



WESTPORT CONNECTICUT

PLANNING & ZONING
TOWN HALL, 110 MYRTLE AVENUE
WESTPORT, CONNECTICUT 06880
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Hearing: April 26, 2018

Decision: May 3, 2018

Modified: Sept. 27, 2018, (new) Condition #10,

Remaining conditions were renumbered

2nd Modification: Oct. 18, Condition #10

May 8, 2018

Richard W. Redniss, AICP
Redniss and Mead
22 First Street
Stamford, CT 06905

RE: 1141 Post Road East, Special Permit/Site Plan Appl. # 18-007

Dear Mr. Redniss:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on May 3, 2018 it was moved by Ms. Walsh and seconded by Ms. Dobin to adopt the following resolution.

RESOLUTION #18-007

WHEREAS, THE PLANNING AND ZONING COMMISSION met on May 3, 2018 and made the following findings:

Background

1. 1141 Post Road East is a 5.4 acre parcel situated on the north side of Post Road East situated between 1135 Post Road East (Res A/GBD-IHZ), and 1177 Post Road East, and east of the intersection of Morningside Drive North.
2. The property was rezoned (Map Amendment #709, #15-064) from Residence A/General Business District (GBD) to Residence A/GBD - Inclusionary Housing Overlay District (IHZ) with an effective date of April 3, 2016.
3. The Planning and Zoning Commission adopted Text Amendment #739, effective 11/12/17 enabling housing opportunities and care facilities by adding regulations to §39A in the Inclusionary Housing Overlay District (IHZ) to allow for "Assisted Living, Full Care Living and Independent Living Facilities" (ALFCIL).
4. The site has 27,777 SF of wetlands and 774 SF of steep slopes, is located within the 100-year flood zone and floodway, and is located within the Waterway Protection Line Ordinance (WPLO).
5. Currently the site is developed with a 9,200± SF office building which was approved by the Commission on April 26, 1973 and the same excavation and construction business has been in operation on this site since 1965 which has resulted in extensive site disturbance.

Proposal

6. The applicant seeks Special Permit/Site Plan approval to accommodate housing and services for seniors pursuant to the Assisted Living, Full Care Living and/or Independent Living Facilities (ALFCIL) regulations contained in §39A, IHZ of the Zoning Regulations. This project contains Assisted Living Facilities and memory care beds, but no Independent Living Facilities. The proposal includes:

- A. The demolition of all existing on-site structures.
 - B. The construction of a 97,194 SF three story building with a total of 96 rooms. The ALFCIL Facility is organized in the living space as follows:
 1. First Floor: 27 Memory Care (Full Care) rooms (26 studios and 1 companion room) and the bulk of the central services including (dining, media activity rooms, lounges and outdoor patios). 32,522 SF.
 2. Second Floor: 35 Assisted Living rooms (3 studios, 24 one bedroom, 8 two bedroom). 33,260 SF.
 3. Third Floor: 34 Assisted Living rooms (6 studios, 23 one-bedroom and 5 two-bedroom) 31,382 SF.
 - C. The installation of 41 regular parking spaces, 4 handicapped parking spaces and 10 compact parking spaces, for a total of 55 parking spaces.
 - D. Site work that includes excavation and fill activities, installation of storm water drainage structures, sidewalks, walking paths, new landscaping, and lighting.
 - E. A 74,532 square foot Conservation Easement area that serves to protect on-site wetlands, slopes, vegetation, and adjacent woodlands.
 - F. Off-site affordable housing.
7. In conjunction with the 69 Assisted Living Units proposed as part of a development, 5% of all proposed units shall be required to be affordable. This requirement may be satisfied by dedication of off-site deed restricted affordable units per Section 39A-18.4 of the Westport Zoning Regulations. The location and design of these unit(s) is subject to approval by the Planning and Zoning Commission that shall be obtained prior to the issuance of the Zoning Certificate of Compliance for the new ALFCIL Facility at 1141 Post Road East.
 8. The proposed 96 Assisted Living and Full Care Rooms in the Facility require 0.25 parking space per room plus 0.8 parking space for each of the 35 employees resulting in a parking requirement of 52 parking spaces and the applicant has provided 55 parking spaces.
 9. This project was reviewed on March 27, 2018 by the Architectural Review Board at their meeting and it was recommended for approval.
 10. The Flood and Erosion Control Board approved this proposal (WPL #10543-18) on February 7, 2018.
 11. The Conservation Commission reviewed this application (#WPL 10543-18, #IWW 10542-18) at its March 9, 2018 meeting and special conditions were added to their approval in acknowledgement of the substantial excavation and fill activities.
 12. The Board of Selectman acting in their capacity as the Water Pollution Control Authority (WPCA) approved an additional sewer benefit assessment for this proposal at their 2/28/2018 meeting.
 13. The State of Connecticut Department of Transportation (ConnDOT) issued preliminary approvals on 04/18/2018 and will grant final approval only after all local approvals are obtained.
 14. The DPW Engineering Department provided comments dated 04/23/2018 indicating they have found the plans substantially comply with the Town of Westport Engineering Department Drainage Standards.
 15. The Fire Marshal reviewed the proposed plans and delivered positive comments on 04/18/2018.
 16. The Police Department comments dated 03/07/18 stated that they believe that the driveway exiting the property onto the Post Road should be limited to "Right Turn Only".

