Land Use-Urban Redevelopment Committee – Board of Representatives

Virgil de la Cruz, Co-Chair Charles Pia, Jr., Co-Chair

Committee Report

Date: Wednesday, July 18, 2018 (continued Thursday, July 19, 2018)
Time: 7:00 p.m.
Place: Legislative Chambers, 4th Floor, Government Center

The Land Use-Urban Redevelopment Committee met on July 18th as indicated above. In attendance were Co-Chairs de la Cruz and Pia and Committee Member Reps. Cottrell, Graziosi, Lee, Lion, Michelson, Sherwood and Summerville. Also present were Reps. Di Costanzo, Fedeli, McMullen, Morson, Nabel, Patterson and Watkins; Ralph Blessing, Land Use Bureau Chief, Jim Minor, Law Department; Kathryn Emmett, Corporation Counsel; Michael Handler, Director of Administration; David Woods, Deputy Director of Planning; Steve Grushkin and Leonard Braman, Wofsey, Rosen, Kweskin & Kuriansky, LLP; Edward McCreery, Pullman & Comley; William Hennessey and Lisa Feinberg, Carmody Torrance Sandak & Hennessey LLP; and approximately 60 members of the public.(see the attached public sign-in sheet for both evenings)

Co-Chair de la Cruz called the meeting to order at 7:05 p.m. Rep. de la Cruz explained the process the committee would be following. The Committee would first hear from City staff, then the attorneys for the petitioners would have 30 minutes to present and then the attorneys for the applicants would have 30 minutes to present. After each presentation, Board members would have an opportunity to ask questions. Then the public hearing would begin. The public hearing would continue to the next night if there was not an opportunity to hear from all members of the public wishing to speak. After the public hearing, there would be an opportunity for attorney rebuttal. He noted that the Board is required, under the Charter, to apply the standards applied by the Zoning Board.

Item No.	Description	Committee Action
1. LU30.015	REJECTION and Public Hearing; Appeal of Amendments to Article II, Section III, Definition 45, Gymnasium or Physical Culture Establishment, and Article III, Section 9, BBB. C-D Designed Commercial District of the Zoning Regulations. 06/06/18 – Submitted by Zoning Board	**Report Made**

Mr. Blessing described the role of the Zoning Board. He noted that the members are all volunteers and citizens of Stamford. They are the arbiter between the applicant, the neighbors and the interests of the City; and their role is more judicial than political. The Zoning Board is sued several times per year, although is generally upheld, and is aware of the scrutiny given to its decisions. The Zoning Board is required to hear all finalized applications, regardless of staff opinion. As part of this proposed text change, the Zoning Board held public hearings and accepted written comments. The Zoning Board received comments both opposed and in favor in connection with this application. In reviewing an application, the Zoning Board must respect the property rights of applicants and neighbors; consider its implications for zoning; makes sure that its decision conforms to the Master Plan, state statutes; address life safety concerns and weigh impacts of a potential development on taxes, traffic, jobs, schools, recreational opportunities, etc.

Mr. Blessing then reviewed the attached handout concerning the context for C-D zones, based upon a presentation given to the Board and public early in the process and updated based upon the final outcome.

- C-D zones are commercial zoning districts with limited residential activity; the C-D district- is an office park district that allows primarily offices and laboratories; conceived as single-tenant, self-sufficient campuses; they do not allow big box stores, shopping centers, movie theatres, arenas, stadiums, etc.
- C-D districts are 1% of land area of City; there are 6 C-D Districts, 1 is fully developed as residential, so the C-D text change will affect the other 5 districts, which are mostly along High Ridge & Long Ridge Road.
- The problem is that office parks or former office parks are underperforming, they have high vacancy rates, not only in Stamford but nationally, which results in a loss of tax revenue for the City.

Mr. Blessing stated that the Zoning Board approved a zoning text change that would allow gym and physical culture establishments in C-D Districts per Special Exception. Gyms are already allowed in 6 other Districts throughout the City; the Zoning Board also added a definition for Physical Culture Establishment in the Zoning Regulations (this applies to several Zoning Districts throughout the City).

