



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 Email: pandz@westportct.gov
www.westportct.gov

November 07, 2023

SPECIAL NOTICE ABOUT PROCEDURES FOR THIS ELECTRONIC MEETING:

Pursuant to State law there will be no physical location for this meeting. This meeting will be held electronically and live streamed on www.westportct.gov. This meeting will also be shown on Optimum Government Access Channel 79 and Frontier Channel 6020. The public may attend and offer testimony during the meeting by using the meeting link published on the agenda prior to the meeting. The meeting agenda is available at www.westportct.gov on the "Meeting List and Calendar" web page. Written comments may also be received prior to the Public Meeting and should be sent to PandZ@westportct.gov by 12:00pm on the day of the meeting if intended to be distributed for consideration by members of the Planning and Zoning Commission. Written comments received after 12:00pm on the day of the meeting will be entered into the record but will not be distributed until the next business day. Meeting materials submitted are available at www.westportct.gov, on the Planning and Zoning Department web page under "[P&Z Pending Applications & Recent Approvals](#)".

Instructions to Attend ZOOM Meeting:

Phone: + 1 646 876 9923 US (New York)

Meeting ID: 835 2685 0850

Passcode: 965498

ZOOM Link: <https://us02web.zoom.us/j/83526850850?pwd=cnV1UDYwcUI1OVZvVlJvT2pCdU11Zz09>

AGENDA

PLANNING & ZONING COMMISSION

Monday, November 13, 2023, 7:00pm

Remote Meeting

I PUBLIC HEARING

(The following will be discussed and voted on as time permits. The public may observe and participate at the public hearing.)

1. *(Further continued to 12/04/23, with no testimony to be received on 11/13/23) Text Amendment #832: #PZ-23-00452 submitted by Eric D. Bernheim, Esq., to modify §32-12, Inclusionary Two-Family and Multi-Family Dwellings, to modify the affordable housing standards in §32-12.2, to increase number of bedrooms from 20 to 24 bedrooms per gross acre and in §32-12.15 to authorize the Commission to approve off-site affordable housing. A copy of the text amendment is available on-line at www.westportct.gov on the Planning & Zoning Office web page under "P&Z Pending Applications & Recent Approvals." A copy may also be viewed at Town Hall, 110 Myrtle Ave., in both the Town Clerk's Office and Planning & Zoning Office.*

(Must close by 12/4/23, with partial ext. provided)

Application Presentation Time: 30 Minutes

2. *(Continued from 10/23/23, with testimony to be received) 259 Riverside Avenue: Special Permit/Coastal Site Plan Appl. #PZ-23-00451 submitted by Eric D. Bernheim, Esq., for property owned CEG Riverside, LLC, to convert two buildings at 259 Riverside Avenue (aka 251 and 253 Riverside), from Office use to eight Multi-Family Dwelling units in the General Business District, #PID C08056000. (Must close by 11/27/23)*

Seated on 10/23/23: D. Dobin, P. Lebowitz, M. Cammeyer, J. Olefson, and J. Bolton

3. **Text Amendment #839:** #PZ-23-00636 submitted on behalf of the Planning and Zoning Commission for purposes of protecting the public health and welfare by adding language to define and prohibit Smoke Shops and add stricter standards applicable to other establishments that sell smoking related products, but do not qualify as a Smoke Shop as described in the definition. New language is also proposed to prohibit light emitting diode or LED signs so as to reduce potential distractions to motorists. A copy of the text amendment is available on-line at www.westportct.gov on the Planning & Zoning Office web page under "P&Z Pending Applications & Recent Approvals." A copy may also be viewed at Town Hall, 110 Myrtle Ave., in the Town Clerk's Office and Planning & Zoning Office. *(No action deadline)*

Application Presentation Time: 10 Minutes

4. **Text Amendment #836:** #PZ-23-00505 submitted by David Ginter of Redniss and Mead, to modify §32-8, Excavation and Filling of Land, to enable small scale projects to be eligible for a Zoning Permit and authorize the Commission to approve activities in excess of standards listed in §32-8.2 and §32-8.3. A copy of the text amendment is available on-line at www.westportct.gov on the Planning & Zoning Office web page under "P&Z Pending Applications & Recent Approvals." A copy may also be viewed at Town Hall, 110 Myrtle Ave., in the Town Clerk's Office and Planning & Zoning Office. *(Must open 1/19/24 with 65-day ext.)*

