

NEW HAVEN CITY PLAN COMMISSION SITE PLAN REVIEW

RE: 1155 WHALLEY AVENUE, Site Plan Review including Inland Wetlands Review for new 124-Unit Elderly Housing Development to be known as West View Senior Housing in BA and RM-1 Zones (Owner/Applicant: West Rock Views LLC, Lawrence E. Waldorf, Managing Member).

REPORT: 1480-05

INLAND WETLANDS FINDING: Denial

SITE PLAN ACTION: Denial

Submission: Development Permit application including SPR, SESC, & IW components, dated 04/24/13 received 05/03/13, Application Fee \$270: Application forms inc. Flood Plain Development Permit application, reduced site plans: S1, S4, S5; Conn DOT Reconstruction Detail, List of Drawings, checklist per 64(f), Inland Wetlands Narrative & Soil Reports, Flood Damage Prevention District Narrative, Sign narrative, Parking Narrative, Exterior Lighting narrative & Details, Reflective heart impact narrative, Staging Plan narrative, CLOMA application 04/29/13, Drainage Report by Design Development Group 04/24/13, Geotechnical Report by RECON Engineering 05/26/2000, Phase II Environmental Assessment 09/02 for Rockport Mortgage Corp. by Heynen Engineers, Miscellaneous correspondence, CPC draft 1475-03 not adopted.

Plan sets received 05/03/13: Property Survey by Godfrey Hoffman 01/08/90 updated 02/08/13; Civil Plans by Design Development Group: **S1** Site Data & Location including illustrative site plan, existing topography, location map, zoning table, List of Drawings, Statement of Use 06/99 rev. 03/10/13; **S2 & S3** Existing Conditions Map 04/24/13; **S4 & S5** Site Development Plan 04/24/13 rev. 06/08/13; **S5A, S5B, S5C** Site Details 04/24/13, rev 06/14/13; **S6 & S7** Site Sections 04/24/13; **S8** Survey & Topo Map showing area requested for CLOMA 10/24/12; **S9** Retaining Walls and Concrete Details 10/01/01, rev. 08/21/07; 8, **SL1** Landscaping Plan & Schedule undated; **SL2** Site Details: Lighting, Retaining wall at river bank, fence details 07/24/99 rev. 03/10/13.

Architectural Plans by Torello Associates: **A1-A7, A9, A9a, A10-A15, A17, A20.** dated 03/01/01, rev. 10/01/01: Foundation Plan, Floor Plans, Typical Unit Plans, Lobby & Stair Tower Plans, Building Elevations, typical Wing & Exterior Wall elevations

Addendum to application received 06/21/13: SCCRWA Letter 05/05/13, Revised Inland Wetlands application form & narratives, 05/29/13 letter from CDM Smith with responses; Revised Inland Wetland narrative; Planting Details for Upland Review area 06/11/13 by Soil Resource Consultants; Response to CDM Smith 05/31/13 letter. Received 07/12/13 (electronically only): Drainage Area map; Letter to CTDOT dated July 10, 2013; Rotated Building Plan, S-5 Siteplan, S-5A, S-5B, Site Plan June 2013 Rotation. Received 07/15/13 (via fax): Storm Sewer Design Worksheets (3 pages) via Design Development Group. Received 07/19/13: (email only) E&S Control Plan sheets 1 and 2; response to CDM Smith letter of July 16; Summary to Storm Drainage Report. Received 07/24/13: Revised drawing package including Sheets S-1, S-2, S-3, S-4, S-5, S-5A, S-5B, S-5C, S-6, S-7, S-8, E&S-1, E&S-2, SL-1, S-9, and 1 of 1.

Other materials received: Drainage calculations for perforated pipe in stone trench CB-1 to CB-5 received 07/15/13.

Email from Attorney Joseph Rini granting time extension 07/01/13.