- The approval is not for a specific facility – the applicant has to come back for site plan approval before building a gym. The Site Plan approval requires a public hearing, and the applicant has to show that they meet standards e.g., regarding noise, traffic, etc.
- This is not an as-of-right use which only requires getting permits from Building Department
- Approval of a gym in a C-D zone is not automatic; the Board has the authority to deny it if it feels neighbors are insufficiently protected.
- The proposed text establishes tight development controls regarding setbacks, buffering, noise, light, and traffic which are the strictest for any district in the City.
- Only discussing if the use is appropriate, not a specific facility.
- Specifically, the Zoning Board had to consider:
    - Does the proposed use meet Master Plan goals for MP 8 and the criteria for redevelopment and reuse of office parks?
    - Would the new use create additional adverse impacts, compared to the permitted as-of-right use
    - If additional adverse impacts are possible, are measures in place to mitigate these impacts?

The Zoning Board first considered the Master Plan, which acknowledges that the City's Office Parks are in crisis, have higher vacancy rates, etc., and allows for "limited expansion and adaptive reuse". One of the recommendations is "updating zoning to allow for redevelopment of office parks for mixed-use development." The Master Plan Prohibits large scale retail (e.g., Home Depot, Costco), shopping centers and sports and entertainment complexes such as stadiums or arenas in C-D districts.

The Master Plan outlines five criteria for the redevelopment or reuse of office parks:

a. Compatibility with adjacent residential uses
b. Superior in design, including landscape design
c. Superior traffic management / no net increase in traffic impact
d. Protect downtown
e. Establish design guidelines

This text change addressed the five criteria as follows:

Compatibility with adjacent residential uses (p. 7, 8 of handout), some of which have been strengthened with the proposed text change:

- C-D Districts have the same building height requirements as neighboring districts; can't be higher than 3 stories or 4 stories on very large parcels (this is unchanged as part of the text change);
- The number or quality of development rights have not changed.
- There is a 60 % open space requirement added as part of the text change. That is that if a C-D District or development in the district is legally non-conforming, when it is redeveloped development rights must be forfeited; this is a strengthening of the C-D District Rules
- Setbacks and buffers requirements have been increased

- Established Noise and light guidelines which can be verified independently by a 3rd party (and paid for by applicant)
- A limitation of hours for outdoor uses was added; this is new and does not exist in any other district

Superior Design
- Requires site plan approval (must have site plan scrutinized)
- Text change establishes Design Guidelines

No net increase in traffic impact
- Redevelopment is linked to pre-existing traffic – the proposed use cannot have more parking than the Frontier communications office that was there – this is accomplished in part by limiting the number of parking spaces
- If the applicant comes back with a site plan, a detailed traffic study would be needed showing no net increase in traffic
- The City's traffic experts said that what is to be expected are less pronounced peaks during morning and evening rush hours; traffic will be more spread out during the day and there may be weekend impacts; from a traffic engineering perspective, reduced peaks are a good thing
- If the applicant comes back there will need to be a detailed analysis that can be independently verified by a 3rd party for the Zoning Board and paid for by the applicant (as well as being reviewed by the City). For example, the Traffic Bureau has reviewed the Chick-Fil-A project and provided negative comments
- Site plan must show mitigation measures. The Zoning Board can ask the applicant ~~has to~~ pay for traffic lights, other traffic improvements

Protecting downtown
- The Zoning Board did not hear either positively or negatively on this project from the DSSD. This does not establish retail, office or cultural uses that would compete with downtown.

Other Considerations of the Zoning Board were:
- No school impact
- The potential for more tax revenue for the City
- The potential for more employment for Stamford residents
- The possibility of increased attractiveness for office parks
- More recreational options for Stamford residents
- Establishing tighter controls for development (setbacks, buffers, noise regulations, etc.)

The conclusion reached by the Zoning Board was that the new text permits a new use that could help reactivate struggling office parks and adds protections that the board deemed necessary to protect neighbors from additional adverse impacts, as compared to as-of-right use.

The public process changed the project and the text over the course of time
- There were six public meetings beginning in September, 201?, 3 in front of the Planning Board (the Planning Board does not usually allow public comments, but did so here) and 3 in front of the Zoning Board.
- The Land Use Bureau always encourages applicants to reach out to neighbors prior to public hearing process; this is not a requirement.
- The project shrank significantly (from more than 120,000 ft^2 to less than 100,000 ft^2) (they do not know specifically how big the project will be because they have not seen the site plan, but know it cannot be larger than 100,000 ft^2 because the applicant has to give back development rights)
- Setback requirements were increased and buffer requirements were established
- Noise, light and urban design protections were added
- Applicant agreed to give up significant development rights – about 100,000 ft^2 that they would be able to use if they built this as an office as of right. (This is the size of the Home Depot)
- Overall conformance of the project increased. Originally, the applicant sought to increase the impervious surface (parking area) above what was already allowed)

If the Board of Representatives rejects the petition to change the Zoning Board decision, nothing will happen immediately. The applicant has to come back with Special Exception application. This would require public hearing(s), detailed traffic and other reports subject to City and independent 3rd party review, paid for by the applicant, and the Zoning Board can require the applicant to report back on compliance with noise and light regulations, at no cost to the City.

