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The Hon. Matthew Quinones
President, Stamford Board of Representatives
888 Washington Blvd.
Stamford, CT 06904

June 13, 2018



RE: Petition to Board of Representatives in Opposition to Zoning Board Approval #217-01

Dear President Quinones and Members of the Board,

On June 6, 2018, the Zoning Board referred to the Board of Representatives a petition pursuant to Section C6-40-9 of the Stamford Charter to reject the amendment of the Zoning Regulations approved by the Zoning Board under Application # 217-01 on May 22, 2018 and published in the Stamford Advocate on May 25, 2018. The Zoning Board approved a text amendment permitting a "gymnasium or physical culture establishment" (health club) in the C-D zones. The C-D zones are where Stamford's office parks are located.

It should be noted that this text change does not approve any specific projects. Any proposed project would require Zoning Board approval and only after an application was filed for that project.

When considering the petition, this Section of the Charter requires the Board of Representatives to "be guided by the same standards as are prescribed for the Zoning Board in Section C6-40-1 of this Charter", and to weigh the considerations and reasons the Zoning Board employed in its decision.

Below please find the Zoning Board's consideration in this matter and how it came to the conclusion that the proposed text amendment is appropriate and how it meets the goals of the City's Master Plan as well as sound planning principles.

1. The C-D Zones in Stamford

Currently, there are six C-D zones in Stamford. One of these zones, Palmer Hill, has been completely redeveloped for residential use preventing any future commercial development and will not be

considered in the discussions about the C-D District. The remaining five C-D zones occupy 226 acres – or less than one percent of the City’s land area – and are occupied by tenants such as Nestle Waters (800-900 Long Ridge Road) GenRe (120 Long Ridge Road) or Synapse (201 Long Ridge Road).

Since their heyday in the 1970s and 1980s, suburban office parks nationally have been declining. Nationwide, more than 20% of commercial buildings in office parks are obsolete¹. This glut in suburban office space has a variety of reasons. With computers, remote access and more employees per square foot, less office space is needed, but job growth has also shifted away from the suburbs to city centers². Most importantly, the new labor force values walkability and nearby amenities commonly found in denser downtown environments, leading to a surge of office development there.³

Stamford is part of this national trend. Only one office park, occupied by a single tenant, had no vacancies, while the vacancies in the others range from 20% to up to 75%, according to numbers from the City’s Economic Development Office. In other words, Stamford’s office parks are in crisis. They do not provide jobs for Stamford residents and do not generate tax dollars benefitting City roads, schools or other amenities.

2. Conformance with the City of Stamford Master Plan

Stamford’s 2015 Master Plan, which was approved after extended public discussion, recognizes the fact that Stamford’s office parks are a cause for concern. Therefore, the Plan allows for “limited expansion and adaptive reuse”⁴, and recommends as an implementation strategy “updating zoning to allow for redevelopment of office parks for mixed-use development”⁵.

However, the Master Plan does not allow for the redevelopment of office parks with just any use. It explicitly prohibits large scale retail (Home, Depot, Costco, etc.), shopping centers and sports and entertainment complexes such as stadiums or arenas. The Master Plan outlines five criteria for the redevelopment or reuse of office parks:⁶

- a. Compatibility with adjacent residential uses
- b. Superior design, including landscape design
- c. Superior traffic management / no net increase in traffic impact

¹ Angie Schmitt, *Real Estate Giant: Suburban Office Parks Increasingly Obsolete*, in: Streetsblog USA (12/10/2015), <https://usa.streetsblog.org/2015/12/10/real-estate-giant-suburban-office-parks-increasingly-obsolete/>.

² Rick Paulas, *The Death of the Suburban Office Park and the Rise of the Suburban Poor*, in: Pacific Standard (5/18/2017), <https://psmag.com/economics/the-death-of-the-suburban-office-park-and-the-rise-of-the-suburban-poor>.

³ Joe Cortright, *Surging City Center Job Growth*: in City Observatory (2/23/2015), <http://cityobservatory.org/city-center-jobs/>

⁴ Stamford Master Plan 2015-2025, p. 194.

⁵ *Ibid.*, p. 201.

⁶ *Ibid.*, p. 194.