17. A third party traffic review was completed by Sharat Kalluri, P.E., P.T.O.E of CDM Smith dated 04/07/2018 which confirmed the conclusions of the applicant's traffic study that the project will not result in any adverse impacts to traffic. This includes agreement that a "Right Hand Turn Only" restriction is not necessary.
18. The Tree Warden submitted comments dated 04/26/2018 stating that he would like to see a "Tree protection & preservation detail" included in the plan to protect the Sycamore tree that is remaining, and notes that it would be crucial to see that it is carefully protected during the construction and that all remaining Parking areas, Buffer trees and Street Trees are in compliance for species selection, size and location.
19. The Planning and Zoning Commission conducted a noticed site visit to the property on 04/24/2018.
20. Testimony was received from members of the public on April 26, 2018.

NOW THEREFORE, BE IT RESOLVED that **1141 Post Road East, Application #18-007** by LCB Senior Living for property owned by 1141 Post Rd E, LLC for a Special Permit and Site Plan approval for development of the property to accommodate housing and services for seniors which includes Assisted Living, Full Care Living and Independent Living Facilities (ALFCIL) pursuant to §39A, IHZ in a GBD/Residence A/IHZ zone, PID #G09028000 be **GRANTED** subject to the modifications listed below:

1. Conformance to Existing Conditions and Development Plans prepared by Redniss & Mead, (15 sheets) last revised 4/13/18.
2. Conformance to Architectural Plans, prepared by the Architectural Team, Inc. (9 sheets) last revised 4/12/18.
3. Conformance to Conservation Department findings and resolution dated 4/9/18.
4. Conformance to the Lighting Plan, prepared by Apex Lighting Solutions, last revised 4/17/18.
5. Conformance with the Landscape Plan prepared by William Kenny and Associates, last revised 4/2/2018, which is modified by increasing the conifer buffer to the north to 10-12 foot high trees at the time of installation as agreed to by the applicant.
6. Conformance to Flood and Erosion Control Board approval dated 02/16/2018.
7. Conformance to the Architectural Review Board recommendation dated 03/27/2018.
8. 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. Copies of all necessary permits from the DPW;
 - d. Final approval from Conservation Department;
 - e. A Connecticut DOT Permit shall be obtained for work any in the State Right-of-Way.
 - f. All necessary permits from the Department of Public Works, including but not limited to, sewer disconnect and reconnect permits, and review of new curb cuts and sidewalks along the street frontage;
 - g. Final Signoff from the Town Attorney's Office on all legal documents including but not limited to the Conservation Easement Document, Dry Emergency Access Easement to 1135 Post Road East, and the Landscaping Maintenance Agreement; and
 - h. Final Signoff from the Town Tree Warden on the Landscape Plan.

