

91721

Memorandum

To: Members, Planning and Zoning Commission

From: Steve Palmer, Planning & Zoning Director

Date: May22, 2016

Re: Text Amendment #714, Appl. #16-009 (§19B, Residential-Rental Housing Opportunity/Workforce Zone District (R-RHOW))

Map Amendment #715, Appl. #16-010 (Rezone 1177 a/ka/ 1175 Post Road East to R-RHOW)

1177 a/k/a 1175 Post Road East, Site Plan Appl. #16-011, *Preliminary Comments*

Statutory Time Lines

Application Submission Date: 4/4/16

Application Receipt Date: 4/7/16

65 Days from Date of Receipt (must decide by): 6/11/16

Public Hearing Opened (scheduled to open): 6/2/16

Summary

Have all the documents been submitted by the applicant as required in accordance with §44?	Not applicable.
Were any waivers to submit documents requested by the applicant and granted by the Planning Director in accordance with §44-4?	No
Were any variances requested from the Zoning Board of Appeals in accordance with §46 or are any waivers requested from the Planning and Zoning Commission?	No
Does the application appear to meet all applicable zoning requirements?	No. The application was submitted pursuant to CGS §8-30g.
Has the applicant received all necessary prior approvals in accordance with §44-2.1?	The Flood & Erosion Control Board will review the application at their 6/1/16 meeting. The Conservation Commission will review the application at their 6/15/16 meetings.
Other comments?	The Planning and Zoning Commission needs to determine whether the application conforms to the Amendment requirements listed in §42 and Site Plan Standards and Objectives listed in §44-5.

Description of Application

Applicant/Owner/Agent	1177 PRE Associates, LLC c/o Investment Capital Partners, Ltd., owner/applicant; Christopher J. Smith, Esq., agent
Requested Action	Text Amendment, Map Amendment and Site Plan Application
Purpose	<p>The applicant is seeking approval for a ninety-four (94) multi-family dwelling residential rental community with an affordable housing component as provided by §8-30g of the Connecticut General Statutes, "<i>Affordable Housing Land Use Appeals Procedure</i>". The application consists of three parts: 1) Text Amendment to create new Residential-Rental Housing Opportunity/Workforce Zone District (R-RHOW), 2) Map Amendment to rezone the property to R-RHOW and 3) Site Plan.</p> <p>The proposal includes 152 parking spaces, 55 of which will be covered and with 29 affordable housing units or 30.8% of the total units proposed.</p>
Existing Zoning	General Business District (GBD)
Location	The site is located on the north side of Post Road East. Partially within the floodway, 500-year flood zone and 100 year flood zone AE. EL 31'.
Lot Size	1.96 acres (85,430 SF)
Existing Land Use	Office Building
Surrounding Land Use and Zoning	Commercial/GBD and Residential "A" to the ea north (1221 Post Road East); Res A/GBD-IHZ Overlay to the west and north (1141 Post Road East) ; School/GBD and Res A, across the street to the south (Greens Farms Elementary); Commercial/GBD and Res A across the street to the southeast (1200 PRE); Residential/Res A to the north (3 Donald Drive)
Relevant references to the 2007 Town Plan of Conservation and Development	<p>The following goals are listed in Chapter 5, Protect and Manage Residential Neighborhoods:</p> <p><i>"Protecting residential neighborhoods is a fundamental philosophy of the Plan. To implement this policy:</i></p> <ul style="list-style-type: none"> • <i>Residential neighborhoods will continue to be protected from the intrusion of commercial activities.</i> • <i>Boundaries between residential neighborhoods and non-residential zoning districts shall remain clear.</i> • <i>Transitions from residential neighborhoods to non-</i>

residential zoning districts should be logical and have appropriate buffering, as necessary.

- *Regulations protecting residential districts and zoning standards must be maintained, strengthened, improved where needed, and enforced.*
- *Special Permit uses in residential zones must be reviewed to ensure that they are still suitable for neighborhoods, especially since so little undeveloped property remains.*
- *Review Special Permit criteria and enforce the Special Permit standards to meet the regulations. Pg. 5-2*

The following goals are listed in Chapter 6, Create a Range of Housing Opportunities and Choices:

- *“Require all housing construction in Westport either provide affordable housing units or pay into an affordable housing trust fund.” Pg. 6-4*
- *“It is a goal of this Plan to seek ways to expand the variety of housing choices and options of Westport in order to help meet the needs of existing and future residents while maintaining the character and integrity of the town.”Pg.6-1*
- *“Future planning must recognize the relationship between adding to housing supply and the effect on traffic congestion, increased demand for services and manpower, increased enrollment in the schools, overcrowding at the beaches and other municipal facilities and the impact on the overall quality of life for residents of Westport.” Pg. 6-2*
- *“Promote housing affordability. As Westport works toward providing more housing choices, it will do so in ways that are appropriate for the community and that protect the public health and safety. In addition, Westport will consider ways of integrating affordable, workforce, and market rate housing in future projects in partnerships with public and private organizations.” Pg. 6-3*

The following goals are listed in Chapter 7, Maintain Distinctive Centers with a Strong Sense of Place:

- *“The Plan recommends that developments along the Post Road be encouraged to consider incorporating residential uses on commercial properties in order to create mixed-use buildings along the corridor. As residential units are added, this will increase the variety of housing choices in locations with access to shopping and public transportation” Pg. 7-13*
- *“The Plan recommends that developments along the Post Road be encouraged or required to share driveway access and parking in order to preserve the*

