

# Memorandum

**To:** Members, Planning and Zoning Commission

**From:** Michelle Perillie, Planning Assistant

**Date:** September 22, 2010

**Re:** Text Amendment #618, Appl. #10-033, Modifications to §32-12 Two-Family and Multi-Family Dwellings

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**Statutory Time Lines: No deadlines for action as application authored by the Planning and Zoning Commission.**

## Summary

Have all the documents been submitted by the applicant as required in accordance with §44?	Yes.
Were any waivers requested from the Planning Director?	No.
Were any variances requested from the Zoning Board of Appeals or are any waivers requested from the Planning and Zoning Commission?	No.
Does the application appear to meet all applicable zoning requirements?	Yes.
Has the applicant received all necessary prior approvals?	Not applicable.
Other comments?	Members of the Planning and Zoning Commission must consider whether the amendment is consistent with the Zoning Regulations, Zoning Map and the 2007 Plan of Conservation and Development as required in accordance with C.G.S. §8-2, <i>Regulations</i> .

## Description of Application

Applicant/Property Owner	Planning and Zoning Commission
Requested Action	Text Amendment approval
Purpose	To amend §32-12, Two-Family and Multi-Family Developments and various districts where it is referenced
Location	RPOD, RORD #1, #2 and #3, BPD, RBD, BCD, DDD #2, BCD/H and GBD non-residential zoning districts
2007 Plan of Conservation	Chapter 5, entitled "Protect and Manage Residential Neighborhoods states <i>"Protecting residential neighborhoods is</i>

and Development	<p><i>a fundamental philosophy of the Plan. To implement this policy:</i></p> <ul style="list-style-type: none"> <li>• <i>Residential neighborhoods will continue to be protected from the intrusion of commercial activities.</i></li> <li>• <i>Boundaries between residential neighborhoods and non-residential zoning districts shall remain clear.</i></li> <li>• <i>Transitions from residential neighborhoods to non-residential zoning districts should be logical and have appropriate buffering, as necessary.</i></li> <li>• <i>Regulations protecting residential districts and zoning standards must be maintained, strengthened, improved where needed, and enforced.</i></li> <li>• <i>Special Permit uses in residential zones must be reviewed to ensure that they are still suitable for neighborhoods, especially since so little undeveloped property remains.</i></li> <li>• <i>Review Special Permit criteria and enforce the Special Permit standards to meet the regulations.” p. 5-2</i></li> </ul> <p><i>A strategy in Chapter 5 is to “Continue to protect existing residential neighborhoods from intrusion of commercial activities. p. 5-6</i></p> <p><i>A Goal of Chapter 6, entitled Create a Range of Housing Opportunities and Choices, is “to seek ways to expand the variety of housing choices and options of Westport in order to help meet the needs of existing and future residents while maintaining the character and integrity of the town.” p. 6-1</i></p> <p><i>“As Westport work towards providing more housing choices, it will do so in ways that are appropriate for the community and that protect the public health and safety. In addition, Westport will consider ways of integrating affordable, workforce and market rate housing in future projects in partnerships with public and private organizations.” p. 6-3</i></p> <p><i>A Strategy to achieve this goal is to “require that all housing construction in Westport either provide affordable housing units or pay into an affordable housing trust fund.” p. 6-4</i></p> <p><i>Another strategy of the Chapter is to “Consider requiring that any multi-family development provide affordable housing units.” p. 6-4</i></p> <p><i>The strategy also states that “the Town should adopt an inclusionary zoning regulation requiring some percentage of units in a multi-family development to be deed restricted to affordable levels.” p. 6-4</i></p> <p><i>“Strategies giving priority to residents and Town employees should be established to ensure affordable housing serves the</i></p>
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	<p><i>needs of Westport.” Pg 6-4</i></p> <p>Chapter 7 entitled, “Maintain Distinctive Centers with a Strong Sense of Place” states <i>“The Plan recommends that developments along the Post Road be encouraged to consider incorporating residential uses on commercial properties in order to create mixed-use buildings along the corridor. As residential units are added, this will increase the variety of housing choices in locations with access to shopping and public transportation.” P. 7-13</i></p> <p><i>“Where feasible, safe and buffered from residential uses, require public access to the waterfront on suitable commercial and mixed use properties.” P. 7-17</i></p> <p>A Strategy of Chapter 7 is to <i>“Promote mixed use and multifamily residential use when properties along Post Road East are redeveloped and in limited areas on Post Road West.</i></p> <ul style="list-style-type: none"> <li><i>a. Encourage property owners to consider such uses when planning to redevelop larger Post Road properties</i></li> <li><i>b. Consider adopting zoning regulations to allow greater building heights by Special Permit (within limits) for buildings with apartments.” p. 7-17</i></li> </ul> <p>Another Strategy is to <i>“Encourage 2<sup>nd</sup> floor apartments to be built on properties that are presently one story commercial since this will:</i></p> <ul style="list-style-type: none"> <li><i>a. Provide more housing opportunities.</i></li> <li><i>b. Make complementary use of the parking</i></li> <li><i>c. Add apartments along major arterial road, close to shopping, and reduce the pressure to build them in single family residential zones.” p. 7-17</i></li> </ul> <p>A Strategy in Chapter 11 entitled, “Promote Sustainable Initiatives, includes <i>“Evaluate the zoning regulations for ways to reduce land coverage and building size to conserve energy.” P. 11-5</i></p>
Applicable Regulations	<p>§11, Res. AAA; §21, Restricted Professional Office District (RPOD); §22, Restricted Office –Retail District (RORD); §23, Restricted Business District (RBD); §24, General Business District (GBD); §26, Design Development District (DDD); §23, Business Preservation District (BPD); §29, Business Center District (BPD); §29A, Business Center District/Historic (BPD/H); §32-12, Two-Family and Multi-Family Developments; §42, Amendment of Zoning Regulations §32-12, Two-Family and Multi-Family Developments; §42, Amendment of Zoning Regulations</p>

