



TOWN OF NEW CANAAN

PLANNING AND ZONING DEPARTMENT
TOWN HALL, 77 MAIN STREET
NEW CANAAN, CT 06840

Planner's Memorandum

To: Members, Planning and Zoning Commission
K. Moynihan, Selectman (via email)
K. Corbet, Selectman (via email)
N. Williams, Selectman (via email)
I. Bloom, Town Attorney (via email)
T. Mann, Director of Public Works (via email)

From: Lynn Brooks Avni, AICP Town Planner

Date: Meeting Memo December 13, 2022

Applications:

1. **58 Old Studio Road** - Upon application of Gamal Maklad and Jennifer Grunberg, owner(s), for a Special Permit of Section(s) 3.7.E to allow building coverage of 3,752 square feet in lieu of 3,522 square feet (increase of 230 square feet) allowed under 3.5.D by restricting 462 square feet to a height of 18 feet or less in the One Acre Zone at 58 Old Studio Road (Map 31, Block 10, Lot 49).

Discussion: The applicant is proposing to construct a new single-family dwelling with building coverage of 3,752sq ft. where 3,522sq ft. is required by deed restricting the height of 462sq ft. of the new structure (Sect. 3.7.E). According to Tax Assessor Record's the lot is currently improved with a one-story ranch built in 1965. This structure will be demolished for the proposed dwelling and pool. The latter is not part of this special permit application. The deed restricted areas will be located on the rear portion of the structure and screened from the street. They will contain a Great Room and an In-Law Suite. A roof deck is proposed atop the In-Law Suite. The structure meets all other height and setback requirements.

2. **17 and 23 Hill Street** - Discussion and consideration of the request of Christopher J. Smith, Alter & Pearson, LLC, Authorized Agent for Hill Street-72, LLC, owner(s), for a Zoning Regulation Amendment to amend the New Canaan Zoning Regulations dated June 16, 2007, Revised December 17, 2021 to add Section 5.12, Housing Opportunity Zone ("HOZ") and Proposed Amendments to the New Canaan Zoning Regulations to accommodate an 8-30g set aside development of a 93 dwelling unit, multi-family development located at 17 Hill Street (Map T, Block 93, Lot 812) and 23 Hill Street (Map T, Block 93, Lot 72).

3. **17 and 23 Hill Street** - Discussion and consideration of the request of Christopher J. Smith, Alter & Pearson, LLC, Authorized Agent for Hill Street-72, LLC, owner(s), for Petition for Change in Zoning Boundary for properties currently in the Two Acre Zone. The requested change in Zoning Boundary is to rezone the subject property from the Two Acre Zone to the new Housing Opportunity Zone (“HOZ”) at 17 Hill Street (Map T, Block 93, Lot 812) and 23 Hill Street (Map T, Block 93, Lot 72).
4. **17 and 23 Hill Street** - Upon application of Christopher J. Smith, Alter & Pearson, LLC, Authorized Agent for Hill Street-72, LLC, owner(s), for an 8-30g set aside Site Plan application approval for a ninety-three unit multi-family residential community with associated parking, driveway and drainage improvements and related accessory structures, with an affordable component per Section 8-30g of the C.G.S. for the property located at 17 Hill Street (Map T, Block 93, Lot 812) and 23 Hill Street (Map T, Block 93, Lot 72).

Discussion: There are three (3) applications currently before the Planning and Zoning Commission (PZC) with respect to the properties at 17 & 23 Hill Street. This application(s) proposes to construct 93 dwelling units in a multi-story building. The first application is a Regulation Amendment to propose a new Zone and the regulations of same including the dimensional standards, allowed uses, landscaping and site plan requirements. Second a Map Change application which proposes to change the zoning designation of the subject property. The third is a site plan application. It should be noted that the Applicant has submitted these three (3) applications, as one application with three parts, under Connecticut General Statutes 8-30g which attaches some specific requirements to the proposed development, including that at least 30% of the units must be preserved as “set aside” for a term of at least forty (40) years. An application has been submitted simultaneously to the Inland Wetlands Commission to review this proposal. A separate application has been submitted to the Water Pollution control Authority (WPCA)