Application Presentation Time: 20 Minutes

5. **Text Amendment #838:** #PZ-23-00515 submitted by Gloria Gouveia, to modify §32-18, Historic Residential Structures, to add language to allow apartments up to 1,000 SF in size (instead of 800 SF) if the unit is served by renewable energy sources. A copy of the text amendment is available on-line at www.westportct.gov on the Planning & Zoning Office web page under "P&Z Pending Applications & Recent Approvals." A copy may also be viewed at Town Hall, 110 Myrtle Ave., in the Town Clerk's Office and Planning & Zoning Office. *(Must open by 11/15/23)*

Application Presentation Time: 15 Minutes

II WORK SESSION

(The following will be discussed and voted on as time permits. The public may observe the work session but may not participate.)

New Business:

1. **Norwalk Planning and Zoning Commission Referral for a complete Re-write of the Zoning Regulations and Re-zoning of the entire City of Norwalk**, within 500' of the Norwalk/Westport municipal boundary – Discussion.
2. **Establishing requirements in anticipation of Implementing the Affordable Housing Trust Fund Ordinance adopted by the RTM in October 2023** – Discussion.

Old Business:

No old business.

Text Amendment #832:
Amending Sec. 32-12 for Inclusionary Two-Family Housing and Multi-family Dwellings
Authored by Eric D. Bernheim, Esq. of FLB Law

32-12.2.1 Maximum -

The maximum allowable density shall not exceed 20 bedrooms per gross acre[, unless the Building in which the bedrooms are located is being Adaptively Reused by converting a non-residential use to a multi-family dwelling unit permitted by this Section 32-12 and the Building is located on a Lot that is adjacent to the Saugatuck River in which case the maximum allowable density shall not exceed 24 bedrooms per gross acre]. An additional maximum density of 6 bedrooms per gross acre is permitted for affordable units that are exempt from this calculation. The maximum number of units per acre shall not exceed eighteen (18) inclusive of affordable units.

32-12.15 Affordability Requirement and Plan

32-12.15.1

~~In conjunction with residential units proposed as part of this regulation, at least twenty percent (20%) of the floor area of all residential units shall be deed restricted as affordable and at least twenty percent (20%) of all proposed residential units shall be deed restricted as affordable in accordance with CT General Statutes §8-30g. An affordability plan must be submitted at the time of application in accordance with same. Fractional units at 0.5 and above shall be rounded up. In any case at least one (1) unit must be affordable. 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).~~

32-12.15.2

~~Affordable housing units cannot be clustered, but shall be reasonably dispersed throughout the development and shall contain, on average, the same number of bedrooms and the same quality of construction as the other units in the development. Amenities for the market rate and below market rate units shall be comparable. No affordable unit shall be smaller than 75% of a market rate unit containing the same number of bedrooms.~~

[Prior to a final Zoning Certificate of Compliance (ZCC) for the development, the equivalent of 20% of the proposed units shall be provided onsite, or at the discretion of the Planning and Zoning Commission, as offsite affordable housing, including an affordability plan to be reviewed and approved by the Commission. Such units shall be affordable to households whose income does not exceed 80% of the State Median Income as provided by CT General Statutes §8-30g. Fractional units shall be rounded up. When approving the equivalency, the Planning and Zoning Commission shall evaluate the number, location, and design of such units. If all conditions of the approved 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.]

If onsite affordable housing is provided, affordable housing units shall be reasonably dispersed throughout the development. All affordable housing and shall contain, on average, the same number of bedrooms and the same quality of construction as the other units constructed in Westport since 2017.

No affordable unit shall be smaller than 75% of a market rate unit containing the same number of bedrooms.]

4855-6063-4491, v. 4
4855-6063-4491, v. 4

Text Amend/ #839, Submitted by the P&Z Commission RE: Smoke Shops or Tobacco Stores

Authored by The Planning And Zoning Commission

Submitted: 10/31/23

Received: 11/6/23

Public Hearing: _____

Adopted: _____

Effective date: _____

Deleted language is [struck out and in brackets]; New language is underlined. All changes are highlighted.

FROM §5-2, SPECIFIC TERMS

Cannabis Establishment

"Cannabis Establishment" means a producer, medical dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, product manufacturer, product packager, delivery service or transporter, as those terms are defined in Section 1 of Public Act No. 21-1 of the June 2021 Special Session ("medical dispensary facility" constitutes a "dispensary facility" under Public Act No. 21-1).