If the Board of Representatives voids the Zoning Board decision, the Applicant could resubmit the application with or without significant changes, or the Applicant could moves forward with a permitted as-of right development that can be significantly larger than what is proposed and is less regulated (e.g., could have a parking garage).

In either case any of the affected parties could sue the City,

The Zoning Board believes that it carefully considered all factors that might be relevant in connection with this application and asks the Board of Representatives to reject the petition.

Mr. Blessing responded to questions from Committee members and other Board members as follows:

- The interpretation of sports and entertainment complexes as stadiums and arenas came from the Zoning Enforcement Officer
- All applications for text changes are referred to the Planning Board for recommendation. The recommendation is non-binding, however if the Planning Board recommends a denial, the Zoning Board may only overturn the Planning Board denial by a supermajority.
- The Planning Board letter makes clear that they did not object to the use of a gym and physical culture establishment, but did have reservations as to setbacks (the original proposal was to reduce to non-residential facilities), outdoor uses and design regulations not previously in there; although they approved to the use in principal. A later meeting of the Planning Board confirmed that as a result of the changes the applicant had made, 3 of their objections had been addressed; they still had a problem with the outdoor use.
- The 100,000 ft^2 only refers to the building
- Medical offices would be building but a hospital would not
- As part of the site plan approval, the application would be referred to HPAC. The historic property protections in Connecticut are not strong and the only protection would be demolition delay for historic structures. The property is eligible for the Historic Register but is not on it. It would get on through an application to SHPS
- It is part of the role of the Zoning Board to come up with definitions. “Gym and physical culture establishment” are in the Zoning Regulations, Appendix A, line 117, and have been allowed in several districts for decades. This text change would allow it in the C-D District
- This change would not have been made as part of the change to the Master Plan. The Mater Plan is a general policy document and does not change regulations or zoning The Zoning Board then determines if changes are consistent with the Master Plan.
- The Board of Representatives is not reviewing a site plan. All C-D parcels would require a special exception for use as a gym and physical culture establishment; it would not be an as-of-right use
- The text change allows outdoor use; the Planning Board had 4 points they had issues with, 3 of which were fixed. Outdoor use was not fixed; the Zoning Board added noise, light and hour restrictions; the Planning Board determination was only a recommendation and the Zoning Board had a supermajority
- Large scale retail, shopping centers and sports and entertainment complexes are high peak commercial establishments; office uses also have high traffic peaks
- The general assessment from the traffic experts is that there would be traffic but fewer peaks
- The initial traffic study was based on a concept and not reviewed by a 3rd party, although it was reviewed by the Transportation Bureau; a further traffic study would be done with the site plan
- He had doubts about the traffic study in connection with the original proposal, which was significantly larger, but the traffic engineers explained that they would ask for modification to improve traffic conditions; this is a common procedure for large projects
- He assumes that there is a loss of tax revenue as occupancy rates decline
- Office parks as office park use are not expected to revive; offices are moving downtown and closer to transportation
- Strategies to revive office parks in other parts of the country have included, Lifetime Fitness or

similar facilities or the addition of residential units. None of these are silver bullets

