



Town of Westport
Planning and Zoning Commission
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To be inserted in the Norwalk Hour
On: Thursday, July 27, 2023

LEGAL NOTICE OF DECISION

Notice is hereby given that at a meeting held on **July 24, 2023**, the Westport Planning and Zoning Commission took the following action:

- 1. ADOPTED AS MODIFIED: Text Amendment #827:** #PZ-23-00287 submitted by Richard Redniss of Redniss and Mead to add new definition in §5-2 for “General Development Plan” and to modify §39A, Inclusionary Housing Overlay District, to remove zoning obstacles for multi-family Development. A copy of the text amendment is available on-line at www.westportct.gov on the Planning & Zoning Office web page under “P&Z Pending Applications & Recent Approvals.” A copy may also be viewed at Town Hall, 110 Myrtle Ave., in both the Town Clerk’s Office and Planning & Zoning Office and attached herein.
Effective Date: 08/27/23
- 2. ADOPTED: Map Amendment #829:** #PZ-23-00315 submitted by Richard Redniss of Redniss and Mead for property owned by RJRDL Investments LLC to rezone properties at 1608, 1610, 1620 and 1622 Post Road East from General Business District/Residence A District to Inclusionary Housing Overlay District, Parcel ID #'s H09177000, H09176000, H09174000, & H09175000. A copy of the map amendment is available on-line at www.westportct.gov on the Planning & Zoning Office web page under “P&Z Pending Applications & Recent Approvals.” A copy may also be viewed at Town Hall, 110 Myrtle Ave., in both the Town Clerk’s Office and Planning & Zoning Office and attached herein.
Effective Date: 08/28/23
- 3. GRANTED: 1608, 1610, 1620 and 1622 Post Road East:** Special Permit/Site Plan Appl. #PZ-23-00316 submitted by 1620 PRE Associates, for property owned by RJRDL Investments LLC, to review a General Development Plan which includes conversion of retail/restaurant space into a family golf entertainment facility, associated parking, landscaping, and future opportunity for 10 townhouses including 2 below market rate units, for a properties proposed to be rezoned from General Business District/Residence A District to Inclusionary Housing Overlay District pursuant to pending Map Amendment #829. The Parcel ID’s include H09177000 H09176000, H09174000, & H09175000.
Effective Date: 08/29/23
- 4. GRANTED: 20 Rices Lane:** Special Permit/Site Plan Appl. #PZ-23-00222 submitted by Daniel and Dayna Haggarty, property owners, for excavation and fill activities to create a more level yard in the Residence AA district, PID #B12073000.
- 5. GRANTED: 57 Evergreen Avenue:** Special Permit/Site Plan Appl. #PZ-23-00383 submitted by Cindy Tyminski of Moon Gardens LLC, for property owned by Genevieve Freedman Trustee, for partial after-the-fact excavation and fill activities associated with renovations to the existing home, pool, and proposed conversion of a portion of the garage to an ADU, for a property in the Residence A district, PID #D10063000.

Dated at Westport, Connecticut this 25th day of July 2023 Danielle Dobin, Chairman, Planning and Zoning Commission.

Deleted language is [struck out and in brackets]; New language is **underlined and highlighted**.
Modified language in purple.

To Amend §5 (Definitions) by adding new Definitions (General Development Plan), to read as follows:

General Development Plan (GDP):

A plan intended to establish base parameters for site and architectural design pursuant to applications necessary to allow the Planning and Zoning Commission to review and approve a general plan for development or redevelopment of property prior to final site plan review and approval at a public hearing by the Planning and Zoning Commission. At the discretion of the Planning and Zoning Commission, documents generally consistent with §44-1 shall accompany the GDP, Special Permit, and Site Plan applications. Approvals pursuant to §44-2 shall be obtained prior to final site plan approval. Applications for GDP shall be subject to a public hearing and reviewed in accordance with §44-3.