For several recent proposals the PZC utilized Sect. 8.1.E of the New Canaan Zoning Regulations to hire outside consultants to peer review the proposed projects. Some recent projects that the PZC invoked this section of the New Canaan Zoning Regulations include; a) the New Canaan Library at 151 Main Street, b) a proposed multi-family dwelling use comprised of four (4) detached dwellings at 19 and 25 Richmond Hill Road, c) Vue apartments—formerly known as 17 Maple Street, 26 Maple Street, 162 Park Street, 168 Park Street and 184 Park Street. Initial staff reviews of this proposed project identified some potential issues with aspects of the application. Expecting that the PZC would make a similar determination for this application staff sought out two (2) respected peer reviewers to address some of the potential issues in this/these application(s).

Historical

According to Tax Assessor records Lot 72 and Lot 812 are vacant, unimproved parcels of land with 2.34 acres and 2.42 acres respectively, located in the Two-Acre Residential Zone. Both lots include extremely steep slopes and are heavily wooded and contain wetlands. The Town has no record of structures ever existing on this land. Since the lot is extremely steep it would require extensive cutting of ledge and grading to accommodate any type of

development. The site has approximately 48.60 feet of frontage along Hill Street and has proximity to the intersection of Hill Street and Brushy Ridge Road and the intersection of Hill Street and Urban Street. In the Two Acre Residence Zone 225 feet of frontage is required.

In 2014 this commission approved, subject to conditions, a subdivision that created the two existing lots. At the time, the owner of record proposed the development of a single family house on each lot. Despite the size of the parcel, there was limited frontage along Hill Street and a significant amount of wetlands on the property and so a common access driveway was proposed off of Hill Street that would service both lots. The driveway served as a wetland crossing and an approval for said wetland crossing was granted by the Inland Wetland Commission in 2014. As part of the subdivision approval, a waiver was granted to reduce the requisite 16 foot width of the driveway to 12 feet in order to minimize the wetlands crossing and any impacts on the wetlands. Additionally, as a condition of the subdivision approval, the southern portion of the property was encumbered in a conservation easement, in favor of the Town, to protect the wetlands onsite. Subsequent to the subdivision approval, the Tax Assessor's records indicate that the parcel was purchased by Hill Street-72 LLC on March 4, 2015.

In 2018 revisions to the wetland crossing were proposed and an application was made to the Inland Wetlands Commission. The Inland Wetlands Commission approved the revisions to the wetland crossing in November of 2018. In 2019 the current owners also sought a Special Permit approval of Sect. 6.4.G.2 from this Commission, for soil disturbance in excess of 10,000SF on the parcels. Throughout this subdivision process approvals were also granted by the Inland Wetlands Commission.

In September 2022 the Applicant submitted applications for a proposed 93 unit development at the site to the Inland Wetlands Commission and the Planning and Zoning Commission. At this time the Applicant also submitted an application to the Water Pollution Control Authority (WPCA) for the following: a) modification/new discharge or change of use associated with an existing sewer lateral connection; and b) confirmation of adequacy of sewer capacity; associated with a proposed ninety-three (93) unit development. The Inland Wetlands Commission and the Board of Finance which serves as the Water Pollution Control Authority are currently reviewing their respective applications.

Proposal

The 8-30g application submitted to the Planning and Zoning Commission proposes to construct a 93-unit 6 story structure with on grade parking below the building and 5 stories of residential units above. As proposed the Total Building Height is 80 feet. A publicly noticed site visit by the Planning and Zoning Commission will be conducted on Friday December 9, 2022 at 10:30am.