	<p><i>traffic-carrying capacity of Route 1, reduce intersection conflict points, and make the available parking more efficient” Pg. 7-13</i></p> <ul style="list-style-type: none"> • <i>“In order to promote public safety, improved traffic flow, and additional greening of commercial properties, every use along the Post Road, especially Post Road East, should be required to provide cross easements to the Town which can be assigned to the abutting properties if or when needed.” Pg 7-13</i> • <i>“The Plan recommends that Westport investigate ways to require that all properties along the Post Road which are improved or redeveloped make some provision for pedestrians and bicycles in ways that will result in a meaningful and safe pedestrian system along the Post Road (especially Post Road East).” Pg. 7-13</i> • <i>“In addition, the Plan recommends the provision of bus shelters, benches and schedule boards at appropriate places along Route 1 to meet the needs of workers and businesses.” Pg. 7-13</i> • <i>“The Plan recommends that Westport investigate ways to require that all uses along the Post Road which are improved or redeveloped provide landscaping in ways to enhance the Post Road, especially Post Road East.” Pg. 7-14</i> <p>The following strategy is listed in Chapter 7:</p> <ul style="list-style-type: none"> • <i>“Promote mixed use and multifamily residential use when properties along Post Road East are redeveloped and in limited areas on Post Road West. a. Encourage property owners to consider such uses when planning to redevelop larger Post Road properties b. Consider adopting zoning regulations to allow greater building heights by Special Permit (within limits) for buildings with apartments.” Pg. 7-17</i>
<p>Zoning History</p>	<p>1980: Site Plan #80-15 for construction of a 2 story office building.</p>
<p>Applicable Regulations</p>	<p>§42, Amendment of Zoning Regulations, §43, Special Permit and/or Site Plan Review Procedures, §44, Site Plan Procedures/Documents</p>

This review is Preliminary due to time constraints and additional reviews will be supplied when available.

I. Background

A. Process for Application Review

This application has been submitted pursuant to Connecticut General Statute (CGS) 8-30g.

B. Affordable Housing in Westport

Market rate and below-market-rate housing alternatives must be provided in a community to maintain a diversity of residents of all income levels. The housing inventory in the Town of Westport includes market rate housing, below-market-rate housing, and affordable housing as defined by the Connecticut General Statutes.

Affordable Housing

Affordable Housing is defined in §8-30g of the Connecticut General Statutes as:

- a) Assisted housing- a housing development that receives financial assistance under any government program; or
- b) Set-aside development- development where not less than 30% of the dwelling units are conveyed by deed containing covenants or restrictions which require that, for at least 40 years after the initial occupation of the development, such dwelling units will be sold or rented at, or below, prices which are 30% or less of a persons or families annual income, where such income is less than or equal to 80% of the state median income or area median income, whichever is less.

For more information on affordable housing and the income guidelines for Westport, see attached memorandum *Affordable Housing as Defined in State Statutes §8-39a & §8-30g, dated 9/18/02, revised 5/10/16.*

The 2007 Plan of Conservation and Development recommends creating more affordable housing opportunities. Chapter 6, (*Create a Range of Housing Opportunities and Choices*), includes the following goals:

- *“Seek ways to expand the variety of housing choices and options of Westport in order to help meet the needs of existing and future residents while maintaining the character and integrity of the town.” Pg. 6-1*
- *“As Westport work towards providing more housing choices, it will do so in ways that are appropriate for the community and that protect the public health and safety. In addition, Westport will consider ways of integrating affordable, workforce and market rate housing in future projects in partnerships with public and private organizations.” Pg. 6-3*
- *“Require that all housing construction in Westport either provide affordable housing units or pay into an affordable housing trust fund.” Pg. 6-4*
- *“Consider requiring that any multi-family development provide affordable housing units.” Pg. 6-4*
- *“The Town should adopt an inclusionary zoning regulation requiring some percentage of units in a multi-family development to be deed restricted to affordable levels.” Pg. 6-4*
- *“Strategies giving priority to residents and Town employees should be established to ensure affordable housing serves the needs of Westport.” Pg 6-4*

The 1997 and 1987 Town Plan of Development also encouraged enacting zoning regulations to create below-market-rate housing. Since adoption of these plans Westport has made significant strides to implement these recommendations as follows.

A. Local Initiatives

In the 1990's, Westport took the following significant steps to provide a variety of housing types including below-market-rate dwelling units:

1. Converted the Saugatuck School to moderately priced dwelling units for older adults.
2. Purchased 16 homes on Wassell Lane from the U.S. Government for low to

- moderate-income housing.
3. Adopted zoning regulations to authorize apartments that existed prior to 1959.
 4. Adopted a zoning regulation that allows an increase in floor area for accessory apartments for individuals over the age of 62.
 5. Amended §16, the Mobile Home Park regulations to allow for mobile home replacement units thereby creating a mechanism to avoid losing the existing below-market-rate housing stock if the existing mobile home units were not replaced when needed.
 6. Adopted §32-15, a zoning regulation that allows for Managed Residential Communities with a density bonus based on the number of affordable units provided.

