

## Explanatory Statement

### **Proposed Text Change to Amend §5 (Definitions) & §39A (Inclusionary Housing Overlay District IHZ)**

#### **Purpose/Benefits**

To help provide an opportunity for a diversity of affordable housing options including Special Needs Housing and to expand the offsite affordable option in the IHZ, we are proposing to amend:

- §5 by amending the Special Needs Individuals Definition to reference U.S. Code 42 U.S.C. § 15002.
- §39A-18.1 by amending the affordability requirement to expand the offsite affordable housing option as well as creating appropriate evaluation standards.

The changes also serve to address several goals and strategies highlighted in the Westport Plan of Conservation and Development, including:

1.4.3 Promote Good Design, A Community Design, p. 30

- Maintain an architectural review process to help preserve and enhance the character of Westport and maintain the overall “sense of place.”

2.10.1 Overview (“Westport’s wide variety of housing types from modest homes and historic structures to grand manor homes is one of its strongest features.”), p. 79.

3.10.2 Maintain Residential Character, p. 80

- Protecting residential neighborhoods from encroachment by inappropriate uses, and
- Managing residential development and redevelopment and other activities on residential properties to ensure they are appropriate for the site and/or given the impacts on neighbors.

4.10.4. Monitor Changing Housing Needs, p.85

- Seek ways to address changing housing needs while maintaining the character and integrity of Westport.

#### **Offsite Affordable Housing in Westport**

Offsite options are consistent with the POCD. The following is a brief summary of offsite options in the regulations that allow offsite affordability including 3 successful solutions. Each is unique and required careful deliberation by the PZC. Discretion by the PZC was present in all cases. Each involved for sale or restricted Senior Living developments.

1. **§39A-18.4.1 (IHZ):** 1141 Post Road East, a 96-unit ALFCIL Facility, contributed over \$1,000,000 to Housing Development Fund (HDF) to purchase 2 single-family homes at 23 Crescent Park Road and 4 Oakview Lane. This created 3 moratoria points vs. 4.5 onsite senior apartments.
  - a. The criteria of §39A-18.4. states, “*The location and design of such units shall be subject to approval by the Planning and Zoning Commission. The Commission shall condition the issuance of a Zoning Certificate of Compliance for the ALFCIL Facility upon the dedication of the off-site deed restricted affordable units.*”. There are no other criteria requirements.
2. **§32-26.14 (Adaptive Reuse and Redevelopment of Nonresidential Buildings to Housing):** 41 Richmondville had 33-condominium units, contributed 5 units of Special Needs Housing at 136

Riverside Ave. This created 11 moratoria points vs. 7 units onsite which would have created 10.5 if rented or 7 if sold.

- a. The criteria of §32-26.14 states, “When approving the equivalency, the Planning and Zoning Commission shall evaluate the number, location, and design of such units. If all conditions of the offsite affordable housing are not satisfied at the time a final ZCC is being sought, the Planning and Zoning Commission may require that some or all of the required affordable housing be provided onsite.” There are no other criteria requirements.

The following 3 options are on the books but offsite affordable housing has not been established.

3. **§24B-15 (24B General Business District/Residential GBD/R):** 54 Wilton Road, a 12-unit condominium, created a duplex in downtown with 3.5 moratoria points vs. 2 points if sold onsite. The criteria of §24B-15 states:

- a. *The location and design of such units shall be subject to approval by the Planning and Zoning Commission.*
- b. *The Affordability Plan required to be submitted, under this section shall provide for enforceable deed covenants by which the off-site affordable units are guaranteed to have ongoing repairs and maintenance and replacement of capital improvements comparable to the on-site market rate units for the term of the deed restricted affordability requirement. Approval of the form and content of such deeded covenants shall at be at the sole discretion of the Commission. The Affordability Plan shall also include provisions for administration of and compliance with this section; notice procedures to the general public of the availability of affordable units; procedures for verification and periodic confirmation of unit occupancy income; and compliance with affordability requirements.*
- c. *The Commission shall condition the issuance of a Zoning Certificate of Compliance for the residential project upon the dedication of the off-site deed restricted affordable units.*  
There are no other criteria requirements.

