

Hearing: March 1, 2018, March 8, 2018, and April 5, 2018

Decision: April 19, 2018

MODIFIED: April 25, 2019, See Finding #'s 3, 6-11, 19, Condition #'s 1, 2, and 8, and Vote

MODIFIED: May 9, 2022, See Finding #7 and Condition #8a and Vote

April 20, 2018

William Fitzpatrick, Esq.
1735 Post Road, Suite 2C
Fairfield, CT 06824

RE: **54 Wilton Road, CAM Site Plan/Special Permit Appl. #18-002**

Dear Attorney Fitzpatrick:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on April 19, 2018, it was moved by Ms. Walsh and seconded by Ms. Dobin to adopt the following resolution.

RESOLUTION #18-002

WHEREAS, THE PLANNING AND ZONING COMMISSION met on April 19, 2018 and made the following findings:

1. 54 Wilton Road is situated along the Saugatuck River and is in the Coastal Area Management (CAM) zone. The site is in the FEMA Flood AE zone with a base flood elevation of 10 feet. The site topography ranges from an elevation of 3.3 feet along the Saugatuck River to 9.0 feet along Wilton Road. The site is also located within the Water Pollution Control Ordinance line.
2. The property is located in the General Business District/Residential. The Planning and Zoning Commission approved a map amendment on March 1, 2018, with an effective date of March 12, 2018, to rezone the property from General Business District to General Business District/Residential.
3. The application is for construction of a new, 47' tall FEMA compliant, residential building, with a parking garage below and three levels of condominiums (~~16 units~~ **12 units**) that will be constructed on the northern portion of the lot. There will be landscaping, Public Waterfront Access to the Saugatuck River, amenities including benches and public waterfront access parking and a reinforced grass surface fire lane between the Saugatuck River and the residential structure.

- 4. Height in feet is limited to 25 feet measured to the mid-point of the roof in the GBD/R. The Planning and Zoning Commission may allow an additional 22 feet in height to the highest ridge of a pitched roof or the top of a flat roof for residential buildings located in the FEMA floodplain if the applicant demonstrates present or future public benefits to the satisfaction of the Planning and Zoning Commission. To allow the additional 22' of height, the applicant has provided present or future public benefit in the form of

The applicant offered the following:

- a) Reduction in traffic congestion by replacement of office use with residential use, therefore reducing traffic generation of the site,
- b) Addition of high quality residential units to the downtown and reduction of the office space on the site,
- c) Provision of off-site affordable housing,
- d) Provision of extended Public Waterfront Access along west bank of Saugatuck River,
- e) Expansion of view corridors from Route 33 to the Saugatuck River as per the requirements of Section 31-10.7.4
- f) Construction of a FEMA compliant building
- g) Combination of complementary uses maximizing available parking and minimizing peak hour demand.
- h) Decrease in impervious surface and increase in green space on site,
- i) Significant improvement in water quality,
- j) Addition of iconic residential building to downtown waterfront.

VOTE:

AYES	-5-	{Lebowitz, Dobin, Walsh, Cammeyer, Rutstein}
NAYS	-0-	
ABSTENTIONS	-2-	{Stephens, Gratrix}

- 5. In conjunction with residential units proposed as part of a GBD/R development, 20% of all proposed units shall be required to be affordable in accordance with CT General Statute §8-30g. This requirement may be satisfied by dedication of off-site deed restricted affordable units per Section 24B of the Westport Zoning Regulations. The location and design of these units is subject to approval by the Planning and Zoning Commission.
- 6. This approval is conditioned upon the provision of affordability plans for ~~three (3)~~ **two (2)** deed restricted affordable dwelling units that satisfy the Planning and Zoning Commission as to their location and design. As agreed to by the applicant, details regarding the location and design of these units will be reviewed and approved by the Planning and Zoning Commission prior to the issuance of the Zoning Certificate of Compliance for the new residential condominium building at 54 Wilton Road.

