June 28, 2022

June 2, 2022

Proposed Text Amendment

Note: Proposed new language is shown in black and is underlined.

5-2 Specific Terms

Except as otherwise stated, or as the context may otherwise require, the following words, for the purpose of these regulations, shall be defined as follows:

Conference and/or Seminar Facilities: Facilities operated for purpose of providing conferencing, seminar, training, recreational and meeting facilities, with or without meals.

Hotel: A building, or portion thereof, containing rooms occupied by transients who are lodged with or without meals, and in which there are certain public rooms and halls for the use of all guests, and in which are provided such services as are incidental to the use thereof as a temporary residence.

Water Dependent Uses: those uses and facilities which require direct access to, or location in, marine or tidal waters and which therefore cannot be located inland, including but not limited to: marinas, recreational and commercial fishing and boating facilities, finfish and shellfish processing plants, waterfront dock and port facilities, shipyards and boat building facilities, water-based recreational uses, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or process water which cannot reasonably be located or operated at an inland site and uses which provide general public access to marine or tidal waters.

§24C GENERAL BUSINESS DISTRICT/SAUGATUCK MARINA (GBD/SM)

Contents:

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- **24C-2 Permitted Uses**
- **24C-3 Lot Area**
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- **24C-5 Height**
- **24C-6 Coverage**
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- **24C-11 Architectural Design**
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24C-1 Purpose

The purpose of the General Business District / Saugatuck Marina (GBD/SM) is to encourage a mix of residential development commercial, office, hotel and retail resulting in sites developed to enhance and conserve the area's aesthetic appeal, pedestrian access, and recreational water-related uses and views consistent with the Town Plan of Conservation and Development. The GBD/SM is a non-residential zoning district. Parcels shall be eligible for district designation if they are located within three hundred feet northerly of the Saugatuck Train Station and south of Interstate 95.

24C-2 Permitted Uses

All new developments in the GBD/SM shall require Special Permit and Site Plan review by the Planning and Zoning Commission. A Traffic Analysis in accordance with §44-2.5 shall be required in all instances, even if not required by §44-2.5. All rezoning applications shall also be in accordance with §42. In the GBD/SM, 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 as a Multiple Use Development, including residential use as in 24C-2.1, and a minimum of one (1) or more of the following non-residential uses:

24C-2.1 Special Permit Uses

24C-2.1.1

Two-family and multi-family dwellings as part of a Multiple Use Development, subject to conditions specified herein. Affordable units are required as part of residential development as specified in §24C-18. Any residential use within an Integrated Site shall satisfy this requirement.

24C-2.1.2

The following non-residential uses are permitted however the Planning and Zoning Commission can prohibit certain of these uses on the street level (See §24C-2.3 for Prohibited Uses in the GBD/SM):

- a. Stores and shops where goods are sold and services are rendered primarily at retail.
- b. Retail Food Establishments.
- c. Restaurants.
- d. Cafes and taverns.
- e. Business, professional, medical, insurance, real estate, and other offices.
- f. Banks.
- g. Indoor theaters and assembly halls.
- h. Water Dependent Uses and commercial marinas including accessory boat sales.

- i. Commercial wireless telecommunication service facilities, in conformance with §32-16.
- j. Hotels, Conference and/or Seminar Facilities.
- k. Concealed parking structures.
- l. Private clubs.

24C-2.2 Accessory Uses

Uses customarily accessory to be a permitted principle use shall be permitted as follows:

24C-2.2.1

All uses specified in §24-2.3 (General Business District Accessory Uses).

24C-2.2.2

Related facilities for any principal permitted uses which may include, but are not limited to:

- a. Self-service of foods already prepared or prepared and cooked quickly to be consumed on the premises, but shall not be a fast food restaurant;
- b. The retail sales of alcohol to be consumed on the premises, as allowed by a Restaurant Permit granted by the Department of Liquor Control;
- c. Seasonal outdoor seating;
- d. A patron bar;
- e. Commercial or private marinas;
- f. Courtyards;
- g. Outdoor Eating Areas; and
- h. Outdoor Special Events.

24C-2.3 Prohibited Uses

24C-2.3.1

Any use which is toxic, noxious, offensive, or objectionable by reason of the emission of smoke, dust, gas, odor, or other form of air pollution; or by reason of the deposit, discharge, or dispersal of liquid, solid or toxic waste, in any form, in a manner or amount so as to cause damage to the soil or any stream or to adversely affect the surrounding area; or by reasons of the creation of any periodic and/or abnormal noise, vibration, electro-magnetic or other disturbance perceptible beyond the boundaries of the lot on which it is situated; or by reason of illumination by artificial light or light reflected beyond the limits of the lot on, or from which, such light or light reflection, emanates; or which involves any dangerous fire, explosive, radioactive or other hazard, or which can cause injury, annoyance, or disturbance to any of the surrounding properties, or to their owners and occupants.

24C-2.3.2

Tourist cabins, trailers, or mobile home camps or parks or any use of trailers, mobile homes, campers, or boats for human habitation, except as provided in §16, herein.

24C-2.3.3

The use of any building, structure or land for the purpose of gambling houses; gambling with tables, slot machines, video machines or other devices whether mechanical or electronic; gambling at cards, dice or pool; casino gambling; lottery and numbers games, except as authorized by the State of Connecticut or any other State; Tele track betting; off-track betting; race track betting (dog, horse, auto or other); Jai alai frontons; or other similar games of chance,

betting activities and/or gambling uses; provided that nothing herein shall prohibit activities such as bingo, bazaars, raffles or charitable "casino nights" by not-for-profit and tax exempt organizations.

24C-2.3.4

Satellite dishes and/or dish type antennas shall be prohibited on or attached to the exterior of any building or structure except for disc type antennas less than two feet in diameter.

24C-2.3.5

The use of any multiple family dwelling unit for any Home Occupation, Level 1, or Home Occupation, Level 2 shall be prohibited.

24C-3 Lot Area (See Definitions)

There is no minimum lot area required.

24C-4 Setbacks (See §31-3 through §31-8, also.)

To encourage pedestrian oriented frontages, maintain the existing street walls, allow for the ability to create welcoming, lively, walkable, sustainable, and vibrant places where people want to live, work, visit, and explore, and to provide the design flexibility to allow for accessible outdoor areas for all uses within the zone, the Planning and Zoning Commission may allow a minimum setback from zero (0) to ten (10) feet for all buildings. All other structures shall be exempt from the setback requirements.

24C-5 Height

No building or other structure shall exceed three (3) stories and a height of either forty-five (45) feet to the top of a flat roof or fifty (50) feet to the mid-point of a pitched roof. However, the Planning and Zoning Commission may allow the height of sixty (60) feet to the mid-point of a pitched roof on sites located within the 100-year floodplain that require the building to be elevated, and/or where the site is sloped.

