



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: Feb. 7, 2022

Decision: Feb. 7, 2022

February 9, 2022

RE: Text Amendment #811/PZ-22-00035, to Modify §29-2.1.2.a (Uses allowed in the BCD) and modify §29A-2.1.2.a (Uses allowed in the BCD/H), to remove restriction on Retail uses above the First Floor

To Whom It May Concern

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on Feb. 7, 2022 it was moved by Mr. Lebowitz and seconded by Ms. Tesler to adopt the following resolution.

RESOLUTION #PZ-22-00035

WHEREAS, THE PLANNING AND ZONING COMMISSION met on February 7, 2022 and made the following findings:

Background

1. Currently, Retail use is the only non-residential use prohibited above the First Floor in both the Business Center District (BCD) and Business Center District/Historic (BCD/H) located Downtown.
2. The Planning and Zoning Commission over the last 20 years removed the location restrictions on other uses originally prohibited above the First Floor in the BCD and BCD/H in 1999.
3. Real estate data shows commercial vacancies exist Downtown (12% vacancy rate as of Jan. 2022).
4. In 2021, Westport residents requested the Planning and Zoning Commission's *Economic Growth Subcommittee* consider drafting regulations to remove the Retail prohibition Downtown, citing:
 - "[Downtown] 2nd floor office space has become less desirable. Current zoning regulations are restrictive and should be reconsidered as vacancies don't help anyone;" and
 - "It may be appropriate to revisit why and whether there remain valid reasons to maintain current zoning regulations that could stifle economic growth."

5. At the end of 2021, the Commission's *Zoning Regulation Revision Subcommittee* took the baton from the *Economic Growth Subcommittee* when they too received feedback from Westport residents making the same request to revisit the prohibition on Retail above the First Floor Downtown.
6. At the 1/5/22 *Zoning Regulation Revision Subcommittee*, over 50 people attended a remote noon-time meeting wherein a staff-authored proposal to remove the prohibition on Retail above the First Floor in the BCD and BCD/H was considered. Meeting and correspondence received identify some observations offered include:
 - *"Offices are allowed on the 2nd floor already and restaurants are intensive with respect to parking and traffic. 2nd floor space is more affordable and makes sense for some small businesses, plus some buildings have 2nd floor access directly from street grade (Ex. Elm Street);" and*
 - *"Past efforts to micromanage downtown have backfired. The Commission needs to stay flexible because trends change and will keep changing."*
7. At the conclusion of the 1/5/22 *Zoning Regulation Revision Subcommittee* meeting the Subcommittee members voted unanimously to move the proposal out of subcommittee so as to receive feedback from all Planning and Zoning Commission members.
8. At the 1/13/22 Work Session a majority of Planning and Zoning Commissioners agreed to formalize the proposal into a Text Amendment for consideration and feedback from the public at a hearing; now scheduled.

Proposal

9. Text Amendment #811, authored by the Planning and Zoning Commission, proposes removing restrictions on Retail uses above the First Floor in the Business Center District (BCD) and Business Center District/Historic (BCD/H) by modifying §29-2.1.2.a (Uses allowed in the BCD), and §29A-2.1.2.a (Uses allowed in the BCD/H). The intent of the amendment is to strengthen the existing economic vitality and vibrancy of the Downtown, provide opportunities for diversity and inclusion in Westport's retail landscape, and offer a broader variety of commerce for Westport residents and other consumers from surrounding areas to patronize.

Analysis

10. The number of potentially benefitting properties if Text Amendment #811 is adopted is less than the number of properties in the BCD and BCD/H. This is due to variances being granted by the Zoning Board of Appeals to some properties for Retail use above the First Floor, or because Retail uses existed and became protected or grandfathered when the Zoning Regulations were amended in 1999 pursuant to Text Amendment #489 to restrict Retail and other uses from locating above the First Floor.
11. The P&Z Staff Report dated 1/31/22 identifies seventeen (17) private properties in the BCD and BCD/H or 30% of the fifty-five (55) properties will benefit from Text Amendment #811 if adopted.

12. The P&Z Staff Report analyzed Traffic and Parking studies completed in the 2010's and found these studies show there is surplus parking available during peak periods of parking demand on both weekdays and weekends and uses already permitted above the First Floor create more traffic than Retail during certain peak periods.
13. Referrals sent to Town Department heads and DEEP yielded no objections to Text Amendment #811.
14. The Tax Assessor, in comments dated 2/7/22 offered support for the amendment, citing:
"I think this would be very positive for Downtown. The removal of this restriction will give property owners the ability to increase the functionality of their buildings and therefore have a wider appeal to potential tenants. Conceivably, this will result in lower vacancy rates, increased rental rates for second floor space (over current uses), higher foot traffic and a continued interest in Westport's Downtown. Since second floor spaces typically command a lower rent than first floor retail, the change could also provide an opportunity for small mom and pop retailers to participate and contribute to Downtown Westport."
15. Both the Conservation Director and Town Engineer identified in their comments that FEMA requirements should be adhered to for any future building renovations proposed. As Text Amendment #811 is not modifying any FEMA standards, current FEMA requirements will remain.
16. The 1/31/22 P&Z Staff report identified other standards associated with building renovations Downtown will also remain as they are not proposed to be modified by Text Amendment #811 including:
 - A. Adherence to the Village District Overlay design principles and standards codified in §36 of the Zoning Regulations; and
 - B. Compliance with the Accessibility requirements listed in the Building Code which requires an applicant to spend 20% of the value of their project to increase Accessibility (if necessary), according to the Assistant Building Official.