- d. Protecting downtown
- e. Design guidelines

In its deliberations, the Zoning Board considered these issues as follows:

a. Compatibility with adjacent residential uses

Stamford's Zoning Regulations generally allow uses related to physical fitness, such as golf, swim, tennis or yacht clubs even in the lowest density residential districts⁷, as they provide amenities for residents. The Zoning Board recognized that this proposed use likely would be more intense than the not-for profit clubs allowed per Special Exception in residential areas but also recognized that the use would be located in a *commercial* district, and *not* in a residential zone. In addition, the Board requested a number of measures such as:

- a setback of buildings and outdoor uses by at least 100 feet from the property line,
- at least a 50 foot wide planted buffer,
- limitation of hours of operation for outdoor uses⁸,
- standards for noise (55dBA during the daytime, and 45dBA at night time at the property line – these are the standards of the Stamford Noise Ordinance, as well as neighboring towns and the State of Connecticut for residential properties), and
- requirements to minimize light pollution and has suggested to the Board of Representatives that it consider a light ordinance, analogously to the noise ordinance.

To further limit the intensity of redevelopment as a gymnasium or physical culture establishment, the new use cannot have more parking space than the previous use. Also, a developer must forgo development rights should the proposed use replace a legally non-complying use.

Many other districts with significantly more intense uses, such as the M-G and M-L Manufacturing Districts, do not have such safeguards even when abutting residential districts.⁹

Overall, the approved text establishes strict restrictions on the intensity of use, making it one of the strictest regulations for any commercial use in Stamford.

b. Superior design, including landscape design

Unlike many other zones, the new C-D Text requires any new or replacement building be “compatible with the color palette, materials, design, general massing and architectural features of the remaining

⁷ Stamford Zoning Regulations Sec. 4.AA.1.3.

⁸ Legal Notice for Appl, 217-01, p. 2.

⁹ Stamford Zoning Regulations, Sec. 4.12, Sec. 4.13, and Appendix A, Table II.

architecture within the property.” Also, in order to protect the park-like environment of office parks, existing non-conformances with regard to building or impervious cover must be reduced.

c. Superior traffic management / no net increase in traffic impact

The approved text amendment prohibits the creation of more parking spaces than what currently exist, thus limiting the amount of traffic to no more than has previously existed. In addition, the approval for a gymnasium or physical culture establishment at a specific site requires an applicant to submit a detailed traffic study, and, if necessary, provide mitigation for traffic impacts. Pursuant to new City Ordinance # 1236, the Zoning Board can hire an independent consultant to verify the results of such a study at no cost to the City. The Stamford Transportation Bureau also reviews an applicant’s traffic numbers as part of the approval process for specific sites.

While a study of specific traffic conditions is only possible for specific sites as part of the Site Plan Approval process, which is required for all projects in the C-D district, the Traffic Bureau has submitted a letter dated February 6, 2018 stating that they do not see an issue with this use in the C-D zone generally. In comparison with an office use, they see less impact on weekday morning and evening peak traffic, but higher traffic numbers on weekends.

d. Protecting Downtown

The Master Plan encourages “directing most commercial development to Downtown”¹⁰ and explicitly prohibits large scale (big-box) retail, shopping centers, and sports and entertainment complexes, such as arenas and stadiums. The Downtown Special Services District has not issued a recommendation either in favor or opposed to the approved text. A gymnasium or physical culture establishment is not on the list of uses prohibited by the Master Plan in the C-D zones.

e. Design guidelines

As discussed above in section (b), the approved text amendment requires compliance with design considerations. As the office parks vary in style and quality of the architecture, design guidelines must be developed for each proposed project.

3. Special Exception Approval

One important consideration for the Zoning Board in approving the proposed text amendment was that it was not approving any specific project at any specific location. Rather, the Zoning Board was dealing with a text change that would apply to *all* C-D Zones. A specific project at a specific office park may only be approved by the Zoning Board when an application is filed for that project. So far no applications for specific projects have been filed.

¹⁰ Stamford Master Plan 2015-2025, p. 194.