In the 2000's the Westport Zoning Regulations were amended to provide additional diversity in housing types and below-market-rate dwelling units including:

1. Adopted §19, Residential Affordable Housing Zone (R-AHZ), a "floating" zone applicable to public or privately owned residentially zoned property, that requires a portion of the total number of dwelling units to be affordable housing as defined by State Statutes, and subsequently approved a Map Amendment to rezone property located at Wilton Road and Edge Hill Lane from Res AA to R-AHZ.
2. Adopted §20, Municipal Housing Zone (MHZ), a floating zone applicable to Town-owned property and land owned by the Westport Housing Authority, that requires 100% of all dwelling units to be affordable as defined by State Statutes, and subsequently approved a Map Amendment to rezone property at Hales Court from Res AA to MHZ.
3. Adopted §32-17, a zoning regulation that allows for conversion of existing buildings and/or construction of new buildings on Town-owned land for at least 50% affordable housing and 50% middle-income housing.
4. Amended §19, Residential Affordable Housing Zone (R-AHZ), to modify specific provisions to encourage and promote affordable housing by making the R-AHZ regulations less risky and more workable for potential developers.
5. Adopted §24A, General Business District Saugatuck (GBD/S), a floating zone applicable to public or privately owned non-residentially zoned property that requires a portion of the total number of dwelling units to be affordable housing as defined by State Statutes. The Planning and Zoning Commission subsequently approved a Map Amendment to rezone property at 553, 570, 580 Riverside Avenue and 9 Ketchum Street from GBD to GBD/S and approved a Special Permit/Coastal Site Plan application to develop these properties for multi-family development including affordable housing. A second Map Amendment was also approved by the Planning and Zoning Commission to rezone property at 12, 16, 20 Ketchum Street and 518 Riverside Avenue from GBD to GBD/S. A Special Permit/Coastal Site Plan application to develop these properties for multi-family development including affordable housing is currently pending.
6. Adopted §32-1, a zoning regulation that allows for conversion of existing, or construction of new dwelling units applicable to public or privately owned, residentially zoned property, for Supportive Housing use requiring all units shall be affordable, and subsequently approved a development for 6 dwelling units at 10 West End Ave.

7. Modified §4-5 to exempt multi-family affordable housing from the cap of 10%. Also exempt any future affordable units from being included in the cap of 10%.
8. Modified §18 to allow the redevelopment and/or adaptive reuse of existing non-residential buildings on Riverside Avenue into larger sized dwelling units on lots over two-acres in size in non-residentially zone lots or residentially zoned lots that are currently have a permitted non-residential use with a minimum of 200-feet of frontage on Riverside Avenue and served by public water and public sewer and to identify it is in the public interest to preserve the existing historic scale, massing and character of the affected area. This amendment requires that a minimum of fifteen percent (15%) of the total number of market rate dwelling units shall be designated as workforce or affordable housing.
9. Adopted §19A- Residential Affordable Housing Zone/Workforce (R-AHZ/W) to allow two-family and multi-family dwelling units including market rate dwelling units, affordable housing and workforce housing, subject to Special Permit/Site Plan approval on properties that are a minimum of 1-acre in size and no more than 4-acres in size; have a minimum width of 100 feet; have a lot shape that can contain a rectangle of 100 feet by 150 feet; are contiguous to or directly (on a perpendicular) across the street from a non-residential zone, with the exception of the Design Development District; have a minimum thirty (30) feet of frontage on an Arterial street; and have public water and sewer available.
10. Adopted §11-2.4.12B to allow Affordable Accessory Apartments no larger than 800 SF and no larger than 25% of the floor area of the house if a deed restriction is placed on the land records stating the apartment will be rented as “affordable” for at least 10 years.
11. In March 2007, the Planning and Zoning Commission again formally committed to find ways to address the existing shortage in affordable housing units in Town. An Affordable Housing subcommittee of the Planning and Zoning Commission was formed with the goal of continuing to develop regulations to promote affordable housing in Westport.
12. Adopted §39A, Inclusionary Housing Overlay District (IHZ), was authored by the Planning and Zoning Commission and became effective on 12/3/10 pursuant to Amendment #619. An Overlay Zone is defined as a zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone(s). The IHZ regulations allow “mixed-use” development of residential and non-residential uses with a requirement that 20% of the residential units shall be owned or rented as affordable units in accordance with C.G.S. §8-30g. There are forty-six (46) properties currently eligible for rezoning to IHZ, see list prepared by Michelle Perillie revised 12/21/15, available in the file.

The Planning and Zoning Commission, in Res. #10-034, cited four (4) reasons for adopting the IHZ regulations:

- 1) *“The Planning and Zoning Commission finds the amendment is consistent with Westport Zoning Regulations.*
- 2) *The Planning and Zoning Commission finds the amendment is consistent with the 2007 Plan of Conservation and Development.*
- 3) *The amendment will provide opportunities to create affordable housing units, as defined in CGS §8-30g, in Westport where there is an existing shortage.*
- 4) *The amendment will provide opportunities to increase the diversity in housing types.*

Following the Planning and Zoning Commission's adoption of Text Amendment #619 the amendment was appealed to the Representative Town Meeting (RTM). The RTM voted to sustain the Commission's action in December 2010. Following the RTM vote the Text Amendments were appealed to Superior Court by a Westport resident. On October 13, 2011, the Court found in favor of the Commission and did not overturn the amendment. No further appeals were taken.