24C-6 Coverage (See Definitions)

24C-6.1 Building Coverage

The building coverage shall not exceed fifty percent (50%) of the area of the lot which lies within the General Business District/Saugatuck Marina. Underground parking beneath a courtyard shall be excluded from Building Coverage.

24C-6.2 Coverage Exemptions

The Planning and Zoning Commission may exempt up to an additional amount of coverage associated with open porches, decks, or balconies on residential Buildings and other similar open structural projections from building coverage; provided that such open structural projection will benefit public access, safety or convenience or will further the intent to preserve and/or enhance the appearance of the area, and at the discretion of the Commission at the time of Special Permit approval on sites that include at least 20% affordable housing or provide at least 20% affordable housing on site or off site and approved by the Commission. The coverage exemptions shall not exceed five (5.0) percent of the site or Integrated Site if applicable.

24C-7 Building Spacing

The minimum space between buildings shall be ten feet (10') and the average shall be not less than fifteen feet (15')..

24C-8 Floor Area

24C-8.1 Maximum

- a. No one building shall exceed 60,000 square feet of gross interior floor area . Concealed parking shall not count towards gross interior floor area.

24C-8.2 FAR (see definitions)

The total floor area of all proposed uses shall not exceed a Floor Area Ratio (FAR) of 2.0 provided the total of all non-residential floor area shall be a minimum of twenty-five (25%) percent of the total FAR and the total for residential floor area shall be a minimum of twenty-five (25%) percent of the total FAR. Floor area used for parking and loading spaces shall be excluded from the FAR. Floor area used for affordable housing units shall be exempt from the FAR calculation not to exceed an additional 0.2 FAR. After applying all incentives and/or bonuses available, the site, or the Integrated Site if applicable, FAR shall not exceed 3.0.

24C-8.3 Residential Unit Sizes

The average gross interior floor area per dwelling unit shall not exceed 2,750 square feet.

24C-9 Residential Density

24C-9.1 Density

The maximum allowable density for market rate units shall not exceed 35 bedrooms, per gross acre of the integrated site. An additional maximum density of 6 bedrooms per gross acre is permitted for affordable units that are exempt from this calculation. The maximum number of units per acre of the integrated site shall not exceed 20 inclusive of affordable units.

24C-10 Public Waterfront access (PWA)

See Definitions and §31-10.7.4 herein

24C-11 Architectural Design

- a. The architectural design including, among other elements, the exterior building material, color, roof-line, and building elevations shall serve 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.
- b. Newly proposed roof-top mechanical equipment, other than solar energy panels, shall be concealed from all sides.
- c. Where applicable and desirous, developments shall be designed to encourage the preservation of architectural features of historic buildings or other structures in the district. Historic buildings and structures are defined here as those registered in either the Connecticut or U.S. Registers of Historic structures or the Westport Historic Resources Inventory listed or deemed eligible for listing on the National Register of Historic Places, State Register of Historic Places, or Westport Historic Resources Inventory.

- d. Non-residential principal uses shall have at least one main entrance which is publicly accessible from the street.

24C-12 Signs

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

24C-13 Parking and Loading

Due to the proximity to the rail system, marina, and existing public and on-street parking, Parking and Loading shall be provided by proposed on site private lots that provide a minimum number of parking spaces as set forth below:

<u>Multi-family dwelling units, studio, efficiency, or 1 bedroom unit</u>	<u>1.00 spaces per unit.</u>
<u>unit</u>	
<u>2 or more bedroom unit</u>	<u>1.25 spaces per unit.</u>
<u>All non-residential uses within the GBD/SM</u>	<u>1 space for each 1,300 square feet of gross floor area.</u>

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The Planning and Zoning Commission may permit 50% joint parking, as defined in §34-8, for mixed retail, restaurant, hotel, residential, office use developments and all other permitted uses where peak hours and usage do not conflict. The Joint Parking approved on an integrated site may be applied to any building located on the integrated site.

For properties located in the GBD/SM zone and where required parking is to be satisfied through means other than traditional “self-park” spaces and/or through a reduction of spaces, or automation of parking, the Planning and Zoning Commission may, by Special Permit, approve a Parking Management Plan (PMP) detailing all such onsite parking strategies, technologies and/or demand management strategies.

The final Parking Management Plan shall be included with the Special Permit application for review by the Planning and Zoning Commission and shall be filed on the Westport Land Records prior to the issuance of a Zoning Permit.

24C-14 Landscaping, Screening and Buffer Areas

Where possible based upon the approved setbacks, landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations, unless deemed unnecessary by the Planning and Zoning Commission. Sidewalks shall be provided in accordance with §35-2.2.4, unless deemed unnecessary by the Planning and Zoning Commission.

24C-15 Utilities

24C-15.1

All utilities and conduits within the site for the Multiple Use Development, shall be underground.

24C-15.2

No Zoning Certificate of Compliance shall be issued for any dwelling or dwelling unit unless and until such dwelling or unit has been connected to a public water supply, suitable power supply and a public sanitary sewer line.

24C-15.3

All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town Standards, subject to the reasonable approval of the Town Engineer.

24C-16 Change of Use

No dwelling unit approved under these provisions shall thereafter be changed to any non-residential use, unless it is converted to an office or hotel use.

24C-17 Integrated Site Development

Notwithstanding anything to the contrary herein, one or more sites may be proposed as an integrated site development provided said sites are wholly within the GBD/SM zone and must be made up of contiguous or separated only by a public right-of-way with existing frontage on said public right of way or merged with another lot within the Integrated Site. The applicant shall submit a phasing plan as part of the integrated site application demonstrating coordinated construction of all sites for review and approval by the Planning and Zoning Commission.

Integrated GBD/SM site developments are allowed the following additional special standards:

- a. The maximum combined allowable floor area for all sites may be redistributed over all sites.
- b. The minimum overall required off-street parking for all sites may be satisfied by the combined parking on all sites, and a PMP.
- c. The maximum combined allowable coverage for all sites may be redistributed over all sites.
- d. Cross easements shall be established between integrated properties where necessary.

24C-18 Affordability Requirement and Plan

In conjunction with residential units proposed as part of a GBD/SM development, 20% of all proposed units shall be required to be affordable in accordance with CT General Statutes §8-30g and §19-19 of the Westport Zoning Regulations. Fractional units at 0.5 and above shall be rounded up. In any case at least one (1) unit must be affordable.

24C-18.1 Alternative Method of Compliance

Notwithstanding the above, the Commission in its sole discretion may approve the creation of off-site deed restricted affordable units, in accordance with the affordability requirements of C.G.S. §8-30g as an alternative method of satisfying the affordability requirement of this section. Any such proposal shall demonstrate to the satisfaction of the Commission that the alternative method is desirable and will further affordable housing opportunities in the Town through the production of a greater number and higher percentage of affordable housing units than if constructed on-site. The percentage of affordable units shall be calculated based on all on and off-site affordable and market rate units. No affordable rate unit may be counted to meet the affordability requirements of more than one development. Any C.G.S. §8-30g application in the General Business District/Saugatuck Marina must provide all affordable units on-site, and may not elect to use this alternative method of compliance.