Smoke Shop or Tobacco Store

A "Smoke Shop or Tobacco Store" is a retail establishment where 20% or more of the retail area is dedicated to the sale of tobacco and products containing tobacco or nicotine (including "e-cigarettes") and paraphernalia, and/or contain areas for the consumption of any smokeable products.

FROM §31, REGULATIONS APPLYING TO ALL DISTRICTS

31-16, Prohibition on Cannabis Establishments

Prohibition:

In accordance with the authority granted under Section 148 of Public Act No. 21-1 of the June 2021 Special Session, "An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis," all Cannabis Establishments, with the exception of Medical Dispensary Facilities, are prohibited in all zoning districts in the Town of Westport.

31-17, Prohibition on Smoke Shops or Tobacco Stores

All Smoke Shops or Tobacco Stores as defined in §5-2 herein are prohibited in all zoning districts in the Town of Westport.

31-18, Special Permit Required

Any establishment selling any type of smoking, vaping or related product must secure a Special Permit from the Planning and Zoning Commission prior to opening a business in Town to mitigate potential risk to the public's health and welfare.

FROM §32, SUPPLEMENTARY USE REGULATIONS

Each of the following uses is permitted in each district to the extent indicated for that use and district, subject to all provisions of the applicable district, except as specifically provided for in this section. Every application for the use of property subject to conditions set forth herein shall be filed in accordance with the provisions of these regulations, and shall be subject to approval by any commission, board or agency stipulated in this section.

32-7 Prohibited Uses

The following uses and activities are expressly prohibited in any zoning district within the Town of Westport.

32-7.1

Any use which is toxic, noxious, offensive, or objectionable by reason of the emission of smoke, dust, gas, odor, or other form of air pollution; or by reason of the deposit, discharge, or dispersal of liquid, solid or toxic waste, in any form, in a manner or amount so as to cause damage to the soil or any stream or to adversely affect the surrounding area; or by reasons of the creation of any periodic and/or abnormal noise, vibration, electro-magnetic or other disturbance perceptible beyond the boundaries of the lot on which it is situated; or by reason of illumination by artificial light or light reflected beyond the limits of the lot on, or from which, such light or light reflection, emanates; or which involves any dangerous fire, explosive, radioactive or other hazard, or which can cause injury, annoyance, or disturbance to any of the surrounding properties, or to their owners and occupants.

32-7.2

Tourist cabins, trailers, or mobile home camps or parks or any use of trailers, mobile homes, campers, or boats for human habitation, except as provided in §16, herein.

32-7.3

The use of any building, structure or land for the purpose of gambling houses; gambling with tables, slot machines, video machines or other devices whether mechanical or electronic; gambling at cards, dice or pool; casino gambling; lottery and numbers games, except as authorized by the State of Connecticut or any other State; Tele track betting; off-track betting; race track betting (dog, horse, auto or other); Jai alai frontons; or other similar games of chance, betting activities and/or gambling uses; provided that nothing herein shall prohibit activities such as bingo, bazaars, raffles or charitable "casino nights" by not-for-profit and tax exempt organizations.

32-7.4

Satellite dishes and/or dish type antennas shall be prohibited on or attached to the exterior of any building or structure except for disc type antennas less than two feet in diameter.

32-7.5

The use of any multiple family dwelling unit for any Home Occupation, Level 1, or Home Occupation, Level 2 shall be prohibited.

32-7.6

Cannabis Establishments as defined in §5-2 herein.

32-7.7

Smoke Shop or Tobacco Store as defined in §5-2 herein.

FROM §33, SIGNS

33-3 Sign Prohibition

The prohibitions contained in this section shall apply to all signs, all artificial lighting and all districts regardless of designation within the Town of Westport.

33-3.1

No sign shall project beyond any property line, except under the provisions of §33-8.2.3, herein.

33-3.2

No hanging sign shall be over any portion of the traveled path of any driveway or other access way.

33-3.3

No sign shall project beyond the sides of a building or above the lowest point of the main roof line of any building.

33-3.4

No sign shall be permitted on the top of any building.

33-3.5

No sign structure shall conflict with the corner visibility requirements of these regulations.

33-3.6

No sign shall interfere in any way with vehicular or pedestrian traffic, traffic signals or signs or visibility of motorists by virtue of the location, color or size of such signs.