### Housing in Westport

Market rate and below-market-rate housing alternatives must be provided in a community to maintain a diversity of residents of all income levels. The housing inventory in the Town of Westport includes market rate housing, below-market-rate housing, and affordable housing as defined by the Connecticut General Statutes. However, there is an existing shortage of below-market rate and affordable housing opportunities in Westport. The First Selectman in December 2006 held a summit to address the need for new housing opportunities in Westport. The discussion included housing options for persons who qualify for affordable housing as defined by the Connecticut General Statutes, as well as persons who work in Westport, but who cannot afford market rate housing in Westport and who do not qualify for State assistance under the affordable housing guidelines. At the December 2006 meeting, the First Selectman acknowledged the summit was the first of more forums to come, wherein community leaders and other stakeholders will gather to address the housing needs in Westport.

### Affordable Housing

Affordable Housing is defined in §8-30g of the Connecticut General Statutes as housing that is affordable to those earning 80% of the state median income or area median income, whichever is less, adjusted for family size. The maximum income for a family of four (4) to meet this criteria is \$68,960. For more information on affordable housing and the income guidelines for Westport, see attached memorandum *Affordable Housing as Defined in State Statutes §8-39a & §8-30g, dated 9/13/10*.

The affordable housing inventory in Westport equals 232 units, according to the most recently available data. This represents approximately 2.31% of the total housing inventory (10,065 single and multi-family dwelling units) as listed in the 2000 U.S. Census, see attached spreadsheet entitled *Affordable Housing Appeals List/Governmentally Assisted Units (Period 7/08-6/09) (published 2/1/20), and Maximum Sale Price of Affordable Units under §8-30g, dated 5/20/10*.

The 2007 Plan of Conservation and Development recommends creating more affordable housing opportunities. The 1997 and 1987 Town Plan of Development also encouraged enacting zoning regulations to create below-market-rate housing. Since adoption of these plans Westport has made strides to implement these recommendations as follows.

In March 2007, the Planning and Zoning Commission again formally committed to find ways to address the existing shortage in affordable housing units in Town. An Affordable Housing subcommittee of the Planning and Zoning Commission was formed with the goal of continuing to develop regulations to promote affordable housing in Westport. A work session was held on June 7, 2007 to discuss these goals. The Committee is working with staff to develop affordable housing initiatives, see attached memorandum *Affordable Housing Strategies, revised 2/2/07 prepared by Michelle Frye*.

In April 2007, a telephone survey was conducted and 74% of respondents felt that Westport needs a choice of housing types and 60% felt that the most appropriate place to construct new apartments, condos and other multifamily housing would be along the Post Road.

Since 2007, the Committee has been working on an amendment to modify §32-12 and potentially expand its application to the GBD and BCD/H and the split-zoned properties to require 20% of the units to be affordable with density, setback and height bonuses. In February 2009, Amendment #591 was submitted as an application with the support of the Planning and Zoning Commission. Prior to the public hearing however, the Commission voted to withdraw it in order to take Commission members concerns into consideration.

### State Initiatives

In addition to responding to directives from the local Plan of Conservation and Development, Westport's affordable housing efforts have also been prompted by policies established at the State level. The State of Connecticut established a goal that affordable housing should represent 10% of the total housing inventory in each municipality throughout the State. The State of Connecticut enacted C.G.S. §8-30g in 1990 that provides a special appeals process to a developer, if a housing development containing a specified minimum amount of affordable housing units is denied by a local land use board. This appeals process is only applicable to those communities that do not meet the 10% affordable housing goal. While some cities and larger communities have met the 10% goal, other communities have not. A list was recently published that identifies those communities in Connecticut that obtained the 10% goal, see attached *List of Municipalities Exempt from Affordable Housing Appeals Procedure, prepared by CCM, dated 2/1/10*. Westport has not yet met the 10% goal and the Town is therefore at risk of the appeals process in cases where a development application that includes affordable housing is denied, or an affordable housing development application is approved with such restrictions that the project is no longer viable.