- a. Affordable units provided off-site shall be deducted from the total required on-site units.
- b. All units proposed off-site shall be located within Saugatuck Center as defined as the area lying between the east side of Saugatuck Avenue, along the northern border of the RORD2 boundary line in effect as of 6/1/2022 and the Saugatuck River and extending south from the Saugatuck / Riverside / Treadwell intersection to Ferry Lane.
- c. Off-Site Affordable Units, shall be subject to the following standards.
 - i. The location and design of such units shall be subject to approval by the Commission.
 - ii. Such units shall be comparable with existing affordable units located within Westport.

24C-19 INCENTIVE ZONING PROGRAM

24C-19.1 Environmental Remediation Bonus

It is in the Town of Westport's interest to have all properties classified as an Establishment pursuant to the Connecticut Property Transfer Act, Conn. Gen. Stat. §§ 22a-134 et seq. within the GBD/SM zone remediated due to the close proximity to the Saugatuck River. The expense associated with this has been an impediment to redevelopment of the properties within the zone. In order to encourage that such contaminated properties within the GBD/SM zone are remediated prior to development, any integrated site development including a remediation plan prepared by a licensed environmental professional prior to the issuance of a zoning permit, shall be entitled to the following incentives:

- a. FAR may be increased by up to 0.75 on the integrated site.
- b. Height may be increased to 5 stories and a height of either seventy (70) feet.
- c. Coverage may be increased by up to ten (10) percent.

24C-19.2 Underground Parking Bonus

In order to encourage underground parking, a FAR bonus of 0.25 applied to the integrated site, and an exemption for floor area within a cellar or basement will be permitted, if at least seventy-five (75%) percent of the on-site required parking is provided by underground space. Further, to encourage parking technology that can support trip generation efficiency and electrification required for electrical vehicles, other forms of low carbon mobility and, delivery consolidation to reduce trip generation into Westport as a whole, an additional FAR bonus of 0.25 applied to an integrated site shall be available.

24C-20 PRE-EXISTING NONCONFORMITIES

24C-20.1 Expansion of pre-existing nonconformities.

Notwithstanding anything to the contrary in Section 6 of these regulations, in order to allow for upgrades, alterations, expansion, and Changes of Use to pre-existing nonconforming structures and uses within the GBD/SM Zone, the Planning & Zoning Commission authorizes the Director of Planning & Zoning to issue a site plan waiver for any Change of Use, expansion or alteration to pre-existing nonconforming structures that existed as of the date of the adoption of this Regulation provided that they do not increase the subject nonconformity by more than ten (10.0%) percent in the aggregate as it relates to Coverage, FAR, and parking.

33-8 Permanent Signs Permitted in Other Non-Residence Districts: (RBD, GBD, GBD/S, GBD/SM, GBD/R, HSD, BPD, DDD, BPD, BCD & BCD/H)

The following signs are permitted in all Non-Residence Districts other than the RPOD, RORD, CPD, GBD/S, GBD/SM, GBD/R, and HDD Districts, subject to §33-2 and the following conditions:

33-8.1 Sign Area

The total surface area of all signs except for free standing signs on a premises shall not exceed either one (1) square foot for each lineal foot of the lot fronting on a public street or one (1) square foot for each lineal foot along the longest building face of each building, whichever is less.

33-8.1.1

In mixed use or multi-tenant buildings, the total allowable sign area for said building shall be pro-rated on an equitable basis; such as the amount of gross floor area of each rental unit; the number of rental units, or the facade area.

33-8.1.2

No one business use or tenant shall have more than three (3) signs on the premises; except that one additional wall identification sign shall be permitted at a secondary business entrance facing a parking lot. Said secondary identification sign shall not exceed two (2) sq. ft. in area and shall be exempt from the sign area & §33-2, herein.

33-8.2 Wall Signs

Any wall sign shall comply with the following requirements:

33-8.2.1

Each sign must be attached to a wall or facade of a building.

33-8.2.2

No sign shall extend above the lower sill of a second story window nor exceed a height of twenty (20) feet as measured from the ground to the top of the sign, whichever is less.

33-8.2.3

A wall sign may extend forward as much as eighteen (18) inches from the wall to which it is attached. No part of such sign shall project in front of the street line except that if the face of the wall is coincident with the street line such sign may extend no more than three (3) inches beyond such street line.

33-8.2.4

Each unit occupancy above the first floor may display a sign on the inside of one (1) window serving said unit of occupancy, provided that no such sign shall exceed six (6) square feet in area.

33-8.2.5

Wall signs for individual tenants or occupants of a unified shopping center shall be designed to reflect a coordinated aesthetic scheme for the entire shopping center. Such signs shall be uniform in letter size, letter style, and type of illumination, wall placement, colors and types of signs within the center.

33-8.2.6

Wall signs in excess of fifty (50) square feet of area shall require ARB review.

33-8.3 Projecting or Hanging Signs

All projecting or hanging signs shall comply with the following requirements:

33-8.3.1

Signs may project from the face of building or hang from a roof canopy, provided that such signs shall be under a roof & over a walkway, but not a public sidewalk.

33-8.3.2

One (1) sign, not to exceed two (2) square feet in area, is permitted for each business or use in the building as part of the total allowable sign area.

33-8.3.3

No sign or any part thereof shall be less than eight (8) feet above the walkway.

33-8.4 Free-Standing Signs

All free-standing signs shall be subject to ARB review and shall comply with the following requirements:

33-8.4.1

Only one (1) free-standing sign shall be permitted on a lot provided that it has at least one hundred (100) feet of street frontage on one street.

33-8.4.2

The free-standing sign shall identify the name of the business (is) occupying the lot and shall include the street address number at least 4 inches in size.

33-8.4.3

The sign shall be supported by a free-standing, self-supporting structure that is erected on the ground and is not attached to a building. The width of the support structure cannot be more than 25% of the horizontal dimension of the free-standing sign, and may be divided into one or more support legs, or the support structure will be included in calculating the total surface area of the sign

33-8.4.4

No free-standing sign shall exceed a height of twenty (20) feet or extend above the lowest point of the main roof line of any building, whichever is less, as measured from the ground to the top of the sign.

33-8.4.5

All free-standing signs except for a unified shopping center shall not exceed a total surface area of thirty-two (32) square feet. A unified shopping center sign shall not exceed a total surface area of one hundred (100) square feet. The sign area for free standing signs is not included in the sign area as defined in §33-7.1.

33-8.4.6

No sign shall be located within fifty (50) feet of the boundary of a Residence District.