4. **§24A-19 (24A General Business District/Saugatuck GBD/S):**

*Notwithstanding the above, the Commission in its sole discretion may approve the creation of off-site deed restricted affordable units, in accordance with the affordability requirements of C.G.S. §8-30g as an alternative method of satisfying the affordability requirement of this section. Any such proposal shall demonstrate to the satisfaction of the Commission that the alternative method is desirable and will further affordable housing opportunities in the Town through the production of a greater number and higher percentage of affordable housing units than if constructed on-site. The percentage of affordable units shall be calculated based on all on and off-site affordable and market rate units. No affordable rate unit may be counted to meet the affordability requirements of more than one development. Any C.G.S. §8-30g application in the General Business District/Saugatuck must provide all affordable units on-site, and may not elect to use this alternative method of compliance.*

- a. *Affordable units provided off-site shall be deducted from the total required on-site units.*
- b. *All units proposed off-site shall be located within Saugatuck Center as defined as the area lying between the east side of Saugatuck Avenue, along the northern border of the RORD2 boundary line in effect as on 1/22/09 and the Saugatuck River and extending south from the Saugatuck / Riverside / Treadwell intersection to Ferry Lane.*
- c. *Off-Site Affordable Units, shall be subject to the following standards.*
  - i. *The location and design of such units shall be subject to approval by the Commission.*
  - ii. *Such units shall be comparable with on-site market rate units in regard to unit size and*

*interior and exterior construction quality.*

- iii. *Such units shall be comparable to on-site market rate units including but not limited to the age of interior and exterior doors and windows, exterior siding, roofing and mechanical equipment (HVAC & appliances).*
- iv. *Such units shall have comparable amenities including but not limited to garages, fireplaces and patios or balconies.*
- v. *Such units shall be in addition to any other below market rate requirements and shall not serve to displace existing deed restricted affordable housing units.*
- vi. *The Commission shall condition the issuance of a Zoning Certificate of Compliance for the development project upon the completion of the off-site affordable units and establish temporary deed restrictions to insure that the off-site affordable units will be built in a timely manner.*

*The Commission shall judge whether an off-site unit is comparable with on-site market rate units based upon all unit characteristics in aggregate and taking into account offsetting attributes.*

- d. *The Affordability Plan required to be submitted under this section shall provide for enforceable deed covenants by which the off-site affordable units are guaranteed to have ongoing repairs and maintenance and replacement of capital improvements comparable to the on-site market rate units for the term of the deed restricted affordability requirement. Approval of the form and content of such deeded covenants shall be at the sole discretion of the Commission.*
- e. *As part of this alternative method of compliance at least 50% of the required affordable units in the zone shall be located within the GBD/S zoning district.*

**5. §24C-18 (24C General Business District/Saugatuck Marina GBD/SM):**

*In conjunction with residential units proposed as part of a GBD/SM [development](#), a number of affordable units must be provided. The affordable units shall be required to be affordable based on the median income and associated permitted rents as defined in CT General Statutes §8-30g. These units must be affordable to households whose income does not exceed 80% of the state or area median income, whichever is lower. The state and area median income figures are from the United States Census and are periodically updated by the U.S. Department of Housing and Urban Development (HUD). The affordable units required must contain an average of at least two (2) bedrooms per affordable unit (i.e., a 3 bedroom unit and a single bedroom unit shall equate to an average of two (2) – 2 bedroom units).*

*Offsite affordable units will have to equal 25% of the proposed onsite market rate units; or onsite affordable units will have to equal 20% of all onsite market rate units.*

a. *Offsite compliance shall be satisfied by meeting the following:*

- *Units shall be equal to 25% of all proposed market rate units located within the proposed site or the Integrated Site.*
- *Fractional units at 0.5 and above shall be rounded up. In any case at least one (1) unit must be affordable.*
- *The affordable units shall be located within a quarter mile of a Saugatuck train station house to ensure walkability to the train station.*
- *The affordable units shall have finishes and appliances comparable with existing affordable units that have been constructed in Westport since 2017.*

b. *Onsite compliance shall be satisfied by meeting the following:*

- Units may be dispersed throughout the Lot or Integrated Site at the discretion of the applicant.
- Construction quality and materials for onsite compliance shall be consistent with the existing affordable units that have been constructed in Westport since 2017. (819, 01/12/2023)

**6. Sections 18-17.1 (Residence C):** Has an offsite option that has not been used to date.

a. 18-17.1

*A minimum of fifteen percent (15%) of the total number of market rate dwelling units shall be designated as workforce or affordable housing, as defined in §5. The applicant shall submit an affordability plan prior to the issuance of a Zoning Permit. The plan shall include a means of offering a "right of first refusal" to the Town of Westport for any units that are vacated once the affordability period has ended. No development created pursuant to Section 18 of these Regulations shall qualify as an "affordable housing" development pursuant to C.G.S. §8-30g unless the development complies with all of the requirements set forth in C.G.S. §8-30g. Any C.G.S. §8-30g application in the Residential C District may not elect to pay a fee in lieu of providing on-site affordable units.*

b. 18-17.2

*An applicant may elect, **or the Commission may require (emphasis added)** the applicant, to pay a fee-in-Lieu of constructing some of the required workforce housing units on-site, provided:*

