

<b>Text Amendment PLPZ #202000027</b>	<b>Amend Section 6-103.1 “USE REGULATIONS AND SPECIAL REQUIREMENTS FOR CGBR ZONE”, subsection (D) “PARKING”</b>  <b>Applicants: David and Victoria Yolen in regards to 107-109 Greenwich Avenue</b>
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### **PROPOSAL - updated**

A Text Amendment application has been submitted on behalf of the owners of 107-109 Greenwich Avenue to amend Section 6-103.1. The original proposed amendment would have permitted group fitness centers with classes of less than 10 participants, to be exempt from parking requirements per Division 15, in buildings containing less than 15,000 sf of floor area when located between the front and rear building lines in the CGBR zone. The language of the proposed amendment has since been updated. The current proposal would permit Use Group 2 (office) uses located on the second floor along with all Use Group 1 uses including recreational facilities, fitness clubs, gyms and group fitness centers, to be exempt from parking requirements as prescribed by Division 15, when the parking requirement of such use is less than 1 space per 150 sq. ft. of usable floor area, in buildings containing less than 15,000 sq. ft. of floor area when located between the front and rear building lines in the CGBR zone.

### **ISSUES TO BE RESOLVED**

1. WestCOG has indicated that the proposal is limited to local interest and therefore they have no comments to issue.
2. The Commission should determine if the proposal meets the intent of the CGBR zone (Sec 6-103.1).
3. If the Commission finds the text amendment acceptable, does 6-103.1 (B)(b) and Section D. need updated language?

### **BACKGROUND**

Recreational facilities, fitness clubs, gyms and group fitness centers are already permitted per Section 6-103.1 on basement floors and upper floors in the CGBR zone, however parking is required to be provided on site. Use Groups 2a and 2b are currently permitted on the 2<sup>nd</sup> floor, however, parking is required to be provided on site.

It appears that the current proposal intends to permit parking exemptions for Use Group 2 along with Use Group 1 uses including recreational facilities, fitness clubs, gyms and group fitness

centers, as long as the use does not require more than 1 space per 150 sq. ft. of usable floor area. The language of Section 6-103.1(B.)(b.) may need to be revised to make it clear that there is the possibility of parking exemption for recreational facilities, gyms, group fitness centers and fitness clubs. The proposed language of Section D. appears to require that the use must be located on the 2<sup>nd</sup> floor to be permitted a parking exemption. If the intent is to permit parking exemptions for Use Group 1 uses on any floor, that proposed language may need updating to clarify the intent.

## **APPLICABLE BUILDING ZONE REGULATIONS**

Section 6-5 Definitions

Section 6-22 Zoning Amendments

Section 6-100 Use Groups for Business Zones

Section 6-103.1 Use Regulations and Special Requirements for the CGBR Zone

ZONING – Comments attached

## **TEXT AMENDMENT – PROPOSED LANGUAGE (language to be added is in bold)**

### **Sec. 6-103.1. USE REGULATIONS AND SPECIAL REQUIREMENTS FOR CGBR ZONE** (9/15/86; 9/28/2010)

(A) Purposes.

In addition to the purposes stated in Sec. 6-102, the goal of the Central Greenwich Business-Retail Zone is to serve as the prime retail and service area of the Town by accommodating shopping and business needs in a greater variety and concentration than the neighborhood and local business zones. The CGBR zone serves several functions: it provides convenience goods and services to all residential areas of the Town, both the outlying sections and the close-in more densely built neighborhoods; it provides comparison shopping goods and services on a generalized or specialized basis to the town wide and sub-regional market area; and it provides office uses to complement and support the business uses.

The emphasis of the CGBR zone is upon protection of ground floor space for compatible retail uses, and avoidance of a break in storefront continuity. Consequently, businesses in the zone are generally dependent upon pedestrian traffic and storefront exposure. In addition to retail uses, a wide variety of services and community functions is included to suit the broad and longer-term needs of residents and customers.

An important goal of the CGBR zone is to provide for housing to meet the diverse needs of the Town's residents, as well as to provide a night-time presence and a daytime market that supports and strengthens the business community.

(B) Ground Floor Uses.