33-8.4.7

All signs shall be at least fifteen (15) feet from any property line

35-2.2 Landscaping Area

35-2.2.1 Location

The required front setback area, as measured from the property line, except for Bus Shelters, sidewalks, light poles and perpendicular driveways, shall include a minimum thirty (30) foot deep front landscape area along all streets, as shown on the attached "Landscape Design Standards." Such landscape area shall be retained and is to be used for no other purposes. Raised beds and planters are not acceptable substitutes for trees.(795, 07/01/2021)

- a. In cases where the edge of pavement or curb within a street right-of-way does not coincide with the front lot line, the applicant shall landscape the area between the front lot line and the edge of the street pavement or sidewalk in such a manner as will not obstruct vehicle sight lines.
- b. In a BCD, BCD/H, GBD/S, and GBD/SM Zone the minimum required front landscape area may be reduced to zero (0) feet in depth along streets other than the Post Road.
- c. For multi-family developments under §32-12 and §39A, the minimum required front landscape area may be reduced to twenty (20) feet in depth. See §32-12.11 and §39A-14.



LOCATION MAP

(NTS)

SITE/CIVIL ENGINEER:

LANDTECH

Civil Engineering • Site Planning
Environmental Science & Engineering
Structural Engineering Land Surveying
Permit Coordinating & Management
Construction Management & Planning

518 Riverside Avenue Westport, Connecticut 06880 203-464-2110 hello@landtechconsult.com

ARCHITECT:

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57 Soi Sukhumvit 61, Sukhumvit Road Bangkok 10110, Thailand (66 2) 3616306

REVISION DATE	ISSUE
8/10/22	REVISED PER P&Z STAFF COMMENTS 8/4/22
7/7/22	REVISED PER P&Z STAFF COMMENTS

THE HAMLET
at saugatuck

DEVELOPER/OWNER:

ROAN
VENTURES

609 Riverside Avenue Westport, Connecticut 06880

PROJECT LOCATION:

IN THE VICINITY OF:
RIVERSIDE AVENUE, CHARLES STREET
RAILROAD PLACE, & FRANKLIN STREET



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880

Tel: 203-341-1030 Fax: 203-454-6145 | pandz@westportct.gov

www.westportct.gov

Hearing: July 25, 2022

Decision: July 25, 2022

July 26, 2022

Richard Redniss
Redniss and Mead
22 First Street
Stamford, CT 06905

RE: 191 Post Road West, Special Permit/Site Plan Appl. #PZ-22-00184

Dear Mr. Redniss:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 25, 2022, it was moved by Mr. Olefson and seconded by Mr. Cammeyer to adopt the following resolution:

RESOLUTION #PZ-22-00184

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 25, 2022, and made the following findings which are listed in the P&Z staff reports dated 7/20/22 and 7/22/22.

FINDINGS

Property Description/Background

1. 191 Post Road West is a 1.48-acre (64,418 SF) lot with frontage on Post Road West (US Route 1), connected to the public sewer, and improved with a 30,347 SF commercial building built in 1980 and currently approved for Office use.
2. The lot is wholly within the General Business District (GBD). 191 Post Road West sits predominantly behind 199 Post Road West (Schulhof Animal Hospital) and has a 25-foot access easement to use the 199 Post Road West driveway. The shared driveway is located opposite the intersection of Post Road West and Kings Highway North.
3. The office building and property are legally non-conforming to current General Business

District standards but were conforming to the applicable Business District standards in effect at the time the building was approved in 1979, pursuant to Res. #79-297.

- The existing Building Height is 36.9 feet whereas only 25 feet is currently permitted, (a maximum Building Height of 40 feet was allowed at the time).
 - The existing 0.48 Floor Area Ratio (FAR) exceeds the currently allowable 0.25, (there was NO floor area requirement for the Business District in 1979);
 - The existing building is non-conforming to setbacks. The building is set back approximately 15 feet from the rear property line that is also the residential zoning district boundary line, whereas a 30' setback is currently required to the Res A;
 - The existing parking field is partially within the 30-foot residential zoning district boundary line that would be required today but was not in effect in 1979.
4. The Boundary and Topographic Survey, submitted by the applicant and prepared by Langan dated 3/2/22 available demonstrates 121 standard size parking spaces and 2 loading spaces remain on site (123 spaces). The Zoning Analysis prepared by Redniss and Mead dated 3/16/22 identifies the 123 parking spaces are comprised of 89 surface spaces, with the remaining 34 spaces located in the parking garage.

Proposal

5. As part of a two-step process, the applicant is seeking Special Permit/Site Plan approval for a Change of Use from Office to Medical for ALL floor area (30,347 SF) in the existing building and approval of a Parking Management Plan (PMP) and implementation of demand management strategies that include 21 valet parking spaces.
6. The first step involved the applicant drafting and the Planning and Zoning Commission approving Text Amendment #804 in January 2022, that:
- A. Modified §5-2 Definitions by adding a definition for "Parking Management Plan;"
 - B. Modified §24-6.1 Coverage Exemptions in the General Business District (GBD) to provide Building Coverage relief for canopies up to 500 SF in size in the GBD;
 - C. Added a new section §28-6.1 Coverage Exemptions in the Business Preservation District (BPD) to provide Building Coverage and setback relief for canopies up to 500 SF in size in the BPD;
 - D. Renumbered §34-4 Reduction of Parking Requirements by Special Permit, and adding new §34-4.2 to authorize use of a Parking Management Plan by Special Permit for existing office building sites that meet all of the following criteria:
 - i. Are at least 25,000 SF in size;
 - ii. Have a minimum of 100 parking spaces on site; and

- iii. Are wholly located in the GBD along the Post Road.
7. A three (3) space Reduction of Parking is also requested. Additionally, the applicant proposes to add one (1) new surface parking space, plus two (2) new grass-paver spaces.
 8. Proposed building activities include a new entryway canopy, façade improvements and interior renovations. Site work includes parking lot restriping to enhance ADA building access, and potentially adding bike racks inside the garage.
 9. The applicant volunteered, and the Town Engineer accepted on behalf of the Town of Westport, a \$50,000 contribution towards a new Bus Shelter at 199 Post Road West, in lieu of determining how much the applicant owed for the value added to both 191 and 199 Post Road West making improvements to the sidewalk along the street frontage on Post Road West and enhancing the driveway apron.