Public Participation

17. A public hearing was held to receive testimony from members of the public as required pursuant to State Statutes.
18. The public hearing was held remotely due to COVID-19. The hearing was broadcast "live" on public access television, "live" on-line on the Town's website, and anyone could join the meeting and offer "live" testimony.
19. All application materials, and public comments received in writing prior to the meeting were posted on the Town's website to maintain transparency while conducting remote meetings during COVID-19.

NOW THEREFORE, BE IT RESOLVED Text Amendment #811: Appl. #PZ-22-00035 submitted by the Westport Planning and Zoning Commission to eliminate the prohibition on Retail locating above the First Floor in the Business Center District (BCD) and Business Center District/Historic (BCD/H) is **ADOPTED**. A copy of the adopted text amendment is on file in the Westport Town Clerk's Office and is on file in the Westport Planning and Zoning Office and is attached herein.

REASONS

1. The Text Amendment may encourage locally owned retail options of a broader variety in smaller, less expensive 2nd and 3rd floor spaces;
2. It may provide opportunities for diversity and inclusion in Westport's retail landscape;
3. It may offset existing vacancies;
4. It may reduce the financial burden currently borne by First Floor tenants if upper level vacancies are filled;
5. It may counteract the "supersizing" of Retail spaces by providing more boutique, experiential shopping destinations;
6. The function of existing commercial space may be improved by providing flexibility;
7. It may offer a more level playing field between Downtown properties seeking to attract new Retail tenants versus those grandfathered with Retail above the First Floor;
8. The leasing of new Retail space may provide the means for Downtown property owners to invest resources in their buildings (for example to floodproof buildings);
9. It may enhance the Grand List if vacant spaces are occupied; and
10. It will implement economic goals from the 2017 *Plan of Conservation and Development*:

A. From Chapt. 8 (*Maintain Strong Centers with a Sense of Place*):

- i. *"The overall goal of the POCD is to maintain and enhance the "sense of place" and economic strength of Downtown Westport and Saugatuck Center." Pg. 59*
- ii. *"Maintain and Enhance Downtown." Pg. 60*
- iii. *"The Village District can be an important framework to ensuring that the distinctive character, landscape and historic value of the 'public realm' in the Downtown area is protected and preserved. Pg. 63*
- iv. *"Manage Downtown's 'Private Realm.'" Pg. 64*
- v. *"The retail landscape is changing...Downtown must now also compete with online shopping. When people focus only on the cost of items or want a broader selection of a particular item or do not value the 'experiential' aspect of retail offered by an area like downtown Westport, they may gravitate towards an on-line source. This will pose challenges for downtown Westport and other places like it in the future. Westport should continue to enhance the 'experiential' retail environment it already has.*

The key issue for Westport going forward will be to attract and retain a mix of uses (retail, restaurant, entertainment, recreation, etc. with a variety of scopes (national, regional, local) that will distinguish Westport from other areas and continue to make downtown relevant and attractive. This may involve new types of uses that extend the activated period in the downtown area." Pg. 64
- vi. *"Downtown Westport is an important community asset and the design, placement, relationship and compatibility of structures, plantings, signs, roadways, street hardware and other objects in public view all contribute to the overall attractiveness of the downtown area. It is important that:*
 - *The distinctive character, landscape and historic value of the Downtown area be protected and preserved, and*
 - *Any new development occurs in a way that protects and enhances the downtown." Pg. 65*

B. From Chapt. 9, (*Guide Business and Economic Development*):

- i. *"Business and economic development in Westport enhances the community by increasing the grand list, providing jobs, making goods and service available, and enhancing the quality of life in the community."* Pg. 73
- ii. *"Guide business and economic development in Westport so that it is appropriate for the community, enhances community character, and minimizes any potential negative impacts while striving to increase the Grand List."* Pg. 73
- iii. *"Encourage a comprehensive approach to business zoning to provide a clear picture of what is permitted where."* Pg. 74

VOTE:

AYES	-7-	{Dobin, Lebowitz, Cammeyer, Olefson, Cohn, Tesler, Falk}
NAYS	-0-	
ABSTENTIONS	-0-	

The effective date of this amendment is February 18, 2022.