Except for access to and egress from upper floor permitted uses, uses on the ground floor shall be limited to uses listed in Use Group 1 except for:

**(a)** Banks and financial services, (including drive up and drive thru) and sales agencies of real estate, employment insurance or travel firms which are not permitted on the first floor of the

CGBR zone. These uses are only allowed on the upper floors if parking is provided on site since these uses are considered office uses and not retail uses. ATM machines and bank entrances to the 2nd floor are not considered financial services and may be located on the first floor in the CGBR zone.

**(b)** Recreational facilities, fitness clubs, gyms and group fitness centers are not permitted on the first floor of the CGBR zone and only in the Basement and on the upper floors if, in either case, adequate parking is provided on site per Section 6-158 of the BZR.

Other Use Group 1 uses shall occupy not less than 75% of the floor area of the largest floor of the building. For the purposes of this provision, the ground floor shall be considered a floor within 18 inches of mean curb elevation; if no floor occurs within this elevation, the Zoning Enforcement Officer shall determine which floor of the building shall be treated as the ground floor. Public areas of a restaurant in the CGBR zone are restricted to the ground floor (basement or second floor) may be used for food preparation and accessory non-public restaurant uses. For the purposes of this section, a floor shall be considered the ground floor if it is located within 18" above or below mean curb elevation. (4/14/2010; 9/28/2010, 9/20/2013; 9/19/2017)

(C) Permitted Uses.

Subject to (B) above, the following uses are permitted:

Use Group 1 – Allowed on ground and second floor only, except that below grade floor area (basement) may be used provided that the number of floors of a building devoted to Use Group 1 shall not exceed two, and the number of usable or habitable floors shall not be more than three (3).

Use Group 2a and 2b – Allowed on second floor only. (6/27/95)

Use Group 3 – Allowed above ground floor. (6/27/95)

(D) Parking.

Above ground parking shall not be permitted within 60 feet of the street line of Greenwich Avenue or Putnam Avenue. All parking required in accordance with Section 6-158 shall meet the standards of Division 15 and Division 18. (2/6/90)

The parking and loading requirements of Division 15 shall not be applicable to uses in Use Group 1, **Use Group 2 located on the second floor** or Use Group 3 for any lot where the following conditions are met:

The lot shall have a rear building line as indicated by any map listed in the Schedule of Rear Building Lines at the end of these regulations;

The total floor area of the building or buildings on said lot shall not exceed 15,000 square feet of floor area; **and**

**If the proposed use is located on the second floor of a building, the parking requirements for the proposed use under the parking requirements of Division 15 does not exceed one parking space for every 150 square feet of usable floor area, unless otherwise approved by the Planning and Zoning Commission upon an application for Special Permit as provided in the following paragraph with such**

**conditions as the Planning and Zoning Commission shall find necessary to protect the purpose and goals of the CGBR zone as set out in subsection (A) above.**

Division 15 shall be applicable to all other buildings except that for Use Groups 1 and 3. The Planning and Zoning Commission, upon application for Special Permit, may grant Special Permit authorizing a lesser number of parking and loading spaces after consideration of the following:

- (1) Any past reduction in the size of the subject lot resulting from the conveyance of land behind a rear building line to the Town of Greenwich;
- (2) Provision of off-site parking by way of contract or lease;
- (3) Maintaining of existing buildings contributing to continuity of retail frontages;
- (4) The standards of Sec. 6-15 and 6-17.

For purposes of this section gross floor area which is located on other than the ground floor and is occupied or utilized by the following Use Group 1 uses shall be calculated as Use Group 2: banks; sales agencies of real estate, employment, insurance or travel firms; non-profit, multi-service social work agencies. (2/6/90)

(E) Below Grade Floor.

In the CGBR zone below grade (basement) usable or habitable floor area accessible to the public shall be counted as a story of the building. In such building the number of usable or habitable floors shall not be more than three (3). (6/27/95)

(F) There shall be no display of merchandise or the placement of equipment used for an on-site business activity permitted in the required parking area. (9/28/2010)

## RE: Revised Proposed Text Amendment

Kristin Floberg <kfloberg@westcog.org>

Mon 7/6/2020 9:47 AM

To: Dygert, Bianca <bianca.dygert@greenwichct.org>

 1 attachments (20 KB)

Reg Change CGBR - General Change.docx;

**[EXTERNAL]**

To: Bianca Dygert, Planner II

From: Kristin Floberg, Planner

Re: CT Statutory Referral to WestCOG from Greenwich - Attached Zoning Amendment

Date: July 6, 2020

Thank you for submitting the attached referral to WestCOG.