- The owner does not seem interested in adding this property to the historic register; someone other than the owner can apply to add this property to the historic register, but it will not prevent a tear down of the building; the building must have architectural or cultural significance
- The condominiums and Sunrise Living were built after the office park and required zoning changes
- The Zoning Board has an obligation to follow the Master Plan and the Board of Representatives must be guided by the Master Plan; any special exceptions must conform to the Master Plan
- The Planning Board is only a referral body. The Planning Board can say "Yes, but" or "No, however" This was a "No, however' The Planning Board was fine with the use in principal and OK with 3 of the 4 original concerns
- The Zoning Board discussed the Planning Board letter at length. Deciding the text change is appropriate is within the role and discretion of the Zoning Board, but they recognized the issues raised by the Planning Board concerning outdoor use and that is why they added the noise, light, setback and buffer requirements in the later iterations of the text change
- The C-D Zone covers several C-D districts. In 4 of the 5 districts the buildings can have 4 stories because they have more than 30 acres.
- A swimming pool would be considered an impervious surface, although it is covered by water
- The Zoning Board and the Planning Board discussed the outdoor use at length, which is why the Zoning Board added safeguards
- The legally non-conforming properties in the C-D District are legally non-conforming because they were built prior to the current limits and so exceed the current limits. They would not be able to become more non-conforming. The legal non-conformance would be due to a zoning change (for example, the zoning regulations may have increased the distance a garage must be from the property line; older homes with garages close to the property line would be considered legally non-conforming; the owner would be able to rebuild the garage at the current location, but would not be able to build closer to the property line)
- The closure of the entrance at Cove Road for Chelsea Piers may not have been a condition of approval. It is hard to hold a developer to promises to the neighbors that are not a condition of approval.
- In this instance, the City would need to ensure that sufficient conditions are met; the City could withhold a permanent C of O or require additional mitigation
- The noise standards in the C-D district are the same as in a residential district and allows 3rd party verification at the property line
- The Planning Board has not given an opinion on the final text change; there is no process to go back to the Planning Board until there is a change in the scope of the application (this application was only made tighter, which is the point of the public process); it was suggested that the changes regarding noise, buffers etc. be added for all C-D zones, but it was too late to do that
- As of now, only a pool is proposed as an outdoor use, but they would still have to meet all of the requirements imposed by the Zoning Board
- The Planning Board was most concerned about noise, but was also concerned about light

Mr. Minor responded to questions about the noise ordinance as follows:

- The noise ordinance is difficult to enforce for criminal purposes; this would be a different situation because there would be stationary noise control devices and 3rd party verification and monitoring. These are restrictions that can be included in the special exceptions, as well as restrictions such as office parties, fundraisers, while still permitting outdoor yoga
- The transcript of the May 27th Zoning Board meeting reflects discussion as to how to enforce the special exception condition for noise, including independent monitoring for more than one year; issuing only a temporary CO until monitoring determines noise levels satisfied, issuing a citation and putting conditions in the special exception; the preliminary noise study showed no impact on Sterling Lake due to distance the building in between the pool and Sterling Lake
- The Zoning Board is not using the criminal model; it is using the zoning process
- The time limit for the noise levels going from 55 db to 45 db is 8 p.m.
- The noise level at the property line is set by the State; this level has been met at commercial properties , such as O&G

Mr. Blessing continued:

- At the site plan review, the Applicant would need to demonstrate how it is planning to get to this level
- The Zoning Board could also be more restrictive, such as having the pool close at 6:00 p.m.

Mr. Grushkin stated that he represents some of the petitioners and the owner of Sterling Lakes the property adjacent to the C-D district and they are asking the Board to reject the text change: Under the Charter the Board of Representatives is in the unique position of determining of whether the text change is proper; The Board has the right to exercise its own independent judgment and discretion, but must follow the same standards as the Zoning Board

- The question is whether the text change is consistent with the Master Plan and protects and enhances the quality of life in the City's neighborhoods
- The focus has been on the intended use of the applicant; the question is whether the text change should be permitted and how it affects the C-D Zone;
- The change is not consistent with the C-D Zone; there are categories that cannot be met:
    - Compatibility with surrounding properties
    - No net increase in traffic compared to office development
- This affects large projects

Mr. Grushkin reviewed the attached package of documents, including an excerpt from the Master Plan as follows:

It "is intended to provide for and protect low-density office parks and commercial (non-retail) centers in locations outside of the Downtown, by allowing limited expansion and adaptive reuses of compatible office, research and development, residential, …. Principal large-format retail uses, shopping centers, sports and entertainment complexes and similar uses shall be prohibited."

- At the Planning Board hearing, one of the concerns they had, and it has been addressed, was that this is a sports and entertainment complex; nobody mentioned the word stadiums; this is a sports and entertainment complex
- Are talking about that all of these new buildings are going to be in scale, in character and a campus atmosphere
- There is a significant impact on traffic

"Such development may be permitted …based on … compatibility with adjacent uses and residential areas … superior design …superior traffic" That is why the Planning Board took the position it did.

