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Hearing: June 19, July 17 & September 4, 2014
Work Session: September 18, 2014

September 23, 2014

The Honorable James S. Marpe, First Selectman
Town of Westport
110 Myrtle Avenue
Westport, CT 06880

**RE: Text Amendment #677 / P&Z Appl. #14-024
Changes to §4-5 Multi-Family Dwellings & §32-15A Senior Residential Community**

Dear Mr. Marpe:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on September 18, 2014 it was moved by Ms. Walsh and seconded by Mr. Hodge to adopt the following resolution.

RESOLUTION #14-024

WHEREAS, THE PLANNING AND ZONING COMMISSION met on September 18, 2014 and made the following findings:

1. This application for a text amendment to the Westport Zoning Regulations was submitted by the First Selectman to modify sections §4-5, §32-15A.2, §32-15A.3, §32-15A.6.1, §32-15A.9.2 and §32-15A.16.3, to create opportunities for future development of Senior Residential Communities (SRC) on Town-owned property.
2. In May 2011, Text Amendment #625 was adopted which added a new section, §32-15A to allow SRC developments on town-owned property. This application modifies the regulations for SRC that were adopted in 2011.
3. During the review of Text Amendment #625, it was identified that a total of 13 Town owned properties were eligible to have a SRC constructed on them. The same 13 properties are effected by this proposed change. A map and list of qualifying properties was submitted by the applicant and is available in the application file prepared by DPW Engineering on February 9, 2011.
4. The criteria for eligible properties are: 1) the property must be Town-owned, 2) if located in a Res. AAA, AA, A or PRD zone have a minimum of 4 acres and if located in a BCD, GBD, HDD, HSD, RBD RORD or RPOD zone have a minimum of 2 acres, 3) have a

minimum of 200 feet of frontage on an Arterial Street as defined on page 8-2 of the 2007 Plan of Conservation and Development (POCD), 4) have access to public water and sewer and 5) not be located in a Special Flood Hazard Area.

5. One of these 13 eligible properties, 60 Compo Road South known as Baron's South, was given a positive 8-24 report for the development of a SRC by the Planning & Zoning Commission in November 2010.
6. The proposed amendment as originally submitted requested the following:
 - a) Modify §4-5 (Maximum Allowable Multi-Family Dwellings) to add the words "*or age restricted senior housing on town-owned property constructed after the effective date of this regulation...*"
 - b) Modify §32-15A.2 (Permitted Uses) to delete the words "*A Zoning Permit for Assisted Living Facilities and Full Care Living Facilities cannot be issued until 35% of the Independent Living Facility units are built and Zoning Certificates of Compliance (ZCC's) are issued. No less than sixty percent (60%) of any Independent Living Facility units with Zoning Certificates of Compliance (ZCC's) issued shall be affordable units pursuant to §32-15A.6.*"
 - c) Modify §32-15A.3 (Accessory Uses) to add the words "*but not limited to*", "*cafes, salons*", "*recreational facilities*", "*amenities*" and to delete the words "*recreational facilities*".
 - d) Modify §32-15A.6.1 (Affordable Units) to delete the word "*sixty*" to add word "*twenty*" to delete "*60%*" to add "*20%*" to delete word "*dwelling*" to add the words "*Independent Living Facility*".
 - e) Modify §32-15A.6.2 (Affordable Units) to delete the words "*on average the same number of bedrooms and*".
 - f) Modify §32-15A.9 (Setbacks) to add the words "*nor to other adjacent town-owned lots*".
 - g) Modify §32-15A.16 (Parking and Loading) to add a new section §32-15A.16.3 "*Section 34-12, Concealed Parking, shall not apply*".
 - h) Modify §32-15A.18.1 (Architectural Design) to delete the words "*five (5')*" and add the words "*three (3')*".
 - i) Modify §32-15A.18.3 (Architectural Design) to add the words "*except for connections between structures.*"
9. The application was subsequently modified by the applicant on August 27, 2014. The changes are summarized below
 - a) §32-15A.3 (Accessory Uses) the request to add the words "*but not limited to*" and "*amenities*" was withdrawn because of concerns raised by the Commission.