The appeals process outlined in C.G.S. §8-30g is unique as the burden of proof is shifted to the Planning and Zoning Commission to demonstrate the reasons for their decision. To avoid revisions to, or reversal of, a decision, C.G.S. §8-30g specifically requires that the record show:

1. The decision is necessary to protect substantial public interests in health, safety, or other matters which the commission may legally consider;
2. Such public interest clearly outweighs the need for affordable housing;
3. Such public interest cannot be protected; and
4. The decision from which the appeal is taken and the reasons given for the decision are supported by sufficient evidence in the record.

According to the Town Attorney, towns are only successful in defending a denial 30% of the time. Recent revisions to C.G.S. §8-30g allow a moratorium to the appeals process if a community can demonstrate significant progress in meeting the State's goal. Westport does not yet qualify for this process.

Westport would need 201 moratorium points to qualify for a moratorium. An analysis has been done by staff and has determined that Westport has approximately 126.75 moratorium points and 74.25 additional points are needed before Westport can apply for a moratorium. For further clarification on C.G.S. §8-30g and the moratorium process see attached memorandum §8-30g-6, *State Certificate of Affordable Housing Completion, Moratorium on Applicability of C.G.S. §8-30g to Certain Affordable Housing Applications, revised 5/27/10*.

### **Proposal**

The Planning and Zoning Commission is seeking to provide inclusionary zoning by modifying the existing section §32-12, Two-Family and Multi-Family Dwellings, to require 20% of the market rate units to be owned or rented as affordable units, in accordance with §8-30g of the Connecticut General Statutes. In addition, the GBD and BCD/H zones are proposed to be modified to allow development under §32-12. Currently, there is no requirement for any affordable housing approved as part of a multi-family development in accordance with §32-12.

This proposed regulation is the result of more than two years of effort by P&Z Commission and staff to develop regulations to address our requirements under CT Statutes to create housing diversity. The intent of the proposal is to increase the diversity of housing choices and

simultaneously to provide additional below market rate housing within Westport. The state goal is 10% of housing units in each town be affordable. Westport currently has 2.31% or 232 units.

### §32-12, Purpose

The purpose statement describes the reasons for modifying the section on Two-Family and Multi-Family Dwellings to Inclusionary Two-Family and Multi-Family Dwellings.

Inclusionary Zoning is defined in the Connecticut General Statute (CGS) as follows “*any zoning regulation, requirement or condition of development imposed by ordinance, regulation or pursuant to any special permit, special exception or subdivision plan which promotes the development of housing affordable to persons and families of low and moderate income, including, but not limited to, (1) the setting aside of a reasonable number of housing units for long-term retention as affordable housing through deed restrictions or other means; (2) the use of density bonuses; or (3) in lieu of or in addition to such other requirements or conditions, the making of payments into a housing trust fund to be used for constructing, rehabilitating or repairing housing affordable to persons and families of low and moderate income.*”

The use is designed to encourage and increase the diversity of housing choices and to provide additional below market rate housing within Westport.

Requiring 20% of the units to be affordable is consistent with the recommendations in the Chapter 6 of the 2007 Plan of Conservation and Development that recommends that the Town should adopt an inclusionary zoning regulation requiring some percentage of units in a multi-family development to be deed restricted to affordable levels.

Summary: §32-12 is consistent with the 2007 Town Plan of Conservation and Development which encourages development of an inclusionary zoning regulation along the Post Road and to consider encouraging residential uses on commercial properties in order to create mixed-use buildings along the corridor.

### §32-12.1, Lot Area and Shape

This section is modified to remove the requirements that an eligible property have at least  $\frac{3}{4}$  acre and has 150 foot frontage on an Arterial street. It now requires that eligible properties shall have frontage on an Arterial street that is equal to at least 15% of the lot perimeter. This is required in order to prohibit lots that have minimum frontage on an Arterial street but extend far into the residential zones. There is no minimum lot area. Arterial streets are listed on page 8-2 of the POCD (see attached).

Eligible properties are located within the GBD, RPOD, RORD, BPD, RBD, BCD, BCD/H or DDD #2 Non-Residential zoning districts and that have frontage that is equal to at least 15% of the lot perimeter according to §32-12.1.

Permitting multi-family use on properties currently located within the eligible zones, subject to the location requirements, is consistent with the existing text of §32-12. The two zones that will be added to eligible zoning districts are §24, GBD and §29A, BCD/H. The requirement to provide for inclusionary zoning within a multi-family development in these zones will provide an opportunity to increase the inventory of affordable housing in Westport.

