



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 September 15, 2022

There is one (1) continued public hearing items.

Applications:

1. Discussion and consideration of the request of Timothy S. Hollister, Hinckley Allen, Authorized Agent for W.E. Partners, LLC as development plan applicant and 751 Weed Street, LLC, as owner(s), for an 8-30g set aside development of a 102 dwelling unit multi-family development located at 751 Weed Street, Map 32, Block 20, Lot 944 in One Acre Zone, for a Zoning Regulation Amendment to amend the Zoning Regulations dated June 16, 2007, Revised August 16, 2021 to add Section 5.11, Transit Oriented Multi-Family Zone (TOMZ) (Complete copy of the proposed amendment on file in the office of the Town Clerk and also the Planning and Zoning Department as well as on-line at: https://www.newcanaan.info/departments/land_use/planning_zoning/pending_p_z_commission_applications.php#outer-4803sub-4805)
2. Upon application of Timothy S. Hollister, Hinckley Allen, Authorized Agent for W.E. Partners, LLC as development plan applicant and 751 Weed Street, LLC, as owner (s) for a Petition for Change in Zoning Boundary for property currently in the One Acre Zone. The requested change is to designate the property located at 751 Weed Street, Map 32, Block 20, Lot 944 as TOMZ (Transit Oriented Multi-Family Zone) The proposed map change may be viewed at this link or in the Town Clerk's office:

https://www.newcanaan.info/departments/land_use/planning_zoning/pending_p_z_commission_applications.php#outer-4803sub-4805

3. Discussion and consideration of the request of Timothy S. Hollister, Hinckley Allen, Authorized Agent for W.E. Partners, LLC as development applicant and 751 Weed Street, LLC, as owner(s) for an 8-30g set aside site plan application for the property located at 751 Weed Street, Map 32, Block 20, Lot 944 in the One Acre Zone. The application can be viewed in the planning and zoning office and/or online:
https://www.newcanaan.info/departments/land_use/planning_zoning/pending_p_z_commission_applications.php#outer-4803sub-4805

Discussion:

There are three (3) applications currently before the Planning and Zoning Commission (PZC) with respect to the property at 751 Weed Street. This application(s) proposes to construct 102 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. Instead of writing up each application separately, this report consolidates them into one (1) report. It should be noted that the Applicant has submitted these three (3) applications 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.

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 in various different departments identified some potential issues with respect to the traffic analysis as well as life safety. 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). On the website there is a peer review report prepared by John P. Thompson, PE and dated June 9, 2022 which analyzes and peer reviews the Solli Traffic Impact Assessment Report dated November 15, 2021. There is also an Operational and Fire Safety Review prepared by Andrew J. Kingsbury and dated June 10, 2022. The Applicant has paid for these peer reviews as stipulated in Sect. 8.1.E. Additionally, a copy of each of the peer reviews were provided to the Applicant on Friday June 17, 2022.

Historical

According to the Assessor’s records the property is improved with a single family dwelling, a pool and a pool house. The house was constructed in 1928 according to the Assessor. This

property is a corner parcel located at the intersection of Weed Street and Elm Street. Both streets allow for two-way travel with one (1) travel lane in each direction. The travel lanes are separated by a double yellow line on the ground. Weed Street allows for travel in a north south direction while Elm Street allows for travel in an east west direction. The intersection where the two streets meet is an unsignalized intersection with a stop sign on Elm Street for traffic turning onto Weed Street. Elm Street in particular has a significant amount of mature landscaping on both sides of the street with site driveways to the subject property as well as neighboring properties providing a glimpse from the right-of-way to the residential uses behind this thick landscaping that serves as screening. Weed Street also has mature landscaping, however, the residential uses are more readily visible from the right-of-way.