The opinion of WestCOG staff is that the proposal is of local interest and with minimal intermunicipal impact. Therefore, it is not being forwarded to adjacent municipalities and the regional staff is making no comment.

---

**From:** Dygert, Bianca <bianca.dygert@greenwichct.org>

**Sent:** Monday, July 6, 2020 8:40 AM

**To:** Referrals <referrals@westcog.org>

**Subject:** Revised Proposed Text Amendment

**RE: Proposed Zoning Text Amendment**

**PLPZ #2020 00027**

**Zoning Referral: Proposed Amendment on Section 6-103.1 of the Town of Greenwich Building Zone Regulations**

To Whom It May Concern,

In accordance with C.G.S. Sec. 8-3b, the Town of Greenwich is forwarding a revised copy (attached) of the proposed text amendment to amend section 6-103.1 of the Town of Greenwich Building Zone Regulations. The applicant is proposing to permit small group fitness center use in the CGBR zone. This was originally sent on 2/25/20. We received initial comments indicating that WestCOG had no comments. Please let me know if this would still apply.

The Greenwich Planning and Zoning Commission will hold a public hearing on the applications on a date, time, and place to be published in the Legal Notice section of the Greenwich Time newspaper. You may appear and be heard at any hearing on this application. Any questions and/or comments on the application may also be addressed to this agency by telephone (203-622-7894) between the hours of 8:00 am to 4:00 pm weekdays, in

person at Greenwich Town Hall between the hours of 8:00 and 3:30 pm Mondays, Tuesdays, Thursdays and Fridays or by email to the address provided below.

Thank you,

*Bianca Dygert*

**Planner II**

Town of Greenwich

Land Use - Planning & Zoning

101 Field Point Road

Greenwich, CT 06830-6463

Ph. (203) 622-7894

Office Fax. (203) 622-3795

Direct Fax. (203) 861-6113

[Bianca.Dygert@greenwichct.org](mailto:Bianca.Dygert@greenwichct.org)

[www.greenwichct.gov](http://www.greenwichct.gov)

**CAUTION:** This email originated from outside the Town email system. Do not click links or open attachments unless you have verified the sender and know the content is safe.

## ZONING ENFORCEMENT

**Project No.** PLPZ20200027      **Preliminary**      **Final** X

**Reviewed for Planning and Zoning Commission.**

**TITLE OF PLAN REVIEWED:**      Yolan

**LOCATION:**      107-109 Greenwich Ave.

**PLAN DATE:**

**ZONE:**      CGBR

Ok for Zoning Permit Sign-off with the following revisions:

Resubmit the following prior to Site Plan/ Subdivision approval:

The subject site plan/subdivision meets the requirements of the Building Zone Regulations, excluding sections 6-15 and 6-17, and is Ok for Zoning Permit Sign-off.

**Reviewed by:**      **Jodi Couture**

**Date:** 6/4/2020

Note: These comments do not represent Building Inspection Division approval. Plans subject to review by ZEO at time of building permit application.

PROPOSED AMENDMENT TO GREENWICH BUILDING ZONE REGULATIONS SECTION 6-103.1

**Sec. 6-103.1. USE REGULATIONS AND SPECIAL REQUIREMENTS FOR CGBR ZONE**  
(9/15/86; 9/28/2010)

(A) Purposes.

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Town of Greenwich  
 Planning & Zoning Department  
 Town Hall – 101 Field Point Road, Greenwich, CT 06830  
 Phone: (203)622-7894 – Fax: (203)622-3795

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**SITE PLAN APPLICATION**

PRELIMINARY

FINAL

Project Name: \_\_\_\_\_  
 Project Address: 107-109 Greenwich Avenue  
 Property Owner(s): David and Victoria Yolen  
 Tax Account Number(s): 01-1805/S Zone(s): CGBR Lot Area: 0.101 acres

**Please select all relevant items below:**

- Special Permit – Complete special permit application form
- Coastal Overlay Zone
- Property is within 500 feet of a Municipal Boundary of \_\_\_\_\_ (for notification)
- Amendment to Building Zone Regulations – Section(s) 6-103.1(B)
- Amendment to Building Zone Map – Zone(s) affected \_\_\_\_\_
- Health Department review needed
- Sewer Department review needed
- Architectural Review Committee Application attached or Review needed
- Planning & Zoning Board of Appeals review needed
- Inland Wetlands and Watercourses Agency Review / Approval Required