Summary: §32-12.1 is consistent the Purpose of the district and is consistent with the Westport Zoning Regulations.

### §32-12.2, Density

A density of eighteen (18) units per acre is permitted. The existing regulation does not have a unit density only a bedroom density. Twenty (20) bedrooms per acre is the existing permitted

density allowed. The proposed density is twenty-six (26) bedrooms per acre. The increased density will provide a greater incentive for development of affordable dwelling units. See attached “*Westport Multi-Family Housing Comparison*” for additional information on density in other multi-family zoning districts.

Summary: §32-12.2 is consistent with the Purpose of the district and is consistent with the Westport Zoning Regulations.

#### §32-12.3, Setbacks

This section is modified to reduce the front setback from 30 feet to 20 feet. The front setback is reduced so as to encourage parking behind the buildings.

The existing required side setback is a distance equal to the height of the building, but not less than 5 feet, from any side line. The proposed text requires the side and rear setbacks in the underlying zone to be met. The existing rear setback is 15 feet and the proposed would be 25 feet. The proposed represents a greater rear setback than the existing.

Summary: §32-12.3 is consistent with the Purpose of the district and is consistent with the Westport Zoning Regulations.

#### §32-12.4, Height

The existing regulation requires the height of the underlying zone be permitted, which in most cases is 2 ½ stories.

As an incentive to create affordable units the proposed text defines if a building has at least one-third of the floor area residential use, the height may be increased to 3 stories and 35-feet.

This incentive is not permitted in the BPD and BCD/H; however, since the historic streetscape should be retained in those zones.

Permitting 2 ½ stories is consistent with §21, RPOD, §22, RORD, and §28, BPD and Res. A zoning district. Other non-residential districts allow 2-stories.

Summary: §32-12.4 is consistent with the Westport Zoning Regulations and is consistent with the 2007 Town Plan which discusses adopting zoning regulations “*to allow greater height by Special Permit for buildings with apartments and encouraging 2<sup>nd</sup> floor apartments on one story commercial buildings.*”

#### §32-12.5, Coverage

The existing regulation requires the coverage of the underlying zone be permitted. The proposed text states the allowable building coverage is 5% more than the underlying zone which ranges from 20% -25%. This additional coverage is not permitted in §29, Business Center District; and §29A, Business Center District/Historic since they are already permitted to have 75%.

There is also a provision that allows the Commission to exempt an additional minimum amount of coverage associated with porches, decks, balconies and other similar open structural projections from building coverage; provided that such open structural projection will benefit public access, safety or convenience or will further the intent to preserve and/or enhance the historic character and appearance of the area. This provision is already permitted in the GBD/S mixed use zoning district.

There is currently no total coverage maximum in the non-residential zones. This text proposes adding a total coverage maximum of 70% in order to reduce the amount of land coverage impervious area within the development.

A density bonus of two (2) units, a residential FAR bonus of 0.05, and an exemption for floor area within a cellar or basement will be permitted, if at least one (1) underground space is provided per unit and if the total coverage is reduced to 65% in order to encourage underground parking and a reduction in coverage.

Summary: §32-12.5 is consistent with the Westport Zoning Regulations that allows variations in allowable coverage in non-residential zoning districts and with the 2007 Town Plan which encourages minimization of impervious areas.

#### §32-12.6, Building Spacing

This existing regulation requires a building separation that is equal to one-half the sum of the heights of the adjacent buildings. The proposed text allows groups of buildings on a single lot to be so arranged that the minimum horizontal distance between the nearest walls or corners of any principal and/or accessory detached buildings shall not be less than ten (10) feet in order to allow for buildings to be grouped together and to reduce impervious area on the site. The building spacing reduction will allow greater flexibility in design.

Summary: §32-12.6 is consistent with the 2007 Town Plan which encourages the reduction of land coverage and building size to conserve energy.

#### Building Area:

The existing and proposed text require the Building Area requirements of the underlying zone be met. The Building Area is also referred to as the footprint of the building. A maximum building area of 2,500 SF is permitted in the §21, RPOD; §22, RORD and §28, BPD. The RORD also limits the number of dwelling units in any one building to eight (8) units. There are no building area requirements in the §23, RBD; §24, GBD; §25, HSD; §26, DDD; §27, CPD; §29, BCD; §29A, BCD/H; and §30, HDD.

Summary: This is consistent with the Westport Zoning Regulations that limits building area in certain zoning districts.

#### §32-12.7, Floor Area

The existing text limits the size of unit types to 600 SF for efficiency, 850 SF for a one-bedroom and a maximum 1,200 SF for a 2-bedroom unit.

Residential unit size is limited to an average of 1,250 SF in the proposed text. This is larger than the 1,200 SF unit size permitted in other non-residential districts in accordance with §32-12.5. The proposed unit size is consistent with the purpose of the district which is designed in part to provide new housing alternatives.

