

<b>PRELIMINARY SITE PLAN AND SPECIAL PERMIT</b>	<b>5 Brookridge LLC and 515 E Putnam LLC</b>
PLPZ 2022 00039	Set-aside Housing Development – as defined under Section 8-30(g) of Ct. General Statutes

<b>LOCATION:</b>	5 Brookridge
<b>EXISTING ZONING:</b>	R-20
<b>PARCEL SIZE:</b>	1.7437 acres

**STATISTICS\***

	<b>EXISTING</b>	<b>PROPOSED</b>
<b>Gross Floor Area:</b>	5-bedroom single-family home	112,350 sq. ft.
<b>Floor Area Ratio:</b>	.063	1.479
<b>Parking Spaces:</b>		185
<b>Number of Residential Units</b>	1	86 residential units, 26 of which will qualify as Affordable housing units pursuant to C.G.S. §8-30g.
<b>Break down of proposed units</b>	2 <sup>nd</sup> flr: 1 Studio, 9 1-BR, 9 2-BR, 3 3-BR 3 <sup>rd</sup> flr: 1 Studio, 10 1-BR, 10 2-BR, 3 3-BR 4 <sup>th</sup> flr: 1 Studio, 10 1-BR, 10 2-BR, 3 3-BR 5 <sup>th</sup> flr: 0 Studio, 3 1-BR, 6 2-BR, 7 3-BR  - One (1) Efficiency Unit for families earning less than 60% State Median Income (SMI); - Five (5) 1-Bedroom Units for families earning less than 60% SMI - Five (5) 1-Bedroom Units for families earning less than 80% SMI - Five (5) 2-Bedroom Units for families earning less than 60% SMI - Five (5) 2-Bedroom Units for families earning less than 80% SMI - Two (2) 3-Bedroom Units for families earning less than 60% SMI and - Three (3) 3-Bedroom Units for families earning less than 80% SMI	
<b>Building Height:</b>		59' - 4 3/8"
<b>Green area:</b>	Unknown	24% (meaning ~ 76% impervious)

*\* For 8-30g applications, the Commission does not make a finding as to compliance with the standards outlined in the Zoning Regulations but rather whether the proposal protects substantial public interests in health, safety or other matters which the Commission may legally consider.*

**UPDATE:**

At the March 29, 2022 hearing, the Commission requested that the applicant and the opposing attorney submit briefs addressing the standards of review required of a Planning and Zoning Commission and if those standards apply to other agencies required in an application submitted under the provisions of Connecticut General Statute 8-30g.

There is no disagreement in the briefs that: The court must determine whether the record establishes that there is more than a mere theoretical possibility, but not necessarily a likelihood, of a specific harm to the public interest if the application is granted. If the court finds that such sufficient evidence exists, then it must conduct a plenary review of the record and determine independently whether the commission's decision was necessary to protect substantial interests in health, safety or other matters that the commission legally may consider, whether the risk of such harm to such public interests clearly outweighs the need for affordable housing, and whether the public interest can be protected by reasonable changes to the affordable housing development..

**Does the same standard of review required of the Commission apply to other land use agencies?**

**Attorney Cohen:** In reviewing all of these regulatory requirements, as required in Section 8-30g, Planning and Zoning Commissions must look behind the language of the regulation to determine how necessary they are to protect substantial public interests. It is a basic tenet that the standards of review established under the provisions of Section 8-30g apply only to municipal agencies exercising zoning or planning authority such as the Greenwich Planning and Zoning Commission (Conn. Gen. Stat. Section 8-30g(a)(4).) Those standards are not applicable, for example, to decisions of water pollution control authorities. However coordinate agencies are not vested with absolute discretion in reviewing applications before them. If such agencies act in an illegal or arbitrary manner, they are subject to judicial reversal...

**Attorney Coppola:** The burden is on the applicant to provide information sufficient for the commission to make an intelligent and informed decision. As to whether C.G.S. § 8-30g impacts all municipal authorities, the short answer is no. C.G.S. § 8-30g applies only to “affordable housing applications” which are defined by statute as, “any application made to a commission in connection with an affordable housing development by a person who proposes to develop such affordable housing.” Conn. Gen. Stat. § 8-30g(a)(2). “Commission,” is defined as “a zoning commission, planning commission, planning and zoning commission, zoning board of appeals or municipal agency exercising zoning or planning authority.” Conn. Gen. Stat. § 8-30g(a)(4). The law is clear: C.G.S. § 8-30g does not apply to entities outside of the “commissions” specifically referenced in § 8-30g(a)(4). And those enumerated commissions are only subject to the burden-shifting provisions of C.G.S. § 8-30g when they are considering an “affordable housing application.”

There is also no disagreement that the applicant is required to obtain approvals from all coordinate municipal agencies prior to commencing development. **When is the applicant required to provide approval from the Sewer Division and the Inland Wetlands and Watercourses Agency?**

**Attorney Cohen:** Now pending before the Commission is a preliminary, not a final application. Applicant has filed this application for several specific reasons: 1) Applicant would like to move ahead with other aspects of the application, such as an application to the Tree Warden, and 2) to permit applicant to formally apply to the Commissioner of Public Works (the Town's sewer authority) to connect to the Town sewer. In order to file that application with the Commissioner, Section 269a of the Town Charter requires that the Planning and Zoning Commission must determine affirmatively "that the present, future or cumulative effect of permitting the connection will not adversely affect the Town Plan of Conservation and Development or other Town planning or development plans."

Applicant does intend to submit a formal application to the Commissioner of Public Works which will be made in accordance with the Town's Sewer Connection Policy, adopted in 1997, and the provisions of Charter Section 269a. But in order for applicant to proceed with that sewer application, the Commission must address the POCD issue. Issues that must be addressed by the Commissioner relate to sewer capacity (which was addressed in my letter to you of March 23, 2022), as well as many other similar connections approved by her department. In conclusion, we submit that any open issues which must be dealt with by coordinate agencies need not be resolved by the Commission in connection with the pending preliminary application. To the extent that such issues have not been fully resolved prior to the Commission considering the final application which we will submit, the Commission following the authority of CMB Capital and similar cases, must condition its approval on applicant obtaining necessary approvals from those agencies.

**Attorney Coppola:** The applicant here is attempting to put the proverbial cart before the horse. The applicant has not applied to the DPW for permission to connect to the sanitary sewer system. This is the applicant's right, there is no legal requirement that it apply for a sewer permit prior to applying to the Commission. However, absent an application for a sewer permit, there is no requirement that the Commission act on the applicant's request to issue a written report or opinion pursuant to § 269a(6) of the Greenwich Charter. Accordingly, this Commission should decline the applicant's request for a written determination pursuant to § 269a(6) of the Greenwich Charter until the applicant has applied to the Sewer Division of the DPW for approval to connect to, or extend, the municipal sanitary sewer system.

As a reminder, a preliminary application is simply a request for guidance from the Commission and it has no legal standing with which an applicant could apply for a Building Permit.

**ORIGINAL REPORT:**

**APPLICATION SUMMARY:**

The applicant is requesting preliminary site plan and special permit approval to demolish a circa 1900 single family home and redevelop the property with a 5-story, 112,350 SF of gross floor area (1.479 FAR) residential "Set-aside development" containing eighty-six (86) total residential units, twenty-six (26) of which will qualify as Affordable housing units pursuant to C.G.S. §8-30g.