According to Town records the property is connected to Town water and to the sewer, via an easement. The property at 751 Weed Street did apply to the WPCA in August of 1959 and received permission to connect to the New Canaan Sanitary Sewer system; however, the property in 1959 was not the same property that exists today at 751 Weed Street. Map 3363 recorded in the Town Clerk's office on July 14, 1961 delineates the property at 751 Weed Street as it existed in 1961. Map 3363 identifies two parcels, Parcel B and Parcel A. Parcel A as noted on this map appears to be an unimproved lot that is located where the present day 781 Weed Street property is located. Parcel B is the 751 Weed Street parcel; however, this parcel appears to be different and larger than the current 751 Weed Street parcel. The Parcel B property was comprised of approximately seven (7) acres of land, a principal dwelling as well as four (4) accessory structures and one (1) accessory structure under construction. The accessory structures noted on Map 3363 include a guest house, garage, shed and a barn. Additionally, Map 3363 notes that a bathhouse is under construction. Although there is no inset map on Map 3363, it appears that the eastern property line of Parcel B extended all the way to the rear of the houses along the western side of Kimberly Place.

In 1969 Map 5299 was filed with the Town Clerk on August 1, 1969. On this map two lots are depicted, Lot 50 and Lot 49 - the lot lines between the two (2) properties have changed in the years since Map 3363 was recorded. Lot 49 is improved with a two-story frame house and a pool and a bath house. The Assessor's records indicate that this house was constructed in 1962 and it is quite similar to what is currently known as 781 Weed Street. Lot 50 shows a driveway on the property that is quite similar to the driveway now existing on what is currently known as 751 Weed Street. Lot 50 is also noted as 6.6131 acres in size –approximately double the size of the current 751 Weed Street property. Additionally, there are five (5) accessory structures shown as existing on the property.

Map 5812 recorded on January 10, 1979 in the Town Clerk's office shows three (3) lots and labels them Parcel 66, Parcel 65 and Segment #1. Parcel 65 indicates a property similar to the configuration of what is now known as 781 Weed Street and approximately 1.114 Acres in size. Parcel 66 comprises a 7.55 Acre lot with a two-story frame dwelling and five accessory structures which include a one-story frame dwelling, two-story garage and barn, stone garage, frame shed and a frame barn. The map also indicates the approximate location of the sanitary sewer which seems to travel parallel to the driveway and connects to a manhole in Elm Street along the southern property line with Elm Street.

Subdivision Map # 6892 was filed with the Town Clerk on April 3, 1996 and shows a five (5) lot subdivision. This map indicates accessory structures and portions of the driveway that were proposed to be removed as part of the subdivision of this parcel. Parcel 935 is a 3.102 Acre lot that is the parcel currently known as 751 Weed Street. This map also notes Parcel 936 which is now known as 339 Elm Street, Parcel 937 which is now known as 313 Elm Street, Parcel 938, now known as 315 Elm Street and Parcel 939 now known as 317 Elm Street. Map 6892 also indicates where there will be accessways, sanitary sewer easements and the water valve and sanitary manholes in the Elm Street Right-of-Way. There are sanitary sewer easements that were recorded as part of this subdivision and are found in Book 456, Page 842, Book 456, Page 854 and a drainage easement in Book 461, Page 701.

Landscape Plan

The Applicant has submitted a Site Plan for approval which should follow the requirements that the Applicant has proposed for their Regulation Amendment the proposed new Sect. 5.11 Transit Oriented Multi-Family Zone (TOMZ). A review of the proposed Landscape Plans, submitted with this application and prepared by Solli Engineering and dated 2/1/2022 indicates that the plans do not match the new proposed Regulation Amendment. The proposed Zoning Regulation Amendment for the TOMZ regarding landscaping in Sect. 5.11.F.7.a notes a four (4) foot wide landscape buffer provided adjacent to each property line. There are no measurements shown on the plan to confirm that the proposed buffer area complies with the proposed Regulation Amendment. Sect. 5.11.F.7.b indicates that side and rear yard setback areas shall be planted or preserved in a mixture of evergreen and deciduous trees/shrubs, shall be maintained and have a reasonable opaque barrier of at least 10ft tall. The proposed landscape plan as submitted seems to not comply with the Applicant's proposed new regulations as follows:

- (1) Forty-nine (49) Inkberry bushes are proposed to be planted along the property border with 781 Weed Street. However, these bushes only grow up to 5-8ft in height when mature ([Native Plant Profile: Inkberry \(Ilex glabra\) \(maryland.gov\)](#)). This would violate the Applicant's own proposed new standard Sect. 5.11.F.7.b which notes an "opaque barrier to a height of at least 10 feet."
- (2) The other proposed shrubs along this property line (winterberry) lose their leaves in the fall.
- (3) Along the border with the 781 Weed Street property some of the proposed landscaping buffer is Pink Muhly Grass. When mature it only reaches 1-3ft in height. Grass by definition is not a shrub, they are within different plant families. However, their proposed zoning regulations require that the landscape buffer be a mix of trees and shrubs, it does not mention grasses being permitted.
- (4) More than a 2:1 ratio of switchgrass and Blue Arrow Juniper plantings is being proposed along the property boundary of the homes on the private access way off of Elm Street. While mature Blue Arrow Juniper trees meet the proposed zoning regulations, switchgrass grows to only 3-5ft in height and can be invasive per the USDA ([Switchgrass, Panicum virgatum L .Plant Fact Sheet \(usda.gov\)](#)).
- (5) No Landscaping is proposed along the property border with 809 Weed Street, on the northern portion of the 751 Weed Street property. Additionally, in this area

there is no landscaping proposed along the property border with 317 Elm Street as well as a small portion of the property border with 781 Weed Street. With respect to the property at 317 Elm Street and this property border on the northeastern portion of the 751 Weed Street parcel it appears as if the Landscape Plan indicates the existing landscaping will remain. The Applicant should clarify whether the existing landscaping is on their property or if it is on the neighbor's property at 317 Elm Street. This location is where there is an at-grade parking lot that would abut the neighboring properties. No measurements of the driving aisle are shown on the plan, nor are the dimensions of the parking spaces.

- (6) No 4ft landscaping buffers (only grass lawns) are proposed on the property's boundaries bordering Weed or Elm Streets.
- (7) Only 12 trees are being planted on the entire site, the rest are bushes. 6 of the trees are Gingko Biloba trees, the female adult trees of this species drop a fruit that smells rancid in the fall.
- (8) Virtually all of the proposed plants appear to be nonnative species.

Signage

It should be noted that the new Regulation Amendment in Sect. 5.11.F.10.a represents that every sign in this proposed TOMZ district will be designed as an architectural element of the building and site. No dimensions are stated in the proposed Regulation Amendment. The New Canaan Zoning Regulations in Sect. 6.3.C.2 already allows multi-family developments, churches, schools, public libraries and commercial farming operations to have one (1) sign per street frontage that is four (4) square feet. Is the Applicant proposing a sign that is larger than four (4) square feet on both Weed Street and Elm Street?

Maximum Income and Rent Restrictions for §8-30g "Set Aside" Units

The PZC should consider asking the Applicant to add an additional standard to this section (Sect. 5.11.H. (1-9) which would require the owner of this property to annually certify to the Town, Planning and Zoning staff, by January 31 of every year, that all of the "set aside" dwelling units comply with the requirements of the Affordability Plan and with the requirements of CGS §8-30g. This certification should also be accompanied by a detailed list identifying each apartment unit that is being rented as a "set aside" unit by unit number, as well as the income of the renter(s), size of household, lease starting and ending dates. Since Sect. 5.11.H.7 indicates that the limitations of this section may be enforced by the zoning enforcement authority of New Canaan, the above annual certification will provide information to Planning and Zoning staff that would show compliance or lack thereof.

Plans

While the Applicant has submitted multiple different plans there is no one specific plan that is identified as the Site Plan, the closest plan are the plans titled, *Site Plan Review Set of Multi-Family Residential Development location Weed Street New Canaan Connecticut, Prepared for W.E. Partners LLC* dated 2/1/2022 and prepared by D'Andrea Surveying & Engineering P.C. It is noted that on the Sheet in the aforementioned set of drawings titled *Development Plan Sheet 1 of 4* indicate a retaining wall is called out on the eastern property line and another low retaining wall is indicated on the western portion of the ingress/egress driveway along the building. No