Department Comments

10. The Town Attorney in comments dated 6/22/22 confirmed:

“Any financial support from the applicant to the Town of Westport to establish a future Bus Shelter is legal so long as the applicant is not relying upon the Bus Shelter to provide any parking relief as part of the Parking Management Plan (PMP).”
11. Planning and Zoning staff in a memo dated 7/20/22 analyzed parking, and stated

*“The current parking demand is 121 spaces to support Office use. The proposed demand is 152 spaces to support Medical Use. The application if approved incorporating the Parking Operations with the Reduction of Parking, will support Medical use of 100% of the building. The 152 parking spaces demand will be met by the 3-space Reduction of Parking, combined with 149 physical spaces on site (21 valet spaces, 1 new space, and 2 new grass paver spaces. **Sufficient parking will be provided for the Change of Use.”***
12. Planning and Zoning staff additionally described traffic analyses completed reporting:

“The applicant submitted expert testimony in the form of reports prepared by Carlito Holt, P.E. and PTOE, partner at DTS Provident Design Engineering including correspondence dated 3/11/22, 4/27/22 5/13/22 and 7/14/22 The conclusion reached by Mr. Holt identify: The proposed project will not result in any significant incremental traffic impacts to the studied intersection, surrounding roadway network, or the Kings Highway School.”

The applicant’s traffic engineer did not make any recommendations for mitigation.

13. Police Dept. staff, following their review of the applicant's traffic analysis, concluded in their comments dated 4/12/22:

"The Police Department has reviewed the attached documentation for 191 Post Road West, Application #PZ-22-00184. I do not see a significant increase in traffic compared to prior or current usage. We have no other comments as this time."

14. The Fire Marshal in comments dated 6/22/22 concluded:

"This Office has no objections to the special permit or site plans at 191 Post Rd West."

15. The Architectural Review Board recommend approval of the project at their 3/22/22 meeting.

Public Hearing

16. The public hearing for this application was opened with testimony received at the July 25, 2022, public hearing.
17. The public hearing was held remotely using electronic means due to the COVID-19. The public hearings were 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, consistent with executive orders issued by the Governor.

NOW THEREFORE, BE IT RESOLVED that **191 Post Road West: Special Permit/Site Plan** Appl. #PZ-22-00184 submitted by Rick Redniss, for property owned by 191 POST PROPERTY OWNER LLC for approval of a Parking Management Plan to support a Change of Use to medical office and for site improvements including a new entrance canopy, building façade modifications, and parking lot modifications, for property located in the General Business District, PID#C08041000 is **GRANTED** subject to the following modifications:

Modifications

1. Conformance to Proposed Site Plan, prepared by Redniss and Mead, dated 3/15/22.
2. Existing and Proposed Building Plans, prepared by CPG Architects, dated 3/2/22
3. Conformance to the Parking Management Plan – Medical Office, prepared by Redniss and Mead, dated 3/18/22 to be further revised to conform to the following zoning standard:

"The PMP shall include a schedule for reporting to the Commission and staff the onsite parking utilization, beginning any time before the site's total calculated parking demand per §34-4 can exceed its self-parking capacity and continuing at least annually thereafter. Reports shall be prepared by a licensed engineer, certified planning

professional, or similar professional, and the Commission shall have the ability for its own consultant to review the report. PMPs shall also identify the mechanism(s) for resolving parking issues that may arise, which may be unique to each site."

4. Conformance to plans recommended for approval by the Architectural Review Board.
5. Conformance to 191 Post Road West Zoning Analysis Chart, prepared by Redniss and Mead, dated 3/16/22.
6. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced without consent of the Town's Tree Warden.
7. Prior to the commencement of any construction, site work, tree removal, or demolition, the soil and erosion controls shall be installed and inspected by Staff.
8. Prior to the issuance of a Zoning Permit, the applicant shall submit the following:
 - A. Proof of filing the resolution on the Land Records.
 - B. Proof of filing the Parking Management Plan (PMP) on the land records once revised pursuant to Condition #3 above.
 - C. Final Signoff from DPW Engineering confirming no drainage structures needed.
 - D. A bond pursuant to §43-12, if applicable, to ensure (A) the timely and adequate completion of any site improvements that will be conveyed to or controlled by the municipality and (B) the implementation of any erosion and sediment controls required during construction activities.
9. The replacement and/or repair of a stone wall greater than three (3) feet in height shall require the issuance of a building permit.
10. All new utilities shall be placed underground.
11. All disturbed and regraded areas shall be planted with a suitable ground cover in accordance with §32-8.4.
12. Prior to the issuance of the Zoning Certificate of Compliance, or within 30 days from a request from the Town of Westport, the applicant shall:
 - A. Make a \$50,000 contribution to the Town of Westport to help facilitate the construction of a Bus Shelter and reconstruction of the sidewalk and driveway apron at 199 Post Road West, as offered by the applicant; and
 - B. Submit a final as-built survey.
13. 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.

14. All work approved pursuant to this Special Permit/Site Plan shall be completed within five (5) years of date of approval, by July 25, 2027.
15. 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 ten (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 to the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

Reasons:

The application as modified 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	-3-	{Olefson, Cammeyer, Falk}
NAYS	-2-	{ Zucaro, Bolton}
ABSTENTIONS	-0-	

Very truly yours,

Michael Cammeyer

Acting Chairman, Planning & Zoning Commission

- cc: Ted Gill, DPW Engineering Department
 Anna Rycenga, Conservation Commission Chair
 Mark Cooper, Aspetuck Health District Director
 Carlito Holt, P.E. and PTOE, partner at DTS Provident Design Engineering
 Paul Friia, Tax Assessor
 Anna Rycenga, Conservation Commission Chair



**Town of Westport
Planning and Zoning
Commission** Town Hall, 110
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06880
Tel: 203-341-1030 Fax: 203-454-6145
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Hearing: July 25, 2022

Decision: July 25, 2022

July 26, 2022

Thomas Nelson
McChord Engineering Assoc., Inc.
1 Grumman Hill Road
Wilton, CT 06897

RE: 15 Wakeman Place, Special Permit/Site Plan, Appl. #PZ-22-00455

Dear Mr. Nelson:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 25, 2022, it was moved by Mr. Olefson and seconded by Mr. Bolton to adopt the following resolution:

RESOLUTION #PZ-22-00455

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 25, 2022 and made the following findings:

Property Description/Background

1. 15 Wakeman Place is a 0.55-acre parcel which is conforming for the Res A zoning district in which it is located, where a minimum lot area of half (0.50) acre (21,780 SF) is required. The property is a corner lot having frontage on the curve of Wakeman Place and is proposed to be serviced by Town Sewer.
2. The property is within Coastal Area Management (CAM) Boundary but more than 200 feet away from the Mean High-Water Line (MHWL) and outside the WPLO and 100-year flood zone therefore exempt from needing a CAM Site Plan Review. There does not appear to be any wetlands or steep slopes located on site. According to the Foundation Plan prepared by Leonard Surveyors, LLC, last revised October 2, 2021, the property slopes down from approximately EL 38' in the southeast corner, down to EL 30' in the front yard depression and increases to EL 34' in the east corner.