**AUTHORIZED AGENT**

Name: Christopher D. Bristol, Esq. and John P. Tesei, Esq. Firm name: Gilbride, Tusa, Last & Spellane LLC  
 Street Address: 31 Brookside Drive City: Greenwich St: CT Zip: 16830  
 Phone: 203.622.9360 Email: cdb@gtislaw.com  
 Signature:  Date: 2/10/20

**PROPERTY OWNER(S) AUTHORIZATION**

Name: see attached  
 Street Address: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

To be completed by P&Z staff only:  
 Check # 68147 Check Amount: \$ 1,150.00  
 Application # PLP2 202000027

## SITE PLAN ZONING STATISTICS

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>PERMITTED/ REQUIRED</u>
<b>COMMERCIAL/OFFICE</b>			
Gross Floor Area	_____	_____	_____
Usable Floor Area	_____	_____	_____
Parking Spaces	_____	_____	_____
<b>COMMERCIAL/RETAIL</b>			
Gross Floor Area	_____	_____	_____
Usable Floor Area	_____	_____	_____
Parking Spaces	_____	_____	_____
<b>OTHER USES</b>			
Gross Floor Area	_____	_____	_____
Usable Floor Area	_____	_____	_____
Parking Spaces	_____	_____	_____
<b>RESIDENTIAL</b>			
Number of Units	_____	_____	_____
Number of Bedrooms	_____	_____	_____
Gross Floor Area	_____	_____	_____
Parking Spaces	_____	_____	_____
<b>TOTAL SQUARE FOOTAGE</b>	_____	_____	_____
<b>BUILDING HEIGHT</b>	_____	_____	_____
<b>FLOOR AREA RATIO</b>	_____	_____	_____
<b>BUILDING COVERAGE</b>	_____	_____	_____
<b>LOT COVERAGE</b>	_____	_____	_____
<b>TOTAL PARKING SPACES</b>	_____	_____	_____
<b>GREEN AREA</b>	_____	_____	_____
<b>AGE OF STRUCTURE</b>	_____	_____	_____

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**This Site Plan Involves:**

- ADDITIONS                     
  ALTERATIONS                     
  DEMOLITION                     
  RE-CONSTRUCTION

# GILBRIDE, TUSA, LAST & SPELLANE LLC

FRANK J. GILBRIDE II\*  
CHARLES S. TUSA\*  
BENNETT H. LAST\*  
THOMAS P. SPELLANE\*  
JOHN P. TESEL, P.C.\*  
ERIC H. SELTZER\*  
KENNETH M. GAMMILL, JR.\*  
JONATHAN M. WELLS\*  
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ROBERT N. LUTTMAN\*  
FREDERIC P. RICKLES\*  
TODD S. SHARIN\*\*  
THEODORE L. SANDLER\*\*\*  
\*NOT ADMITTED IN FLORIDA  
\*\*NOT ADMITTED IN CONNECTICUT OR FLORIDA  
\*\*\*ALSO ADMITTED IN CONNECTICUT  
\*\*ALSO ADMITTED IN NEW JERSEY  
\*\*\*ALSO ADMITTED IN MASSACHUSETTS, PENNSYLVANIA AND USPTO

February 10, 2020

## BY HAND

Mr. Peter Mangs, Applications Coordinator  
Town of Greenwich Planning and Zoning  
101 Field Point Road  
Greenwich, Connecticut 06830

Re: Proposed amendment to Section 6-103.1 of  
the Greenwich Building Zone Regulations

Dear Peter:

We represent David and Victoria Yolen, owners of property at 107-109 Greenwich Avenue. The property is located on the east side of Greenwich Avenue in the CGBR commercial zone as described by Section 6-103.1 of the Greenwich Building Zone Regulations (the "Regulations"). The property is improved with a two-story commercial building.

Section 6-103.1 of the Regulations encourages Use Group 1 uses in the CGBR zone with an emphasis on the preservation of retail space and a continuity of storefronts along Greenwich Avenue. The focus on Use Group 1 uses, retail uses in particular, in the CGBR zone has become detrimental to the overall financial health and vibrancy of downtown Greenwich by making it more difficult for other complimentary uses to occur downtown. Retail tenancies have been trending down, leaving many vacant storefronts.