PROJECT SUMMARY:

Project: 124-Unit Elderly Housing Development
Address: 1155 Whalley Avenue
Site Size: 2.90 acres (126,326 SF)
Zone: BA and RM-1
Parking: 58 Spaces under building, 18 Spaces in Visitor Lot (inc. 2 HC); reserve parking in overflow lot (actual spaces not shown)

Land Owner: West Rock Views, LLC
Lawrence E. Waldorf, Managing Member **Phone:** 410-326-2787
Applicant: same
Agent: John Torello, Torello Associates, Architects **Phone:** 203-272-2116
Architect: same
Site Engineer: Robert Amantea, Design Development Group **Phone:** 203-235-9809
City Lead: City Plan Dept. **Phone:** 203-946-6379

BACKGROUND

Previous Commission Actions:

Inland Wetland application and Schematic Site Plan Review	08/08/99	CPC 1276-01
Site Plan Review	10/20/99	CPC 1278-03
Removal of condition of approval regarding deed restriction to elderly occupancy	06/21/01	CPC 1288-08
Time extension of Site Plan Review; Extension granted to 06/01/03	03/20/02	CPC 1317-06
Modification to reflect Change in Professional Team; Reconfiguration of Assisted Living Units.	01/21/04	CPC 1346-10
Final Plan Submission & Change in Development Team	09/21/05	CPC 1376-07
Auth for Change in Owner/Developer	03/19/08	CPC 1414-28
New IW & Site Plan application tabled as incomplete	03/20/13	CPC 1475-03
Application denied without prejudice	04/17/13	CPC 1475-03
Application tabled pending receipt of response to comments	06/14/13	CPC 1480-05

Zoning: Most of the site is zoned General Business (BA) with a small portion fronting on Valley St. zoned Low-Middle Density Residential (RM-1). The Site plan shows an elderly housing development that is permitted as of right in the BA zone which allows residential use to RM-2 standards.

Site Description/existing conditions: The site lies along the north side of Whalley Avenue (west of Emerson Street, east of East Ramsdell Street), along the south side of the West River. The site fronts on Whalley Avenue (approximately 515 LF) and also on Valley Street (47 LF). The site is bordered on the south by the street line and a retaining wall along Whalley Avenue recently constructed by ConnDOT, on the north by the West River, and Valley Street, on the east and west by commercial property. Parkland known as the West River Open Space lies across the West River. Across Valley Street to the north is West Rock Park. The site slopes steeply down from the Whalley Avenue retaining wall from approximately elevation 60' to a shelf at approximately elevation 36' and then slopes steeply again to elevation 29' at the river's edge. There are some existing retaining walls in the western portion of the site (not to be built upon) which are to remain. There are some existing utility easements on the property.

Proposed Activity: The applicant's narrative states the purpose and intended use of the project is to construct "a 124 unit elderly housing development, 4-story steel frame residential floors on below-level parking structure". An inland wetland and watercourses application was approved for a similar project in 1999 for the site, although approvals have expired, and regulations have changed.

Stormwater Management Plan: The Drainage Report states drainage from the access road into the site from Valley Street will discharge along the north side of the proposed road through a rip rap filter blanket. Rip rap is proposed to be placed in several areas along the driveway adjacent to the river which is intended to serve as a filter for stormwater going into the river. This will eliminate point discharge into the river and will reduce the velocity and remove sediments. The

drainage from the parking garage in the building will discharge into trench drains and into oil/water separators prior to connecting into the storm drainage network. Drainage calculations were computed for the 10, 50 and 100 year storm events; and peak flow was calculated at an 8% increase between pre- and post-development flow into the West River.

A new 36" RCP drain line will be added to collect storm water from the site and convey stormwater from the State drainage system. An addendum to the drainage report and revised site development plan shows a detention system has been added to store the increase in runoff volume due to the development of the site. *Concerns have been raised by the City Engineer that the relocated State drainage system (36" RCP) is inadequate to capture the volumes of water entering the system and convey the velocities of the runoff, and there are also concerns regarding the constructability of a number of catchbasins. There are concerns that the storm sewer system does not meet the water quality requirements (treatment of the first inch of runoff and 80% removal of suspended solids.) The plans do not meet the standards of Section 60 (Stormwater Management) of the City Ordinance including sections (d)(6), (d)(7), (e)(2), (e)(6), (e)(8), and (e)(9). The developer proposes to use portions of the CDOT drainage system but has not presented evidence that CDOT has agreed to this.*

Soil Erosion and Sediment Control Review: The applicant estimates in the application that 1,500 CY of material will be moved, 1,166 CY added, and 0 CY removed from the site. (These numbers have changed significantly since application 1475-03, though no significant change has been made to the site grading since that time; it is not clear why these numbers changed.) It is unclear from where the figures are derived; no supporting text or calculation is provided. There are unknowns as to how much dumped and contaminated material will need to be removed from the site and how much fill will need to be placed back on the site, prior to proceeding with the project. Sheets E&S-1 and 2 illustrate erosion control measures, though these sheets are missing standard City details for these activities. Silt fencing is shown along the river bank. Two construction entrances are shown, one off Whalley Avenue in the location of a future driveway to an upper parking lot, and one off Valley Street. John Torello is named as the individual responsible for monitoring the site to assure there is no soil or runoff entering City catch basins or the storm sewer system. An on-site monitor shall be named to monitor the soil erosion and sediment control measures on a day to day basis and for repairing them should they require repair or supplementing.

