



# TOWN OF ENFIELD

## ENFIELD PLANNING & ZONING COMMISSION STAFF REPORT & DRAFT RESOLUTION #3

<b>Application #</b>	PH 3040MA	<b>Meeting Date:</b>	<b>July 28 /Rev. Sep 8, 2022</b>
<b>Address:</b>	1297 Enfield Street	<b>Prepared By:</b>	<b>L. Whitten</b>
<b>Applicant:</b>	Felician Sisters of NA/The Community Builders		
<b>Property Owner:</b>	Felician Sisters	<b>Wetlands/Watercourses:</b>	<b>yes</b>
<b>Zone:</b>	HR-33	<b>Aquifer Protection Areas:</b>	<b>no</b>
<b>Current Use:</b>	Church/School/Housing	<b>Flood Zones:</b>	<b>no</b>
<b>Proposed Use:</b>	SDD Zone Residential	<b>Variances:</b>	
<b>Map/Lot:</b>	46/02	<b>Applicable Zoning Regulations:</b>	<b>12.10/9.10.1/5.60</b>

**9/8/22 – THIS MEMO HAS BEEN REVISED. PLEASE SEE NEW INFORMATION WHERE YOU SEE THE 9/8/22 DATE.**

At the last meeting of July 14, 2022, the applicant submitted two new items.

1. **A revised drawing showing the new zone change area.** The new area to be rezoned essentially eliminated the acreage within the Historic District, along with some additional area and/or buildings. The applicant should quantify these areas, list the buildings to be in or out of the rezoned area, and provide a new 500 foot buffer map with abutters.

**9/8/22** - A legal opinion defining the methodology of calculating the petition has been submitted and is attached. The following summary is an excerpt from the opinion:

“In short, quoting former Judge Fuller’s treatise, *Land Use Law and Practice*, recent Connecticut Supreme Court case law has held unequivocally that, with respect to option “b,” a supermajority vote requirement to effectuate a zone change is triggered by a protest petition that contains *signatures of owners of 20 percent of the area of the lots within 500’ of the proposed zone change*, *High Ridge Real Estate Owner, LLC v. Board of Representatives of Stamford*, 342 Conn. 423, 439 (2022), and not merely owners of 20 percent of the total number of lots within 500 feet from the affected area’s perimeter.”

A revised map with 500 foot abutters and an analysis of acreages and petitioners properties has been submitted and reviewed. With this new delineation all of the properties along Enfield Street were removed from the 500 foot abutters line. Thus the



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remaining properties that submitted a petition are all located on the north side of South Road.

Based on the revised boundary map, if all the properties to the north side of South Road were included in the petition (which not all are ), they would total 9.1 ac. Divided by the full area within the 500 ‘ abutters area of 78.83 ac would account for 11.5% of the area. [9.1/78.83 = 0.115 = 11.5%]

Removing the roadways, thus utilizing just the “lots” the area within the 500’ boundary is reduced to 58.49 acres. Using the same method as above , 9.1ac./58.49 ac.= 15.5% , again not meeting the minimum of 20% of the lots within the 500 foot boundary.

**FINDING:** Based on the petitions presented, they do not equate to the minimum 20% of lot area within the 500 foot boundary area. Therefore the petition fails and a supermajority vote (5 of 7) will not be required should the application be approved. During deliberations, this should be clarified for the record that the petition is denied due to lack of standing.

### 2. **A request for waiver of the Site Plan requirements per 9.10.3.**

Typically with a rezone, it is common to require a master plan, such that the extent of proposed development is depicted. The bulk and area, uses and density are quantified such that there is confidence as to the proposed development post zone change. To require a fully engineered site plan is unrealistic and expensive, especially if the applicant has not had their design criteria established.

By granting this waiver, it cleans up the requirement for a full site plan during the rezone process. A fully engineered and detailed site plan will be required prior to any further development of the site, post rezone.

Staff recommends that a Master Plan be developed with a title block, zoning bulk and area table with density, zone lines, existing and proposed buildings, existing and proposed parking and drive aisles.