To Amend §39A (Inclusionary Housing Overlay District IHZ), to read as follows:

39A-1 Purpose

The purpose of the Inclusionary Housing Overlay District is to increase the diversity of housing choices and to provide additional below market rate housing within Westport, located on lots that are split zoned Res. AA, A or B and GBD, RPOD, RORD, BPD, RBD, BCD, BCD/H or DDD #2 Non-Residential zoning districts. In order to implement this purpose except as noted herein in §39A-18, Affordability Requirements and Plan, at least twenty percent (20%) of the floor area of all residential units shall be deed restricted as affordable and at least twenty-percent (20%) of all proposed residential units shall be deed restricted as affordable in accordance with CT General Statutes §8-30g. The IHZ encourages the development of housing and other needs of an aging population by allowing for a diversity of housing types, which may include accessory services, and to provide for their safety, health and general welfare. **To help encourage housing, applicants may elect to pursue a General Development Plan simultaneously with IHZ Zone Change and Special Permit, as permitted pursuant to §39A-2.**

39A-2 Standards for Eligibility

In order to qualify for the Inclusionary Housing Overlay District designation, the lot must be split zoned Res. AA, A or B and GBD, RPOD, RORD, BPD, RBD, BCD, BCD/H or DDD #2 Non-Residential zoning districts. **GBD/Res. A split zoned properties with three (3) acres or more of Lot Area (Gross) as of the effective date of the regulation (August 27, 2023) are eligible to use the General Development Plan review process.**

39A-3 Designation/Uses Permitted

A site rezoned by the Planning and Zoning Commission to Inclusionary Housing Overlay District shall continue to bear its original district designation, but with the initials IHZ appended to indicate an Inclusionary Housing Overlay District designation. All zoning regulations applying to the underlying district shall continue to govern the Inclusionary Zoning District, except as amended by this Section. On property zoned IHZ as of November 12, 2017, Assisted Living, Full Care Living, and Independent Living Facilities shall be allowable uses and collectively referred to herein as ALFCIL Facilities. Any Independent Living Facility shall also contain Assisted Living and/or Full Care Living Facilities.

Community space shall be allowed for intergenerational, educational, and/or social type activities including residents of ALFCIL Facilities, area neighbors, schoolchildren, and/or other public service organizations, subject to the requirements listed in [§39A-10.3.4](#). Designation as an Inclusionary Housing Overlay District or the removal of such designation shall be considered a change of zone. All developments shall require Special Permit and Site Plan review by the Planning and Zoning Commission.

39A-3.1

All non-residential uses must be in the non-residential zoned portion of the lot.

39A-4 Lot Area and Shape

39A-4.1

No minimum lot area or shape except as stated below. Any lot using this regulation must provide frontage on an arterial street that is equal to at least fifteen (15%) of the perimeter of the lot or, on sites over two (2) acres, at least seventy-five (75) lineal feet. Where ALFCIL Facilities are to be located, lots shall be wholly within the Town of Westport and a minimum of 2 acres. ALFCIL Facilities shall not be located on lots within the CAM boundary. Applications for ALFCIL Facilities to be located on lots within Flood Hazard Areas shall demonstrate to the Commission's satisfaction that all hazards to life and property can be adequately minimized or mitigated, including providing dry access to and from the property for evacuation of residents and access for emergency vehicles.

39A-4.2

Any lot created by subdivision or lot merger not in existence at the time this regulation was created must have a Regularity Factor of at least **0.5[5]0**.

39A-4.3

Primary access to the development must be from the non-residential portion of the lot.

39A-5 Density

39A-5.1 Maximum -

~~[The maximum allowable density shall not exceed twenty (20) bedrooms per gross acre. An additional maximum density of six (6) bedrooms per gross acre is permitted for affordable units that are exempt from this calculation.]~~ The maximum number of units per acre shall not exceed eighteen (18) in the non-residentially zoned portion of the lot and twelve (12) in the residentially zoned portion of the lot, inclusive of affordable units.

39A-5.2 Bedrooms -

~~For the purpose of these regulations, libraries, dens, studios, studies, lofts and other similar spaces shall be deemed to be bedrooms by the Commission. A single recreation room, a storage area and a utility room located in a cellar or basement without a bathroom will not be considered a bedroom.]~~

39A-5.3[2]

ALFCIL Facilities shall not be subject to sections [39A-5.1](#) and [39A-5.2](#) above, refer to section [39A-10.3.4 Floor Area Ratio \(FAR\)](#) below.

39A-6 Setbacks

No principal or accessory building or structure shall extend closer than twenty (20) feet from any front lot line or forty (40) feet for any ALFCIL Facility approved with additional height per section [39A-7.4](#) below. Side and rear setbacks are governed by the underlying district plus two (2) feet for every one (1) additional foot of height approved per section [39sA-7.4](#) below. There will be no setbacks from a residential zone line that splits a property. Where nonconformities legally exist abutting nonresidential property, such structures may be maintained, modified, or expanded provided the Planning and Zoning Commission makes a finding that such redevelopment improves the streetscape and overall site design and does not exacerbate negative effects of such nonconformity on abutting properties.