There are 185 parking spaces proposed:

- 18 surface parking spaces facing East Putnam Avenue (14 standard spaces, 2 HC spaces, and 2 delivery truck spaces) on the south side of the property,
- 6 standard parking spaces on the northerly side of the site
- 98 covered parking spaces in the basement (85 standard spaces and 13 standard tandem spaces)
- 63 garaged parking spaces on the ground floor (49 standard spaces, 4 HC spaces, and 10 electric vehicle (EV) spaces)

The two existing curb cuts, one on the Post Road and the other on Brookridge Drive, will be used as the access to the site. Both will require widening to accommodate larger vehicles. Truck turning templates for the five (5) different Greenwich fire truck engines were performed by Kimley Horn. It was determined that one (1) Norway maple would obstruct the proposed and required Fire Access Lane on Brookridge Drive. The applicant requested permission from the Tree Warden to remove the tree from the Town's ROW, and a hearing was held on January 14, 2022. The removal of the tree was denied until the P&Z Commission had an opportunity to consider the site's overall development. The applicant intends to re-apply to the Tree Warden after the Commission's review of its preliminary site plan application.

The Project's outdoor amenities include private picnic areas under shade trees, a resident pool with outdoor lounging decks (covered and uncovered), a small dog park, a multi-purpose sports court, a children's playground, and family picnic area. Taken together, these areas will provide approximately 19,000 SF of on-site outdoor recreational space. Other amenities include bike storage, a small repair shop, and tenant storage lockers for residents, infrastructure for additional EV spaces for future needs, an interior loading area in the garage for tenants moving in/out; communal living areas and restrooms, a main lobby, a fitness center; a yoga studio or all-purpose room; meeting rooms/offices for tenant use; a golf simulator space and viewing lounge; a mail room; and a pet grooming room with direct access to a small outdoor dog park and utilitarian spaces such as a trash room; mechanical and storage rooms; offices for the building manager and superintendent; and a leasing office.

The applicant has agreed to provide a detailed Lighting and Landscaping Plan to the Architectural Review Committee.

The Commission has received a multitude of comments from the public about this proposal. The clear majority express concern about the density of the development and how that will impact what is described as an already taxed intersection with several conflict points, particularly given the pedestrian activity from Pathways and the High School.

There are several outstanding issues that require additional material and review by Town Departments, primarily dealing with traffic safety, sewers, fire, and how the affordable units are structured.

## **ISSUES TO BE RESOLVED/RECOMMENDATIONS:**

### **SEWERAGE DISPOSAL**

Of primary concern is that the site does not provide a viable sewerage disposal system in that the parcel is not within the sewer boundary. Section 269a. - Connections. of the Town Charter sets forth the procedure by which can tie into the Sewer system. Effectively the Commissioner of Public Works must make an affirmative finding in writing on 7 factors. The Commissioner has not been asked to make a finding yet. The first factor is if the proposal complies with zoning. It would seem indisputable that it does not although it should be noted of course, that zoning is not a standard by which an 8-30g application is measured. The applicant is further asking that the Commission make a finding on the 6<sup>th</sup> factor:

That the Planning and Zoning Commission or its designee has determined affirmatively in writing that the present, future or cumulative effect of permitting the connection will not adversely affect the Town Plan of Conservation and Development or other Town planning or development plans.

Lastly, the applicant wrote to the Health Department asking them to confirm that the site cannot support a septic system for 86 units, to which the Health Department responded:

- Article 16 Sec 269a(d)(2) of the Greenwich Town Charter states “That the Director of Health has determined that on-site sewerage disposal cannot be provided.” Based on the information outlined above, a septic system can be provided on this lot for a system sized for the existing flow/bedroom count with or without variances to the code.
- To approve an increase in design flow or bedroom count over what is existing (5-bedroom residence), a plan for a code compliant septic system for this increase, including a reserve area, would need to be approved either by this office or the State of CT Department of Public Health depending on the total design flow of the project.

It is recommended that the Commission discuss when the applicant intends to petition the Commissioner of Public Works for a finding pursuant to 269a of the Charter, simply because it will help provide information needed on public health and safety matters that are before the Commission.

### **Sec. 269a. - Connections.**

(a) Definitions: As used in this section the following terms have the following meanings:

"Planned Sewered Area" — Those areas of the Town which were designed to be included within the capacity of the sewer plant, which areas include areas already sewered, areas which may require sewerage and areas for which growth is planned, which growth may require sewerage, all as shown on that certain map known as the 1989 Sewer Boundary Map dated November 1, 1989; Revision 3, November 20, 1990 on file in the office of the Commissioner.

"Non-Sewered Area" — Those areas of the Town planned not to be included within the present capacity of the sewer plant as presently designed, in which areas, because of larger lot zones and/or soil types, it is planned that sewerage disposal will be on site and not a burden on the sewer plant or the waters of Long Island Sound, all as shown on said aforesaid map.

- (b) Purpose. This section recognizes that the preservation of the waters of Long Island Sound are paramount to the best interests of the people of the Town and State and that the directing of unplanned for sewerage to the sewer plant and thus ultimately into the Sound is not the solution under present technology, the capacity of sewer plants being limited and planned capacity should be protected to avoid any possible present or future threat to the quality of the waters of the Sound, and that planned on-site disposal in the Non-Sewered Area best serves these interests.
- (c) Connections — findings: In the event that any owner of land shall desire to in any way connect into any sewer or sewerage system in the Planned Sewered Area, such owner may petition the Commissioner for a connection permit. The Commissioner shall have the authority to allow such land owner to connect with such sewer. In accordance with the purpose set forth in this subsection, the Commissioner shall establish guidelines for sewer connections, which guidelines shall be submitted to the Board of Selectmen for review prior to adoption by the Commissioner.
- (d) If the property to be served by the connection lies within the unplanned for Non-Sewered Area, in which connections are disfavored as not being in the best interests of the public health, safety and welfare, then the Commissioner shall have authority to allow such land owner to connect with such sewer only if the Commissioner can make an affirmative finding in writing as to each of the following factors:
1. That the zoning enforcement officer has determined that all existing and planned structures on the property to be serviced through the connection are in conformity with the zoning regulations.
  2. That the Director of Health has determined that on-site sewerage disposal cannot be provided.
  3. That permitting the connection would not contravene any law, rule, regulation, condition or policy of the Connecticut Department of Environmental Protection or of any agreement between the Town and said Department, particularly concerning any new construction in whole or part, upon a floodplain, flood hazard area, wetland area, beach, dune or other environmentally sensitive area.
  4. That the present, future or cumulative effect of the connection will not adversely affect the sewer plant's planned capacity for future growth or shorten its useful life.
  5. That the present, future or cumulative effect of the connection will not expose the sewer plant to overload or adversely threaten the quality of the waters of the Sound.
  6. That the Planning and Zoning Commission or its designee has determined affirmatively in writing that the present, future or cumulative effect of permitting the connection will not adversely affect the Town Plan of Conservation and Development or other Town planning or development plans.
  7. That permitting the connection will not adversely affect the sewerage system, the Town's efforts to decrease infiltration and inflow or burden maintenance.

(RTM, 6/10/1991; RTM, 10/28/1996.)