A floor area maximum of each floor of 2,500 SF is proposed and is consistent with the zoning regulations for many of the non-residential districts including the §21, RPOD; §22, RORD and §28, BPD.

A FAR of 0.5 is permitted except for the BCD and BCD/H zone. An increase in floor area ratio is permitted above 0.5 for the residential component of a development and is consistent with the zoning regulations. The increase of an additional 0.3 FAR for a maximum of 0.8 FAR (0.25 for affordable units and 0.05 for one underground parking space and reduced coverage) is more restrictive than the permitted 1.0 FAR allowed in §29, BCD and §29A, BCD/H, and is less restrictive than the permitted 0.35 FAR allowed in other non-residential districts in accordance with §32-12.5.

At least 40% of the floor area in the non-residentially zoned portion of the property must be non-residential use. This is to retain non-residential uses on these properties.



A density bonus of two (2) units, a residential FAR bonus of 0.05, and an exemption for floor area within a cellar or basement will be permitted, if at least one (1) underground space is provided per unit and if the total coverage is reduced to 65% in order to encourage underground parking and a reduction in coverage.

Summary: §32-12.7 is consistent with the with the Purpose of the district and is consistent with the Westport Zoning Regulations that allows variations in permitted floor area and unit sizes in residential and non-residential districts.

#### §32-12.8, Architectural Design

The existing regulations has been modified to delete the requirement that buildings shall have a pitched roof design. The requirement that the façade be staggered or off-set is included in the proposed regulation but does not require a change of 10 feet in depth over a minimum length of 20 feet. This is to allow greater design flexibility.

Additional language is added to require compatibility with historic structures located on or adjacent to the subject property for both residential and non-residential zoning districts which is consistent with the GBD/S zoning district.

Any development in the IHZ is subject to Special Permit/Site Plan approval and therefore will also require review by the Architectural Review Board.

Summary: §32-12.8 is consistent with the with the Purpose of the district and is consistent with the Westport Zoning Regulations.

#### §32-12.9, Public Waterfront Access

This section is added and requires that sites developed adjacent to the Saugatuck River to provide Public Waterfront Access.

Summary: §32-12.9 is consistent with the 24A which also requires public waterfront access and with the 2007 Town Plan which encourages requiring public access to waterfront on commercial and mixed use properties.

#### §32-12.10, Signs

This section requires compliance with §33, Signs, of the zoning regulations. No changes are proposed.

Summary: §32-2.10 is consistent with the Westport Zoning Regulations.

#### §32-12.11, Parking

The existing text requires compliance with the parking requirements of the underlying zone.

This section has been modified to require compliance with §34, Off-Street Parking and Loading, in the Westport Zoning Regulations. A provision is also included that allows a reduction of up to 0.5 spaces per unit. This section also requires that the parking on the lot be located to the rear of the front leading edge of any building facing the street. In addition, tandem parking may be considered by the Commission.

A density bonus of two (2) units, a residential FAR bonus of 0.05, and an exemption for floor area within a cellar or basement will be permitted, if at least one (1) underground space is provided per unit and if the total coverage is reduced to 65% in order to encourage underground parking and a reduction in coverage.

Summary: §32-12.11 is consistent with the Westport Zoning Regulations and the 2007 Town Plan which encourages a reduction in impervious area.

### §32-12.12, Landscaping, Screening, and Buffer Areas

The existing text requires the landscaping, screening, and buffer areas requirements of the underlying zone be permitted.

The proposed text requires compliance with §35 of the zoning regulations.

Summary: §32-12.12 is consistent with the Westport Zoning Regulations.

### §32-12.13, Utilities

This section is new and requires all dwelling units to be connected to the public sewer, requires storm drainage to be constructed in accordance with Town standards and requires utilities to be located underground. This is consistent with multiple use development requirements contained in the Westport Zoning Regulations.

The Health District has submitted comments stating that since all dwelling units must connect to both the public water supply and a public sanitary sewer line, the Health District has no jurisdiction regarding supply of potable water or the disposal of wastewater.

Summary: §32-12.13 is consistent with the Westport Zoning Regulations.

### §32-12.14, Change of Use

This section identifies residential units may not be converted to non-residential uses so that a future owner could not convert residential floor area back to non-residential use. This section has not been changed.

Summary: §32-12.14 is consistent with the Westport Zoning Regulations

### §32-12.15, Affordability Requirement and Plan

This section requires 20% of all proposed dwelling units to be affordable in accordance with §8-30g of the Connecticut General Statutes. It also states in this section that at least one unit shall be affordable. Units cannot be clustered and must be reasonably dispersed with comparable amenities. In addition, no affordable unit can be smaller than 75% of a market rate units containing the same number of bedrooms. The regulation requires that fractional units at 0.5 and above shall be rounded up.