At the discretion of the Planning and Zoning Commission parking and/or drive aisles in the GBD Zoned

area up to five feet (5') from multi-family zoned properties may be allowed where a determination is made that the adjacent use is not negatively impacted. The Planning and Zoning Commission may require that buildings in the residential zoned area not extend closer than thirty feet (30') to multi-family zoned property and fifty feet (50') to single-family residentially zoned and used property.

39A-7 Height

39A-7.1

In order to retain the historic streetscape in the BPD and BCD/H zones, the height is restricted to that which is permitted in the underlying non-residential zoning district.

39A-7.2

For buildings within the GBD, RPOD, RORD, RBD, BCD and DDD #2 zoning districts, of which at least one-third (1/3) of the floor area is residential, a height of three (3) stories and thirty-five (35) feet is allowed.

39A-7.3

For a building in which less than one-third (1/3) of the floor area is residential use, the height is restricted to that which is permitted in the underlying zone. The Res AA, A & B portion of the property is limited to 2 ½ stories and a height of thirty-five (35) feet

39A-7.4

ALFCIL Facilities shall not be subject to sections 39A-7.1, 7.2, or 7.3 above but shall be limited to a height of thirty-five (35) feet. The Planning and Zoning Commission may allow up to forty-two (42) feet in height, provided that an additional two (2) feet of building setback for the side and rear lot lines is provided for every one (1) foot of additional height above thirty-five (35) feet, the front street setback is a minimum of forty (40) feet, and the third level is dormered to appear like a 2 ½ story building.

39A-7.5

At the discretion of the Planning and Zoning Commission an additional five (5') feet of height may be allowed to accommodate ADA compliant access to second stories and rooftops. Nonconforming building height may remain and accommodate new building façade materials. ~~Mechanical equipment up to ten (10) feet in height shall be exempt from height limitations provided such mechanical equipment is fully screened from neighbors.~~

39A-8 Coverage

To increase the diversity of housing choices and to provide additional below market rate housing, a ~~[A] building coverage bonus [in the non-residential zone]~~ shall be allowed. The bonus may not exceed five percent (5%) ~~[of the non-residentially zoned portion]~~ of the lot in excess of that which is allowed in the underlying ~~[non-residential]~~ zone, except for the BCD and BCD/H zoning districts.

39A-8.1

The Planning and Zoning Commission may exempt an additional minimal amount of coverage associated with open porches, decks, balconies and other similar open structural projections from building coverage; provided that such open structural projection will benefit public access, safety or convenience or will further the intent to preserve and/or enhance the historic scale, massing, and appearance of the area, and at the discretion of the Commission at the time of Special Permit approval on sites that include at least 20% affordable housing. (813, 03/27/2023)

39A-8.2

The total coverage shall not exceed seventy percent (70%) of the area of the lot.

39A-8.3

In order to encourage underground parking and a reduction in coverage, a density bonus of two (2) units, a residential FAR bonus of 0.05, and an exemption for floor area within a cellar or basement will be permitted, if at least one (1) underground space is provided per unit and if the total coverage is reduced to 65%.

39A-8.4

ALFCIL Facilities coverage shall be limited as described in §[39A-8.1](#) and 8.2 above, except that where total coverage is limited not to exceed sixty percent (60%) of the total gross area of the lot in all zones, building coverage may be allowed up to twenty-five percent (25%) but may not benefit from bonuses listed in §[39A-8.3](#).

39A-9 Building Spacing

Groups of buildings on a single lot shall be so arranged that the minimum horizontal distance between the nearest walls or corners of any principal and/or accessory detached buildings shall not be less than ten (10) feet.

39A-10 Floor Area

39A-10.1 Total Maximum:

No one floor shall exceed an area of 2,500 square feet in the residentially zoned portion of the lot. This standard shall not apply to ALFCIL Facilities.]

39A-10.2 Unit Size:

~~The total interior floor area of a unit shall exclude garage parking spaces, common storage area, common stairs, common halls, common foyers and other similar spaces used in common. The average unit size shall not exceed 1,250 square feet.]~~

39A-10.3]1 Floor Area Ratio (FAR)

39A-10.3]1.1

No lot which contains buildings or structures which consists of two-family or multi-family dwellings, shall exceed an FAR of 0.5, except in the BCD and BCD/H zone. Any incremental increase in floor area above the maximum allowable FAR in the underlying zone, shall be used for dwelling(s) units only. Floor area used for parking and loading 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 0.25 FAR. **ADA compliant access to second stories and rooftops shall be exempt from Floor Area provided the elevator and lobby area do not to exceed five hundred (500) square feet.**

39A-10.3] 1.2

At least 30% of the floor area in the non-residentially zoned portion of the property, exclusive of the affordable housing units, shall be non-residential use in the GBD, RBD, BCD, BCD/H and DDD #2 zones. The RPOD, RORD and BPD zones, with their smaller building standards, shall have no minimum non-residential (commercial) requirement.