**COMMENTS FROM TRAFFIC CONSULTANT dated 3/23/22:**

The following comments/questions are offered for consideration:

1. There are a greater number of crashes in the study area than were presented in the Traffic Study and Narrative. Please refer to UCONN's CT Crash Data Repository for a complete history which includes several crashes at the intersection of E Putnam Ave and Brookridge Dr, more crashes on E Putnam along the site frontage and beyond, a few crashes along Brookridge Dr, and additional crashes along Fairfield Rd. Reviewing the complete history will provide better context for traffic safety concerns in the area.
2. The existing "East" access driveway to E Putnam Ave is currently closed, gated, and overgrown with vegetation, so opening it back up and adding turning movement volumes where there currently are none will create new potential conflict points along a congested corridor in close proximity to the signalized intersection of E Putnam Avenue at Indian Field Road and potentially within the limits of peak hour queueing. Re-opening a full-access intersection at this location is not preferred. The Applicant should consider the modification of the East access driveway to restrict movements to right-in/right-out only and verify with Town DPW staff the preferred access configuration.
3. Analysis summarized in Table 3 of the Traffic Study shows that the southbound, stop-controlled approach of the Brookridge Dr at E Putnam Ave intersection is expected to operate at LOS F- for Existing, No-Build, and Build conditions during the AM and PM peak periods. If the East Driveway were limited to right-in/right-out movements only (as discussed in comment #2), the Brookridge Dr southbound left-turning movement volume at E Putnam Ave would increase, contributing to greater delays and queuing on that approach.
  - a. Can the Applicant's engineer suggest any solutions that would help improve this poor operational condition?
  - b. The traffic analysis did not apparently include the two signalized intersections to the east and west of this intersection (E Putnam Ave at Hillside Rd to the West and E Putnam Ave at Indian Field Rd to the East). Traffic data should be available from recent documents cited in the Traffic Study (Greenwich High School Cardinal Stadium Traffic Impact Study, etc.) Please refine the analysis to include those adjacent signalized intersections to determine if accounting for any platooned progression along E Putnam Ave has any impact on delay/LOS at the E Putnam Ave at Brookridge Dr intersection. Including these signalized intersections in the analysis will also provide information on queuing during peak periods that has been raised as a concern by the Commission and neighboring residents.
  - c. The Applicant has some opportunity to minimize impact to the surrounding roadway network by implementing more site features to promote use of transit and active transportation modes. (See item 4 below.)
4. The Traffic Study notes a number of uses in the surrounding area including single-family residential houses, low-income housing for elders with disabilities, multiple gas stations, an ice cream shop, a pizza shop, and the Milbrook Club golf course. Proximity to most of these uses would not be expected to result in significantly reduced vehicular trips, but in order to promote the greatest possible use of the available bus routes and non-motorized travel modes and to improve pedestrian circulation on site please provide:

- a. an accessible pedestrian route to connect the building entrance to the East Putnam Ave sidewalk via the “East” access driveway and to the outdoor amenity areas on the east side of the building.
  - b. an accessible pedestrian route to connect the building entrance on the North side to Brookridge Dr via the “North” driveway and to the outdoor parking area and amenity areas on the east and west sides of the building.
  - c. bicycle storage/parking in a safe and more convenient location close to the building and garage entrance.
  - d. safe, clean, and well-lit travel paths to allow for comfortable use during morning and evening hours.
5. It is noted that the parking supply provided is less than Town regulations require. The parking management plan as described in the Traffic Study will be important to ensure appropriate supply for residents. Other strategies should be considered to encourage a reduction in car ownership (in addition to the pedestrian and bicycle improvements mentioned above) such as a prominent and convenient short-term parking area for mobility services/paratransit/grocery and food deliveries (use of the curb area by the front lobby blocks access to other parking spaces and requires a three point turn maneuver to exit as depicted in the Truck Turning Figures attached to the Traffic Study), accommodations for car sharing/short term rentals, rent reduction (or increase) based on the number of parking permits assigned to a lease (or unbundling of parking permits from lease agreements), offering discounted transit passes, etc.

**COMMENTS FROM POLICE DEPARTMENT:**

Based on the first traffic comment regarding accident data, information is expected from the Police Department shortly.

**COMMENTS FROM DPW-ENGINEERING Dated 3/23/2022**

The 5 pages of comments list a multitude of issues and requests for additional information such as: Prior to preliminary site plan approval, a letter from the CTDOT must be provided approving the removal of the trees on East Putnam Avenue for the proposed driveway and sidewalk from the property.

The Traffic Impact Study from Kimley-Horn; dated November 20, 2021 shall be updated as needed to address the comments from Beta Group, Inc.; dated March 23, 2022.

The Drainage Summary Report needs to be revised (see memo attached)

A letter from the Tree Warden must be provided approving the removal of the tree on Brookridge Drive for the proposed driveway. (This should be done between preliminary and final)

**COMMENTS FROM CONSERVATION dated 3/21/2022**



1. The drainage report by Rocco V. D'Andrea, Inc. recognizes the site's overdevelopment. The first paragraph of this report points out, over 212% increase of impervious surface and the drainage mitigation measures reduced to the feasibility of the limited unpaved areas. Later on, under the "Proposed conditions" the report states "No non-structural LID techniques on this site, given the building and driveway footprint are visible." The lack of proper filtration mechanisms for the storm water will directly impact its quality. The high density of the development will significantly increase the potential for storm water contamination. The sand filter is the only mechanism offered for the storm water renovation. Sand has a very low cation exchange capacity (CEC); therefore, its ability to absorb pollution is minimal for the water born contaminants such as PFAS, fertilizers, pesticides, lead, E. coli, Salmonella, etc. These untreated water will be discharged directly into the private pond located across from East Putnam Avenue (Figure 2).

The proposed site design does not offer any infiltration BMP due to the shallow ground water table and ledge. These site constraints are not being incorporated into the site design. This development relies on the existing street drainage not on the storm water storage and treatment within the property boundaries. This approach will put an unnecessary constraint on the town's drainage system making this development of a high impact on the existing community resources. While the Town strives to build resiliency to protect the community and the natural resources against the climate change impacts, this type of development is not only unacceptable, but it works against these efforts.

