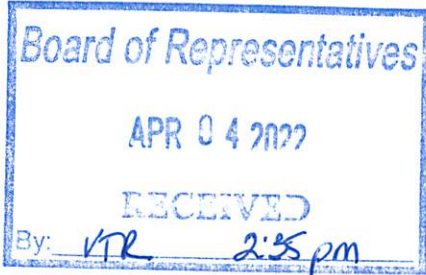


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CITY OF STAMFORD
Land Use Bureau

MEMORANDUM

FROM: Ralph Blessing, Land Use Bureau Chief 
TO: Jeffrey Curtis, President, Stamford Board of Representatives
DATE: April 4, 2022
RE: Petition to Appeal Zoning Board Approval No. 222-01

On Friday, March 25, 2022 and Monday, March 28, 2022, the Land Use Bureau received a Petition submitted along with a cover memo, signed by Messrs. Barry Michaelson, Stephen Garst and Michael Battinelli, pursuant to City of Stamford Charter sec. C6-40-9 to refer the Zoning Board's approval of application No. 222-01 to the Stamford Board of Representatives for appeal of the Zoning Board's approval. The approved application, referred to as "Clean-Up #3" or the "Amendment", amended sections of the Zoning Regulations.

Based on the review of the Petition, the Land Use Bureau determined that the Petition contains the number of signatures required for a referral to the Board of Representatives pursuant to Charter sec. C6-40-9.

During a Special Meeting of the Stamford Zoning Board held on April 4, 2022, Land Use Bureau staff presented the findings herein to the Board. Accordingly, the Zoning Board hereby refers to the Board of Representatives the Petition, along with this memorandum (1) explaining the methodology used for determining the validity of the Petition and (2) presenting the "written findings, recommendations, and reasons" for the Zoning Board's decision.

The Zoning Board recommends that the Board of Representatives APPROVE the Amendment for the following reasons:

- a. Rejection of the proposed Amendment will harm property owners, in particular owners of single-family homes.
- b. The Amendment conforms with the Master Plan.
- c. The Petition misrepresents the impact of the proposed Amendment on neighboring property owners.

- d. The Petition wrongly states that the Amendment would permit for the first time the conversion of office buildings without a public hearing.
- e. The Amendment strengthens the rules for conversions of commercial buildings.
- f. The Petition falsely claims procedural irregularities.

1. Determination of the Validity of the Petition

Section C6-40-9 of the City of Stamford Charter prescribes the requirements for a valid petition to the Board of Representatives to appeal a Zoning Board decision amending the Zoning Regulations. These requirements include:

- a. The petition must be filed with the Zoning Board within ten days of the publication of the Zoning Board's decision.

The legal notice for the Zoning Board's approval of application 222-01 was published in the Stamford Advocate and on the City of Stamford Website on March 17, 2022. The Petition was filed with the Land Use Bureau on March 25 and March 28. Therefore, the petition was timely.

- b. The number of signatures required shall be either:

- i. The lesser of 100 or 20% of the owners of privately-owned land within five hundred feet of the area or areas so zoned, if the proposed Amendment applies to only one zone, or
- ii. The signatures of owners of 300 properties within the City of Stamford, if the proposed Amendment applies to more than one zone.

The Amendment at issue applies to multiple zones. For example, changes amending the definitions for Building Height or Usable Open Space (Sec. 3.B. of the Zoning Regulations) apply to all buildings and developments within the City, not just individual zones or zoning districts. Because the Amendment applies to more than one zone, 300 signatures of owners of properties anywhere within the City of Stamford were required.

Land Use Bureau staff verified the signatures on the petitions using the City of Stamford tax records to establish ownership. If the tax records showed one property owner and the owner signed, that counted as one signature. Based on a recent Connecticut Supreme Court decision, if the records showed multiple owners for a property and all owners of such property signed then all signatures counted.

Staff stopped counting after 352 valid signatures were verified, as the threshold established by the Charter for validity was met. The uncounted petitions are part of this referral.