The first question is whether a Gym or Physical Culture Establishment is an appropriate use in a C-D Zone and is it consistent with Category 8 under the Master Plan. The answer is "No"

- The handout includes the original definition of Gymnasium and the modified definition. There was no definition. Ask whether the first definition of Gymnasium or Physical Culture Establishment is appropriate for a C-D Zone:

- The first definition says "a health and fitness facility containing equipment and/or indoor and/or outdoor space used by members and/or guests for the purpose of physical fitness, sports and recreational activities as well as … uses including, but not limited to, child care, day camp, hair salon/day spa …, medispa …, weight loss/nutrition counseling, cafe (including liquors, …), physical therapy, medical office, retail sale …, merchandise ….This is not an appropriate use. It goes on to say "All indoor and outdoor activities shall be predominantly participatory and not entertainment. Day surgery and other outpatient procedures are excluded."

- They modified the definition because the Planning Board had a problem with it. The modification is "A health and fitness facility containing equipment and/or indoor and/or outdoor space used by members and/or guests for the purpose of physical fitness, sports and recreational activities." All of the uses set forth in the original definition could be interpreted to be included in that much simpler definition. This new definition is broader and more favorable to the applicant. The applicant told Jim Lunney that they were seeking approval for a facility including day camps, child care and so forth, all of which

were in the original definition.

There are 5 C-D areas. Every one of those areas is surrounded by residential homes. If one of the areas with 30 of 40 acres requires an adaptive reuse, there could be a facility of 250,000 ft^2. This is what the text change can do. There is nothing in this that prohibits outdoor activities.

The Planning Board took an extraordinary step; they denied the application unanimously. They could have recommended approval with certain conditions, but they said no. They said that it may be appropriate under certain circumstances but outdoor uses should be removed from the definition. They were looking at all the other outdoor uses that could be there. They were willing to accept an LA Fitness, but don't want a large complex. This Lifetime Fitness would be smaller, but it doesn't prevent it from other areas or other developers. The Special Exception won't limit this. Lifetime Fitness has called itself a resort. It has everything but a hotel. Is this what we want up High Ridge & Long Ridge Roads.

Havermeyer Park, a common-interest community on the Stamford Greenwich Line is not a comparable facility. That's not for outside activity or a commercial enterprise. That's for internal use. Don't compare this to the Italian Center and the Jewish Community Center, which were built 35 years ago; talk about the future of the City. These are non-profit groups which have valuable programs for the community; this is a commercial enterprise. It is inappropriate.

Office parks are generally used 9 or 8 to 6, 7:30 to 6:30 and have indoor uses. In many locations Lifetime Fitness is open 24/7. In Westchester they are open at 4 or 5 in the morning until midnight 7 days a week. What will happen to the quality of life of the people who live in these areas on weekends. That's when there will be the most people there. The traffic study is based on peak hours. They compare it to medical offices that aren't there. They may be right as to rush hour, but what about the other times?

The applicant wants 5000 memberships to be able to succeed. This is a bigger impact than a medical office. It is unlike any other park; there will be crowds, summer camp; a large number of children participating in outdoor activities throughout the day; large pick-up and drop-off crowds. This is not an appropriate adaptive use. It will cause a traffic problem. The Zoning Board can't require offsite improvements, only access. Don't foreclose the future use of these zones with this text change.

Mr. McCreery stated that he is a Member of the law firm of Pullman & Comley, LLC and I represent Riverturn Condominium Association ("Riverturn") ("Condominium Association"), as well as unit owners Mr. & Mrs. Licopantis, two residents therein.

Riverturn is located in an RM-1 Zone, which is a multi-family low density zone along Turn of River Road and and Buxton Farm Road is one of the exits. We are here tonight to oppose the change to §BBB C-D Design Commercial District." to allow a purported "gym" in an office park, in particular the High Ridge Office Park.

The Board of Representatives is sitting as a zoning board, and is not bound by the prior Zoning Board, but gets to accept or reject the proposed zone changes; the Board of Representatives cannot make changes to the proposed zoning language but can make recommendations to the Zoning Board as part of a rejection.

What has been proposed is not a gym; it is a gym on steroids. To see what this project will entail, you need to review the Harrison facility website, combined with the statements made during the various public hearings. Day surgery, retail merchandise, music and dances are referenced at the Harrison facility. He assumes there would be outside concerts by the pool; they don't say there will or won't be. With the noise concerns, when they say there will be monitoring, when they get a complaint a week later, are they going to up to the kids at the pool party; it's totally unrealistic to expect that noises are going to be kept under control. Based upon the packed parking lot from the satellite views of the Harrison facility, this is a very successful concept.