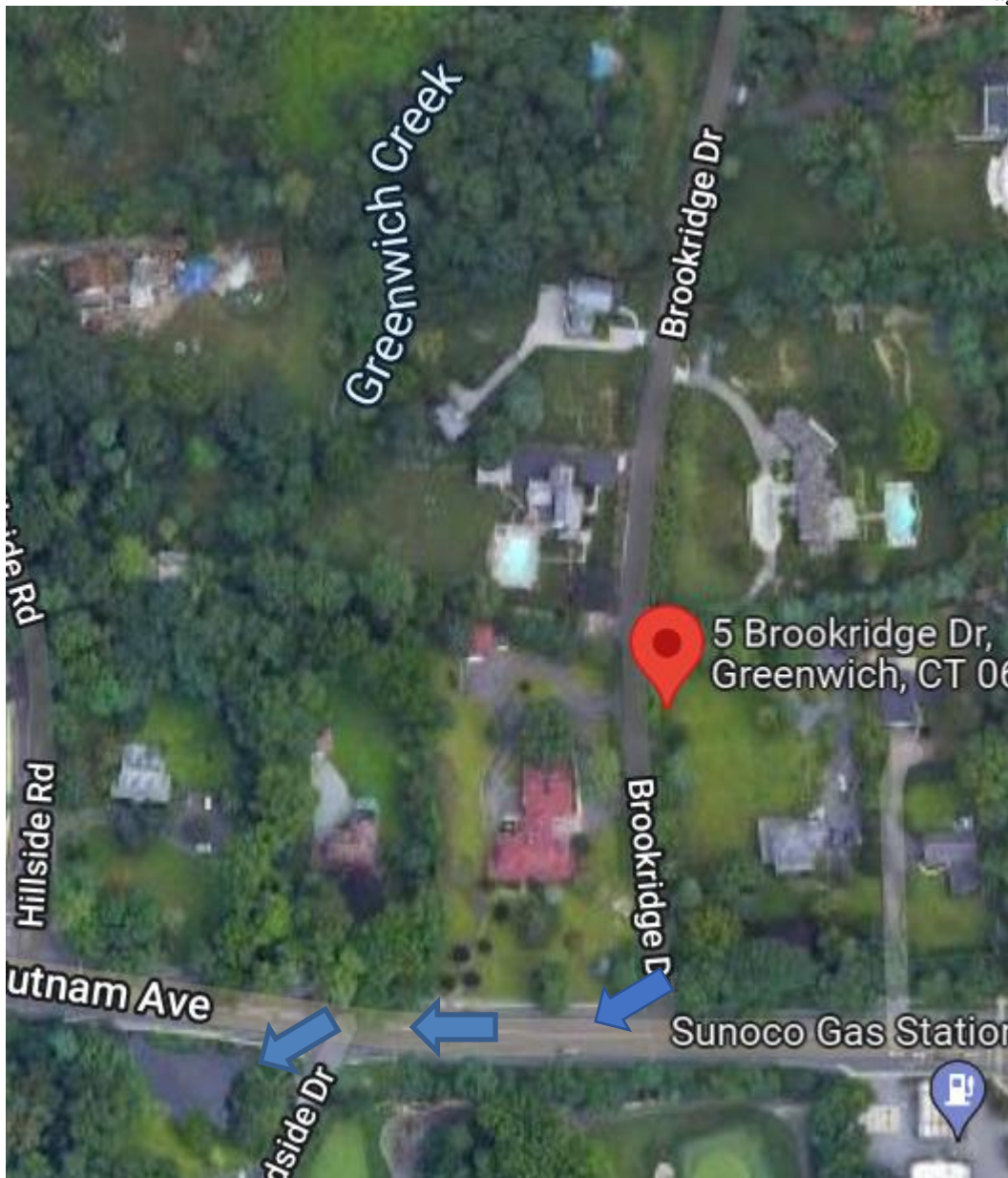
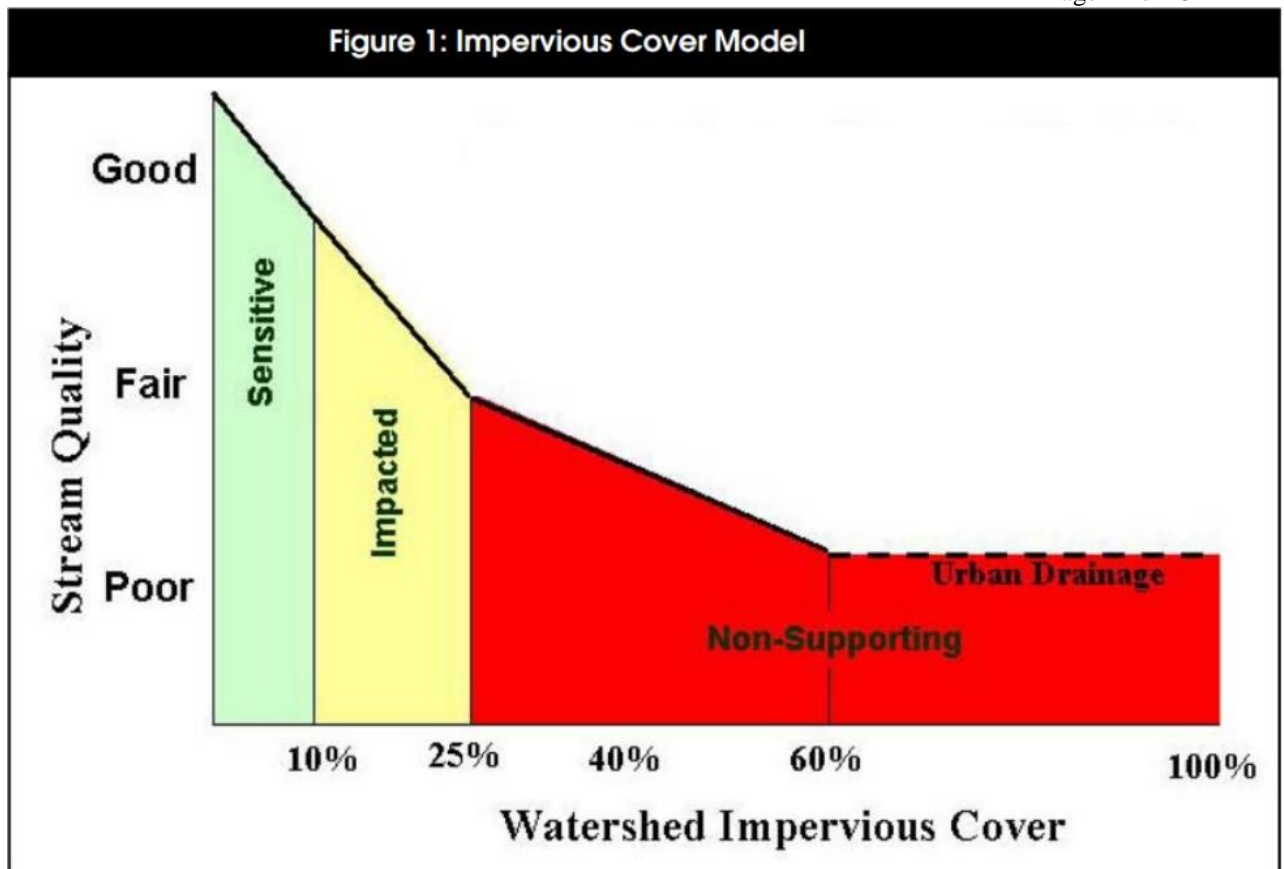


Figure 2. Direction of the storm water discharge from the site.

2. The proposed site development will result in impervious surface covering 1.29 (75%) out of 1.7 acre of the area leaving only 0.43 acre (25%) available for storm water infiltration. The impact on the storm water quality and quantity of this large percentage of impervious cover will have several consequences reaching beyond the property boundaries and affecting downstream area of the Greenwich Creek Watershed. The impacts will include, but may not be limited to the following:
  - An unprecedented amount of extreme storm events due to the rapidly changing climate have been reported in recent years one of them being Hurricane Ida in early September of 2021. These flooding events occur as periods of heavy precipitation with little to no aquifer recharge resulting in high stormwater runoff in areas with high impervious cover. The proposed

site development will only partially mitigate for the proposed increase worsening the neighborhood flooding during the heavy storm events.

- The impacts to downstream properties are not theoretical. The waterbodies downstream have sustained impacts from sedimentation generated upstream, the bridge was seriously damaged with flooding from tropical storm Ida, and the pollutants that generated from polluted runoff are well documented in the downstream freshwater environments and Long Island Sound.
- Impervious cover degrades water quality by providing high volumes of stormwater runoff to streams. In addition to the decreased water quality, it destabilizes stream channel by altering hydrology and geomorphology.
- On a biological level, polluted waters can shift stream chemistry and subsequently deplete biodiversity in aquatic habitats.
- The Center for Watershed Protection had developed the impervious cover model (Figure 1) which shows clearly that as watershed imperviousness exceeds 10%, stream ecosystems will become negatively impacted and beyond watershed imperviousness of 25% actually non-supporting of aquatic life. The applicant should demonstrate how 75% site coverage proposed at the site will not lead to the aquatic habitat degradation and why they should not be compelled to shoulder their fair share of habitat support and restoration as required from other commercial projects in town.
- The aforementioned flow conditions contribute to altered sediment discharge, which will create unstable channels situation within Greenwich Creek and decrease water clarity negatively affecting aquatic habitats and aquatic plant growth. Sediment supply and transport may change the stream dynamic intensifying channel erosion and sediment transport. Channel erosion increases channel width and down-cutting ultimately reducing bank stability. Bank destabilization will cause an acceleration of sediment entering the ponds located downstream to their detriment.