- b) §32-15A.6.1 (Affordable Units) the requested changes to this section now include an additional requirement that 20% of the Independent Living Facility Units shall be rented at no more than 120% of the Area Median Income because of suggestions made by the Planning & Zoning Director.
 - c) §32-15A.6.2 (Affordable Units) the request to delete the words “*on average the same number of bedrooms and*” was withdrawn because of concerns raised by the Commission.
 - d) §32-15A.9 (Setbacks) the proposed modification to this section now states “*nor to other adjacent town-owned lots created as part of an approved Senior Residential Community.*” To facilitate the development of a SRC on Town property.
 - e) §32-15A.16 (Parking and Loading) the original request to exempt SRCs from Concealed Parking in §34-12 has been modified to allow Concealed Parking on sloping sites to use finished grades and allow separate components of a building connected by a walkway to be calculated independently. This change was made to allow for Concealed Parking on sites with difficult topography.
 - f) §32-15A.18.1 & 32-15A.18.1 (Architectural Design) the requested changes to these sections were withdrawn as it was no longer needed.
7. At a work session held on September 18, 2014 the Planning & Zoning Commission voted on each proposed change to the zoning regulations separately. The vote on each section is summarized below:

- a) §4-5 (Maximum Allowable Multi-Family Dwellings) to add “*or age restricted senior housing on town-owned property constructed after the effective date of this regulation.*”

Motion to deny moved by Ms. Walsh and seconded by Mr. Hodge

AYES	-6-	Stephens, Whittle. Gratrix, Walsh, Hodge Vebell
NAYS	-0-	
ABSTENTIONS	-1-	Lessing

- b) §32-15A.2 (Permitted Uses) to delete the words “*A Zoning Permit for Assisted Living Facilities and Full Care Living Facilities cannot be issued until 35% of the Independent Living Facility units are built and Zoning Certificates of Compliance (ZCC’s) are issued. No less than sixty percent (60%) of any Independent Living Facility units with Zoning Certificates of Compliance (ZCC’s) issued shall be affordable units pursuant to §32-15A.6.*”

Motion to deny moved by Mr. Hodge and seconded by Mr. Gratrix

AYES	-6-	Stephens, Whittle. Gratrix, Walsh, Hodge Vebell
NAYS	-0-	
ABSTENTIONS	-1-	Lessing

- c) §32-15A.3 (Accessory Uses) to add the words “cafes, salons, meeting rooms and pool.”

Motion to deny moved by Mr. Hodge and seconded by Mr. Gratrix
AYES -5- Stephens, Whittle. Gratrix, Walsh,
Hodge
NAYS -1- Vebell
ABSTENTIONS -1- Lessing

- d) §32-15A.6.1 (Affordable Units) to delete “sixty” to add “twenty” to delete 60% to add 20% to delete “dwelling” to add “Independent Living Facility” also to add a requirement that a minimum of 20% of the Independent Living Facility units be rented to at or below 120% of the Area Median Income (AMI).

Motion to deny moved by Mr. Whittle and seconded by Mr. Hodge
AYES -6- Stephens, Whittle. Gratrix, Walsh,
Hodge Vebell
NAYS -0-
ABSTENTIONS -1- Lessing

- e) §32-15A.9 (Setbacks) to add the words “nor to other adjacent town-owned lots created as part of an approved Senior Residential Community.”

Motion to deny moved by Mr. Gratrix and seconded by Ms. Walsh
AYES -6- Stephens, Whittle. Gratrix, Walsh,
Hodge Vebell
NAYS -0-
ABSTENTIONS -1- Lessing

- f) §32-15A.16.3 “Section 34-12, Concealed Parking” which will allow Concealed Parking on sloping sites to use finished grades and allow separate components of a building connected by a walkway to be calculated independently.