Proposal

3. The applicant is requesting Special Permit and Site Plan approval to authorize non-exempt excavation and fill activities at 15 Wakeman Place pursuant to §32-8, Excavation and Filling of Land, listed in the Westport Zoning Regulations. The proposed work is shown on the applicant's Site Development Plan and Excavation and Fill Permit Limits Plan, both last revised on 6/27/22. The project includes regrading more than 25 feet from the proposed additions to soften the existing depression, formed by the removal of a retaining wall, for a smooth transition from the proposed basement walkout, which is not exempt per §32-8.1.2.
4. The ongoing construction consists of a two-story addition, new garage, and screened porch, as well as driveway modifications, subsurface drainage system, and temporary (construction-phase) sediment and erosion control (S&E) plans, including silt fencing around the disturbed area and a temporary soil stockpile area surrounded by silt fencing, all of which is permitted under Zoning Permit #ZN-21-00266 issued on June 10, 2021.
5. Excavation and Fill activities are permitted. Certain activities are exempt from Excavation and Fill Permit review when associated with other proposed activities as listed in §32-8.1. The regrading activities proposed herein are not covered by the exemptions listed in §32-8.1. All Excavation and Fill activities, even those exempt from review, must conform to the standards listed in §32-8.3.
6. The regrading may not exceed a five (5) horizontal to one (1) vertical (20%) slope unless approved by the Town Engineer per §32-8.3.2. In addition, the regulations state that there shall not be any grading or slope changes within five (5) feet of any lot line. The proposed work does not result in any manmade slopes more than 20%, nor does it include grading within five (5) feet of the property line.
7. Excessive excavation or fill is not permitted. Excessive excavation or fill is defined as an amount greater than that required to raise a parcel ten (10) feet above or below the existing natural grades over an area equal to 50% of the allowable Total Coverage in the respective zones per §32-8.2.1. The proposed activity will not represent excessive fill. A total of 1,111 cubic yards is allowed; a total of 957 cubic yards is proposed (100 CY fill; 857 CY cut).
8. §32-8.2.3 states that no portion of any lot shall be filled or excavated to a height or depth greater than ten (10) feet above or below the existing grade. The proposal complies with this regulation as the maximum height change is approximately three (3) feet.
9. A Restoration Plan is required per §32-8.4 showing the final grading and landscaping and indicating how the site will be restored after the excavation and fill activities have been completed. The applicant's June 27, 2022, Excavation and Fill Permit Limits Plan show final grading and indicates that the disturbed soil surfaces shall be permanently stabilized at the end of construction.

Department Comments

10. The Engineering Department submitted comments dated July 19, 2022. The storm water drainage system depicted on the plans complies with Town of Westport Standards. The proposed grading as depicted on the plans substantially complies with the Town of Westport Zoning Regulation, Sec. 32-8: Excavation and Filling of Land. The project substantially complies with S&E Control requirements. The application is substantially complete and requires no further submissions.
11. The Conservation Department submitted comments dated July 12, 2022. The property contains no mapped wetlands, watercourses, or floodplain areas. Therefore, the Conservation Department/Commission holds no jurisdiction.

Public Hearing

12. The public hearing for this application was opened with testimony received at the July 25, 2022 public hearing.
13. The public hearing was held remotely using electronic means due to the COVID-19. The public hearings were 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, consistent with executive orders issued by the Governor.

Conclusions

14. The Planning and Zoning Commission finds this application complies with the standards found in §32-8, Excavation and Filling of Land, and the general standards applicable to Special Permits and Site Plans, set forth in §44-6 and §44-5.

NOW THEREFORE, BE IT RESOLVED that 15 Wakeman Place: Special Permit/Site Plan Appl. #PZ-22-00455 submitted by Thomas Nelson, McChord Engineering Associates, Inc., for property owned by Jonathan & Margot Simmons, for excavation and fill activities to regrade outside the 25-foot limitations, for property located in the Residence A District, PID#C06074000 be **GRANTED** subject to the following modifications on file in the Planning and Zoning Office:

Modifications

1. Conformance to Engineering Department comments, dated July 19, 2022.
2. Conformance to Conservation Department comments, dated July 12, 2022.
3. Conformance to Excavation and Fill Narrative prepared by McChord Engineering Associates, Inc., dated June 22, 2022.
4. Conformance to Site Development Plan (Sheet SE1) and Excavation and Fill Permit Limits Plan (Sheet SE2) prepared by McChord Engineering Associates, Inc., dated November 8, 2021, last revised June 27, 2022.

5. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced without consent of the Town's Tree Warden.
6. Prior to the commencement of any construction, site work, tree removal, or demolition, the soil and erosion controls shall be installed and inspected by Staff.
7. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
 - A. Obtain final sign-off from the Engineering Department.
 - B. Submit proof of filing the resolution on the Land Records.
8. The replacement and/or repair of a stone wall greater than three (3) feet in height shall require the issuance of a building permit.
9. All new utilities shall be placed underground.
10. All disturbed and regraded areas shall be planted with a suitable ground cover in accordance with §32-8.4.
11. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit and obtain a certified "As-Built" survey stamped by a registered Engineer or Surveyor.
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 five (5) years of date of approval, by July 25, 2027.
14. This is a conditional approval. Each 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 ten (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 to 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	-5-	{Cammeyer, Olefson, Zucaro, Bolton, Falk}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

Michael Cammeyer
Acting Chairman, Planning & Zoning Commission

cc: Ted Gill, DPW Engineering Department
Anna Rycenga, Chairwoman, Conservation Commission



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

Hearing: July 25, 2022

Decision: July 25, 2022

July 26, 2022

Bryan Nesteriak
B&B Engineering, LLC
15 Research Drive, Suite 3
Woodbridge, CT 06525

RE: 2 Rodgers Way, Special Permit/Site Plan, Appl. #PZ-22-00384

Dear Mr. Nesteriak:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 25, 2022, it was moved by Mr. Olefson and seconded by M. Cammeyer to adopt the following resolution:

RESOLUTION #PZ-22-00384

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 25, 2022, and made the following findings:

FINDINGS

Property Description/Background

15. 2 Rodgers Way is a 2.228-acre (97,088.1 SF) parcel which is conforming for the Res AAA zoning district in which it is located, where a minimum lot area of two (2) acres (87,120 F) is required. The property is a corner lot and has frontage on both Bayberry Lane and Rodgers Way and is serviced by a private subsurface sewage disposal (septic) system.
16. The property is not within the Coastal Area Management boundary or the 100-year flood zone. The property contains 2,785 SF of wetlands and 1,660.6 SF of steep slopes of 25% or greater. According to the Improvement Location Survey prepared by Accurate Land Surveying, LLC, dated 11/8/2021, the property slopes down from approximately EL 204' in the northeast corner having the highest EL 210' in the middle of the property sloping down to EL 200' in the southwest corner.