- Stormwater will increase nutrient loading to the receiving Greenwich Creek system which will lead to eutrophication (nutrient enrichment) reduction of water quality downstream and impacts Long Island Sound. Excess nutrients will result in algal blooms. As algae die their decomposition will strip the water column of oxygen making it more difficult for other aquatic fish to survive.
- Inorganics/ metals and pesticides can be transported into streams through stormwater runoff leading to long-term impacts on organisms exposed to contaminated sediments. Activates originating from the residents of 86 units will be amplified because of its concentration in one small area.
- Trash and debris can be washed into the stream from the paved surfaces. Fecal coliforms are often found in streams days after storm events. At high concentrations, this bacterium can become a human health hazard.
- Oxygen-demanding wastes of polluted runoff decrease dissolved oxygen in water column and impair the waterbody.
- Aquatic habitats are also depleted during seasons of low flow. The development's lack of infiltration and reliance on dispersing surface runoff to the watercourse is a detrimental practice. During dry conditions watercourses and water bodies rely on groundwater to sustain base flows. Without this groundwater input, low base flows reduce aquatic habitat quality and quantity. Greenwich Creek already tends to experience low base flows due to limited groundwater recharge resulting from high impervious surface cover

found within the watershed area. This development will exacerbate this existing problem.

A pollution renovation analysis should be submitted so substantiate any claims of adequate stormwater management.

3. Prior to recent clearing, the site supported a number of mature trees (Figure 2). The canopy contributed to the health and functions of the Greenwich Creek watershed. They helped to sustain the wildlife habitat, absorb rain, air and noise pollutions. Their loss will not be mitigated by the proposed site development and the development will be a source of additional impacts which will lead to unrepaired damage to the site and the watershed.
4. The proposed landscape plan makes an effort to maximize the density and the vertical stratification of the planted areas. The variety of native species included to the plant mix is impressive, but still not enough to mitigate for the large impervious surface. The main concern is the shallow ledge and extensive drainage system replacing the native soil with compacted crushed gravel and sand beds. How will the proposed trees and shrubs will root in such engineered medium growth without being heavily fertilized? Excess fertilizer will wash away with irrigation and storm water directly into the drainage system and contribute to algal bloom in the receiving pond. How this impact will be mitigated and justified? Algal blooms deplete oxygen into water column making the environment inhabitable for other aquatic species. The excess of the nutrients will be carried downstream into other ponds and eventually Long Island Sound, contributing to hypoxia-induced fish kill during the summer months.
5. There is a lack of consistency between the landscape plan, architectural drawings and the site plan. The site plan (sheet 1) shows sand filter running along Brookside Drive side of the building, while the landscape plan offers magnolia trees to be planted over the same area. The cross section shows only 12" of topsoil over a 36" bed of crushed stone. Magnolias and associated plants may not root well in this harsh growing medium.

The architectural rendering shows a tall building partially screened by large mature trees. The landscape and the site plans show all the existing street trees along East Putnam Avenue being removed.

6. Test holes done at the site show consistent depth to the ledge at 42" and to the ground water table 36". The lower garage will be ten feet deep. More than eight feet of ledge will have to be removed from the entire foot print area of the building. This will cause a lot of noise and disturbance to this ledge foundation potentially causing some fractural changes to the ledge formation which may affect site's hydrogeology. The three-foot-deep groundwater table will have to be lowered to accommodate the deep basement. This is an extra discharge from the site which is not accommodated in the storm water analyses.
7. The construction phase will be supported with a single line of silt fence and two construction entrances. How the massive tracking of rock will be accommodated? How and where the

foundation pit will be dewatered? If discharged into the street system, it may clog the pipes and cause siltation of the pond which was dredged only a few years ago. Where are the stockpile areas and contractor parking? What are the details of the ledge removal? What would be the impact of the noise and dust to the local community and learning interruptions at the situated nearby Greenwich High School?

**COMMENTS FROM THE FIRE DEPARTMENT:**

Comments are expected from the Fire Department but have not been provided yet. It was requested that they comment on the note from Aquarion Water Company that says that although there is adequate water supply for the units, the pressure to the hydrant is unknown.

**QUESTIONS REGARDING AFFORDABILITY PLAN dated 3/23/22:**

The development at 5 Brookridge Drive has provided a draft Affordability Plan and the comments from the Housing Specialist are as follows:

X. Prioritization of Applicants for Initial Rental.

-Why are the 4 priority categories only offered to 4 of the affordable units? Also, will the priority categories only be offered in the initial rental process or be given if the unit becomes vacant and goes to a qualified applicant on the waitlist or needs to be advertised.

Schedule A: Designation of Housing Opportunity Units

-Can you please explain why the *Substitution of units* based on availability is necessary? There is a potential that only one or two types of units are rented instead of the units being spread within the development. This is not consistent with case law that the affordable unit mix will be in the same percentage as the market rate unit mix. There should be the same ratio of affordable studios, 1, 2 and 3 bedrooms units as the market rate.

**REGULATORY AUTHORITY - 8-30(g)**

The Affordable Housing Land Use Appeals Procedure requires municipalities with less than 10% affordable housing to demonstrate to the court that a municipality's rejection of a development proposal is supported by sufficient evidence in the record. Municipalities also have the burden to prove, based upon the evidence in the record compiled before them, that: (a) the decision was necessary to protect substantial public interests in health, safety, or other matters the municipality may legally consider; (b) the public interests clearly outweigh the need for affordable housing; and (c) public interests cannot be protected by reasonable changes to the affordable housing development; or the application which was the subject of the decision from which the appeal was taken, would locate affordable housing in an area which is not assisted housing, as defined in C.G.S. Section 8-30g. If the municipality does not satisfy its burden under C.G.S. Section 8-30g, the court will wholly or partly revise, modify, remand or reverse the decision from which the appeal was taken in a manner consistent with the evidence in the record before it.

(see attached for copy of State Statute)

According to the Department of Housing Affordable Housing 2019 Appeals List, the Town has 5.32% of their housing units as affordable and is therefore not an exempt community.

The applicant has provided an Affordability Plan. The referenced income to be used is the State Median Income, which is appropriate since that is less than the Area Median Income. An annual report is due to document that the units are being administered in keeping with the Statutes. The Planning and Department has a system to verify this report that is administered annually.

**Existing conditions:**

5 Brookridge Drive is a 1.7437-acre property in Central Greenwich in the R-20 zone. The site is a corner lot, located on the southeasterly corner of East Putnam Avenue (or the Post Road) and Brookridge Drive. Topographically, the site slopes gradually up in elevation from west to east with no significant surficial features. There does not contain any on-site inland wetlands nor is there any development within 100-feet of any inland wetlands or watercourses. Additionally, the site is not within a flood zone nor the Town's Coastal Overlay Zone.

The Property is improved with a 5-bedroom single-family home, detached garage and a curvilinear driveway that runs from the northwesterly corner of the site, at Brookridge Drive, to the southeasterly corner of the site, at the Post Road, providing access through existing curb cuts on both East Putnam Avenue and Brookridge Drive. The home is currently served by a private on-site septic system and public water.