Very truly yours,



Danielle Dobin, Chairman
Planning & Zoning Commission

Attached

Adopted Text Amendment #811

cc: Jen Tooker, First Selectwoman
Ira Bloom, Town Attorney
Peter Gelderman, Town Attorney's Office
Nicholas Bamonte, Town Attorney's Office
Eileen Flug, Assistant Town Attorney
Lynn Scully, Interim Operations Director
Paul Friia, Tax Assessor
Keith Wilberg, Town Engineer
Alicia Mozian, Conservation Director
Nate Gibbons, Fire Marshal
Foti Koskinas, Police Chief
Matt Mandell, RTM P&Z Committee Chairman
Jeff Wieser, RTM Moderator
Randy Herbertson, DPIC Chairman, and
President Westport Downtown Association

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

Submitted: 1/18/22

Received: 1/20/22

Public Hearing: 2/7/22

Adopted: 2/7/22

Effective date: 2/18/22

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

FROM §29, Business Center District (BCD)

29-1 Purpose

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

29-2 Permitted Uses

In a Business Center District, no land, building or structure shall be used and no building shall be hereafter erected, altered, or added to, unless otherwise provided in these regulations, except for one (1) or more of the following uses:

29-2.1 Principal Uses

29-2.1.1

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

29-2.1.2

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

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

29-2.2 Special Permit Uses

29-2.2.1

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

29-2.2.2

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

29-2.2.3

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

29-2.2.4

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

29-2.2.5

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

29-2.2.6

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

29-2.3 Accessory Uses

29-2.3.1

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

29-2.3.2

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

29-2.3.3

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

29-2.3.4

Wholesaling and warehousing.

29-2.3.5

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

29-2.3.6

Game Rooms, subject to the following conditions:

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

29-2.3.7

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

29-2.4 Prohibited Uses

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

29-3 Lot Area (See Definitions)

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

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

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

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

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

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

29-4.1.2 Maintenance and Minor Repairs

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

29-5 Height

No building or structure shall exceed two (2) stories and a height of either twenty-five (25) feet to the top of a flat roof or thirty (30) feet to the mid-point of a pitched roof.

29-6 Coverage (See Definitions)

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

29-7 Building Area

No mandatory requirement.

29-8 Floor Area

29-8.1 Maximum

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

29-8.2 FAR (see definitions)

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

29-9 Architectural Design

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

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

29-9A Village District Overlay Site Plan Review

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

29-9A.1 Exterior Alterations

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

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

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

29-9A.3 Documentation of Existing Conditions

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

29-10 Signs

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

29-11 Parking and Loading

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

29-12 Landscaping, Screening and Buffer Areas

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

29-13 First Floor Defined

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

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

29A-1 Purpose

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

29A-2 Permitted Uses

In a Business Center District/Historic, no land, building or structure shall be used and no building shall be hereafter erected, altered, or added to, unless otherwise provided in these regulations, except for one (1) or more of the following uses:

29A-2.1 Principal Uses

29A-2.1.1

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

29A-2.1.2

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

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

29A-2.2 Special Permit Uses

29A-2.2.1

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

29A-2.2.2

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

29A-2.2.3

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

29A-2.2.4

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

29A-2.2.5

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

29A-2.2.6

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

29A-2.2.7

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

29A-2.3 Accessory Uses

29A-2.3.1

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

29A-2.3.2

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

29A-2.3.3

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

29A-2.3.4

Wholesaling and warehousing.

29A-2.3.5

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

29A-2.3.6

Game Rooms, subject to the following conditions:

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

29A-2.3.7

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

29A-2.4 Prohibited Uses

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

29A-3 Lot Area (See Definitions)

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

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

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

29A-5 Height

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

29A-6 Coverage (See Definitions)

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

29A-7 Building Area

No mandatory requirement.

29A-8 Floor Area

29A-8.1 Maximum

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

29A-8.2 FAR (see definitions)

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

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

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

29A-9 Architectural Design

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

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

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

29A-9.1 Removal of historic buildings

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

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

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

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

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

29A-9A Village District Overlay Site Plan Review

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

29A-9A.1 Exterior Alterations

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

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

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

29A-9.3 Documentation of Existing Conditions

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

29A-10 Signs

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

29A-11 Parking and Loading

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

29A-12 Landscaping, Screening and Buffer Areas

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

29A-13 First Floor Defined

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

29A-14 Exemption of Floodplain Regulations

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

1. A determination is made by the Planning and Zoning Commission that the proposed rehabilitation or restoration will not destroy the historic character and design of the building;

2. A determination that the rehabilitation or restoration will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

29A-14.1 Written Notice Required

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

29A-15 Relocation of Historic Structures

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

29A-15.1 Setbacks for Relocated Historic Structures

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

29A-15.2 Floor Area for Relocated Historic Structures

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

29A-15.3 Additions to Relocated Historic Structures

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

29A-15.4 Parking and Loading for Relocated Historic Structures

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

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

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