13. Amended §39A in April 2012, pursuant to Text Amendment #642. Planning Consultant Mel Barr obtained approval to modify §39A to reduce the required non-residential floor area from 40% to 30% in the GBD, RBD, BCD, BCD/H and DDD#2 zones, to delete the non-residential floor area requirement in the RPOD, RORD and BPD zones, and to modify the Traffic Analysis requirement to grant the Commission discretion to waive this requirement.
14. Amended §39A in April 2013, pursuant to Text Amendment #660, to modify portions of §34 and §39A. The amendment was adopted in part (as modified), and denied in part. The proposed changes to §39A were denied and included:
 - a. §39A-3, Designation/Uses Permitted, to allow 25% of the parking and loading required to serve the non-residential use to be located in the Residence Zone on corner lots in the IHZ.
 - b. §39A-14, Parking, to allow parking and loading between the Non-Arterial street and the closest building on a corner lot in the IHZ.
 - c. §39A-14, Parking, to allow parking and loading between the Arterial street with shorter frontage and the closest building on a corner lot in the IHZ that has frontage on two Arterial Streets.
15. Amended §39A in December 2013, pursuant to Text Amendment #663, to require Public Waterfront Access as defined in §5-2 shall be provided in any IHZ site adjacent to the Saugatuck River.
16. Amended §32-8 in February 2016, Text Amendment #707, modified portions of §32-8, Excavation and Filling of Land, and modified portions of §39A.
17. Adopted Map Amendment #709, rezoning property located at 1141 Post Road East from Residence A/GBD to Residence A/GBD-IHZ on March 3, 2016.
18. Adopted Map Amendment #712, rezoning of property located at 785 Post Road East from Residence A/GBD to Residence A/GBD-IHZ effective May 28, 2016.

RECENT PROJECTS

The Planning and Zoning Commission has approved the creation of seven (7) affordable accessory apartments since 2007 as follows:

1. A development project at 19 Indian Hill/3 Bradley Lane/86 Saugatuck Avenue was approved by the Planning and Zoning Commission in November 2007 which allowed for the construction of 20 multifamily units with 4 units being affordable per the State Statutes. The four (4) affordable units are sold to families whose income does not exceed 80% of the state median income.
2. A redevelopment project at 575 Riverside Avenue was approved by the Planning & Zoning Commission in February 2007 and allowed for the construction of 4 affordable units to be rented to families whose income does not exceed 80% of the state median income.

3. A redevelopment project at Hidden Brook/Sasco Creek (1655 Post Road East) was approved by the Commission on 9/6/12 and will allow for the construction of twenty-one (21) new affordable units.
4. A Special Permit/Site plan application was approved on 12/4/08 for development of the Hale's Court site. The project constructed 38 new units for rent.
5. A redevelopment project at 0 Church Lane was approved by the Planning & Zoning Commission on 8/15/13 and will allow for the construction of 5 affordable units to be rented to families whose income does not exceed 80% of the state median income. The project is under construction.
6. The first IHZ development was approved in February 2015 for property at 1135 Post Road East, pursuant to Res. #14-053 involving residential and non-residential development including construction of a building for a Bank with Drive Through and Office Use, a building for Retail Use, and four (4) residential buildings consisting of a total of twelve (12) dwelling units (of which 2 are affordable dwelling units). This project is currently under construction.
7. In March 2016, the Planning and Zoning Commission adopted Map Amendment #709, rezoning property located at 1141 Post Road East from Residence A/GBD to Residence A/GBD-IHZ.
8. For more information on units see attached spreadsheet entitled, 2015 Affordable Housing Units, March 2016.

As shown, the Planning and Zoning Commission has made significant progress in creating opportunities for affordable housing in Westport by approving the creation 81 new affordable units within the last 10 years.

B. State Initiatives

In addition to acting on recommendations from the local Plan of Conservation and Development, Westport's affordable housing efforts are also guided by policies established at the State level. The State of Connecticut established a goal that affordable housing should represent 10% of the total housing inventory in each municipality throughout the State.

The State of Connecticut enacted C.G.S. §8-30g in 1990. It provides a special appeals process to a developer, if a housing development containing a specified minimum amount of affordable housing units is denied by a local land use board. This appeals process is only applicable to those communities that do not meet the 10% affordable housing goal. While some cities and larger communities have met the 10% goal, most Connecticut communities have not. A list was recently published that identifies those communities in Connecticut that obtained the 10% goal, see attached *List of Municipalities Exempt from Affordable Housing Appeals Procedure*, prepared by CCM, dated March 2016.

The affordable housing inventory in Westport equals 319 units, according to the most recently available data. This represents approximately 3.07% of the total housing inventory (10,065 single and multi-family dwelling units) as listed in the 2000 U.S. Census, see attached memorandum *Affordable Housing Units, document, dated March 2016, and Maximum Sale Price of Affordable Units under §8-30g, dated 5/10/16.*

C.G.S. §8-30g allows a moratorium to the appeals process if a community can demonstrate significant progress in meeting the State's goal. Westport does not yet qualify for this process.

Westport needs 208 moratorium points to qualify for a moratorium. An analysis has been done by staff that identifies Westport has 118.75 existing moratorium points based upon projects that have received certificates of occupancy (C.O.'s), with a potential total of 171 moratorium points if all the already approved projects, are constructed. If approved, the subject project would provide an additional 67.25 moratorium points.

For further clarification on C.G.S. §8-30g and the moratorium process see memorandum *State Moratorium on Affordable Housing (§8-30g (I): State Certificate of Affordable Housing Completion, Moratorium on Applicability of C.G.S. §8-30g to Certain Affordable Housing Applications, revised 5/12/16*, available in the file.

Westport has not yet met the 10% goal or the number of moratorium points required which makes the Town subject to the appeals process in cases where a development application that includes affordable housing is denied, or an affordable housing development application is approved with such restrictions that the project is no longer viable.