Site Utilities: Water and fire service will require new cuts into the DOT roadway, and will require DOT authorization. The sanitary sewer line will connect into the back of an existing manhole at the curb near the entry to the upper parking lot. Electrical connection is shown from a pole on Whalley to a transformer on site. No other detail is provided.

Circulation/Parking/Traffic/Pedestrian Access: The main vehicular entrance to West Rock Views is through a new drive off Valley Street immediately adjacent to the West River which accesses the garage and a continuation of the drive along the river bank to the trash collection point. Emergency vehicles have access via the drive. There is visitor parking in a small lot off Whalley Avenue with 18 spaces including 2 HC spaces (incorrectly/insufficiently ramped). The ground level garage will provide 58 spaces including 2 HC spaces (drawn incorrectly). Pedestrian access off Whalley Avenue is proposed through a gate cut into the new DOT stone wall. This will require DOT authorization, not yet obtained. There is also an existing pedestrian pathway leading from the western end of the retaining wall which will connect to a lower entry to the building and to the upper parking lot by a stepped walkway.

Trash removal: Trash collection will be private. A dumpster location is shown at the west end of the access drive along the river. An additional dumpster is shown at the east end of the

building. A trash collection company can access both dumpster areas and turn around before leaving the site.

Lighting/Landscaping: Lighting is addressed on the Site Development Plan for lights along the drive from Valley Street. No detail is provided for the exterior building lighting. A detail of the primary standing fixture is shown on Sheet S-5C. Lights are to be LED type; photometric plan will determine number and placement of light fixtures.

Existing plantings are shown on Sheet S2; CDOT planted a number of trees as part of its improvement program along the western 240' of the Whalley frontage, and a number of existing trees will remain. New plantings are shown on Sheet SL1 - Landscaping Plan and in sketches provide in the application addendum. Plantings around the building are decorative at best and will do little to enhance habitat or mitigate for lost wetland buffer areas. Plantings adjacent to the river area are discussed in the text of the addendum, but an actual standard planting plan with details has not been provided. While the species noted in the addendum will begin to enhance wildlife habitat, without an actual full-blown plan it is difficult to analyze the quality of the design. A timber guard rail is proposed along the north side of the driveway between the drive and river. Ornamental fencing is shown along Whalley Avenue from the east end of the DOT retaining wall to the driveway opening to allow for site lines and visibility of oncoming vehicular and pedestrian traffic.

Signage: Proposed are 2 building signs, one at each entry. No detail is yet given, but their size and scale appears to meet zoning standards.

Project Timetable: The applicant states "start 180 days after financing; completion within 24 months (N.I.C. Phasing, if required)".

Flood Zone: The site is located within Flood Zone X (500 year flood) , Zone AE (100 year flood) and within a Floodway on FIRM # 09009CO429J, effective July 8, 2013 and #09009CO428H, effective December 17, 2010. This section of the West River is shown within the New Haven Flood Insurance Study Report in cross sections G and H where the base flood elevation is determined in the AE zone at a range between elevation 40 at the western end of the property to approximately elevation 27 at Valley Street. The West River and adjacent land is within a Floodway area within Zone AE, a Special Flood Hazard Area subject to the 1% chance annual flood where the floodway must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.

The new construction is subject to the City's Flood Damage Prevention Ordinance: Section 5.3.3 states "*Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and have erosion potential, no encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practices that proposed encroachments shall not result in an (0.00 feet) increase in flood levels during occurrence of the base flood discharge.*"

The applicant states the finished floor elevation of the garage level ranges from elevation 40 in the south west corner to elevation 37.5 at the northeast and southeast corners. Site Development Plan notes: "The proposed building is not within a Flood Hazard area" and calls out the datum in cross sections in both NGVD 1929 and NAVD 1988. Applicant has stated it has applied for a CLOMA [Conditional Letter of Map Amendment] (a letter from FEMA stating that a proposed structure that is not to be elevated by fill (natural

grade) would not be inundated by the base flood if built as proposed), but documentation from FEMA has not been provided.