Motion to deny moved by Mr. Gratrix and seconded by Mr. Whittle
AYES -6- Stephens, Whittle. Gratrix, Walsh,
Hodge Vebell
NAYS -0-
ABSTENTIONS -1- Lessing

8. The applicant’s Explanatory Statement identifies some of the benefits associated with adopting the amendment including:
- a) Providing a variety of housing choices and options to help meet the needs of existing and future residents;
 - b) Offering an alternative to seniors who may not want or need a large single family home and thus allow them to remain in Westport;

- c) Providing affordable housing which is an expressed goal of the 2007 Plan of Conservation and Development and the State of Connecticut; and
 - d) Allowing Westport seniors to age in place by providing a continuum of care and services.
10. The proposed amendment was reviewed by the Architectural Review Board at their 5/27/14 meeting and was recommended for approval with the understanding that the applicant will take the board's comments into consideration.
 11. The proposed amendment was reviewed by a several Town department heads including Police, Conservation and Health, none of whom had any major objections to the proposed changes.
 12. The Director of Human Services in a memo, dated July 3, 2014 provided extensive data documenting the need for affordable and moderate income senior housing in Westport.
 13. The proposed amendment was referred to the Connecticut Department of Energy and Environmental Protection who had no comments on the proposal.
 14. Public hearings were held and testimony was received on the proposed text amendment.

NOW THEREFORE, BE IT RESOLVED that **Amendment #677**: Appl. #14-024 by Town of Westport – James S. Marpe, First Selectman for a text amendment to the zoning regulations to modify §4-5 (Maximum Allowable Multi-Family Dwellings) to add “*or age restricted senior housing on town-owned property constructed after the effective date of this regulation*”, to modify §32-15A.2 (Permitted Uses) to delete the words “*A Zoning Permit for Assisted Living Facilities and Full Care Living Facilities cannot be issued until 35% of the Independent Living Facility units are built and Zoning Certificates of Compliance (ZCC's) are issued. No less than sixty percent (60%) of any Independent Living Facility units with Zoning Certificates of Compliance (ZCC's) issued shall be affordable units pursuant to §32-15A.6.*”, to modify §32-15A.3 (Accessory Uses) to add the words “*cafes, salons, meeting rooms and pool*” to modify §32-15A.6.1 (Affordable Units) to delete “*sixty*” to add “*twenty*” to delete “*60%*” to add “*20%*” to delete “*dwelling*” to add “*Independent Living Facility*” also to add a requirement that a minimum of 20% of the Independent Living Facility units be rented to at or below 120% of the Area Median Income (AMI), to modify §32-15A.9 (Setbacks) to add to the words “*nor to other adjacent town-owned lots created as part of an approved Senior Residential Community*” to modify §32-15A.16 (Parking and Loading) and to add a new section §32-15A.16.3 “*Section 34-12, Concealed Parking*” which will allow Concealed Parking on sloping sites to use finished grades and allow separate components of a building connected by a walkway to be calculated independently; is **DENIED** for the following reasons:

REASONS

1. The Planning and Zoning Commission finds the amendment is not consistent with the Comprehensive Plan because:
 - It would allow for an increase in multi-family housing beyond what is permitted in §4-5 (Maximum Allowable Multi-Family Dwellings).
2. The Planning and Zoning Commission finds the amendment is not consistent with the Westport Zoning Regulations because

- It would introduce additional uses such as cafes and salons into residential zones.
 - It would allow Assisted Living or Full Care units to be built without first providing for the construction of Independent Living Units.
3. The Planning and Zoning Commission finds the amendment is not consistent with the 2007 Plan of Conservation and Development because:
 - It would reduce the percentage of affordable housing units from 60% to 20% and that such a reduction would not benefit the Town of Westport in meeting its obligations to provide affordable housing as specified in Connecticut General Statute §8-30g.
 4. The amendment is inconsistent with §32-15A because it fails to require more affordable units on Town property than would be required on private property.
 5. The amendment arbitrarily removed the requirement for Concealed Parking on sloping sites.
 6. The amendment is inconsistent with Chapter 4 of the 2007 Plan of Conservation and Development because it reduces availability and fails to preserve open space.

VOTE:

AYES	-6-	Stephens, Whittle, Gratrix, Walsh, Hodge Vebell
NAYS	-1-	Lessing
ABSTENTIONS	-0-	

Very truly yours,

Chip Stephens
Chairman,
Planning & Zoning Commission

cc: Richard Redniss, Redniss and Mead
George Masumian, Chairman, Architectural Review Board
Barbara Butler, Human Services Director
Stuart McCarthy, Parks and Recreation Director
Alicia Mozian, Conservation Director
Steve Edwards, Public Works Director
Peter Ratkiewich, Town Engineer
Eileen Flug, RTM Moderator
Ira Bloom, Town Attorney