# FOGARTY COHEN RUSSO & NEMIROFF LLC

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## **BY EMAIL and MAIL**

May 9, 2022

Ms. Katie DeLuca, AICP, Town Planner  
Planning and Zoning Commission  
Town of Greenwich  
101 Field Point Road  
Greenwich, CT 06830

**Re: PLPZ 2022 00039 Preliminary Site Plan and Special Permit Applications  
Affordable Housing Development Application Pursuant to C.G.S. Section 8-30g  
5 Brookridge Drive, Greenwich, CT  
Applicant/Contract Purchaser: 5 Brookridge LLC  
Owner/Contract Seller: 515 E Putnam LLC**

Dear Katie:

At the conclusion of the March 29, 2022 hearing of the above matter, the applicant was requested to prepare and submit a brief addressing the standards of review required of a Planning and Zoning Commission with respect to an application submitted under the provisions of Connecticut General Statutes Section 8-30g, with specific reference to issues within the jurisdiction of coordinate agencies. This letter, which I request that you distribute to members of the Commission, will address those issues.

### **General Standard of Review under 8-30g**

The Commission, having considerable experience in reviewing 8-30g set-aside developments, is well aware of the standards of review required under that statute. As summarized in the often cited case of Brenmor Properties LLC v. Planning and Zoning Commission of the Town of Lisbon 162 Conn. App 678, 694 (2016) aff'd 326 Conn 55:

"The standard of review embodied in § 8-30g (g) is twofold in nature. See JPI Partners, LLC v. Planning & Zoning Board, supra, 259 Conn. 690. First, a reviewing court must 'determine whether the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence . . . in the record . . . Specifically, the court must determine whether the record establishes that there is more than a mere theoretical possibility, but not necessarily a likelihood, of a specific harm to the public interest if the application is granted.' (Citation omitted; internal quotation marks omitted.) River Bend Associates, Inc. v. Zoning Commission, 271 Conn. 1, 26, 856 A.2d 973 (2004). If that standard is met, the reviewing court then 'must conduct a



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plenary review of the record and determine . . . whether the commission's decision was necessary to protect substantial interests in health, safety or other matters that the commission legally may consider, whether the risk of such harm to such public interests clearly outweighs the need for affordable housing, and whether the public interest can be protected by reasonable changes to the affordable housing development.' *Id.* That plenary review entails an independent review of the land use agency's decision 'based upon [the reviewing court's] own scrupulous examination of the record.' "

As is well known and accepted, the fact that an 8-30g development does not comply with the underlying zoning regulations does not require the Commission's denial of that application. Wisniewski v. Planning Commission of the Town of Berlin 37 Conn. App. 303, 317 (1995). As stated by the Appellate Court in Wisniewski (37 Conn. App. 303, 317):

"Instead of simply questioning whether the application complies with those regulations, however, under Sec. 8-30g, the commission considers the rationale behind the regulations to determine whether the regulations are necessary to protect substantial public interests in health, safety or other matters. (Emphasis in original)

The same standard of review has been applied by many court decisions, not only to the rationale behind zoning regulations, but also to a variety of other land use requirements, including: municipal road design ordinance (Brenmor); and Town standards regarding drainage systems and DOT sight line standards (Stefanoni v Planning and Zoning Commission of Darien 2012 Conn. Super. LEXIS 458). For example, in Brenmor, the court specifically rejected the town's argument that "any deviation" from the requirements of a legislative enactment entitled it to deny an affordable housing application:

". . . '[T]he establishment of town-wide standards for road construction is matter of public health and safety that a commission may properly consider under the affordable housing appeals act.' We disagree with the commission's contention that any deviation from those standards constitutes a 'per se' ground for denial of an affordable housing application." (162 App. 678, 699)

In reviewing all of these regulatory requirements, as required in Section 8-30g, Planning and Zoning Commissions must look behind the language of the regulation to determine how necessary they are to protect substantial public interests.

## Review by Coordinate Agencies

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It is a basic tenet that the standards of review established under the provisions of Section 8-30g apply only to municipal agencies exercising zoning or planning authority such as the Greenwich Planning and Zoning Commission (Conn. Gen. Stat. Section 8-30g(a)(4).) Those standards are not applicable, for example, to decisions of water pollution control authorities.

However coordinate agencies are not vested with absolute discretion in reviewing applications before them. If such agencies act in an illegal or arbitrary manner, they are subject to judicial reversal, as, for example in the case of Landmark Development Group LLC v. Water & Sewer Commission of East Lyme 184 Conn. App. 303 (2018) (in which the court held that a Sewer Commission abused its discretion in allocating a minimal amount of sewer treatment capacity to the applicant). See also Dauti Construction LLC v. Water and Sewer Authority of the Town of Newtown 130 Conn. App. 652 (2010).

Connecticut courts have addressed the situation now before the Commission, understanding that, in reviewing applicant's set-aside development, coordinate agencies must also review this application. This situation was resolved by the court in CMB Capital Appreciation, LLC v. Planning and Zoning Commission of North Haven 124 Conn. App. 379 (2010) in which the Zoning Commission of North Haven denied applicant's 8-30g application in part based on a negative referral by the municipal water pollution control authority. The trial court reversed the Commission's denial and based on the fact that, the applicant had not yet submitted a formal application in to the authority for sewer service, ordered the Zoning Commission to approve the application on the condition that the applicant formally apply to the authority and obtain approval for adequate sewer service. The Appellate Court affirmed this decision. The Court's discussion of the need to condition its approval on the action of a coordinate agency is informative. While noting that the case of Gerit v. Planning and Zoning Commission 290 Conn 313 (2009) held that conditioning an approval on the action of a coordinate agency cannot be sustained unless "the necessary action appears to be a probability," the Appellate Court held that " . . . in light of the statutory requirements of Sec. 8-30g . . . a conditional appeal was required because the zoning commission had not demonstrated 'that its denial of plaintiffs affordable housing application had been necessary to protect substantial public interests' ". (124 Conn. App. 379, 390) We submit that, similarly, an approval by the Commission conditioned on the granting of appropriate approvals by any coordinate agency having authority in this case is the correct approach to be considered by the Commission.

## **The Pending Preliminary Application**

It is important to note that now pending before the Commission is a preliminary, not a final application. Applicant has filed this application for several specific reasons: 1) Applicant would like to move ahead with other aspects of the application, such as an application to the Tree Warden, and 2) to permit applicant to formally apply to the Commissioner of Public Works (the Town's sewer authority) to connect to the Town sewer. In order to file that application with the

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Commissioner, Section 269a of the Town Charter requires that the Planning and Zoning Commission must determine affirmatively

"that the present, future or cumulative effect of permitting the connection will not adversely affect the Town Plan of Conservation and Development or other Town planning or development plans."

In its preliminary application filed on February 9, 2022, applicant specifically requested such a determination be made by the Commission and noted how the proposed set-aside development conformed to the specific provisions of the POCD, as well as the requirements of Conn. Gen. Stat. Section 8-23 requiring all POCD's to conform to the states principles of expanding housing opportunities.

In considering the determination requested by applicant, the mere fact that the property involved is not within the Planned Sewer Area is not sufficient cause to deny such a determination Mackall v. Planning and Zoning Commission of Greenwich 1999 Conn. Super LEXIS 2311. As stated by Judge Tobin in that case:

"Section 269a(d)6 limits the commission's scope of authority to the question of whether the present, future or cumulative effect of permitting the connection will adversely affect the Town Plan of Conservation and Development or other Town planning or development plans. The question for the trial court is whether the reasons assigned are reasonably supported by the record and whether they are pertinent to the considerations which the agency is required to apply under the regulation giving it jurisdiction to review the application."

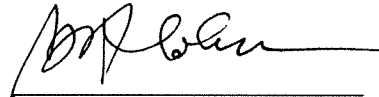
Applicant does intend to submit a formal application to the Commissioner of Public Works which will be made in accordance with the Town's Sewer Connection Policy, adopted in 1997, and the provisions of Charter Section 269a. But in order for applicant to proceed with that sewer application, the Commission must address the POCD issue. Issues that must be addressed by the Commissioner relate to sewer capacity (which was addressed in my letter to you of March 23, 2022), as well as many other similar connections approved by her department.