The Zoning Board recognizes that the City's C-D zones vary widely with regard to what uses are currently located in them but also with regard to the neighborhoods they are located in. The Zoning Board, therefore, decided to require that any proposed gymnasium or physical culture establishment not be as-of-right, but would need an additional approval from the Zoning Board (Special Exception use). This means that whenever and wherever such a use is proposed, the site specific plans must be reviewed by both the Planning and Zoning Boards and must also meet the requirements outlined in Section 19.3 of the Zoning regulations. These requirements include, among others, consideration for the surrounding areas, the site configuration and the adequacy of the traffic infrastructure serving the site. This Section of the Regulations also allows the Zoning Board to "attach reasonable conditions and safeguards as it deems necessary to protect the general health, safety, welfare and property values of the neighborhood." Through the Special Exception process, the Zoning Board has wide discretion to add limitations and conditions to specific projects¹¹.

With this combination of a stringent set of rules in the C-D zone text and the Special Exception safeguards, the Zoning Board believes it has minimized any possible unintended consequences that could potentially adversely impact neighbors.

4. General Planning Considerations

In addition to the text and C-D zone specific considerations outlined in sections 2 and 3, the Zoning Board, in its evaluation of text and other zoning changes, or its approval of Special Exceptions and Site Plans also relies on a number of general policies and principles.

a. Property values

For each approval, the Board must consider if a project has any negative or positive impacts on surrounding properties. A casual search on real estate websites reveals that nearby fitness facilities generally increase the value of surrounding homes¹².

b. Property rights

Property rights are protected by the constitution, and one of the most important reasons for the creation of comprehensive zoning is the protection of nearby properties. However, if regulations are too

¹¹ This right of the Zoning Board is supported by an opinion of James Minor of the City's Law Department. See Memo from James Minor, Special Counsel, to Members of the Zoning Board, 5/18/2018.

¹² See, for example: 5 Neighborhood Features That Boost Resale Value, Trulia's Blog (11/11/2015), <https://www.trulia.com/blog/5-neighborhood-features-that-boost-property-value/>.

Larry Tollen, How Nearby Amenities Can Increase Your Home's Value, My NC Homes (7/20/2017) <http://www.mynchomes.com/blog/look-at-the-value-in-neighborhood-amenities.html>

strictly applied and prohibit any reasonable use of a property, a zoning regulation may be considered an illegal taking, and might be subject to legal challenges.¹³

c. Moving to the Nuisance

As a general rule, if someone moves to a preexisting undesirable use, then they have no grounds for legal recourse. This is, for example, the case when moving to an airport or a feedlot, and then objecting to the noise or smell. This also applies to future potential uses. For example, if a parcel is zoned for and has been used as an industrial site in the past, it has to be expected that an industrial use with all its potential nuisances could come back and would be allowed to do so, even though currently the site is used for a less intensive use or not used at all.

d. Benefits and adverse impacts

For every decision, the Board must weigh a project's benefits and the potential adverse impacts, such as increased tax revenue or new jobs, or more traffic and impacts on schools. If adverse impacts exist, the board must decide if the adverse impacts are tolerable, if they outweigh the benefits, and if they can be fully or partially mitigated.

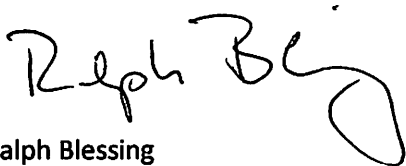
e. Protecting the City from harm

The Zoning Board must make sure that its decisions, to best of their knowledge, can withstand legal challenges and avoid potentially long and costly litigation that in the end is paid for by the tax payers. To that end, the Board requests advice from the City's Law Department to guide them in their decision.

In summary, the Zoning Board believes that it carefully considered Application #217-01 based on the principles outlined above, and respectfully asks the Board of Representatives to reject the petition submitted by opponents of said application.

Please let me know if you have any questions.

Sincerely,



Ralph Blessing

Land Use Bureau Chief, City of Stamford

¹³ American Planning Association, APA Policy Guide on Takings (4/11/1995), <https://www.planning.org/policy/guides/adopted/takings.htm>

cc. Kathryn Emmett, Esq., Corporation Counsel, City of Stamford
James Minor, Esq., City of Stamford Law Department
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Mr. Thomas Mills, Chair, City of Stamford Zoning Board
Members of the Stamford Zoning Board
Ms. Teresa Dell, Chair, Stamford Planning Board