What would be the net effect of basically retail operations? The people in both of these condo projects bought in knowing there was an office park on one side and retail on the other side.

They would now be sandwiched between two retail/commercial operations. This is not what they bought into. Many of the proposed uses retail merchandise, a bar, liquor, a restaurant, a café is stuff that would only normally be allowed in a retail zone.

The common theme by all of the Land Use Staff and the Zoning Board, is don't worry about it because this is just a first step; the Zoning Board can regulate the applicant's proposal by attaching conditions to protect against any concerns you have. If someone comes in for special exception application once the regulations are changed, there must be *substantial evidence* as to why it negatively impacts health, safety or welfare to deny a special exception. You can't attach conditions to a permit unless they are spelled out in the regulations. Only one or two of the conditions are actually in the regulations. There is no prohibition on outdoor activities. CT Supreme Court, Francis Beckish v. Planning and Zoning Commission reads: "a special permit allows an applicant to put his property to a use which is expressly permitted under the zoning regulations so that the conditions under which a special exception is allowed must be found in the regulations." A requirement to enclose the pool is not in the regulations. There ought to be a detailed list of what's allowed and the conditions.

There is not much to be done to change the traffic this will generate. There is only one way in and one way out. An office complex has peak controlled times in the morning and afternoon. This is going to be coming and going all day. Parents will be dropping kids off and picking them up. The Land Use Staff accepted the applicant's traffic study and did not do an independent analysis. This is not a traditional gym. This is a combination of country club and water park. The fallback comparison is to a medical office building. It is apples to oranges.

Enforcing the noise level will be all but impossible. The Harrison facility has dances by the pool. It is not compatible with the Master Plan. It is not compatible with the adjacent residential neighborhood. It is not like the Italian Community Center; it is more like a water park. The Master Plan requires no net increase in traffic. To assume the traffic study shows no net increase in traffic is not true.

This is new concept. The millennials like this. Let's look around the City and see where there would be a good land area. You can't assume that they can put conditions in place to address concerns. It wasn't proper to leave the definitions loose and not include the conditions. Keep the outdoor stuff indoors. There will be no way to change the traffic.

Mr. Grushkin, Mr. McCreery and Mr. Braman responded to questions from Committee members and Board members as follows:

Mr. Grushkin –

There was an application at High Ridge Park allowing day surgery at High Ridge Park two years ago; the Planning Board accepted it with conditions, the Zoning Board turned it down; why was this not allowed; there are adaptive reuses; he can't answer whether they would be good for Stamford. There are other avenues and this goes to extreme. Every part of this definition was to fit the Lifetime Fitness model, but nobody focused on the fact that it affects areas of the City; 250 acres. Don't understand the unanimous denial by the Planning Board and the unanimous approval by the Zoning Board.

Can't address if day surgery would be more acceptable to the petitioners, but it is indoors and there would be no issue of noise or signs outside.

Chair Dell's statement that this is a sports and entertainment complex should be given credence, but the later letter that gymnasium and physical culture establishment are appropriate for a C-D zone was prepared by Staff. That this definition is acceptable has been pushed by staff for whatever reason. Staff has said removing outdoor use would affect gymnasiums in other districts; this is nonsense; outside uses could be excluded for this zone. The Planning Board worked hard to find a way to allow this adaptive use; they were concerned about traffic and didn't allow another parking garage. The Planning Board could have recommended approval with certain conditions, but they did not, because of the outside uses and noise.

Is the City bound by how Harrison has allowed the Harrison facility to exist

Mr. McCreery –

The definition as currently formulated would permit anything allowed in Harrison. The Zoning Enforcement Officer said that all of these uses, including a bar, would be an accessory use to a gym. It is left to the Zoning Enforcement Officer to determine what an accessory use is; it should have been included in the definition. (Mr. Hennessey agreed to provide this correspondence with Mr. Lunney)

Mr. Braman -

HPAC and SHPO both recognized that the building to be torn down has historic significance as architecture to be preserved and spoke at the public hearings. This building was allowed to deteriorate. Should the zoning code be used to encourage developers to tear down structures and replace them with larger structures and not come into conformance with the zoning code

The concept of adaptive reuse contemplates reuse of a current building, not to encourage demolition and rebuilding of something that is bigger. That was one of the concerns of the Planning Board in denying this; this text change encourages redevelopment.