Proposal

17. The applicant is requesting Special Permit and Site Plan approval to authorize non-exempt excavation and fill activities at 2 Rodgers Way pursuant to §32-8, Excavation and Filling of Land, listed in the Westport Zoning Regulations. The proposed work is shown on the applicant's Site Plan, last revised on June 3, 2022. The project includes backyard regrading to construct an accessory dwelling unit with an attached porch, walkway, and outdoor shower, which is not exempt per §32-8.1.2. The proposal includes a new underground detention system, septic tank, septic pump chamber, primary leaching systems, subsurface drainage system, and temporary (construction-phase) sediment and erosion control (S&E) plans, including silt fencing around the disturbed area and a temporary soil stockpile area surrounded by silt fencing.
18. Excavation and Fill activities are permitted. Certain activities are exempt from Excavation and Fill Permit review when associated with other proposed activities as listed in §32-8.1. The regrading activities proposed herein are not covered by the exemptions listed in §32-8.1. All Excavation and Fill activities, even those exempt from review, must conform to the standards listed in §32-8.3.
19. The regrading may not exceed a five (5) horizontal to one (1) vertical (20%) slope unless approved by the Town Engineer per §32-8.3.2. In addition, the regulations state that there shall not be any grading or slope changes within five (5) feet of any lot line. The proposed work does not result in any manmade slopes more than 20%, nor does it include grading within five (5) feet of the property line.
20. Excessive excavation or fill is not permitted. Excessive excavation or fill is defined as an amount greater than that required to raise a parcel ten (10) feet above or below the existing natural grades over an area equal to 50% of the allowable Total Coverage in the respective zones per §32-8.2.1. The proposed activity will not represent excessive fill. A total of 4,494.8 cubic yards is allowed; a total of 345 cubic yards is proposed (182 CY fill; 163 CY cut).
21. §32-8.2.3 states that no portion of any lot shall be filled or excavated to a height or depth greater than ten (10) feet above or below the existing grade. The proposal complies with this regulation as the maximum height change is approximately (2.7) feet.
22. A Restoration Plan is required per §32-8.4 showing the final grading and landscaping and indicating how the site will be restored after the excavation and fill activities have been completed. The applicant's 6/3/22 site plan shows final grading and indicates that the disturbed soil surfaces shall be permanently stabilized at the end of construction.

Department Comments

23. **The Engineering Department submitted comments dated 7/19/22. Based on a review of the applicant's site plan dated 6/3/22, the Engineering Department states that the proposed grading depicted on the plan substantially complies with the Town of Westport Zoning Regulations, Sec. 32-8: Excavation and Filling of Land and is relatively minor and represents the bare**

minimum that would be required to construct the proposed ADU. Every other aspect of the proposed activity is subject to an administrative approval. The Engineering Department also recommends that the Commission consider including an exemption for grading associated with accessory structures from requiring a separate Excavation and Fill Permit.

24. The Conservation Department submitted comments dated 7/5/22 which indicate, "The property contains wetlands in the far northeast section of the property." On 6/1/22 the Conservation Department staff reviewed and approved the proposal for an accessory Dwelling Unit, patio, septic, and drainage system because there was no regulated activity proposed within the regulated area.
25. The Aspetuck Health Department submitted an approved application for a new house dated 5/19/22.
26. The Building Department submitted comments dated 7/11/22 stating that retaining walls over 3 feet will require a building permit.

Public Hearing

27. The public hearing for this application was opened with testimony received at the July 25, 2022, public hearing.
28. During the Work Session the Commission recommended staff follow up with the applicant to determine whether their playset may be legalized per CGS Sec. 8-13a or should be relocated or removed.
29. The public hearing was held remotely using electronic means due to the COVID-19. The public hearings were 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, consistent with executive orders issued by the Governor.

Conclusions

30. The Planning and Zoning Commission finds this application complies with the standards found in §32-8, Excavation and Filling of Land, and the general standards applicable to Special Permits and Site Plans, set forth in §44-6 and §44-5.

NOW THEREFORE, BE IT RESOLVED that 2 Rodgers Way: Special Permit/Site Plan Appl. #PZ-22-00384 submitted by Bryan Nesteriak, B&B Engineering, LLC, for property owned by Rostislav & Amy Leykind, for excavation and fill activities to regrade for the construction of an Accessory Dwelling Unit, for property located in the Residence AAA District, PID#F14088000 be **GRANTED** subject to the following modifications:

Modifications

15. Conformance to Engineering Department comments, dated July 19, 2022.

16. Conformance to Conservation Department comments, dated July 5, 2022.
17. Conformance to Aspetuck Health District approval, dated May 19, 2022.
18. Conformance to Building Department comments, dated July 11, 2022.
19. Conformance to Excavation and Fill Narrative prepared by BYB Engineering, dated May 19, 2022.
20. Conformance to Existing-Conditions Improvement Location Survey prepared by Accurate Land Surveying, LLC, dated November 8, 2021.
21. Conformance to Proposed Site Development Plan (Sheet 1 of 2) and Construction Notes and Details (Sheet 2 of 2) prepared by B&B Engineering, last revised June 3, 2022.
22. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced without consent of the Town's Tree Warden.
23. Prior to the commencement of any construction, site work, tree removal, or demolition, the soil and erosion controls shall be installed and inspected by Staff.
24. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
 - A. Obtain final sign-off from the Engineering Department.
 - B. Obtain an amended Conservation Department Permit citing the updated June 3, 2022, Site Plan by B&B Engineering.
 - C. Determine if the playset in the setbacks can be legalized per CGS Sec. 8-13a. or will need to be removed or relocated out of the setbacks.
 - D. Submit proof of filing the resolution on the Land Records.
25. The replacement and/or repair of a stone wall greater than three (3) feet in height shall require the issuance of a building permit.
26. All new utilities shall be placed underground.
27. All disturbed and regraded areas shall be planted with a suitable ground cover in accordance with §32-8.4.
28. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit and obtain a certified "As-Built" survey stamped by a registered Engineer or Surveyor.
29. 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.
30. All work approved pursuant to this Special Permit/Site Plan shall be completed within five (5) years of date of approval, by July 25, 2027.

31. 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 ten (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	-5-	{Olefson, Cammeyer, Zucaro, Bolton, Falk}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

Michael Cammeyer

Acting Chairman, Planning & Zoning Commission

- cc: Ted Gill, DPW Engineering Department
- Anna Rycenga, Conservation Commission Chair
- Mark Cooper, Aspetuck Health District Director



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

Hearing: July 11, 2022

Decision: July 11, 2022

July 12, 2022

Brian Carey
LANDTECH
518 Riverside Avenue
Westport, CT 06880

RE: 1 Berkeley Hill, Special Permit/Site Plan, Appl. #PZ-22-00193

Dear Mr. Romano:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 11, 2022, it was moved by Ms. Dobin and seconded by Mr. Cohn to adopt the following resolution:

RESOLUTION #PZ-22-00193

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 11, 2022, and made the following findings:

FINDINGS

Property Description/Background

1. 1 Berkeley Hill is a 0.973-acre (42,392 SF) parcel which is non-conforming for the Res. AAA zone in which it is located, where a minimum lot area of two (2) acres (87,120 SF) is required. The lot is on the northeast corner of Berkeley Hill and Berkeley Road.
2. The property is serviced by a private drinking water well and has a private subsurface sewage disposal (septic) system.
3. The property is not within the Coastal Area Management boundary or the 100-year flood zone.
4. The property does not contain any wetlands but does contain 4,223 square feet of steep slopes of 25% or greater.