7. **The applicant proposed and the Commission accepted the designation of off-site affordable housing pursuant to the standards in §24B-15, Affordability Requirement and Plan, located at 44 Church La. that shall be deed restricted as affordable housing for 40-years, including the 1st floor, 1-bedroom unit that shall be deed restricted so rent shall not exceed 60% of the state median income, and the 2nd floor, 2-bedroom unit that shall be deed restricted so rent shall not exceed 80% of the state median income. An affordability plan shall be submitted prior to issuance of a Zoning Certificate of Compliance.** ~~has offered **may offer** to purchase and deed restrict a legal two-family dwelling located at 87 Saugatuck Avenue within which a third dwelling unit could be created pending Special Permit approval by the Planning and Zoning Commission.~~
8. The proposed ~~16~~ **12** condominiums and the office space in the adjacent building on the property require ~~131~~ **126** parking spaces and one loading space; the site plan provides one loading space and ~~141~~ **126** parking spaces ~~eight (8)~~ **seven (7)** of which are specifically designated for Public Waterfront Access. ~~The applicant offered to deed restrict the affordable units using 40% State Median Income (SMI), (not 80% SMI), as allowed.~~
9. This project was reviewed on January 19, 2018, by the Architectural Review Board at their meeting and it was strongly recommended for approval. **The modified proposal was subsequently reviewed and approved at the Architectural Review Board meeting on February 26, 2019.**
10. The Flood and Erosion Control Board approved this application on February 7, 2018, **and subsequently approved the modified application on April 11, 2019.**
11. The Conservation Commission reviewed this application (#WPL 10528) at its January 17, 2018, meeting and it was approved with the condition that a permanent maintenance scheduled for all drainage structures is provided by the engineer of record and filed on the land records. **The Conservation Commission subsequently approved the modified project with conditions on April 17, 2019.**
12. The DPW Engineering Department provided comments dated March 7, 2018, indicating they have found the plans to be complete and satisfactory.
13. The Fire Marshal reviewed the proposed plans and provided positive comments on the provision of 360 degree access on paved surfaces for all buildings, with a minimum of access width of 16 feet and the provision of full NFPA 13 fire sprinkler protection using iron pipe throughout all buildings.
14. The Police Department comments stated that the increased residential use on the property will reduce the overall traffic in and out of the property compared to its prior use as office space.
15. A third party traffic review was completed by Sharat Kalluri, P.E., P.T.O.E of CDM Smith dated March 7, 2018, which confirmed the conclusions of the applicant's traffic study that the project will not result in any adverse impacts to traffic.
16. CT DEEP provided comments by email dated April 5, 2018, indicating the department had no concerns about the proposed project. John Gaucher, commenting for the department indicated that requiring completion of the Public Waterfront Access improvements prior to the issuance of a Zoning Certificate of Compliance is advisable.

17. Planning and Zoning staff comments prepared by Katherine Daniel, dated February 22, 2018, conclude that the application is consistent with CAM policies for minimizing adverse impacts upon the adjacent coastal systems and resources.
18. The Westport Planning and Zoning Commission has determined that this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22-a-92 (b) (2) of the Coastal Area Management Act; that it will not adversely affect adjacent Coastal Resources (General Resources, Coastal Hazard Area, Estuarine Embayment and Tidal Wetlands) as identified in Sections 22-93 (a) (7) of said Act.
19. A public hearing was held on March 1, March 8 and April 5, 2018, to receive testimony from the public. **The modified proposal was reviewed in work session on April 25, 2019.**

NOW THEREFORE, BE IT RESOLVED that **54 Wilton Road, Application #18-002** by William J. Fitzpatrick, III for property owned by STC Green LLC for a Special Permit and Coastal Site Plan approval for new building construction to accommodate ~~sixteen~~ **twelve** dwelling units and parking lot improvements for property located in a General Business District/Residential district, PID #C10073000 be **GRANTED** subject to the modifications listed below:

1. Conformance to Existing Conditions and Development Plans prepared by Langan, CT, Inc., revised through March 5, 2018, and received in the Planning and Zoning Department on March 6, 2018; **and Site Plan prepared by Langan, CT, Inc. revised through April 17, 2019.**
2. Conformance to Architectural Conceptual Plans prepared by Roger Ferris + Partners, dated November 15, 2017 (three sheets FP, EL-1 and EL-2) received in the Planning and Zoning Department on January 17, 2018; **and subsequent renderings dated April 17, 2019.**
3. Conformance to Conservation Department findings and resolution dated 1/17/18.
4. Conformance to Flood and Erosion Control Board approval dated February 7, 2018.
5. Conformance to Coastal Area Management review contained in staff comments dated February 22, 2018.
6. Conformance to the Architectural Review Board recommendation dated January 19, 2018.
7. A Zoning Permit shall be obtained prior to commencement of any work. Prior to the issuance of a Zoning Permit, the applicant shall submit and obtain the following:
 - a. Proof of filing this resolution on the land records;
 - b. Final approval from DPW Engineering for grading and drainage;
 - c. Final approval from Conservation Department;
 - d. Copies of all necessary permits from the DPW
 - e. A Connecticut DOT Permit shall be obtained for work any in the State Right-of-Way.
8. Prior to the issuance of a Zoning Certificate of Compliance (ZCC) for the new residential building and the market rate condominium units, the applicant shall complete the following:
 - a. Provide affordability plans for ~~three (3)~~ **two (2)** deed restricted affordable dwelling units as described in Finding #8, ~~which will be affordable at 40%~~ **no more than 80%** of SMI and secure Planning and Zoning Commission approval as to their location and design;

- b. provide Zoning Certificates of Compliance for the ~~three (3)~~ **two (2)** deed restricted affordable dwelling units; and
 - c. complete the Public Waterfront Access features of the plan including the walkway, benches and landscaping, which features will be maintained in perpetuity.
9. The replacement and/or repair of any stone wall greater than 4 feet in height shall require the issuance of building permit.
 10. All work approved pursuant to this Special Permit/Site Plan shall be completed within 5 years of date of approval, by 4/19/23.
 11. Prior to issuance of a Zoning Certificate of Compliance, the applicant shall submit a final "As-Built" survey.
 12. All new utilities shall be placed underground.
 13. All plantings shown on an approved Site Plan shall be maintained in a healthy growing condition and all fences and walls shall be maintained in good physical condition throughout the duration of the use. Existing native plants, and newly installed native salt tolerant plants located in the vegetative buffer in particular, must be maintained. Plants, fences or walls not so maintained shall be replaced with new materials no later than the beginning of the next immediately following growing season.
 14. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

ENFORCEMENT

Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

Reasons:

The proposed use has been found to be in conformance with the 2017 Plan of Conservation and Development; and it will

1. be in conformance with the applicable zoning regulations of the Town of Westport; and
2. not prevent or inhibit the orderly growth and development of the area; and
3. not have a significant adverse effect on adjacent areas located within the close proximity to the use; and
4. not interfere with pedestrian circulation; and

- 5. not have a significant adverse effect on safety in the streets nor unreasonably increase traffic congestion in the area, nor interfere with the pattern of highway circulation; and
- 6. not have a significant adverse effect on historical, archeological and/or paleontological sites; and
- 7. not obstruct significant views which are important elements in maintaining the character of the Town or neighborhood for the purpose of promoting the general welfare and conserving the value of buildings; and
- 8. not have a significant adverse effect on storm drainage, sewage disposal or other municipal facilities; and
- 9. be in scale with and compatible with surrounding uses, buildings, streets and open spaces.

VOTE:

AYES -5- {Lebowitz, Dobin, Walsh, Cammeyer, Rutstein}
 NAYS -1- {Gratrix }
 ABSTENTIONS -1- {Stephens}

VOTE 4/25/19:

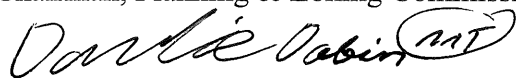
AYES -5- {Lebowitz, Dobin, Walsh, Cammeyer, Rutstein}
 NAYS -0-
 ABSTENTIONS -1- {Stephens}

VOTE 5/9/22:

AYES	5	{Dobin, Olefson, Bolton, Falk, Levey}
NAYS	2	{Tesler, Zucaro}
ABSTENTIONS	0	

Very truly yours,

~~Paul Lebowitz~~ Danielle Dobin,
 Chairman, Planning & Zoning Commission



- cc: P. Fria, Assessor
 A. Mozian, Conservation Director
 P. Ratkeiwich, Public Works Director
 I. Bloom, Town Attorney
 S. Kalluri, CDM Smith