In conclusion, we submit that any open issues which must be dealt with by coordinate agencies need not be resolved by the Commission in connection with the pending preliminary application. To the extent that such issues have not been fully resolved prior to the Commission considering the final application which we will submit, the Commission following the authority of CMB Capital and similar cases, must condition its approval on applicant obtaining necessary approvals from those agencies.

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Respectfully submitted.

A handwritten signature in black ink, appearing to read 'Bruce F. Cohen', written over a horizontal line.

Bruce F. Cohen

BFC/mar

cc: 5 Brookridge LLC  
Mario Coppola, Esq., Berchem Moses  
Matthew Studes, Esq., Berchem Moses  
Michele Cronin



**BERCHEMPOSES.COM**

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**Via Electronic and Regular Mail**

May 31, 2022

Ms. Katie DeLuca, AICP, Town Planner  
Planning and Zoning Commission  
Town of Greenwich  
101 Field Point Road  
Greenwich, CT 06830

**Re: PLPZ 2022 00039 Preliminary Site Plan and Special Permit Applications  
5 Brookridge LLC  
5 Brookridge Drive, Greenwich, CT**

Dear Katie:

At the conclusion of the March 29, 2022 public hearing, the applicant was requested to prepare and submit a brief addressing the standards of review under Connecticut General Statutes (“C.G.S.”) § 8-30g. On behalf of our client, Brookridge Hillside Neighbors, Inc. (“BHN, Inc.”), we appreciate the opportunity to respond to the applicant’s brief and to provide guidance to the Planning and Zoning Commission (the “Commission”) regarding the applicable legal standards pertaining to an affordable housing application. In addition, this response will address the standard of review applicable to coordinate municipal agencies and the scope of the Commission’s advisory role under Section 269a of the Greenwich Charter.

## **I. Standard of Review**

A special body of laws has developed for C.G.S. § 8-30g applications, where the burden shifts to the Commission. The Supreme Court set forth the components of the test in Quarry Knoll II Corp. v. Planning and Zoning Com'n, 256 Conn. 674, 727 (2001):

“Under § 8-30g (c)(1)(A), the court must determine...whether the commission has shown that its decision is supported by “sufficient evidence” in the record. Under subparagraphs (B), (C) and (D) of the statute, however, the court must review the commission's decision independently, based upon its own scrupulous examination of the record. Therefore, the proper scope of review regarding whether the commission has sustained its burden of proof, namely that: its decision is based upon the protection of some substantial public interest; the public interest clearly outweighs the need for affordable housing; and there are no modifications that reasonably can be made to the application that would permit the application to be granted—requires the court, not to ascertain whether the commission's decision is supported by sufficient evidence, but to conduct a plenary review of the record in order to make an independent determination on this issue.”

In River Bend Assocs. v. Zoning Com'n, 271 Conn. 1, 26 (2004), the Supreme Court clarified:

“[T]he court must determine whether the record establishes that there is more than a mere theoretical possibility, but not necessarily a likelihood, of a specific harm to the public interest if the application is granted. If the court finds that such sufficient evidence exists, then it must conduct a plenary review of the record and determine independently whether the commission's decision was necessary to protect substantial interests in health, safety or other matters that the commission legally may consider, whether the risk of such harm to such public interests clearly outweighs the need for affordable housing, and whether the public interest can be protected by reasonable changes to the affordable housing development.”

Although the burden is shifted, the cases establish other important points. First, the Commission “remains the finder of fact and any facts found are subject to the ‘sufficient evidence’ standard of judicial review.” Avalon Bay Comms., Inc. v. Planning and Zoning Com'n, Town of Wilton, 103 Conn. App. 842, 846 (2007), quoting River Bend, 271 Conn. at 4. Second, the Commission’s action may be sustained if even one reason is sufficient to support a denial of the application. See, Primerica v. Planning & Zoning Com'n, 211 Conn. 96 (1989); Avalon Bay Comms., Inc. v. Wilton Planning and Zoning Com'n, 2005 Ct. Sup WL 2436189 (Sept. 12, 2005, Munro, J.); Fromson v. Weston Planning & Zoning Com'n, 2002 Ct. Sup. WL 1816064, 5 (Pickard, J., Jul. 2, 2002); Landworks Dev., LLC v. Town of Farmington Planning and Zoning Com'n, 2002 Ct. Sup. WL 377210 (Eveleigh, J., Feb. 14, 2002). Third, while it is said that the Commission has the burden to “marshal the evidence” in support of a denial (Quarry Knoll II, 256 Conn. at 733), this does not mean that an applicant has no obligation whatsoever to provide information to the commission, nor that, in the absence of data adequate for the commission to make a decision, the commission must approve the application or conduct its own testing to justify a denial. Rather, the

Supreme Court made clear in Carr v. Planning and Zoning Com'n of Town of Bridgewater, 273 Conn. 573, 608 (2005) that the burden is on the applicant to provide information sufficient for the commission to make an intelligent and informed decision. Id.

## **II. § 8-30g Impact on Other Municipal Agencies and Commissions**

The Commission has requested guidance on whether C.G.S. § 8-30g impacts all municipal authorities. The short answer is no. C.G.S. § 8-30g applies only to “affordable housing applications” which are defined by statute as, “any application made to a commission in connection with an affordable housing development by a person who proposes to develop such affordable housing.” Conn. Gen. Stat. § 8-30g(a)(2). “Commission,” is defined as “a zoning commission, planning commission, planning and zoning commission, zoning board of appeals or municipal agency exercising zoning or planning authority.” Conn. Gen. Stat. § 8-30g(a)(4).

The law is clear: C.G.S. § 8-30g does not apply to entities outside of the “commissions” specifically referenced in § 8-30g(a)(4). And those enumerated commissions are only subject to the burden-shifting provisions of C.G.S. § 8-30g when they are considering an “affordable housing application.”

The Connecticut Supreme Court has repeatedly rejected any attempt to interpret C.G.S. § 8-30g in a manner that goes beyond its stated terms. In AvalonBay Communities, Inc. v. Sewer Commission, 270 Conn. 409 (2004), the Court held that the provisions of § 8-30g do not apply to decisions of water pollution control authorities (“WPCAs”). In that case, the plaintiff argued the state’s public policy supporting the development of affordable housing required a local WPCA to apply a more deferential standard of review in applications where affordable housing was proposed. The Court acknowledged that “affordable housing is a goal that has long been recognized by the legislature as constituting a substantial public interest,” but found that in none of the statutes promoting affordable housing had the legislative extended affordable housing requirements and considerations to water pollution control activities. Id. at 431. It pointed out that § 8-30g was limited in scope to commissions under Title 8 of the General Statutes, and that the deletion of inland wetlands commissions by the legislature when the law was originally passed was evidence that the statute was not intended to apply to other municipal entities. Id. at 432, n. 25.

In more recent cases, Connecticut courts have confirmed that § 8-30g does not apply to entities outside of the “commissions” specifically referenced in § 8-30g(a)(4). River Bend Associates v. Planning Commission, 271 Conn. 41, 54 (2004) (rejecting claim that remedial purpose of § 8-30g required court to consider merits of un-appealed decision of water pollution control authority in 8-30g appeal; “Nothing in § 8-30g suggests that the statute may be used as a vehicle for mounting a collateral attack on the merits of a coordinate agency’s decision from which there has been no appeal.”); Saddle Ridge Developers, LLC v. Easton Planning & Zoning Commission, 2016 WL 720247 (nothing Section 8-30g does not apply to inland wetlands commissions).