Summary: §32-12.15 is consistent with the Purpose and is consistent with the 2007 Town Plan of Conservation and Development that promotes regulations that encourage affordable housing.

### §32-12.16, Traffic

This section requires that a traffic analysis in accordance with §44-2.5 be submitted.

Summary: §32-12.16 is consistent with the Westport Zoning Regulations.

### §11-2.3, Res. AAA

This section adds Inclusionary Two-Family and Multi-Family Dwellings to the list of permitted special permit uses.

Summary: §11-2.3 is consistent with the Westport Zoning Regulations.

### §21-2.2, RPOD

This section adds Inclusionary Two-Family and Multi-Family Dwellings to the list of permitted special permit uses.

Summary: §21-2.2 is consistent with the Westport Zoning Regulations.

§21-8.4, RPOD

This section has been modified to remove the references to Single-Use Development since the proposed §32-12.7.2.2 requires that 40% of the floor area is required to be non-residential. The FAR maximum has also been deleted because is listed in §32-12.7.2.1. Lastly, a reference to §32-12 has been added.

Summary: §21-8.4 is consistent with the Westport Zoning Regulations.

§22-2.2, RPOD

This section adds Inclusionary Two-Family and Multi-Family Dwellings to the list of permitted special permit uses.

Summary: §22-2.2 is consistent with the Westport Zoning Regulations.

§22-2.7, RPOD

This section removes the requirements that no one building shall contain more than eight (8) dwelling units.

Summary: §22-2.7 is consistent with the Westport Zoning Regulations.

§22-8.4, RPOD

This section has been modified to remove the references to Single-Use Development since the proposed §32-12.7.2.2 requires that 40% of the floor area is required to be non-residential. The FAR maximum has also been deleted because is listed in §32-12.7.2.1. Lastly, a reference to §32-12 has been added.

Summary: §22-8.4 is consistent with the Westport Zoning Regulations.

§23-2.2, RBD

This section adds Inclusionary Two-Family and Multi-Family Dwellings to the list of permitted special permit uses.

Summary: §23-2.2 is consistent with the Westport Zoning Regulations.

§23-8.2, RBD

This section has been modified to remove the references to Single-Use Development since the proposed §32-12.7.2.2 requires that 40% of the floor area is required to be non-residential. The FAR maximum has also been deleted because is listed in §32-12.7.2.1. Lastly, a reference to §32-12 has been added.

Summary: §23-8.2 is consistent with the Westport Zoning Regulations.

§24-2.2, GBD

This section adds Inclusionary Two-Family and Multi-Family Dwellings to the list of permitted special permit uses.

Summary: §24-2.2 is consistent with the Westport Zoning Regulations.

§24-8.2, GBD

This section adds a paragraph referring to standards for §32-12.

Summary: §24-8.2 is consistent with the Westport Zoning Regulations.

§26-1.3, DDD

This section adds an exception for Inclusionary Two-Family and Multi-Family Dwellings to the

section that states no Change of Zone of Special Permit be granted after 8/11/80.

Summary: §26-1.3 is consistent with the Westport Zoning Regulations.

#### §26-2.2, DDD #2

This section adds Inclusionary Two-Family and Multi-Family Dwellings to the list of permitted special permit uses.

Summary: §26-2.2 is consistent with the Westport Zoning Regulations.

#### §28-2.2, BPD

This section adds Inclusionary Two-Family and Multi-Family Dwellings to the list of permitted special permit uses.

Summary: §28-2.2 is consistent with the Westport Zoning Regulations.

#### §28-8.1, BPD

This section has been modified to remove the references to Single-Use Development since the proposed §32-12.7.2.2 requires that 40% of the floor area is required to be non-residential. The FAR maximum has also been deleted because is listed in §32-12.7.2.1. Lastly, a reference to §32-12 has been added.

Summary: §28-8.1 is consistent with the Westport Zoning Regulations.

#### §29-2.2, BCD

This section adds Inclusionary Two-Family and Multi-Family Dwellings to the list of permitted special permit uses.

Summary: §29-2.2 is consistent with the Westport Zoning Regulations.

#### §29A-2.2, BCD/H

This section adds Inclusionary Two-Family and Multi-Family Dwellings to the list of permitted special permit uses.

Summary: §29A-2.2 is consistent with the Westport Zoning Regulations

### **Analysis**

An analysis of the number of lots eligible under the existing §32-12 text has identified forty-three (43) lots. The number of lots eligible under the proposed §32-12 is three-hundred eighteen (318) lots. However, Westport is also close to exceeding the permitted number of multi-family units allowed in Town. §4-5 of the Westport Zoning Regulations restricts the permitted number of multi-family units to no more than 10% of the total number of dwelling units in Westport as reported in the most recent U.S. Census.