Staff noted several discrepancies with the application:

Site Plan Application:

- The Applicant states they reserve the right to convert from rental units to owned units. This will need to be addressed in the final affordability plan.
- Is there a planting plan for the roof? The Drainage analysis states 40% of the roof will be landscaped, yet no plan has been provided to verify this statement.
- Confirmation of the existing width of the driveway—the wetland crossing. The plans don't indicate this width.
- The truck turning figures suggest that fire apparatus will have to perform a very tight K-turn to exit the site. On the western side of the driveway that K-turn will involve backing up to an entrance/exit for the garage.
 - What is the rationale for not being able to fully circulate throughout the site?
 - There is no second means of egress provided. Hill Street is an older street that allows parking on both sides of the street. When there are cars parked on both sides of the street it makes passage through Hill Street tough.
- No snow removal plan has been provided.
- The landscaping plan is lacking in the NW corner of the property. Only 2 understory trees and shrubs are proposed.
 - Why is it “not possible” to comply with the landscaping buffer requirement in this portion of the site?
- The Aquarion Will Serve letter expired 9/20/2022, five (5) days after the applicant submitted the application to Town Staff. An updated letter should be provided to confirm.
- How much grading is required in the conservation easement? Is any fill required in the Conservation Easement? Did the applicant provide the required notification to the easement owner?
- What is the amount, lateral extent, and depth of earth materials to be excavated? How much material is proposed to be reused on site? Removed from the site? If the material is proposed to be reduced onsite prior to removal or for reuse associated with the construction of the residential community, a proposed plan depicting the material reduction activity, including any site crusher component should be provided at this time. Why is the Regulation Text Amendment written so that this information is only provided if requested by the Commission? Every applicant for a Zoning Permit is required to provide the amount of grading and fill required on a site. In fact the subject site received a Special Permit from the Commission for grading that exceeds 10,000 SF.
- The applicant should submit a
- The landscape buffer doesn't provide a width dimension. Only side and rear yard are proposed to be landscaped/buffered by the proposed Regulation text amendment.
- The Applicant is proposing an intense level of development on the proposed site which has extremely steep slopes and is heavily wooded and is proposed in a neighborhood with more compact development.
- Why is the Applicant only providing the minimum affordability requirement as provided in 8-30g? If there is a real need, why does the Applicant not propose a 60 or 75 year

affordability period? Canaan Parish, which is 100% affordable, provides an XX year affordability period.

- Why does the Applicant not consider additional affordability levels that actually add to the diversity of housing in New Canaan?
- The site plan shows that the pervious driveway ends before the end of the conservation easement. Why?
- The site plan is not clear in depicting how someone parking in the handicapped spots can access the building without stepping up onto a curb.
- The Housing Affordability Plan assumes a flat cost of \$125 per month for all unit sizes- 1 bedroom, 2 bedroom, and 3 bedroom units- but larger units will use more electricity and are more expensive to heat. Are the utility costs for smaller units being overestimated or are the utility costs for larger units being underestimated?
- The ITE Trip Generation Manual, 11th Edition cites an average PM trip generation per dwelling unit of 0.39 with range of rates varying between 0.19 and 0.57 for LUC-221, Multifamily Housing (mid-rise), not close to rail transit. The 10th Edition of the ITE Trip Generation Manual cites an average PM trip generation per dwelling unit rate of 0.44. Given the site's location separated from downtown and the train station by New Norwalk Road (Route 123), which carries high speed traffic with no crosswalk at the intersection of Brushy Ridge Road/Locust Avenue and New Norwalk Road (Route 123), why didn't the Traffic Impact Assessment utilize a higher average PM trip generation per dwelling unit rate?
 - How many of the study sites in the LUC-221 land use code have access to bus transit? How many bus transit stops are located within a quarter mile of the site? How is an individual to safely walk to the train station from this site? There are no sidewalks in the immediate vicinity.
- Figure 6, "2024 Build Traffic Volumes", dated 9/02/22 on pdf page 13, projects 22 out of 27 AM trips leaving the project site and turning left on Hill Street to proceed to the intersection of Hill Street/Ledge Avenue and New Norwalk Road (Route 123). Why are so many trips projected to follow this route when this intersection has only a stop sign and very limited visibility to the north looking up New Norwalk Road where oncoming traffic is moving rapidly? The intersection of Brushy Ridge Road/Locust Avenue and New Norwalk Road (Route 123) has a stop light and most of the 22 AM trips will proceed to that intersection. It is more rational to reverse the AM trips leaving the site, with 22 trips turning right to proceed to the Brushy Ridge Road/Locust Avenue intersection and 5 trips turning left proceeding to the Hill Street/Ledge Avenue intersection.
 - This trip assignment also doesn't reflect the assumption in the project summary that the proposed project will predominantly house commuter residents, who will proceed to the train station through the intersection of Brushy Ridge Road/Locust Avenue and New Norwalk Road (Route 123).
 - Traffic counts on pages 111-116 were taken on September 14th, 2021 during the middle of the pandemic. Updated traffic counts should be conducted and