5. According to the existing-conditions plot plan prepared by Dennis Deilus Surveyors, last revised 12/15/21, the property slopes down from approximately EL 121' in the northeast corner of the property down to EL 94' at the southwest corner of the lot.
6. In response to a complaint regarding regrading on the property without permits, a Notice of Violation was issued on 9/30/21. The owner was authorized by staff to stabilize the lot for winter with grass seed and hay and indicated they would submit an Excavation and Fill application plan showing compliance.

Proposal

7. The applicant is requesting Special Permit and Site Plan approval to authorize non-exempt excavation and fill activities at 1 Berkeley Hill pursuant to §32-8, Excavation and Filling of Land listed in the Westport Zoning Regulations.
8. The proposed work is shown on the applicant's Site Plan, last revised on June 28, 2022.
9. The project includes backyard regrading to create a more level yard which is not exempt per §32-8.1.2. A retaining wall less than three feet tall is proposed to facilitate the regrading.
10. The proposal includes a new subsurface drainage system and temporary (construction-phase) sediment and erosion control (S&E) plans, including silt fencing around the disturbed area and a temporary soil stockpile area surrounded by silt fencing.
11. The proposed work takes place within the Aquifer Protection Overlay Zone (APOZ), but no activities regulated in the APOZ as listed in §38 are proposed.
12. Excavation and Fill activities are permitted. Certain activities are exempt from Excavation and Fill Permit review when associated with other proposed activities as listed in §32-8.1. The regrading activities proposed herein are not covered by the exemptions listed in §32-8.1. All Excavation and Fill activities, even those exempt from review, must conform to the standards listed in §32-8.3.
13. The regrading may not exceed a five (5) horizontal to one (1) vertical (20%) slope unless approved by the Town Engineer per §32-8.3.2. In addition, the regulations state that there shall not be any grading or slope changes within five (5) feet of any lot line. The proposed work does not result in any manmade slopes more than 20%, nor does it include grading within five (5) feet of the property line.
14. Excessive excavation or fill is not permitted. Excessive excavation or fill is defined as an amount greater than that required to raise a parcel ten (10) feet above or below the existing natural grades over an area equal to 50% of the allowable Total Coverage in the respective zones per §32-8.2.1. The proposed activity will not represent excessive fill. A total of 1,963 cubic yards is allowed; a total of 920 cubic yards is proposed (25 CY fill; 895 CY cut).

15. §32-8.2.3 states that no portion of any lot shall be filled or excavated to a height or depth greater than ten (10) feet above or below the existing grade. The proposal complies with this regulation as the maximum height change is approximately one and a half (1.5) feet.
16. A Restoration Plan is required per §32-8.4 showing the final grading and landscaping and indicating how the site will be restored after the excavation and fill activities have been completed. The applicant's 6/28/22 site plan shows final grading and indicates that the disturbed soil surfaces shall be permanently stabilized at the end of construction.

Department Comments

17. The Engineering Department submitted comments dated 6/27/22 based on a review of the applicant's site plate dated 5/24/22. The Engineering Department comments recommended that the Commission should require the applicant to reduce the additional steep slopes east of the house or obtain a variance to maintain them. The Applicant submitted a revised Site Plan dated 6/28/22 to address this concern and supplemental Engineering comments dated 6/29/22 determined that that the application is substantially complete and requires no further submissions at this time. The grading and S&E plans were confirmed to comply with Town standards.
18. On 6/29/22, the Aspetuck Health District (AHD) reviewed and approved the latest site plan dated 6/28/22.

Public Hearing

19. The public hearing for this application was opened with testimony received at the July 11, 2022 public hearing.
20. The public hearings were held remotely using electronic means due to the COVID-19. The public hearings were 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, consistent with executive orders issued by the Governor.
21. The Planning and Zoning Commission finds this application complies with the standards found in §32-8, Excavation and Filling of Land, and the general standards applicable to Special Permits and Site Plans, set forth in §44-6 and §44-5.

NOW THEREFORE, BE IT RESOLVED that **1 Berkeley Hill**: Special Permit/Site Plan Appl. #PZ-22-00193 submitted by Brian Carey, LANDTECH, for property owned by Paul & Maria Tortorella, for excavation and fill activities to regrade yard, for property located in the Residence AAA District, PID#E16017000 be **GRANTED** subject to the following modifications:

Modifications

32. Conformance to Engineering Department comments, dated June 27, 2022 and 6/28/22.
33. Conformance to Aspetuck Health District approval, dated June 29, 2022.

34. Conformance to Excavation and Fill Statement of Use and Narrative prepared by LANDTECH, dated March 22, 2022.
35. Conformance to Existing-Conditions Plot Plan prepared by Dennis Deilus, dated 6/10/20, updated 12/15/21.
36. Conformance to Site Plan (Sheet C-1) and Notes and Details (Sheet C-2) prepared by LANDTECH, last revised June 28, 2022.
37. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced without consent of the Town's Tree Warden.
38. Prior to the commencement of any construction, site work, tree removal, or demolition, the soil and erosion controls shall be installed and inspected by Staff.
39. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
 - A. Obtain final sign-off from the Engineering Department.
 - B. Obtain final sign-off from the Aspetuck Health District for the retaining wall.
 - C. Submit proof of filing the resolution on the Land Records.
40. The replacement and/or repair of a stone wall greater than four (4) feet in height shall require the issuance of a building permit.
41. All new utilities shall be placed underground.
42. All disturbed and regraded areas shall be planted with a suitable ground cover in accordance with §32-8.4.
43. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit and obtain a certified "As-Built" survey stamped by a registered Engineer or Surveyor.
44. 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.
45. All work approved pursuant to this Special Permit/Site Plan shall be completed within five (5) years of date of approval, by July 11, 2027.
46. 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 ten (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 to 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	-7-	{Dobin, Cammeyer, Lebowitz, Olefson, Cohn, Tesler, Zucaro,}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

Danielle Dobin

Chairman, Planning & Zoning Commission

cc: Ted Gill, DPW Engineering Department
 Anna Rycenga, Conservation Commission Chair
 Mark Cooper, Aspetuck Health District Director