9. Prior to the issuance of a Zoning Certificate of Compliance (ZCC) for the ALFCIL Facility, the applicant shall provide off-site affordable housing after obtaining approval from the Planning and Zoning Commission for their location and design pursuant to §39A-18.4 of the Westport Zoning Regulations, as well as approval from the Town Attorney's Office for any Off-Site Affordability Plan(s).
10. To facilitate the establishment of offsite affordable housing, the applicant shall contribute \$1,000,000 (One Million Dollars) to the Housing Development Fund ("HDF"). The purpose of such contribution shall be to allow the HDF to purchase, own, deed restrict in perpetuity, and maintain a minimum of two (2) homes to serve families whose income is less than or equal to eighty percent (80%) of the State Median Income. The subject homes are located at [~~4 Davenport Avenue~~] 4 Oak View Lane and 23 Crescent Park Road. Legal documents, including but not limited to the purchase and sale agreement and the proposed deeds of conveyance shall be submitted by the applicant and shall be reviewed by the Town Attorney for compliance with the aforementioned conditions. Additionally, such documents shall empower the Town of Westport to obtain ownership of the two homes should the HDF extinguish. Any change of ownership or operator is subject to Planning and Zoning Commission approval. These legal documents shall take the form of an Affordability Plan that must be recorded on the land records prior to issuance of a Zoning Certificate of Compliance (ZCC) for the ALFCIL Facility. This condition only applies to this site.
11. A CLOMR approval from FEMA does not officially change the floodplain, floodway or flood elevations on the FIRM until all construction activities have been completed and an as-built LOMR is submitted.
12. All work approved pursuant to this Special Permit/Site Plan shall be completed within 5 years of date of approval, by May 3, 2023.
13. Prior to issuance of a Zoning Certificate of Compliance, the applicant shall submit a final "As-Built" survey.
14. All new utilities shall be placed underground.
15. Trees shall not be removed from Town property.
16. The construction, replacement and/or repair of any stone wall or retaining wall greater than 4' in height shall obtain a building permit.
17. 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. 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.
18. Demolition of or removal of any part of the building may not exceed what has been shown on the plans approved by the Planning and Zoning Commission. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements of representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Planning and Zoning Commission.

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:

- A. be in conformance with the applicable zoning regulations of the Town of Westport; and
- B. not prevent or inhibit the orderly growth and development of the area; and
- C. not have a significant adverse effect on adjacent areas located within the close proximity to the use; and
- D. not interfere with pedestrian circulation; and
- E. 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
- F. not have a significant adverse effect on historical, archeological and/or paleontological sites; and
- G. 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
- H. not have a significant adverse effect on storm drainage, sewage disposal or other municipal facilities; and
- I. be in scale with and compatible with surrounding uses, buildings, streets and open spaces.

VOTE:

AYES	-6-	{Lebowitz, Dobin, Walsh, Stephens, Gratrix, Rutstein}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,



Paul Lebowitz, Chairman
Planning & Zoning Commission

VOTE: (Vote taken on 10/18/18 – second modification)

AYES	-5-	{ Dobin, Walsh, Rutstein, Cammeyer, Cohn}
NAYS	-0-	
ABSTENTIONS	-0-	

Very Truly Yours

Danielle Dobin, Vice Chairman
Planning and Zoning Commission

cc: Assessor's Office
Conservation Department
DPW Engineering
Tree Warden
Fire Marshal
Police Chief
Town Attorney's Office
Sharat Kalluri, CDM Smith
Michael Galante, Frederick P. Clark Associates