Over the past ten years or so, group fitness use has been seen as detrimental to the health of retail space in the CGBR zone, similar to how "retail" banking operations were viewed.

However, given current market trends which has caused retail space to struggle, property owners now need more flexibility.

What I propose is to permit small group fitness center use in the CGBR zone for class sizes of no more than 10 with waived parking requirements similar to existing Use Group 1 uses for those building between the front and rear buildings lines that are 15,000 square feet or less. The text of the proposed regulation change is attached for your reference.

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**GILBRIDE, TUSA, LAST & SPELLANE LLC**

There is an absurd inconsistency in the Regulations that allows uses such as personal services with a very high requiring to provide no parking, and prohibits group fitness uses that would generate the same or less required parking.

The Regulations waive parking requirements for Use Group 1 uses in the CGBR zone for those building between the front and rear buildings lines that are 15,000 square feet or less. Use Group 1 uses include personal services, such as salons and one-to-one instruction. For those uses that are exempt from parking, there is no regulation that limits the intensity of such a permitted use. For example, for a salon personal services use in a building between front and rear building lines in the CGBR zone, there is no zoning limit to the number of stations, hairdressers and clients using the space at any given time. Where Section 6-158 would normally impose a parking requirement of 2 parking spaces for each station, the CGBR zone provides for no parking. To further this example, assume there is a 2,000 square foot space. There could easily be 20 stations that would require 40 parking spaces.

To contrast, a 10 person class with 1 instructor as proposed would produce required parking of 11 spaces.

This amendment will compliment the downtown retail businesses. Fitness classes often tend to be attended to by friends, and groups encourage people to walk downtown, shop and eat thereby adding to pedestrian customer traffic needed for retail business to flourish.

You will find enclosed the following supporting application documents:

1. Detailed narrative (i.e. this cover letter);
2. Completed application form;
3. Owner authorization;
4. Affidavit of Notice;
5. Certificate of Mailing;
6. Tax assessor's field card;
7. Proposed text change to Section 6-103.1; and
8. A check in the amount of the appropriate filing fee.

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COMMISSION

Should you have any questions or require more information, please contact me. Thank you.

Very truly yours,



Christopher D. Bristol, Esq.

Enclosures

PROPOSED AMENDMENT TO GREENWICH BUILDING ZONE REGULATIONS SECTION 6-103.1

**Sec. 6-103.1. USE REGULATIONS AND SPECIAL REQUIREMENTS FOR CGBR ZONE**  
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**(b) Group Fitness Centers with classes not exceeding ten (10) participants / students at any one time which are permitted in the Basement or on the upper floors of the CGBR zone.**

**(c)** Recreational facilities, fitness clubs, gyms and group fitness centers are not permitted on the first floor of the CGBR zone and only in the Basement and on the upper floors if, in either case, adequate parking is provided on site per Section 6-158 of the BZR.

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COMMISSION

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The lot shall have a rear building line as indicated by any map listed in the Schedule of Rear Building Lines at the end of these regulations; and

The total floor area of the building or buildings on said lot shall not exceed 15,000 square feet of floor area.

Division 15 shall be applicable to all other buildings except that for Use Groups 1 and 3 **and Group Fitness Centers with classes not exceeding ten (10) participants / students at any one time,** the Planning and Zoning Commission, upon application for Special Permit, may grant Special Permit authorizing a lesser number of parking and loading spaces after consideration of the following:

- (1) Any past reduction in the size of the subject lot resulting from the conveyance of land behind a rear building line to the Town of Greenwich;
- (2) Provision of off-site parking by way of contract or lease;
- (3) Maintaining of existing buildings contributing to continuity of retail frontages;
- (4) The standards of Sec. 6-15 and 6-17.

For purposes of this section gross floor area which is located on other than the ground floor and is occupied or utilized by the following Use Group 1 uses shall be calculated as Use Group 2: banks; sales agencies of real estate, employment, insurance or travel firms; non-profit, multi-service social work agencies. (2/6/90)



(E) Below Grade Floor.

In the CGBR zone below grade (basement) usable or habitable floor area accessible to the public shall be counted as a story of the building. In such building the number of usable or habitable floors shall not be more than three (3). (6/27/95)

(F) There shall be no display of merchandise or the placement of equipment used for an on-site business activity permitted in the required parking area. (9/28/2010)

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COMMISSION**