The appeals process outlined in C.G.S. §8-30g is unique in that the burden of proof is shifted to the Planning and Zoning Commission to demonstrate the reasons for their decision. To avoid revisions to, or reversal of, a decision, C.G.S. §8-30g specifically requires that the record show:

1. The decision is necessary to protect substantial public interests in health, safety, or other matters which the commission may legally consider;
2. Such public interest clearly outweighs the need for affordable housing;
3. Such public interest cannot be protected; and
4. The decision from which the appeal is taken and the reasons given for the decision are supported by sufficient evidence in the record.

I. Property Description/History

The property located at 1177 Post Road East is improved with a 3-story (19,260 SF) office building and parking lot constructed in 1980. Portions of the property are located within the Waterway Protection Line Ordinance (WPLO) area and also partially within the 100-year Flood Hazard Zone AE' Elevation 32' NAVD.

The adjacent property is the process of completing a hydraulic study of the floodway and it is anticipated the flood heights will increase by 3 feet. The applicant has agreed to modify the plans to comply with this proposed new flood height by converting the area below the proposed Base Flood Elevation to non-residential space.

II. Proposal

The applicant has submitted a Text Amendment application (#714) to create a new §19B, Residential-Rental Housing Opportunity/Workforce Zone District (R-RHOW).

The applicant has submitted a Map Amendment application (#715) to rezone the property at 1177 Post Road East from GBD to the new R-RHOW.

The applicant has also submitted a Site Plan proposal with the following elements:

- Addition to the existing 3-story 19,260 SF building with 94 rental dwelling units, 52 studio apartments, 36 one bedroom units and 6 two bedroom units. Twenty-nine (29) of the units will be affordable dwelling units
- 152 parking spaces with 52 located below the proposed building;

- Entrance only and exist only driveways on Post Road East;
- The plans also include landscaping and lighting;

The submitted application includes a traffic report, sewage report, site plan, landscape plan, sedimentation & erosion control plan, architectural plans, lighting plan and an Affordability Plan.

Zoning Analysis

TEXT AMENDMENT

The proposed new zoning district R-RHOW contemplates the following standards:

19B-1, Intent and Purpose:

The regulation states the intent is to:

- (a) Increase the availability of affordable and attainable rental workforce dwellings in Westport where existing and adequate public facilities and services are present.
- (b) Encourage the construction of rental workforce dwellings that is within the economic means of moderate and low-income households, and is in a mixed-income development.
- (c) Promote housing choice and economic diversity, including rental housing for low and moderate-income households, within the Town of Westport.
- (d) Efficiently utilize existing infrastructure and promote neighborhood planning by providing, where infrastructure support is available, a diversity of housing, densities, sizes and prices.

19B-2, Permitted Uses:

The text allows for multi-family residential dwellings and retail, professional and medical offices. The non-residential uses cannot be greater than 6,000 SF in total and must be within a building that also houses residential units.

19B-3, Site Requirements:

The requirements proposed for a site to be rezoned to R-RHOW include the site:

- (a) Has a minimum lot size of 1.5 acres;
- (b) Has frontage on a public street;
- (c) Has access to public water and sewer.

These standards are very broad and could allow for many, potentially unintended lots in Westport to be rezoned to R-RHOW, including those in traditional single residential zoned neighborhoods, on streets other than arterial. It is unknown the exact number of lots that would be eligible; however, the Commission may consider requesting this information of the applicant.

19B-4, Bulk, Area, Dimensional, and Open Space Requirement:

- | | |
|----------------------------------|------------------|
| (a) <i>Minimum lot size</i> | <i>1.5 acres</i> |
| (b) <i>Minimum lot width</i> | <i>200 feet</i> |
| (c) <i>Minimum front setback</i> | <i>30 feet</i> |
| (d) <i>Minimum side setback</i> | <i>15 feet</i> |
| (e) <i>Minimum rear setback</i> | <i>30 feet</i> |

- (f) *Minimum building height* 70 feet or 7 stories
- (g) *Maximum impervious coverage* 80% of gross lot area

19B-5, Other Standards:

19B-5.1 Private Roads:

Private roads must be designed and constructed in accordance with standards of the Town of Westport for municipal roads.

19B-5.2 Parking (Residential):

The table below outlines the existing and proposed requirements for residential parking.

	Existing Regulation	R-RHOW
Studio	1.75 parking spaces	1.5 parking spaces
1-Bedroom	1.75 parking spaces	1.5 parking spaces
2-Bedroom	2.25 parking spaces	2.25 parking spaces

The existing zoning regulations require an additional 0.25 parking spaces per studio and 1-Bedroom unit.

19B-5.3 Parking (Commercial):

The regulation proposed non-residential parking be provided per §34.

19B-5.4 Density:

The regulation proposes the maximum density be 48 units per acre. This density is typically found in more urban environments where public transit is readily accessible and relied on as a mode of transportation. This far exceeds the density permitted in Westport’s existing zoning regulations. As an example, the IHZ Zone permits a maximum 28 units per acre where affordable housing is permitted.

19B-6, Site Plan Documents to be Submitted:

The regulation requires the documents provided in §44-1 be submitted except and otherwise provided in the regulation.

19B-7, Traffic Study

The regulations require a traffic study be submitted at the request of the Commission; however, an application submitted pursuant to §19B not be subject to §44-2.5.