The 2000 Census shows there are 8,755 single family dwellings, and 803 multi-family units (or **9.17%** of 8,755). Seventy-three (73) additional market rate multi-family units are permitted before the maximum number of multi-family units (876) is exceeded. **Currently, under this regulation only ninety-one (91) total multifamily units [(73) market rate and eighteen (18) affordable] could be constructed due to the multifamily cap regulation.**

A single family dwelling with an accessory apartment is not considered multifamily therefore would not be included in the multifamily cap. The affordable units which could potentially result from this amendment would not be included in the allowable number of multi-family dwellings.

Amendment #619/Apl. #10-034 is also being proposed by the Planning and Zoning Commission to create a new §39A, Inclusionary Housing Overlay District, which permits development of lots split residential and non-residential with the requirement that 20% of the units to be owned or rented as affordable units, in accordance with §8-30g of the Connecticut General Statutes. The new zoning district would be an overlay, which means that all zoning regulations applying to the underlying district would continue to govern, except as amended by this section. Also a site rezoned to Inclusionary Housing Overlay District will bear its original designation, but with IHZ appended to indicate Inclusionary Housing Overlay District.

The other towns in Connecticut that have recognized the need to adopt inclusionary zoning regulations are Darien, New Canaan, Norwalk and Stamford. New Canaan has created a Housing Trust Fund and a fee for each zoning permit is collected and put into the fund. The referenced regulations are available in the file.

Comments from SWRPA indicated that the towns of Norwalk, Fairfield, Weston and Wilton should be advised of the amendment. The text was referred to them on 9/16/10.

The diverse housing inventory in the Town of Westport allows for a combination of market rate housing, below-market-rate housing, and affordable housing as defined by the Connecticut General Statutes. The 2007 Plan of Conservation and Development recommends creating more affordable housing. Additionally, the State of Connecticut established a goal that affordable housing units should represent 10% of the total housing inventory in all communities throughout the State.

### **Considerations**

A press release was sent to the newspaper during the week of September 20, 2010.

The Planning and Zoning Commission acting in their legislative capacity has the authority to adopt, deny, or modify the amendment. If new sections are proposed or significant changes are recommended, it is advisable to re-legal notice these changes, and continue the public hearing prior to rendering a decision.

The Commission must consider the following before rendering any decision, as required by the Westport Zoning Regulations and the Connecticut General Statutes: §42-3.3 of the Westport Zoning Regulations describes the process for submission of a text amendment. Words to be deleted shall be bracketed and stricken out and additions shall be underlined. The application as submitted conforms to this requirement. §42-3.5 requires the applicant submit an Explanatory Statement. This Statement is attached and describes that the amendment is designed to benefit the Town by increasing opportunities for affordable housing and increasing housing diversity.

C.G.S. §8-2, *Regulations*, requires consideration by the Commission that any regulations shall be made in accordance with a comprehensive plan (zoning regulations and zoning map) and in adopting such regulations the Commission shall consider the plan of conservation and development. The amendment may be considered consistent with the comprehensive plan.

The amendment to §32-12, Two-Family and Multi-Family Dwellings, appears to be consistent with the Westport Zoning Regulations and the 2007 Plan of Conservation and Development because the Residential Chapter suggests seeking ways to expand the variety of housing choices and options of Westport in order to help meet the needs of existing and future residents while maintaining the character and integrity of the town. The Chapter also suggests that the Town should adopt an inclusionary zoning regulation requiring some percentage of units in a multi-family development to be deed restricted to affordable levels.

If the amendment is adopted by the Planning and Zoning Commission, an effective date must

also be established by the Planning and Zoning Commission. Staff recommends 30 days from the date of approval.

### Department Comments

Architectural Review Board:	Meeting scheduled for 9/28/10.
Building Official:	Transmittal sent.
Conservation Department:	<p>“In general, the Conservation Department supports the efforts to increase affordable housing opportunities in the town in order to expand the diversity of housing stock within the community. With the increase in density, we also welcome the requirement that this type of housing be connected to public sewers. We do ask that you reconsider the requirement to avoid clustering of units. If done properly, clustering can result in less impervious surface and promote an open space component within the development consistent with low impact development principles.</p> <p>On a different, yet similar note, as stated in our comments on the previously proposed amendment, (#597), is there a way to encourage owners of EXISTING two and multi-family houses to convert them to affordable housing? Doing so would result in less natural resources being used for new construction and help to preserve the small percentage of open space lots that could take advantage of these text changes.” 9/16/10</p>
Fire Department:	Transmittal sent.
Historic District Commission:	<p>“Text Amendment #618 for Inclusionary Two-Family and Multi-Family Dwellings/Other Changes #6 should include the following text: <i>“Where applicable, developments shall be designed to encourage the preservation of architectural features of historic buildings or other structures in the district. Historic buildings and structures are defined here as those registered in either the Connecticut or U.S. Registers of Historic structures or the Westport Historic Resources Inventory listed or deemed eligible for listing on the National Register of Historic Places, Westport Historic Resources Inventory, or are at least 50 years of age.”</i> Additionally, the HDC requests applications submitted for historic properties as defined above should be referred to the HDC for design review and comment.”</p>