39A-10.3] 1.3

In order to encourage underground parking and a reduction in coverage, a density bonus of two (2) units, a residential FAR bonus of 0.05, and an exemption for floor area within a cellar or basement will be permitted, if at least one (1) underground space is provided per unit and if the total coverage is reduced to 65%.

39A-10.3] 1.4

ALFCIL Facilities shall not be subject to sections [39A-10.3.1](#) and [39A-10.3.2](#) above and the total allowable FAR shall not exceed 0.5 excluding garage parking, affordable units, and community space. Community space may include up to 5,000SF of flexible Floor Area to be programed for intergenerational, educational, and/or social type activities including residents of ALFCIL Facilities, area neighbors, school children, and/or other public service organizations.

39A-11 Architectural Design

The architectural design, scale and mass of buildings and other structures, including, among other elements, the exterior building material, color, roofline, and building elevations shall be made compatible with the historic structures located on the property and on any adjacent lot, if they are listed on the most recent Westport Historic Resource Inventory. The design should reflect both the characteristic scale and

building traditions of those historic structures 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.

39A-11.1 Buildings in Residential Districts

Dwelling unit facades shall be designed to avoid a barracks or dormitory appearance.

- a. Buildings shall have a pitched roof design and shall have staggered or off-set unit facades of not less than five (5) feet in depth over a minimum length of twenty (20) feet. This standard shall not apply to ALFCIL Facilities, provided that staggered or off-set unit facades and/or varied unit facade materials are utilized.
- b. Buildings designed to achieve small scale and residential appearance shall be encouraged.
- c. Roof-top mechanical equipment, other than solar energy panels, shall be concealed from all sides.
- d. Buildings shall be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible.
- e. Where applicable, 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, Westport Historic Resources Inventory, or are at least 50 Years of age.

39A-11.2 Buildings in Non-Residential Districts

Architectural design requirements for the underlying zones apply and in addition dwelling unit facades shall be designed to avoid a barracks or dormitory appearance. Staggered or off-set unit facades and/or varied unit facade materials shall be utilized.

39A-12 Public Waterfront Access

Public Waterfront Access (see Definitions and §31-10.7.4 herein) shall be provided on all sites adjacent to the Saugatuck River.

39A-13 Signs

Signs shall be permitted in accordance with §33 of the Supplementary Regulations as determined by underlying zoning district.

39A-14 Parking and Loading

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations; however such parking and loading shall be located on the lot and to the rear of the front leading edge of any building facing the street, or where buildings are set further back, shall comply with the 30' landscape buffer as provided in §35. Parking shall be required as provided in §34-5, **except that the Planning and Zoning Commission may reduce the required multifamily** parking standards by 0.5 spaces per unit. Tandem parking may be allowed subject to the discretion of the P&Z Commission.

For ALFCIL Facilities, where jitneys and/or other managed vehicles are provided the following minimum rates shall apply and may be satisfied in both residential and nonresidential portions of the site:

- a. 1.25 spaces per Independent Living Unit not in a CCRC;
- b. space per Independent Living Unit in a CCRC;
- c. 0.25 spaces for each Assisted Living or Full Care Unit;
- d. 0.80 spaces for each staff member on the largest shift of employees;
- e. Other Uses: As determined by the Planning and Zoning Commission.

39A-14.1 Underground Parking

In order to encourage underground parking and a reduction in coverage, a density bonus of two (2) units, a residential FAR bonus of 0.05, and an exemption for floor area within a cellar or basement will be permitted, if at least one (1) underground space is provided per unit and if the total coverage is reduced to 65%.

39A-14.2

ALFCIL Facilities shall not be subject to §34-12 Concealed Parking Requirements.

39A-14.3 Loading

Only one (1) off-street loading space shall be required for ALFCIL Facilities. The Planning and Zoning Commission may waive the minimum turning radius requirement.

39A-15 Landscaping, Screening and Buffer Areas

Landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations provided that such buffers may include retaining walls. Sidewalks shall be provided in accordance with §35-2.2.4 of the Supplementary Regulations.