Therefore, the applicant is required to obtain approvals from all coordinate municipal agencies prior to commencing development. In this instance, those coordinate agencies include the

Sewer Division of the Department of Public Works (“DPW”) and the Town’s Inland Wetlands and Watercourses Agency (“IWWA”). Neither the DPW nor the IWWA is subject to § 8-30g and both will treat the applicant’s application the same as any other (non-affordable) development.

### **III. Greenwich Charter Provisions**

Section 269a of the Greenwich Charter (the “Charter”) provides, in pertinent part, “[i]f the property to be served by the [sewer] connection lies within the unplanned for Non-Sewered Area, *in which connections are disfavored as not being in the best interests of the public health, safety and welfare*, then the Commissioner shall have authority to allow such land owner to connect with such sewer *only if* the Commissioner can make an affirmative finding in writing *as to each of the following factors*:

1. That the zoning enforcement office has determined that all existing and planned structures on the property to be serviced through the connection are in conformity with the zoning regulations.
2. That the Director of Health has determined that on-site sewerage disposal cannot be provided.
3. That permitting the connection would not contravene any law, rule, regulation, condition or policy of the Connecticut Department of Environmental Protection or of any agreement between the Town and said Department, particularly concerning any new construction in whole or part, upon a floodplain, flood hazard area, wetland area, beach, dune or other environmentally sensitive area.
4. That the present, future or cumulative effect of the connection will not adversely affect the sewer plant's planned capacity for future growth or shorten its useful life.
5. That the present, future or cumulative effect of the connection will not expose the sewer plant to overload or adversely threaten the quality of the waters of the Sound.
6. *That the Planning and Zoning Commission or its designee has determined affirmatively in writing that the present, future or cumulative effect of permitting the connection will not adversely affect the Town Plan of Conservation and Development or other Town planning or development plans.*
7. That permitting the connection will not adversely affect the sewerage system, the Town's efforts to decrease infiltration and inflow or burden maintenance.

Greenwich Charter, Art. 16, Sec. 269a(d) (Emphasis added).

When reviewing a request under Charter § 269a(6), the Commission acts in an advisory capacity. In this case, the Commission will be advising the Sewer Division of the DPW acting as the Town’s WPCA, the municipal agency that ultimately makes the determination whether or not to permit a connection to, or extension of, the municipal sanitary sewer system within the Town’s Non-Sewered Area.

The burden shifting language contained in C.G.S. § 8-30g does not apply to the WPCA. Furthermore, when advising the WPCA pursuant to Charter § 269a(6), the Commission is not acting on, or considering, an “affordable housing application” as defined by C.G.S. § 8-30g(a)(2). Therefore, the Commission should not refer to C.G.S. § 8-30g in its report to the WPCA or apply



a deferential standard. Simply stated, C.G.S. § 8-30g is irrelevant to all aspects of § 269a of the Greenwich Charter.

Lastly, the applicant here is attempting to put the proverbial cart before the horse. The applicant has not applied to the DPW for permission to connect to the sanitary sewer system. This is the applicant's right, there is no legal requirement that it apply for a sewer permit prior to applying to the Commission. However, absent an application for a sewer permit, there is no requirement that the Commission act on the applicant's request to issue a written report or opinion pursuant to § 269a(6) of the Greenwich Charter.

Accordingly, this Commission should decline the applicant's request for a written determination pursuant to § 269a(6) of the Greenwich Charter until the applicant has applied to the Sewer Division of the DPW for approval to connect to, or extend, the municipal sanitary sewer system.

BROOKRIDGE HILLSIDE NEIGHBORS, INC.

Respectfully submitted,  
Mario F. Coppola

cc: Bruce F. Cohen, Esq. ([bcohen@fcsn.com](mailto:bcohen@fcsn.com))



# TOWN OF GREENWICH

Town Hall • 101 Field Point Road • Greenwich, CT 06830

Inland Wetlands  
and  
Watercourses Agency  
(203) 622-7736  
Fax (203) 622-7764

Patricia M.P. Sesto  
*Director of Environmental Affairs*

TO: Planning and Zoning Commission  
Katie Deluca, Director

FROM: Inland Wetlands and Watercourses Agency  
Patricia Sesto, Director *PS*

DATE: April 4, 2022

RE: 5 Brookridge Drive – 5 Brookridge LLC  
PLPZ 2022-00039

The Inland Wetlands and Watercourses Agency has been made aware that the stormwater management plan does not meet the criteria of the Town's drainage manual. This has led the Agency to reconsider the earlier determination that a wetland permit would not be required. This previous sign-off reflects that there are no wetlands or watercourses on-site or within 100 feet of its boundary. At the time of the sign-off the limitations of the stormwater management plan were not known, nor was it understood that drainage would be discharging directly to Brother's Brook.

As stated in the applicant's Stormwater Summary, peak rates and volumes increase in all modeled storms, except the 25 and 50-year storm events. This increase and potential for impacts are of concern for the receiving waterway. Of additional concern is the efficacy of the stormwater quality treatments given they rely exclusively on sand and gravel filtration, with little to no biologic renovation.

In accordance with section 2.1 and 4.4 of the Inland Wetlands and Watercourses Regulations of the Town of Greenwich, the IWWA will be requiring a permit application be submitted for the above referenced development proposal.

c: Bruce Cohen, Esq.



# TOWN OF GREENWICH

Town Hall • 101 Field Point Road • Greenwich, CT 06830

Inland Wetlands  
and  
Watercourses Agency  
(203) 622-7736  
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Patricia M.P. Sesto  
*Director of Environmental Affairs*

April 5, 2022

Joseph Pecora  
515 Brookridge Drive LLC  
5 Brookridge Drive  
Greenwich, CT 06830

Bruce Cohen  
Fogarty, Cohen, Russo, & Nemiroff  
1700 East Putnam Avenue  
Old Greenwich, CT 06830

RE: Development proposal for 5 Brookridge Drive; PLPZ2022 00039

Dear Messrs. Pecora and Cohen,

In accordance with section 2.1 of the Inland Wetlands and Watercourses Regulations of the Town of Greenwich the proposal to increase stormwater discharges to Brothers Brook and the potential of that stormwater to be inadequately treated meets the definition for a regulated activity. Section 4.4 of the Regulations requires activities meeting the definition of a regulated activity obtain a permit.

The Inland Wetlands and Watercourses Agency has been made aware that the stormwater management plan does not meet the criteria of the Town's drainage manual. This has led the Agency to reconsider the earlier determination that a wetland permit would not be required. This previous sign-off reflects that there are no wetlands or watercourses on-site or within 100 feet of its boundary. At the time of the sign-off the limitations of the stormwater management plan were not known, nor was it understood that drainage would be discharging directly to Brother's Brook.

As stated in the applicant's Stormwater Summary, peak rates and volumes increase in all modeled storms, except the 25 and 50-year storm events. This increase and potential for impacts are of concern for the receiving waterway. Of additional concern is the efficacy of the

stormwater quality treatments given they rely exclusively on sand and gravel filtration, with little to no biologic renovation.

Please submit an application for a permit at your earliest convenience. And please do not hesitate to contact me with questions.

Regards,

A handwritten signature in blue ink that reads "Patricia Sesto". The signature is fluid and cursive, with the first name "Patricia" written in a larger, more prominent script than the last name "Sesto".

Patricia Sesto  
Director

C: Katie Deluca, Director, Planning and Zoning