*i. that seventeen and one half percent (17½%) of the number of market rate units are provided with a minimum of five percent (5%) of the workforce or affordable units remaining onsite; and*

*ii. that the balance of the 17½% not provided on-site shall be used to determine the amount of the fee-in-lieu; and*

*iii. That the Planning and Zoning Commission makes a finding that the funds are appropriately linked to the establishment of an equivalent number of offsite affordable units pursuant to C.G.S. §8-30g.*

*Fractional units are rounded up. Units provided onsite shall be deducted in full from the total required units to determine a fee-in-lieu, however, the number of offsite units to be created shall be rounded up. Such fee shall take the form of a onetime cash contribution to a housing trust fund, to be administered by the Town of Westport, to be used for constructing, rehabilitating, or repairing housing in Westport that is affordable to persons and families of low and moderate income who meet the income limits in C.G.S. §8-30g. Said funds shall be paid prior to the issuance of the Zoning Permit. The cash contribution to be provided shall be calculated based on 225% of the most recently published Standard Metropolitan Statistical Area (SMSA) Median Family Income for a Family of Four encompassing Westport, as published by the U.S. Department of Housing and Urban Development (HUD). Any C.G.S. §8-30g application in the Residential C District may not elect to pay a fee in lieu of providing on-site affordable units.*

*Example:*

a. Onsite:

*15% requirement for 37 market rate (5.55) units (6 workforce or affordable units required)*

*Total Units = 43 onsite*

b. Offsite (Fee-in-Lieu):

*17½% requirement for 37 (6.475) units (7 workforce or affordable units required)*

*Total Units = 44 with 5 Offsite Units*

*5% = 1.85 (minimum of 2 on site)*

*SMSA income family of 4 = \$111,000 x 225% = \$249,750 fee per unit\**

*7 required – 2 workforce on site = 5 affordable units for fee*

*5 x \$249,750 = \$1,248,750*

*Fee must yield a minimum of 5 offsite C.G.S. §8-30g compliant units.*

Note: \*2025: SMSA income family of 4 = \$148,900 X 225% = \$335,025 X 5 = \$1,675,125

### **Summary of Proposed Text Changes**

The following summarizes the proposed changes and their potential application on the Demonstration Site.

### **§5 Definitions**

#### **Special Needs Individuals**

In consultation with Abilis, with their recent experience at 136 Riverside Ave and in Darien, we learned that an update to the definition is needed. In order to serve a wider range of individuals with special needs including those with Autism, we are adding language to reflect the U.S. Code 42 U.S.C. § 15002.

### **§39A (Inclusionary Housing Overlay District IHZ)**

#### **39A-18.1.1 Alternate Affordable Housing:**

Consistent with offsite affordable housing regulations already six (6) in place (§18-17.1 Residence C, §24B-15 GBD/R, §24A-18 GBD/S, §24B-15 GBD/R §24C-18 GBD/SM, §32-26.14 Adaptive Reuse and Redevelopment of Nonresidential Buildings to Housing, and §39A-18.4.1 IHZ) we are proposing to amend the IHZ regulations to expand the offsite affordable opportunity from only ALFCIL facilities to residential developments when working with the Town and/or Westport Housing Authority (WHA) and/or other non-profit organizations with expertise in affordable housing. This creates non-profit management experience and expertise as well as opportunities to provide superior housing than what would otherwise be provided onsite: more people served; lower affordability levels; residential amenities (attics, basements, outdoor space, etc.); deed restriction without a 40-year expiration; specialized nonprofit expertise; or other attributes are all potential positive results of this amendment.

When evaluating the offsite comparison, the Planning and Zoning Commission may use the 2018 staff memo (attached) to consider a variety of factors and/or other details at the **sole discretion of the Planning and Zoning Commission.**

### **Site**

The Site intended as the potential beneficiary of the offsite opportunity is 785 Post Road East. After a decade long struggle with delays, 785 Post Road East has had to transition to for-sale-condominiums. To our knowledge, no non 8-30g for sale housing developments have been required to do onsite affordable units.

With the implementation of this Text, 785 has the opportunity to provide Special Needs Housing offsite at 3 George Street through Abilis and provide an affordable onsite townhome for Homes with Hope.

These options are further described in the accompanying Site Plan/Special Permit modification application.