standards are noted with respect to retaining walls in the proposed new Regulation Amendment (Sect. 5.11) so one would assume that the current Zoning Regulations, specifically Sect. 6.5 would apply. Sect. 6.5.B.2 indicates that a retaining wall would need to be at least 10 feet from the property line and that it can't exceed four (4) feet in height. No distances or heights are indicated on this plan. There are not many measurements or dimensions provided on the plans in this set of drawings. It is also noted that the parking layout differs between the architectural plans and the civil plans. For example, the plans titled *Development Plan Sheet 1 of 4* seem to indicate that there will be no parking on either side of the canopy, by the proposed building's main entrance. The rendering prepared by Solli Engineering which isn't dated seems to indicate a similar parking plan, though there is a car shown as parallel parked adjacent to this canopy, no angled parking is shown. The rendering shows this area as lawn area. The architectural plans prepared by the The Eisen Group, dated 1/26/2022 seems to indicate that there will be eight (8) parking spaces at this location. Since the plans are not in sync with each other, which parking plan is accurate? On page 5 of the narrative, prepared by Timothy Hollister and dated February 14, 2022 it indicates that the plan includes 182 parking spaces, is that using the civil drawings or the architectural drawings? This needs to be clarified by the Applicant since *Development Plan Sheet 1 of 4*, prepared by D'Andrea Surveying and Engineering shows "possible snow storage on lawn area." If this area is proposed for snow storage, then according to the architectural plans, snow storage is proposed where vehicles will be parked.

With respect to the architectural plans prepared by The Eisen Group and dated 1/26/2022 a scale of 3/64 equals one (1) inch is noted on most plans. Interestingly, some of the plans, which note the same scale, are not drawn to be the same size. Is the scale correct on all the drawings or were some drawings reduced?

The *Truck Turning Figure Sheet Fig7*, prepared by Solli Engineering and dated 9/24/21 seems to indicate a fire vehicle attempting to navigate the turns at the proposed site. The plan doesn't show how a garbage truck would navigate those same turns or how refuse would be picked up. *Development Plan Sheet 1 of 4*, prepared by D'Andrea Surveying and Engineering notes that a proposed trash enclosure is proposed to be built in what is now labelled as a sanitary sewer easement where it crosses the property from east to west. Will the refuse enclosure be a permanent structure? Is a permanent structure permitted to be constructed in the easement area? Attached, is a copy of the sanitary sewer easement filed on the Land Records in Book 456, Page 842, Book 456, Page 854 and a drainage easement in Book 461, Page 701. *Development Plan Sheet 1 of 4*, prepared by D'Andrea Surveying and Engineering shows some parking spaces on the sanitary sewer easement. Lastly, the proposed site driveway indicates a curve that may be tough to negotiate, especially for vehicles travelling westbound on Elm Street and turning right into the site. Sect. 5.11.F.a states that the minimum width of the driveway shall be twenty (20) feet for two-way travel and twelve (12) feet for travel. No measurements of the driveway are indicated at its intersection with Elm Street or on the curves.

POCD

On page 93 of the 2014 New Canaan Plan of Conservation and Development (POCD) there is a map titled *Future Land Use Plan*. The map includes a legend in the bottom left corner of the page. In the legend Downtown is noted in red and higher density development is called out in

brown in some areas immediately outside of downtown. A large portion of the map is colored orange which indicates medium density development. Medium Density development is defined on page 92 of the POCD. It should be noted that the general area of where the proposal to locate and extend sewer along Elm Street for a project located at 751 Weed Street—at the corner of Weed and Elm Streets is colored orange which according to the legend notes that this is for medium density development. Page 56 discusses ways that the PZC could ensure that institutional uses are appropriately scaled in residential zones. While the proposed use of this site is residential in nature it's size is more comparable to an institutional use. On page 57 of the 2014 POCD there is a map titled *Residential Densities Map* this map indicates that the neighborhood where this development is proposed to be located should be 1.0 unit per acre or less. Page 90 of the POCD notes that to manage sewer capacity New Canaan should consider adopting a sewer limit line. Sewer is a constrained resource and it is important to ensure that it is allocated and used appropriately to meet community objectives. The POCD discusses providing for a diverse housing portfolio including senior housing, workforce housing and income restricted housing. Further noted in the POCD New Canaan is one of the only communities in the state that has an inclusionary zoning fee which applies to all applications for a Zoning Permit for any new building construction or addition in any zone. This fee is codified in Sect. 7.6 of the New Canaan Zoning Regulations. Further, this Commission adopted amendments to this section that were effective on October 18, 2021 which requires that when a project creates five (5) dwelling units, 15% of the units must be provided as affordable housing. Lastly, page 69 notes that the community preference is to address housing needs in ways compatible with the community. Most recently New Canaan has completed the first building of the Canaan Parish project on Lakeview Avenue. This project is 100% affordable.