compared to pre-pandemic traffic counts to better understand the traffic in this neighborhood.

- Has the applicant had an accessibility expert review the plans and confirm that the site is accessible?
- Christopher R. Laux, AIA did a building code review of the proposed Hill Street project and his comments are attached to this memo.

Zone Text Amendment:

- Applicant has not provided documentation that they are within 2500sq ft. of the intersection of Route 123 and East Avenue, which is a requirement for their lot to qualify for rezoning to their proposed zone.
- Why is the sign regulation that is proposed necessary? Are the applicants unable to create an appropriately sized sign for the development per Sect. 6.3 of the New Canaan Zoning Regulations?
- States that the development will comply with sections 6.4.J, 6.4.H, and 6.4.I to the maximum extent possible?
 - Why can't the development comply with this section of the Zoning regulations?

5. **151 Main Street, 64 Maple Street and 44, 48 and 56 South Avenue** - Upon application of Edward V. O'Hanlan, Robinson & Cole, LLP, Authorized Agent for The New Canaan Library, Inc., owner(s), along with its affiliates, of properties located at 151 Main Street, 64 Maple Street and 44, 48 and 56 South Avenue for modification of the special permit approved by the Planning & Zoning Commission modifying Sections 8.2.B, 4.4.D.3; 5.4.C.4, 6.4.G, 6.6.D, 5.10.C, 5.10.D, 5.10.G.4.b, and 5.10.I on July 13, 2021 to allow the library to meet conditions of approval 18, 19, 20, and 21 prior to receipt of Final Certificate of Occupancy rather than at Temporary or Partial Certificate of Occupancy.

Discussion: The Commission approved an amendment to the site plan for the New Canaan Library on November 15th, 2022 to satisfy conditions of approval 8 and 9 of the special permit approved July 13th, 2021 for the relocation and reuse of the Legacy Building in the Business A, Apartment Zone and LZ at 151 Main Street (Map T, Block 65, Lot 98). The site plan approved on July 13th, 2021 did not include a legacy building, necessitating the modification heard and approved on November 15th, 2022 locating the 1913 structure five (5) feet from the side property line near 36 South Avenue, the Gulf gas station. Further modification of the special permit is needed to modify conditions of approval 18, 19, 20, and 21 which required submission of the following prior to Certificate of Occupancy, Temporary Certificate of Occupancy or Partial Certificate of Occupancy, whichever occurs first: an as-built site plan indicating all completed improvements on the site; certification of the drainage, by a CT licensed PE, in accordance with the Town's drainage policy; certification from a Landscape Architect regarding the number, types and sizes for all plant material detailing that all plant material are native plants and that plants that are found to be in poor condition are identified, replaced, and re-inspected depending on the season; and a landscape plan. In order to continue with the phased construction plan in light of the modified site plan

approval, conditions 18, 19, 20, and 21 need to be modified to require the aforementioned items prior only to Final Certificate of Occupancy, as delivering them before Temporary of Partial Certificate of Occupancy would be impossible until all phases of construction are complete.