Mr. Hennessey stated that the applicant is High Ridge Real Estate Owner, which is owned by George Comfort & Son. George Comfort & Son is a real estate firm specializing in commercial real estate and owns about 12 million ft^2 of real property primarily in top markets, including Shippan Landing, Harborview Plaza and have an interest in the UBS Building in Stamford in addition to High Ridge Office Park.

High Ridge began this process over 2 years ago, meeting with neighbors at Sterling Lake and listening to their concerns about noise, light, traffic and environmental impact (including preservation and enhancement to the lake). The applicant commissioned studies on all of these concerns, which are in the record. The application filed in February, 2017 bears no resemblance to what was finally approved by the Zoning Board. It was the result of hours of work.

High Ridge understands the concerns of the neighbors and the Zoning Board and every C-D property owner understands the high bar that the Zoning Board has set. If Lifetime decides to become a tenant they will have to understand those standards, which may not be acceptable at other facilities they operate. For example, there is a shutdown of all outdoor activities at 8 p.m.

There is no use in a single zone in the City that is as tightly controlled as this.

Everyone in the City shares an objective to have office parks be successful. High Ridge Office Park pays over $1.4 million in real estate taxes (this does not include personal property taxes). This would increase with a tenant like Lifetime Fitness. All of the C-D zones probably pay about $7 million in real estate taxes. All City residents are vested in having office parks succeed, whether or not they agree that this is the right solution.

The problems with office parks are not unique to Stamford. The buildings have reached an age of needing substantial capital investments at a time when the overall market is shrinking. People are leasing less space and are using central downtown office spaces. Stamford stopped building suburban office parks in 1978. This market is not as bad as other parts of the country. High Ridge Office Park needs to reinvent itself in order to make existing tenants want to stay. This Lifetime Fitness facility or other high quality fitness facility is a main attracter for tenants. The larger community will also benefit from a use like the Lifetime Fitness facility and better real estate values.

The Master Plan does contain language that zoning should be amended to redevelop office parks.

Other locations have done other things: including entertainment venues (office parks are located near access to transportation), retail, schools, satellite hospital use, large food stores. Westchester County has more of these office parks that are being redeveloped and have much larger office parks to redevelop.

The Planning Board gave this issue a lot of thought which is why the Master Plan contains some prohibitory language and requires superior design and thoughtful traffic management and must protect residential neighborhood.

The Cuisinart Office Park on Havemeyer Road was remade into a successful residential development at 11 units per acre. That isn't a good paradigm for High Ridge Office Park because all of the buildings were torn down there. Densities higher than 11 units per acre get turned down and High Ridge would do better with a better use of Building 3. The other buildings are being used.

High Ridge Office Park was built in stages, 6 separate buildings by FD Rich. The C-D district was originally proposed as retail development. This paradigm tenant was a single tenant with a building near a highway with corporation executives who lived nearby. Building 3 was occupied by Citizens Utilities, which because Frontier Communications. The building has 90,000 ft^2 and three stories. When Comfort bought the buildings in 2003, it put $10 million to make the buildings more useable. Some of the problems with the buildings were due to the Bisharat architecture, which are inward-looking concrete, buildings with low ceiling heights, which feel dark and are designed for single-occupancy tenants. Comfort redid the exterior of the other buildings, increased the glass and made the buildings more adaptable to multi-tenant use. They also added tenant amenities, including cafeterias and fitness centers. Building 3 was still occupied by Frontier, and after 30 years moved to Merritt 7 office park. The building needs a new roof, a new curtain wall, a new façade. One floor is partially below grade, which makes it difficult to rent. The building needs a new vertical core (there is one passenger elevator and one freight elevator) and needs new mechanical, engineering and plumbing.

Building 3 is currently empty and there is no economic model that would encourage an investor to redo it and lease it as an office building. The best economic alternative is to take down the building and replace with a new use that is complimentary with the park and beneficial to the community.

The rough site plan (which was prepared prior to the changes in the text) show a new building would most likely be 8-10% bigger than the current building and any outdoor facilities would likely be proposed at the north end of the park (the large round water area is a reflecting pool); the parking would be reconfigured and the northern parking would be removed, bringing it closer to conformity. This would make the park profitable and provide an amenity for the City.