Reflective Heat Impact: Applicant states on Sheet S-4 that “All non-roof hardscape or paved areas will be constructed using a material with a solar reflective index of at least 29 and calculated consist (sic) with ASTM E 408 or ASTM C 1371 and ASTM E 903, ASTM E 1918 or ASTM C 1549”, though no supporting details or calculations have been provided. This Regulation has not been met by the application.

INLAND WETLAND REVIEW

Because certain of the proposed activities are proposed to be within or within 50’ of the regulated inland wetlands and watercourses, the site plan is within the jurisdiction of the Inland Wetlands Commission. It should be noted that previously the City Plan Commission acting as the Wetlands Commission approved an inland wetlands and watercourses application and schematic site plan in 1999 for this site (CPC 1276-01, 8/08/99). Since that time the dimension of the “buffer” area has been increased from 25’ to 50’ wherein any activity that occurs within 50’ of a wetland soil or watercourse is a “regulated activity”. Regulated activity is defined as “*any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration, or pollution of such wetlands or watercourses, and any earth moving, filling, construction, or clear-cutting of trees, or any such operation within fifty (50) feet of wetlands or watercourses*”.

The previous application was determined to cause minimal impact on the watercourse as the building construction was primarily outside the 25’ setback, although the access drive fell within the 25’ setback. When reviewing the plan in context of the City’s current inland wetland regulations, construction of a large portion of the building itself and storm drainage measures are considered “regulated activity” within the 50’ buffer area.

Wetlands and watercourse delineation: The Soil Science Report by David Lord, Soil Resources Consultants, April 3, 2013 notes he flagged inland wetlands on March 28, 2013 on the subject parcel. On the site he found alluvial (**FI**) flood plain soils immediately adjacent to the river as it winds to the north. These are narrow isolated strips of sandy soil material along the water’s edge. The erosive force of the water has created small deposits along the outside edge of the River. The watercourse itself (**W/C**) is a well defined channel.

Non-wetlands soils on the site consisted of Penwood soils (**Pn**) on 8 to 15% slopes and **Ud** moderately well drained disturbed soils. Soils in this unit have been extensively disturbed by grading and filling activities associated with the existing/former developed/alterd portions of the site. Some remains of former building structures were observed in portions of this site including along the immediate edge of the river.

The area of the proposed building is primarily in the area noted as **Ud**.

Determination of Classification: The Commission has reviewed the options for classification, as stated in Sections 4 and 5 of the Regulations and has determined that the wetlands application may qualify as a Class B Application – Minor Impact. This classification shall be assigned to any application which the Commission determines involves a regulated activity but does not require extensive and detailed engineering or soils surveys or water quality measurements, and the applicant has supplied information, which in the opinion of the Commission, is sufficient to determine that the activity falls within the following:

- Any activity which involves a removal or deposition of material which will not have a substantial adverse effect on the regulated area or on another part of the inland wetlands or watercourses system; or
- Any activity which involves minor changes to the natural channel of a watercourse or the limits or form of an inland wetland; or
- Any activity which involves a minor reduction in the natural capacity of a watercourse or an inland wetland to support desirable biological life, prevent flooding, supply water, facilitate drainage, and provide recreation and open space.

Application Evaluation Criteria:

In reviewing a Class B Application, the Commission must consider the following environmental impact criteria in its evaluation, as stated in Sections 7.2 and 7.3 of the City's Inland Wetlands and Watercourses Regulations:

1. The ability of the regulated area to continue to absorb, store or purify water or to prevent flooding.
2. Increased erosion problems resulting from changes in grades, ground cover, or drainage features.
3. The extent of additional siltation or leaching and its effect on water quality and aquatic life.
4. Changes in the volume, temperature, or course of a waterway and their resulting effects on plant, animal and aquatic life.
5. Natural, historic, or economic features that might be destroyed, rendered inaccessible or otherwise affected by the proposed activity.
6. Changes in suitability of the area for recreational and aesthetic enjoyment.
7. Existing encroachment lines, flood plain and stream belt zoning and requirements for dam construction.
8. Any change in the water affecting aquatic organisms or other wildlife, water supply and quality, or recreational and aesthetic enjoyment.
9. The existing and desired quality and use of the water in and near the affected area.
10. Reports from other City agencies and commissions not limited to the Environmental Advisory Council, Building Official, and City Engineer.
11. The importance of the regulated area as a potential surface or ground water supply, a recharge area or purifier or surface or ground waters, a part of the natural drainage system for the watershed, a natural wildlife feeding or breeding area, its existing and potential use for recreational purposes, existence of rare or unusual concentrations of botanical species, availability of other open spaces in the surrounding area, or its value for flood control.

The Commission must consider the following **additional** criteria:

1. Any evidence and testimony presented at a public hearing, should one be held.
2. Alternatives which might enhance environmental quality or have a less detrimental effect, without increasing basic project costs.
3. Short versus long term impacts.
4. Potential loss of irrevocable resources or property impairment.
5. Suitability of action for area.
6. Mitigation measures which may be imposed as conditions.

Required Findings for a Class B Application:

The Commission must make the following findings for a Class B Application:

1. There is no preferable location on the subject parcel or no other available location could reasonably be required;
2. No further technical improvements in the plan or safeguards for its implementation are possible, or taking into account the resources of the applicant, could reasonably be required; and
3. The activity and its conduct will result in little if any reduction of the natural capacity of the wetlands or watercourses to support desirable biological life, prevent flooding, supply water, facilitate drainage, and provide recreation and open space.

INLAND WETLANDS PLANNING CONSIDERATIONS

It should be noted that the building clearly is located within the 50' buffer area; the proposed project includes impacts within the wetland jurisdictional area. The applicant has not proven that impacts within and adjacent to the wetland have been minimized or mitigated. The City Plan Commission has not previously approved a structure within the buffer. It has approved walkways, an occasional driveway, landscaping, within the setback. If a building including footings and foundations are placed in the regulated area, the Commission cannot legitimately find that the regulated area will continue to absorb runoff or prevent flooding (#1 above) nor can it find that erosion problems or excessive siltation will not occur (#2&3).

In reviewing the FEMA Flood Insurance Rate Maps and New Haven Flood Insurance Study Report, the Commission understands the project is located within Flood Zones X and AE and within the West River Floodway. Per City ordinance it is up to the applicant to prove that they do not have an encroachment into the floodplain; they have not.

SITE PLAN REVIEW

Plans have been reviewed by the Site Plan Review team with representatives from the Departments of City Plan, City Engineer, Building, Disabilities Services and Transportation, Traffic and Parking and have been found to meet the requirements of City ordinances, Regulations and standard details with the following major exceptions:

- The project does not meet the standards and criteria for decision in Section 60 (Stormwater Management) of the City Ordinance. Standards not met by the application include:
 - 60 (d) (6) Proposed operation & maintenance of Stormwater BMP's
 - 60 (d) (7) Calculations for suspended solids removal rates, stormwater runoff rates, and water quality volume
 - 60 (e) (2) No net increase in the peak rate of stormwater runoff from the site
 - 60 (e) (6) Collect, retain, and treat the first inch of rain on-site
 - 60 (e) (8) Post-development runoff rates shall not exceed pre-development rates
 - 60 (e) (9) Stormwater treatment systems shall remove 80 percent TSS;
- The applicant has not proven that modifications to the CDOT drainage system are sufficient for the anticipated flow and that the design has been coordinated and approved by CDOT;
- The project does not meet the standards of Section 60.2 Reflected Heat Impact; and
- Documentation of approval from FEMA of the CLOMA has not been provided.

(Other minor missing information is as noted in this report.)


INLAND WETLAND FINDING

As the Commission is unable to make the required findings listed above for a Class B application, it denies the inland wetlands application.

SITE PLAN ACTION

In conclusion, while it is conceivable that the applicant could remedy the deficiencies of the Site Plan Review - though in truth these deficiencies have not been corrected even after multiple meetings with the Site Plan Review Team -, without the relocation of the building footprint outside the 50' wetland buffer, the application for development within the regulated area must be denied.

ADOPTED: July 31, 2013
Edward Mattison
Chair

ATTEST: 
Karyn M. Gilvarg, AIA
Executive Director