Since the petitioners submitted more than the minimum number of signatures required (300 signatures of owners of property in Stamford) and the Petition was received on time the Petition met the Charter's threshold for mandatory referral.

2. Reasons for the Zoning Board’s Approval of Application 222-01 and Recommendation to the Board of Representatives.

Section C-40-9 requires the Zoning Board to include in its referral “*written findings, recommendations, and reasons*”, and the “*Board of Representatives shall approve or reject any such proposed Amendment at or before its second regularly scheduled meeting following such referral. When acting upon such matters, the Board of Representatives shall be guided by the same standards as are prescribed for the Zoning Board in Section C6-40-1 of this Charter.*”

The Zoning Board recommends to the Board of Representatives that it **APPROVE** the Amendment of the Zoning Regulations as proposed in Application Number 222-01, and as approved by the Zoning Board, for the following reasons:

a. Rejection of the Proposed Amendment Will Harm Property Owners, in Particular Owners of Single-Family Homes

While most of the provisions in the proposed Clean-Up #3 are not substantive – as explained in the narrative submitted as part of the application and attached hereto – there are some measures whose rejection can potentially hurt property owners, in particular owners of single- and two-family homes.

- i. Current Zoning Regulations (See Section 3.B., Definition “Permitted Obstructions”) allow air conditioning condenser units and swimming pools to be located anywhere on a property, including front yards, with no minimum setback from property lines. The proposed revision of this definition would prohibit swimming pools in front yards and require them to be set back at least 5 feet from property lines. Air conditioning condenser units would not be permitted to extend more than four feet from the building wall and be no closer than five feet from any property line.
- ii. Another example of how the rejection of the proposed Amendment would harm property owners is that the current definition for “Building Height” (Section 3.B) may prevent some homeowners in flood zones from building to the full height allowed for homeowners in non-flood areas. FEMA regulations require habitable space to be above the Base Flood Elevation but current zoning regulations measure building height from grade, which can be considerably below the Base Flood Elevation. The proposed changes establish a uniform standard for building height.
- iii. As outlined in the narrative for this application, the goal of this text change is to make the City of Stamford Zoning Regulations more user-friendly by reorganizing sections, correcting errors, eliminating exceptions and adding definitions to promote clearer understanding and consistent interpretation of zoning terms. These changes will benefit all Stamford property owners.

b. The Zoning Amendment Conforms with the Master Plan

The Petition wrongly claims that “*The Regulations crafted by the staff and approved by the Zoning Board are not consistent with the Master Plan. The Master Plan calls for the preservation and enhancement of*

Stamford's low density residential neighborhoods and the preservation of the existing land use character to protect neighborhood stability and protect property values."

This statement refers to the revisions to Section 10.H, permitting conversions of office buildings to housing.

- i. As explained below, the Section 10.H proposed text only affects very few properties in Stamford (existing commercial buildings in mainly commercial areas to be converted to office buildings). No other properties in Stamford are affected by this Amendment.
- ii. Pursuant to Sec C6-30-1, the City of Stamford Planning Board is the body authorized to interpret the Master Plan. At its meeting on February 22, 2022, the Planning Board unanimously recommended approval of the proposed Amendment and found it consistent with the Master Plan.
- iii. The Petition inaccurately narrows the scope and purpose of the Master Plan. While neighborhood preservation is one important goal of the Plan, other goals include:
 - (a) redeveloping office parks outside of Downtown (*City of Stamford Master Plan 2015-2025*, p.4),
 - (b) balancing new development with preservation (p. 7),
 - (c) preserving existing and create new affordable housing (p. 7),
 - (d) promoting development of a variety of housing types (Strategy 6C.2, p. 135),
 - (e) encouraging conversion of vacant office space to residential uses (Strategy 6C.4, p. 135), and
 - (f) encouraging density along transit corridors (Strategy 6C.5, p. 135).

c. The Petition Misrepresents the Impact of the Proposed Amendment on Neighboring Property Owners

Currently, Section 10.H of the Zoning Regulations permits conversions of existing office buildings from commercial to residential use. This section is important because it:

- i. encourages creation of work-force housing to serve people working in Stamford who may otherwise not be able to afford to live here;
- ii. increases tax revenue by taking under-used office buildings off the market while providing more housing; this results in more taxes being paid to the City by the building owner;
- iii. reduces infrastructure impacts (for example, residential uses generally produce less traffic); and
- iv. increases the overall supply of housing which helps keep down rents.

d. The Petition Wrongly States that the Amendment Would Permit for the First Time the Conversion of Office Buildings without a Public Hearing.