19B-8, Application Requirements:

The regulation exempts applications submitted pursuant to this section from the following regulations:

- §4-5, Maximum Allowable Multi-family Dwellings;
- §32-8, Excavation and Filling of Land;
- §32-12, Inclusionary Two-family and Multi-Family Dwellings;
- §32-18, Historic Residential Structures;
- §35, Landscaping, Screening and Buffer Areas;

- §37, Sediment and Erosion Control Regulations;
- §44-1.4.5, Special Permit and/or Site Plan Documents, Standards and Objectives (Signs and Lighting);
- §44-2, Special Permit and/or Site Plan Documents, Standards and Objectives (Other Reports and Documents);
- §44-2.6, Special Permit and/or Site Plan Documents, Standards and Objectives (Sewerage Reports)
- §44-2.7, Special Permit and/or Site Plan Documents, Standards and Objectives (Archaeological Report)
- §44-5, Special Permit and/or Site Plan Documents, Standards and Objectives (Landscaping and Screening); and
- §44-5.5. Special Permit and/or Site Plan Documents, Standards and Objectives (Lighting and Noise)

19B-9, Definitions:

The regulations define the terms “*Rental Housing Opportunity Development*” (RHOD) and “*Rental Workforce Dwelling*”.

19B-10, Requirements for Workforce Homes:

The regulations requires the construction quality of the Rental Workforce Dwellings be comparable to market rate units within the development and that they be dispersed throughout the development and built on a pro rata basis as construction proceeds. The regulation requires that an Affordability Plan be submitted.

MAP AMENDMENT

The application proposes rezoning the property at 1177 Post Road East from General Business District (GBD) to the new R-RHOW. The property appears to comply with the Site Requirements proposed in the R-RHOW.

SITE PLAN

The table below analyzes only the proposed conditions to the applicable zoning requirements.

	GBD	R-RHOW
Types of Uses	<p>Allowed: Any use permitted in a Res AAA; Retail; Grocery stores, delis and retail food establishments; Restaurant (without drive-in); Cafes and Taverns; Offices; Banks; Indoor Theaters; Undertakers; Newspaper and print job Establishments; Veterinary Hospital; Indoor and Outdoor Commercial Recreational uses; Parking Lots; Commercial marinas; Wireless Communication Facilities; Private Occupational Schools; Inclusionary two-family and multi-family dwellings; Retail boat sales.</p>	<p>Allowed: multi-family residential dwellings and retail, professional and medical offices. The non-residential uses cannot be greater than 6,000 SF in total and must be within a building that also houses residential units.</p> <p><u>Proposed:</u> Residential uses (94 dwelling units) in one building. Non-residential not proposed.</p>
Lot Area:	<p>No minimum requirement, except that no lot shall have less than 50 feet of frontage on at least one street.</p>	<p>Minimum lot size of 1.5 acres; Minimum lot with: 200 feet; Frontage on a public street; Access to public water and sewer.</p> <p><u>Proposed:</u> Lot size: 1.96 acres (85,430 SF) Lot width: 435 feet Has frontage on public street and has access to public water and sewer.</p>
Setbacks:	<p>Front: 30 feet Side: 15 feet Rear: 25 feet (15 feet accessory bldgs.) Residential District Boundary Line: 30 feet</p>	<p>Front: 30 feet; Side: 15 feet; Rear: 30 feet</p> <p><u>Proposed:</u> Front: 30.16 feet; Side 22.13 feet; Rear 30+ feet</p>
Height:	<p>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.</p>	<p>Building height: 70 feet or 7 stories</p> <p><u>Proposed:</u> 61.5 feet and 4 stories</p>
Building Coverage:	<p>25% of the area of the lot, which lies within a General Business District.</p>	<p>No requirement.</p> <p><u>Proposed:</u> 35.17%</p>
Total Coverage:	<p>No requirement.</p>	<p>Maximum impervious coverage: 80% of gross lot area</p> <p><u>Proposed:</u> 75.98%</p>

<p>Floor Size Limit:</p>	<p>No one building shall exceed 10,000 square feet of gross interior floor area and no group of stores or shopping center shall exceed 50,000 square feet of gross interior floor area.</p>	<p>No requirement. Existing: 19,260SF <u>Proposed:</u> Unknown. Staff requested this information from the Applicant.</p>
<p>F.A.R.</p>	<p>Allowed: 0.25</p>	<p>No requirement. <u>Proposed:</u> Unknown</p>
<p>Density (units):</p>	<p>No requirement.</p>	<p>No minimum or Maximum stated <u>Proposed:</u> 48 unit acre</p>
<p>Affordable Housing:</p>	<p>No requirement.</p>	<p>Required: Minimum of 30% of total number of units. <u>Proposed:</u> 30.8% or 29 units Affordable unit numbers are not shown on plan. This information was requested by staff.</p>
<p>Comparable Units:</p>	<p>No requirement.</p>	<p>Required: Rental Workforce Units shall be of a construction quality that is comparable to market-rate units within the development. <u>Proposed:</u> Appears to comply.</p>
<p>Architectural Design:</p>	<p>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 other buildings in the General Business Districts so as to preserve and improve the appearance and beauty of the community. New construction or reconstruction shall adhere to the design purpose of this district, in whole or in part.</p> <ul style="list-style-type: none"> (a) Buildings designed to achieve a small scale and residential appearance shall be encouraged. (b) Pitched roofed buildings shall be encouraged. (c) Roof-top mechanical equipment, other than solar energy panels, shall be 	<p>Text exempts R-RHOW from Architectural Design regulations.</p>