39A-15.1 Lighting

Exterior lighting shall be provided and maintained by the property owner at all access points to streets, parking areas, building entrances and elsewhere for the safety of vehicular and pedestrian traffic. All exterior lighting shall be low-level, except for required street lights. The glare from light sources shall be shielded from roads and abutting properties. Lighting must be provide in accordance with §44-5.5 of the Regulations.

39A-15.2 Refuse Areas

Refuse collection areas shall be provided, screened, supplied with covered receptacles and conveniently located to serve all dwelling units.

39A-15.3 Mail boxes

Mail boxes shall be provided, covered from the elements and conveniently located to serve all dwelling units.

39A-15.4 Excavation and Fill

Subject to the review and approval of the Town Engineer, excavation and filling of land shall comply with §32-8 of the Regulations, except that, for sites containing ALFCIL Facilities, grade changes over ten (10) feet, grading within five (5) feet of a property line, and slopes greater than twenty (20) percent may be allowed where the PZC makes a finding that the site design is enhanced while not creating any adverse impacts to abutting properties. Such enhancement may include landscaping, buffers, sidewalks, emergency access, public safety, flood plain management or other improved design features.

39A-16 Utilities

39A-16.1

All utilities and conduits shall be underground.

39A-16.2

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.

39A-16.3

All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town Standards, subject to the approval of the Town Engineer. Storm drainage facilities shall be provided and shall be designed to achieve a zero impact run-off based on a minimum 25-year storm flow. Street culverts and bridges shall be designed for a 100-year storm flow.

39A-17 Change of Use

No dwelling unit approved under these provisions shall thereafter be changed to any non-residential use.

39A-18 Affordability Requirement and Plan

39A-18.1

In conjunction with residential units proposed as part of this regulation, at least twenty percent (20%) of the floor area of all residential units shall be deed restricted as affordable and at least twenty-percent (20%) of all proposed units shall be deed restricted as affordable in accordance with CT General Statutes §8-30g. An affordability plan must be submitted at the time of application in accordance with same. Fractional units at 0.5 and above shall be rounded up. In any case at least one (1) unit must be affordable. These units must be affordable to households whose income does not exceed 80% of the state or area median income, whichever is lower. The state and area median income figures are from the United States Census and are periodically updated by the U.S. Department of Housing and Urban Development (HUD).

39A-18.2

Affordable housing units cannot be clustered, but shall be reasonably dispersed throughout the development and shall contain, on average, the same number of bedrooms and the same quality of construction as the other units in the development. Amenities for the market rate and below market rate units shall be comparable. No affordable unit shall be smaller than 75% of a market rate unit containing the same number of bedrooms.

39A-18.3

The applicant shall submit an "Affordability Plan" concurrently with a Special Permit and Site Plan or final site plan application subsequent to a General Development Plan application which shall prescribe how the regulations regarding affordability will be administered.

39A-18.4

ALFCIL Facilities shall provide ten percent (10%) of all Independent Living units, five percent (5%) of all Assisted Living Units, and zero percent (0%) of any Full Care Units, as affordable, as further described in 39A-18 above. Details of such affordability requirements, including the manner in which additional onsite services (meals, care, transportation, and/or other "common" charges) are applied and/or excluded, shall be spelled out in the Affordability Plan and approved by the Planning and Zoning Commission.

39A-18.4.1

Said requirements may also be satisfied by the dedication of deed restricted affordable units, some or all of which may be offsite within the Town of Westport, which may or may not be age restricted or have additional care services. The location and design of such units shall be subject to approval by the Planning and Zoning Commission. The Commission shall condition the issuance of a Zoning Certificate of Compliance for the ALFCIL Facility upon the dedication of the off-site deed restricted affordable units.

39A-19 Traffic Analysis

A Traffic Analysis in accordance with §44-2.5 shall be required unless waived at the discretion of the Planning & Zoning Commission.

39A-20 Fire Department Access

Unless otherwise authorized by the Fire Marshal, ALFCIL Facilities shall provide the following: Access for Fire Department motorized vehicles shall be provided to ensure the safety of all occupants within such facilities. Such access shall include Fire Lanes and/or other locations kept clear and readily accessible for fire apparatus at all times. Access points shall be located at the front and rear of such buildings. Turning radii, road widths and grade changes shall comply with Fire Codes in effect at the time of building permit application.

Map Amendment #829
Submitted: 5/26/23

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 Public Hearing: 7/14/23 &
 7/24/23
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