33-3.7

No sign shall obstruct access to or from any door, exit, window or fire escape.

33-3.8

No artificial light or reflecting device shall be used, located, or displayed where such light distracts the attention of users of a street and competes for attention with, or may be mistaken for, a traffic signal.

33-3.9

No sign shall be animated or flashing, except for a time-temperature device employed as part of an otherwise non-flashing, non-animated display.

33-3.10

Except for flags, no sign shall be permitted which is in motion by any means, including swinging, fluttering or rotating or signs such as banners strung in series set in motion by movement of the atmosphere. The area of any flag (except national, state or town flags) shall be computed as signage and shall require permits in

accordance with §33-2.1.

33-3.11

The stringing of lights is prohibited, except during the holiday season, from 11/15 through 1/15 of each year.

33-3.12

No sign shall be permitted to be painted or posted directly upon the exposed surface of any wall except for individual, raised, mounted letters. All other painted or posted signs shall be on a plate or backing made of a durable material such as metal or plywood which is affixed to the wall.

33-3.13

No signs shall be mounted or posted on any tree or utility pole.

33-3.14

Directly-illuminated gaseous signs, such as neon tube signs, that are visible from outside the building shall be prohibited. Signs with the appearance of neon signs, such as Light Emitting Diode or LED signs, that are visible from outside the building shall also be prohibited to enhance public safety by removing potential distractions to motorists and users of the street.

33-3.15

Free-standing portable signs, such as sandwich signs, shall be prohibited except as provided for in §33-5.

33-3.16

All signs and other advertising devices shall be prohibited except as they refer to products sold, and/or services rendered to business conducted on the property on which such sign is located.

Text Amendment #836

Authored by David Ginter of Redniss and Mead

Submitted: 9/5/23

Received: 9/11/23

Public Hearing: _____

Adopted: _____

Effective date: _____

Deleted language is ~~struck out and in brackets~~; New language is underlined.

§32-8 Excavation and Filling of Land

Within the Town of Westport, the excavation of land, stockpiling of earth products on a site and/or filling of land with earth products such as, but not limited to: topsoil, loam, sand, gravel, clay, stone minerals or fuel is permitted in any Zoning District subject to the following: ~~Special Permit and Site Plan approval in accordance with §43~~

§32-8.1 ~~Activities that require an Excavation & Fill Permit and Exempt~~ Permitted Excavation and Filling of Land

§32-8.1.1

The following excavation and fill activities are allowed subject to Zoning Permit approval and shall conform to the standards listed in §32-8.2 and §32-8.3:

~~All regrading of properties regardless of the amount of disturbance or quantity of material involved shall require Site Plan and Special Permit approval by the Planning & Zoning Commission for an Excavation & Fill Permit except as noted below.~~

§32-8.1.2

~~Exemptions: The following activities shall be exempt from requiring an Excavation & Fill permit but shall conform to the standards listed in §32-8.2 and §32-8.3.~~

- a. Excavations or filling of earth products in connection with the construction or alteration of a principal building or structure, Accessory Structures, Accessory Dwelling Unit, swimming pool, tennis court, sports court, septic fields or driveway. ~~on the same premises no more than 25 feet from said activity provided a zoning permit or health permit has been issued for such construction, alteration or activity and such work is specified in said permit.~~
- b. Excavations or filling of earth products in connection with the construction or alteration of subsurface drainage systems. ~~on the same premises no more than 5 feet from said activity provided a zoning permit or health permit has been issued for such construction, alteration or activity and such work is specified in said permit.~~
- c. Construction, grading or changing of contours in accordance with plans for the same that have been approved by the Planning & Zoning Commission, covering the roads, lots

and other improvements in an approved Subdivision, Site Plan or Special Permit application.