	<p>concealed from all sides.</p> <p>(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.</p>	
Signs:	Allowed per §33.	Text exempts R-RHOW from the sign regulations.
Parking Computations:	<p>Required: 1 space per 250 SF office; 1 space per 180 SF Retail use; 1 space per 165 SF Medical; 1.75 spaces per studio and 1-bedroom units, 2.25 spaces per 2-bedroom units.</p> <p><i>The Planning and Zoning Commission may reduce multi-family parking standards by 0.5 per unit.</i></p> <p><u>Required:</u></p> <p>Studios: 1.75 units x 52 = 91 1 Bedroom: 1.75 units x 36 = 63 2 Bedroom: 2.25 units x 6 = 14</p> <p style="text-align: right;"><u>Required: 168</u></p>	<p>Studio: 1.5 spaces per unit 1-Bedroom: 1.5 spaces per unit 2-Bedroom: 2.25 spaces per unit Comply with §34 for Commercial Parking.</p> <p><u>Required:</u></p> <p>Studios: 1.5 units x 52 = 78 1 Bedroom: 1.5 units x 36 = 54 2 Bedroom: 2.25 units x 6 = 14</p> <p style="text-align: right;">146</p> <p><u>Proposed: 152</u>, including 55 covered spaces</p>
Landscaping (Front Landscape Area):	<p>The required front setback area, as measured from the property line, except for sidewalks 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."</p> <p>All front landscape areas shall have at least one (1) shade tree for each fifty (50) feet of front length (measured parallel to the street line) and shall be setback at least ten (10) feet from the street line</p>	<p>Text exempts R-RHOW from landscaping requirements.</p> <p><u>Proposed:</u> 5 new trees (2 London Planes 4" caliper and 3 Yoshino Cherries 3.0-3.5" caliper) along Post Road East within front landscape area.</p>
Landscaping (Parking Areas):	<p>1 shade tree, 4" in caliper, for each 10 parking spaces. Such trees shall be located in a porous island, esplanade, pot(s) or well(s) at least nine 9' in diameter or 9' on each side.</p>	<p>Text exempts R-RHOW from landscaping requirements.</p> <p><u>Proposed:</u> 1 shade trees (London Plane), 4" caliper</p>

	97 surface spaces requiring 10 trees.	
Landscaping (Buffer Strip):	Required: 15' wide buffer strip to adjacent residential district. 1 evergreen tree, 8-10' in height, required for each 10' of buffer length. The evergreen trees may be grouped or staggered at intervals provided that the spacing between groups is filled with a screening hedge, berm, fence, or wall at least 5' in height. A berm, mound, hedge, wall, or fence up to 8' in height may be required in conjunction with any portion of the required planting in the buffer.	Text exempts R-RHOW from landscaping requirements. Proposed: 10 evergreen trees, 8-10' in height proposed.
Lighting:	Required: §44-5.5 requires all lights shall be designed so as to prevent objectionable light at, and glare across, property lines, and at the minimum height from the ground and the maximum distance from the property line so as to provide adequate and safe lighting of the building entrances, walkways, parking area and accessways. All lighting shall be designed so that the light sources are shielded with opaque material in such a way that the light will be down directed and not visible at a height greater than 6' above the ground at property lines.	Text exempts R-RHOW from lighting requirements.

Analysis of the Proposed Text and Map Amendment

It is recognized that an application for an affordable housing development may be accompanied by Text and Map amendment requests as a way to make an otherwise non-conforming project conform to specific standards that would regulate the property's development and guide any future activity in a conforming manner. However, that purpose must be weighed against the potential effects of such new regulations.

The applicant notes in in the submitted material that the R-RHOW *"has been drafted for this application and applies only to the subject property."* While that is true at this time, the Commission will recognize that if adopted, the proposed regulations will become a part of the zoning code like all other regulations. With that in mind, it's particularly important to consider the potential effects such as where they would apply and whether the requirements are consistent with goals and standards including density of use and other bulk standards, architecture, landscaping, and degree of site manipulation.

Regarding location, the proposed Site Requirements are very broad only requiring that a qualifying property be at least 1.5 acres in area with 200 ft. of frontage on a public street and that public sewer and water are available. Those standards suggest that there will be a great number of properties that meet those criteria, many in traditional single family residential zones and on secondary or even tertiary roads. The liberal site requirements coupled with regulations that relieve a project in the R-RHOW of the requirement to adhere to typical regulated standards for all other developments in Westport including maximum density limitations, excavation and fill activity, landscaping, lighting, and sediment and erosion controls must be considered by the Commission as they weigh this request.

Moreover, there is no legislative mandate in Section 8-30g that a new zone and regulations be adopted as a part of an affordable housing application. If an affordable housing application under 8-30g is approved, it will survive on its own merits without an accompanying zone and regulations. In considering the appropriateness of the regulations, the Commission may choose to approve, deny, or modify provisions of the proposed regulations that would impose constraints particular to this location and proposal.

Peer Review of Traffic Report

§43-6.4 authorizes the Planning and Zoning staff and/or the Planning and Zoning Commission to hire an outside consultant to provide technical assistance as needed at the applicant's expense. Staff hired CDM Smith to conduct a peer review of the applicant's Traffic Access and Impact Study and site plan. The peer review is still in development and won't be available for initial public hearing but will be submitted by 6/8/16.

Affordability Plan

The applicant submitted an Affordability Plan pursuant to §8-30g, identifying 15% of the dwelling units will be affordable and will be offered to families whose income is less than or equal to 60% of the area or statewide median incomes, whichever is less, and 15% of the dwelling units will be affordable and will be offered to families whose income is less than or equal to 60% of the area or statewide median incomes, whichever is less.