**9/8/22** –The site plan requirements have been requested to be waived. This is a vote that will need to be taken during deliberations after the close of the public hearing. However for clarity, the Commission should consider discussing this matter and take a straw pole vote to ascertain if the Commission is open to such a waiver.



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## Pending Issues Synopsis:

1. The applicant should quantify the area(s) of each of the buildings with vacancies. This should be submitted for the record.

**9/8/22** – The regulation 5.60.1.C states, “ The building(s) have a vacancy rate of 80 percent or more of the existing gross floor area for a continuous period of twenty-four months or more immediately preceding the date of application;”. Staff has maintained that this interpretation is clear, and encompasses the entire interior of the buildings, regardless of use. The applicant questions this interpretation. Their belief is that “vacancy” may be interpreted by the vacancy rate of beds, bedrooms, or dwelling units, such as with a hotel.

The applicant is seeking clarification from the Commission whether or not their interpretation fits into the “vacancy” requirement.

Some definitions are attached for the Commissions review.

2. The clarification of how the petition is calculated (20% of lots vs. 20% of area of the lots within the 500 buffer) is still under investigation. The revised rezone map will be needed for final calculations. **9/8/22 - SEE #1 ABOVE**
3. The SDD zone was in the zoning regulations as it’s own zoning district and chapter since prior to 1975. In the chapter 22, the regulation absolutely allowed the district in residential zones, as it referenced the HD-33 district. In 2001, with a reformatting of the zoning regulations, the district was inserted into the Business zone section of the regulations, as a “District”. There is no apparent evidence that residential zones were eliminated, however, the section referencing the need to be compliant with other regulations (such as the Historic District ) was removed, most likely as it was redundant information. Subsequently, in the 2011 POCD, under Chapter 12 – entitled current land use and zoning, a section references “Special Districts” (p246). The section states “The Special Development District (SDD) was created for the adaptive reuse of vacant, deteriorating or underutilized buildings. Any land use is permitted with the approval of the Commission with a plan submitted for the restoration of a building.” This does not to exclude residential zones. Please see attached excerpts. This is not meant to be a full summary, but a brief synopsis of findings to date.

**9/8/22 - The Commission should determine whether or not residential districts are, or are not to be included in the SDD zone based on the current regulations.**

## **SUGGESTED TOPICS FOR MOVING FORWARD – Summary from above**

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1. **A request for waiver of the Site Plan requirements per 9.10.3.**

9/8/22 –The site plan requirements have been requested to be waived. This is a vote that will need to be taken during deliberations after the close of the public hearing. However for clarity, **the Commission should consider discussing this matter and take a straw pole vote to ascertain if the Commission is in favor to such a waiver.**

2. **The applicant is seeking clarification from the Commission whether or not their interpretation fits into the “vacancy” requirement**

9/8/22 – The regulation 5.60.1.C states, “ The building(s) have a vacancy rate of 80 percent or more of the existing gross floor area for a continuous period of twenty-four months or more immediately preceding the date of application;”. Staff has maintained that this interpretation is clear, and encompasses the entire interior of the buildings, regardless of use. The applicant questions this interpretation. Their belief is that “vacancy” may be interpreted by the vacancy rate of beds, bedrooms, or dwelling units, such as with a hotel. **The Commission should make a ruling on how vacancy is defined.**

3. 9/8/22 - **The Commission should determine whether or not residential districts are, or are not included in the SDD zone, based on the current regulations.**

4. **For the applicant** . Some outstanding questions from the public include:

Number of occupants (estimate) at build out.?

Clarify data re: existing and proposed building uses?

Assessors data versus Community Builders data (re: occupancies and possibly square footage) THIS SHOULD BE ANSWERED BY #2 ABOVE

Was there a quorum at the ART (?) COMMISSIONERS DO NOT ATTEND ART’S

**SHOULD THIS PUBLIC HEARING CLOSE ON 9/8/22, STAFF RECOMMENDS TAKING ACTION AT A LATER TIME SO THAT PROPER MOTION (S) CAN BE DRAFTED.**