ADDENDUM:

In response to comments from the Commission, staff and peer reviewers, the applicant submitted revised plans, made revisions to the Regulation Amendment, stormwater plan, modified the number of parking spaces and proposes changes to the canopy at the front of the building as well as other modifications to the site.

Site Plan

On the Site Plan, Titled Development Plan Sheet 1 of 7, prepared by D'Andrea Surveying & Engineering PC, date revised 8/31/2022 the configuration of the geometry of the driveway along Elm Street was modified to better accommodate vehicles turning into the site. The driveway which encircles the site now has a one way path of travel and a second egress driveway was added which exits onto Weed Street.

ADA sidewalks/parking

In the revised submission the applicant notes they have addressed ADA accessibility and provided pedestrian linkages at the site. Staff notes that there are no ADA/Accessible parking spaces indicated on the plan. While the applicant indicates that ADA/Accessible spaces are available near the front entrance, none are depicted on the plan. Are any of those ADA/Accessible spaces planned to be van accessible? Do the ADA/Accessible parking spaces connect to an ADA/Accessible sidewalk? How do visitors to the site who utilize the ADA/Accessible parking spaces get to the Weed Street side of the building and utilize the

sidewalk along Weed Street? How do pedestrians in a wheelchair or using a walker navigate the site? What path will a mobility challenged pedestrian to get to the train station or Irwin Park?

Delivery/Refuse trucks

The PZC requested plans that showed how garbage trucks would access the site and the refuse enclosure to remove refuse from the site. *Refuse Truck Turning Figure, Figure 9, Prepared by Solli Engineering dated revised 8/23/2022* is included in the revised submission. While refuse truck turning radii are provided, the plan doesn't depict how the truck will access the refuse enclosure. A front loading refuse truck is modelled. The width of the driveway at the refuse enclosure is not called out. Similarly the PZC questioned how delivery trucks will access the site. Where will delivery trucks park? A loading zone does not appear to be provided.

Snow storage

According to the Development Plan, Sheet 1 of 7, prepared by D'Andrea Surveying & Engineering PC dated revised 8/31/2022 snow storage will be provided along the rear driveway loop and lawn at the northern portion of the parking lot. Is the Applicant proposing that vehicles that park in in this area will have modified access to this parking area during winter snow storms? Will this small area be able to accommodate snow storage for the entire site?

3-Way Stop

In response to some of the comments related to traffic, the applicant has proposed a three –way stop at the intersection of Weed and Elm Streets.

Regulation Amendment

In response to staff comments that the Regulation Amendment was not in sync with the proposed site plan, the applicant has modified the proposed Regulation Amendment. Some changes to the text include allowing driveways, utilities and landscape features such as stone walls to be permitted within the 4 ft landscaped buffer, shrubs and ornamental grasses will now count as an opaque barrier. Further the applicant proposes to modify the height of the landscape buffer from the original proposed 10 feet to 5 feet. Another modification includes counting preexisting landscape features such as stone walls, fences or vegetation present on the applicant's property and abutting properties will count as landscape buffer. Typically landscaping on abutting properties are not generally counted as a landscape buffer for the applicant's property. How can existing landscaping on the abutting properties be counted towards the buffer on this property? What happens when the abutting property is sold? Or if the abutting property owner chooses to remove the existing landscaping. It seems odd that the applicant would use landscaping on abutting property to count towards their own landscape buffer.

In August, Town staff hired a part time building inspector to help assist with building department reviews. Attached to this memo is his review of this project.