The Affordability Plan describes the rental amounts and they appear to be consistent with §8-30g requirements.

Maximum Allowable Multi-Family Dwellings

§4-5 of the Westport Zoning Regulations requires the total number of multi-family dwelling units shall not exceed 10% of the total number of single family dwelling units within the Town as reported in the most recent official U.S. Census. The 2000 Census report shows that of the 10,065 dwelling units in Town, there are 8,755 single-family dwelling units, therefore 876 multi-family dwelling units are permitted. The limit imposed by §4-5 has not yet been exceeded, but the Town is growing closer to exceeding the cap. To date, Planning and Zoning staff calculates there are already 818 multi-family dwelling units approved by the Planning and Zoning Commission (but not all yet constructed), allowing only 58 more units to be approved before the cap is exceeded, see memorandum, "*Maximum Allowable Multi-Family Dwelling Units under §4-5, prepared by M. Perillie, revised 4/29/16,*" available in the file. Therefore if this application is approved the cap would be reached.

Considerations

Standards and Requirements

§44-5 lists the Site Plan Standards and Objectives the Planning and Zoning Commission should

consider in reviewing the application; however the applicant’s position that they are exempt from them.

This project is considered an Affordable Housing Set-aside Development which means it is a development where not less than **30%** of the dwelling units will be conveyed by deed containing covenants or restrictions which shall require that, for at least 40 years after the initial occupation of the development, such dwelling units will be sold or rented at, or below, prices which are 30% or less of their annual income, where such income is less than or equal to 80% of the state or area median income, whichever is less. According to the 2015 figures, the state median income is \$87,800 and the area median income is \$131,300, therefore, the state median income would be used for these purposes.

- Of the 30% affordable units, at least 50% of the dwelling units shall be sold or rented to families whose income is less than or equal to 60% of the state median income (\$87,800), or no more than \$52,680, adjusted for family size.
- The remainder of the dwelling units shall be sold or rented to families whose income is less than 80% of the state median income, or no more than \$70,240, adjusted for family size.

Recommendations

The Planning & Zoning Commission should leave this hearing open to obtain all of the third party peer review reports, which are currently being developed. After receipt of these reports the applicant should reply to any issues raised and then the peer reviewers should determine if their concerns have been addressed. The Planning & Zoning Commission should leave this hearing open to allow the Conservation Commission to render a decision.

Furthermore, the Commission should make a determination about the missing information and reviews associated with this application which include:

- No ARB Review.

Comments from Local Agencies/Boards/Town Departments

ARB:	No application was submitted.
Board of Education:	Transmittal sent
Building Inspector:	Transmittal sent
Conservation Commission:	See attached, dated 5/4/16.
Engineering Department:	See attached dated 5/16/16.
DPW Director	Transmittal sent
Fire Marshal:	Transmittal sent
Police Department:	“The Police Department has reviewed the above amendments. We only have two comments about the amendments.

	<ul style="list-style-type: none"> • The traffic study indicated a tree approximately 7 feet from the curb of Post Road East, approximately 3 feet from the western edge of the current driveway that partially obstructs the sight line looking west(right). After doing a visual inspection I would consider removing that tree, so a clear line of sight aids vehicles exiting the driveway. • We believe the proposed residential development will have an increase, possible a small increase, in overall traffic on the surroundings roadways, from the current use. <p>We have no other public safety concerns with this application. However, as long as we have the opportunity to evaluate any future changes to this location.” 5/11/16</p>
Town Attorney:	Transmittal sent.
Tree Warden:	Transmittal sent.
GBRPA:	Transmittal sent.
WestCOG:	“The opinion of WestCOG staff is that the proposal is of local concern, but with minimal intermunicipal impact. Therefore it is not being forwarded to adjacent municipalities and the regional staff is making no comment.” 5/2/16
DEEP:	“We have reviewed the above-referenced proposed text amendment for consistency with Connecticut Coastal Management Act policies and have no comments for the Planning & Zoning Commission’s consideration. Please let me know if you have any questions or if you need any additional information.” 5/4/16
Aquarion	See attached letter dated 4/14/16.

A Field Trip to the site will be conducted at 8:15 on May 31, 2016.

Attached

- Proposed Text Amendment, dated March 2016
- Zone Change Plan, prepared by Milone and MacBroom, dated 3/10/16
- Affordability Plan, prepared by Shipman and Goodwin, dated March 2016
- Site Plans, prepared by Milone and MacBroom, dated 3/10/16 (11 sheets)
- Building Plans, prepared by Rose Tico and Co, LLC, dated 1/4/16 (12 sheets)
- Engineering Comments, dated 5/16/16
- Conservation Comments, dated 5/4/16

Available in the File:

Sanitary Sewer Downstream Capacity Analysis, prepared by Milone and MacBroom, dated 3/7/16
Traffic Impact Study, prepared by Milone and MacBroom, dated 3/3/16
Engineering Report, prepared by Milone and MacBroom, dated 3/10/16
Affordable Housing as Defined in State Statutes §8-39a & §8-30g, dated 9/18/02, revised 5/10/16
Affordable Housing Units, document, dated March 2016
Maximum Sale Price of Affordable Units under §8-30g, dated 5/10/16
State Moratorium on Affordable Housing (§8-30g (I): State Certificate of Affordable Housing Completion,
Moratorium on Applicability of C.G.S. §8-30g to Certain Affordable Housing Applications, revised 5/12/16
Maximum Allowable Multi-Family Dwelling Units under §4-5, prepared by M. Perillie, revised 4/29/16