Why make a zoning change to the C-D Zone? The zone has changed over time; it was originally intended for R&D and light retail. The last C-D zone to be built was Synchrony which was designed for multi-tenant use. The Zoning Board noticed at the time that it was designed for multi-tenant use, but wanted multi-tenant buildings downtown and began to impose modern zoning standards such as FAR, height limits and impervious surface limits, which would limit development. This is why High Ridge Office Park is now non-conforming.

The surrounding area has also changed with beautiful residential areas as a result of zoning changes. (These developments also had zoning fights about changes and density increases) This text change will also be a good zoning change.

Mr. Blessing presented a study on this application to the Zoning Board with the following questions: Is the use appropriate for the C-D zone based upon the Master Plan and current policies? If so, does it have the potential to visit adverse impacts on nearby residences? If yes, can they be mitigated? If not, don't do.

This text change is an appropriate use for the C-D zone, which the Planning Board agreed with. This development places no burden on municipal services, but they will have to demonstrate that they can meet the traffic risk. It could have adverse impacts, which is why the Zoning Board put in safeguards of maintaining all the setbacks, maintaining the FAR, not giving any more development rights, maintaining the allowed building heights, adding limits on parking, adding landscape buffers, adding design guidelines, adding specific provisions to mitigate noise, light, screening, site plan design and changing the site plan review process to a specific exception review process. This is as tightly controlled a use as you will find in the zoning regulations. It is a perfect use for the site, a great use for the larger community and the challenge going forward, which they accept, will be to do it right,

Mr. Hennessey answered questions from Committee Members and Board members as follows:

There will be a need to keep office parks invigorated; Merritt 7 does constant work on its office park; the inside of the buildings are being redone with social space and common work space.

This park needs to be reinvigorated so that tenants want to come in. This park could be a healthy, profitable park

Day surgery was excluded from the original definition because Comfort had applied to put a mini-hospital in the park (He represented Stamford Hospital). At the time the City was investing in a health & wellness area.

The term gymnasium & physical culture establishment has been in existence for a long time and is in Appendix A (it includes health clubs). There was no definition. What fit in this category was determined by the Zoning Enforcement Officer. Many uses in the zoning regulations do not have definitions. When Comfort filed this application, the Land Use Bureau requested that a definition be provided. The definition needed to be crafted so that existing facilities with these uses did not become non-conforming, which is why the definition was so broad.

If Lifetime Fitness builds a new building it would have to pay homage to current building under the design guidelines in the current zoning regulations.

While he can't state what the tax benefit would be, there is currently a 40-year-old functionally obsolete empty office building which will be replaced with a state-of-the-art facility filled with personal property.

The criteria for approval under a special exception are subjective standards, such as is it beneficial to the City regarding streets, noise, lighting, sewer size (in §19.3 of the Zoning Regulations). There will be off-site mitigation. The City could require a noise mitigating wall (such as the one near Building 6). The noise engineer letters contain recommendations for mitigating the noise, plus there is a minimum 50 foot landscape buffer; there could be a permanent noise meter and constant monitoring.[1]

The building does not necessarily qualify for historic designation; the SHPO letter applies to the park itself. SHPO did not visit the property and only says that it is eligible. They were not aware that 3 of the buildings have already undergone substantial changes. The owner is not interested in designating the property. Building 3 probably would qualify. The best way to preserve the balance of the park is to make the park profitable. Building 3 makes no money and won't make money. Preserving this building would be preserving an empty building

Co-Chair de la Cruz opened the public hearing.

Elisa Esses, a resident of Heather Drive, spoke in opposition to the petition. She noted that the text change provides benefits to Stamford residents at the expense of a small population of homeowners. The benefits are spread out over the entire community, including families and Stamford. The office park is not in a residential area and would be more of an eyesore than the current empty building; the building is likely to remain empty. Chelsea Piers is the only upscale facility in Stamford and is far for North Stamford residents.

Elliot Turner of Lawrence Hill Road read the attached statement in favor of the text change into the record.

Tom Lombardo of Hickory Road read the attached letter from the North Stamford Association in opposition to the text change which had been sent to the Zoning Board on March 26, 2015 (previously included in the record at page 76) into the record:

Co-Chair de la Cruz announced that the meeting would be continued at 7 p.m. on Thursday, July 19th.

Respectfully submitted,
Virgil de la Cruz, Co-Chair

This meeting is on video.

[1] Mr. McCreery provided the citations for the cases which he had cited earlier as Beckish v. Town of Columbia, 162 Ct. 11 (1971) and OLR Memo dated 10/31/2000 which analyzes Mead v. Town of New Fairfield.