- i. As-of-right conversions are already permitted not only for office buildings into residential buildings but for all buildings in all districts if they are legally conforming and the new use is permitted in the district they are located in. The language added by the Amendment merely better defines what as-of-right means in the context of a conversion.
- ii. The proposed changes apply only to a small number of cases. Over the past five years, there were only two conversions from office space to residential space utilizing Section 10.H. in connection with other Board approvals requiring public hearings. Even under the new rules, the public will be heard.
- iii. The Petition misleadingly states, *“these regulations would permit the modifications of any underlying zoning requirements administratively (without public hearings or input) including parking requirements (reduced by up to 20%), building height (increased by up to one story) and usable open space (reduced by 50%)”* suggesting that it applies to all buildings and all developments anywhere in Stamford. The underlying Zoning Requirements can only be changed with Zoning Board approval for the very few existing commercial buildings seeking conversion to residential uses and only if there are physical limitations, which would otherwise prohibit conversion. This does not apply to any other buildings or zoning districts.

e. The Amendment Strengthens the Rules for Conversions of Commercial Buildings

The Petition incorrectly alleges that the new rules for conversions soften the rules for conversions. This is also not true. The proposed Amendment of section 10.H requires more parking and more open space.

- i. The current regulations allow parking for conversions to be reduced by up to 40%. The proposed regulations allow a reduction by no more than 20%.
- ii. Under the current regulations, Usable Open Space (the area that needs to be made available for residents of a building for recreational purposes) could be reduced to zero, while the new regulations limit the reduction to no more than 50%.

Once again, these reductions apply only to conversions of existing office buildings to residential buildings, not to any other development or redevelopment.

e. The Petition Falsely Claims Procedural Irregularities

The Petition falsely claims that the *“Land Use Bureau and the Zoning Board of the City of Stamford have exhibited a consistent history of disregarding citizen and property owner concerns. These Regulations were once again created without any apparent City resident or property owner involvement.”*

This is not true.

- i. Notice of the changes was properly given according to the notice requirements of the City Charter and the State Freedom of Information Laws. The notice of the public hearing was published twice in the Stamford Advocate, on February 16, 2022 and February 23, 2022 for the Public Hearing held on February 28, 2022. As can be seen from both the video and the minutes of the February 28, 2022, the Zoning Board public hearing was closed only after there were not more members of the public left to speak (there were only two). In addition, those who spoke in opposition did not voice any concern about the conversion of office buildings to residential uses.
- ii. Above and beyond the notice requirements, all application material, including the application containing the narrative, was available for public review online prior to the public hearing.
- iii. In addition, on February 7, 2022 the Zoning Board and the Planning Board held an information session which the public was invited to, where staff gave an exhaustive presentation about the proposed changes (the video is available on the City's website). This review session was not required but was an additional source of information for both the public and the boards.
- iv. In addition, the Petition mistakenly claims that *"Substantive changes were made to these regulations after the public portion of the hearing was closed and no further public comment could be made."* No substantive changes were made.

For all these reasons, the City of Stamford Zoning Board requests that the Board of Representatives approve the Amendment.

Cc: Caroline Simmons, *Mayor*
Zoning Board
Bridget Fox, *Chief of Staff*
Douglas Dalena, Esq., *Corporation Counsel*
Cynthia Anger, Esq., *Assistant Corporation Counsel*
Michael Battinelli, *representing the Petitioners*
Stephen Garst, *representing the Petitioners*
Barry Michaelson, *representing the Petitioners*