	9/14/10
Parks and Recreation Department:	“The Parks and Recreation Department has no comment on the above referenced Text Amendment proposal.” 8/26/10
Police Department:	“I have no comments.” 8/4/10
Public Works Department:	Transmittal sent.
Town Attorney:	<p>“As you requested, I have also reviewed the proposal modifying Section 32-12 of the zoning regulations by requiring 20% of units to be owned or rented as affordable units in accordance with C.G.S. Section 8-30g. The proposal also allows multi-family development on the GBD and BCD/zone.</p> <p>Under C.G.S. Section 8-2, regulations are to encourage the development of housing opportunities, “including opportunities for multifamily dwellings.” Regulations are also to promote housing choices and economic diversity in housing, “including housing for both low and moderate income households...”</p> <p>The proposal is consistent with the statute as well as the Plan of Conservation and Development which, according to your explanatory statement, directs the Commission to create a range of housing opportunities, to diversify housing types and to promote housing affordability.” 9/9/10</p>
Westport-Weston Health District:	<p>“The Health District has no objection to the passage of the proposed amendments. Please note that it is the Health District’s understanding that in accordance with 32-12.13.2 of the proposed regulations, all such dwellings or dwelling units <i>must connect</i> to both the public water supply and a public sanitary sewer line. As such, the Health District has no jurisdiction regarding supply of potable water or the disposal of wastewater. If this understanding is incorrect, please advise me of this fact so that additional consideration can be given this proposal. ” 8/13/10</p>
South Western Regional Planning Agency:	<p>“The provision introducing affordable units in accordance with 8-30g is not likely to have adverse inter-municipal impact. The proposal to increase affordable housing is consistent with the SWRPA POCD. However, depending upon the location of the General Business District and Business Center District (BCD) zones, and the number of multi-family units, there may be inter-municipal traffic and other impacts.</p>

	For example, these zones are within 500 feet of Norwalk and Fairfield. Norwalk, Fairfield, Weston and Wilton should be advised accordingly ." 9/13/10
Greater Bridgeport Regional Planning Agency:	"At its meeting on August 25, 2010, the Board of Greater Regional Planning Agency discussed and reviewed the proposed amendments to the Westport Zoning Regulations regarding inclusionary two-family and multi-family dwellings. It was the consensus of the Board to support the proposed changes as they are consistent with state affordable housing legislation." 8/27/10
Department of Environmental Protection, OLISP:	"We have received the above-referenced proposals to amend the town's zoning regulations for consistency with General Coastal Management Act policies and have no comments for the Planning and Zoning Commission's consideration." 8/9/10

**Attached**

*Explanatory Statement, prepared by applicant, dated 8/3/10*

*Amendment #618 Text, submitted 7/27/10*

*Map Existing and Proposed Zones – Section 32-12, prepared by Michelle Perillie, dated 2/24/10*

*Local Initiatives in Affordable Housing, prepared by Michelle Perillie, dated 9/22/10*

*Affordable Housing as Defined in State Statutes §8-39a & §8-30g, prepared by Michelle Perillie, revised 9/13/10*

*List of Municipalities Exempt from Affordable Housing Appeals Procedure, prepared by CCM, dated 2/1/10*

*Affordable Housing Appeals List/Governmentally Assisted Units (Period 7/08-6/09) (published 2/1/20), prepared by Michelle Perillie*

*Maximum Sale Price of Affordable Units under §8-30g, prepared by Michelle Perillie, dated 5/20/10*

*Affordable Housing Strategies, revised 2/2/07*

*§8-30g-6, State Certificate of Affordable Housing Completion, Moratorium on Applicability of C.G.S. §8-30g to Certain Affordable Housing Applications, prepared by Michelle Perillie, revised 5/27/10*

*Maximum Allowable Multi-family Dwellings under §4-5, prepared by Michelle Perillie, revised 10/7/10*

*Westport Multi-Family Housing Comparison prepared by Michelle Perillie, dated 8/24/10, revised 9/10/10*

*Analysis of Existing Lots Eligible for Amendment #618 and #619, prepared by Michelle Perillie, dated 8/17/10*

*2007 Town Plan Section on Road Classifications*

*Non-Residential Standard Summary Chart, 9/9/10*

**Available in File**

*Press Release, dated 9/21/10*

*GBRPA letter, dated 8/27/10*

*SWRPA letter, dated 9/13/10*

*Darien, Inclusionary Zoning Regulation*

*New Canaan, Inclusionary Zoning Regulation*

*Norwalk, Workforce Zoning Regulation*

*Stamford, Below Market Rate Dwelling Units Regulation*

*Research on Similar Developments in CT – Proposed Section 32-12*