- d. Municipal activities involving roadways, bridges, culverts or other infrastructure for the purpose of maintenance, repair, realignment, reconstruction or public safety projects as listed in this subsection that by necessity involve extending excavation or fill onto private property where grading rights have been obtained.
- e. Construction of a retaining wall. ~~[used solely for the purpose of constructing a driveway or roadway.]~~
- f. Construction of approved shoreline flood and erosion control structures.
- g. The placement or installation of utility lines or services.
- h. A Zoning Permit is not required for incidental filling, grading or excavation in connection with maintenance or repairs to a property and customary landscaping and temporary collecting, stockpiling and reuse of topsoil.
~~[i. Customary landscaping and temporary collecting, stockpiling and reuse of topsoil.]~~

§32-8.1.2

Alternatively, a Special Permit request may be made to the Planning & Zoning Commission in accordance with §43 seeking the Commission's approval of the applicant's proposed excavation and fill activities subject to the following:

- a. Notwithstanding the standards in §32-8.2 and §32-8.3, the following standards shall apply:
 - i. No portion of the lot shall be filled or excavated to a height or depth greater than twenty (20) feet above or below the existing natural grade.
 - ii. The maximum amount of excavation or fill permitted on any lot shall not exceed an amount greater than that required to raise or lower said parcel twenty (20) feet above or below the existing natural grades over an area equal to 50% of the allowable Total Coverage (Residential Zones) or Building Coverage (Non-Residential Zones) in the respective zone. Split zoned properties shall calculate the maximum and proposed quantities based on the combined total of the underlying zones.
 - iii. Manmade earth slopes shall not exceed forty (40%) within 25 feet of any lot line and shall not exceed fifty (50%) over the remainder of the property.
- b. Submission of a site plan showing all proposed excavation and fill activities.
- c. Submission of a sediment and erosion control plan.
- d. Submission of an excavation and fill report, prepared by a licensed Professional Engineer, which shall include an excavation and fill narrative, indicating the quantity of all excavation and fill proposed, the maximum cut and fill heights, the maximum slopes proposed, a description of the proposed stabilization measures, existing and proposed watershed maps, and a detailed description of impacts to abutting properties with any necessary mitigation to eliminate adverse impacts.
- e. Positive endorsement from the Town Engineer of the site plan, sediment and erosion control plan, and excavation and fill report.

§32-8.2.3 Maximum Fill or Excavation Quantity

No portion of any lot shall be filled or excavated to a height or depth greater than ten (10) feet above or below the existing natural grade. On any lot the total allowable quantity of fill permitted under §32-8.2, above, shall exclude any fill that is required by the ~~WWHD~~ Aspetuck Health District under §32-8.2.4 below. Fill height shall not exceed a ratio of 0.20 relative to the distance from the property line, excavation or fill of driveways in front and side setbacks shall be exempt from this requirement.

§32-8.2.4 Limitation of Fill for Septic Systems

In instances where fill material is expressly required by ~~Westport-Weston Health District~~ Aspetuck Health District for a septic system, both primary and reserve areas, the total area to be filled for septic purposes shall not be raised more than 4.0 feet above the existing natural grades at the time of application for either a Zoning Permit, Site Plan, Special Permit or Subdivision Application; except that the total amount of fill shall not exceed 1,185 cubic yards, based on an area of 100 feet X 80 feet = 8,000 square feet X 4 feet = 32,000 divided by 27 = 1,185 cubic yards.

Text Amendment #838

Authored by Gloria Gouveia of Land Use Consultants

Submitted: 9/7/23

Received: 9/11/23

Public Hearing: _____

Adopted: _____

Effective date: _____

Deleted language is ~~[struck out and in brackets]~~; New language is underlined.

5-2 Specific Terms

Renewable Energy

Energy derived from natural sources that are replenished at a higher rate than they are consumed.

32-18.9.2 Accessory Apartments:

One historic accessory structure or portion thereof may be converted to allow the incorporation of one (1) additional dwelling unit on the premises subject to Special Permit and Site Plan Approval in accordance with §43 herein, and all conditions associated with §11-2.4.12 Accessory Apartments except as modified herein:

1. Qualifications: no accessory apartment exists in the main dwelling unit nor does any other historic accessory structure contain a dwelling unit.
2. Eligibility: No age restriction.
3. Floor Area: the total floor area of the historic accessory structure used for a dwelling unit shall be the larger of the following:
 - i. The size of the historic accessory structure as of the effective date of this regulation.
 - ii. Up to 800 square feet, including additions to the original historic accessory structure.
 - iii. Up to 1,000 square feet, including additions to the original historic structure, if the unit is designated affordable in compliance with the affordability standards of Connecticut General Statutes §8-30(g) and is deed restricted on the Westport Land Records for 40 years as an affordable unit. (See §32-18.10)
 - iv. Up to 1,000 square feet, including additions to the original historic structure, if the unit is served by alternative renewable energy sources, such as geothermal wells and/or solar energy panels.