

COMMUNITY AND ECONOMIC DEVELOPMENT CLINIC
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To: Westville Village Renaissance Alliance

From: Yale Law School Community and Economic Development Clinic

Re: Zoning Challenges and Recommendations for Westville Village

Date: June 29, 2016 (rev. December 6, 2016)

I. Executive Summary

In 2015-2016, the Yale Community & Economic Development Clinic (CED) worked with Chris Heitmann and Elizabeth Donius of the Westville Village Renaissance Alliance (WVRA) to better understand the needs and desires of the Westville Village community with respect to future economic development and land use planning. The impetus for the study was the loss of Delaney's, a beloved neighborhood restaurant, to an accidental fire, after which it became apparent that a similar establishment could not be built under the current zoning ordinance.

We collected data for this study through a survey sent to the WVRA list-serv and posted on the New Haven Independent website, focus groups with community members, and interviews with key stakeholders in Westville. Through this process, several key themes emerged as primary issues for Westville: absentee and negligent landlords; traffic issues and lack of pedestrian-friendliness; too much existing parking and onerous parking requirements in the zoning ordinance; lack of adequate signage; creating a stronger link between Southern Connecticut State University and Westville; and improving the vitality of the business district in Westville, especially to support local businesses. In addition, after meeting with the City Plan Department in the City of New Haven and learning of the West River Watershed Coalition's concerns, we also endeavored to address stormwater retention requirements, recommending that they be more environmentally friendly.

The feedback we received regarding these themes suggested a set of community values regarding the future of Westville. Specifically, greater density would be welcomed in Westville, with a mix of housing types and commercial spaces, to create a more walkable neighborhood. However, extremely tall buildings would not be welcome in the Village, as being able to see West Rock from many viewpoints was touted as a Village asset.

From this community vision, this report isolates areas where we believe zoning and non-zoning tools can have an impact on the economic and community vitality in Westville. Under our zoning recommendations, we address parking requirements, design guidelines, density standards, and use requirements. Should these recommendations be adopted, they would result in a new district

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for the village that uses the BA-1 district as a starting point. Those recommendations are as follows:

- For parking, we recommend **reducing commercial and residential parking requirements and creating a parking district that will monetize curb and public lot parking and returns the parking revenues to Westville to be used for further improvements in the Village.**
- We recommend **adopting design guidelines to ensure that Westville’s aesthetic character remains preserved.**
- In regard to density we recommend the following:
 - **Increasing the FAR in commercial areas to 4.0** to facilitate higher density development in strictly commercial areas. FAR should also be increased in transition zones, although a FAR lower than 4.0 may be appropriate.
 - **Removing the density bonus offered for setting back buildings from the sidewalk,** as this conflicts with the community’s preferences for buildings brought up to the street and higher density.
 - Requiring **that buildings be at least two stories and 25 feet tall** to encourage higher density development.
 - **Decreasing the minimum lot area per dwelling unit to 750 square feet.**
 - **Capping building height at 50-60 feet with a step down cap of 45 feet if the lot is adjacent to a residential property.**
 - Considering a **density bonus for public goods, such as green roofs, winter gardens, or affordable housing** at some time in the future.
- We recommend **using the BA-1 zone’s use regulations as a starting point** for use regulations that will support **mixed-use development and a range of uses** that will contribute to Westville’s vitality.
- Overall, we recommend creating a **“BA-2” zone for Westville Village** that will meet the needs set out in this report.

We are glad that the New Haven City Plan Department has proposed amendments to the Zoning Code that would satisfy two of the above recommendations: eliminating the density bonus and decreasing the minimum lot area per dwelling unit.

In our non-zoning recommendation section, we address stormwater retention strategies, vacant or dilapidated property tools, and wayfinder signage proposals. Our recommendations are:

- **Stormwater retention standards** can be more eco-friendly by adding vegetated or “green infrastructure” requirements to the City’s Municipal Code.

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- Neglected properties, a key issue in Westville, might decrease in prominence by either strengthening use of existing tools such as the **anti-blight ordinance or through new permit-based programs as seen in other municipalities**.
- A **wayfinder design manual** could help to create a consistent image for Westville while reducing visual clutter, and promoting walking, bicycling, and use of mass transit.

II. Introduction

1) Current Zoning in Westville Village

Most of Westville Village, as well as our study site, is zoned under the Business A (BA) district. The BA district's primary purpose is retail trade. The functions of this district include a) concentrating convenience goods and services for one or more neighborhoods; b) providing comparison shopper's goods, specialty goods, and other services for less than the city-wide market; and c) providing locations for small businesses within a city-wide market that can't locate downtown.¹ Our study site also addresses the portion of Fitch Street between Whalley Avenue and Blake Street that is zoned light industrial (IL).

In general, the zone allows for many commercial uses such as retail, eating and drinking establishments, as well as some residential uses. The zone is flexible and allows a great deal of uses, which has both positive and negative repercussions. Through this project, we have sought to understand the types of uses that Westville community members would like to see more of, and those uses that should not be expanded in the study site. In imagining potential changes to the zoning code, we considered amending the BA zone or replacing it with the BA-1 zone, but ultimately we recommend creating a new zone for Westville Village using BA-1 as a framework.

2) Scope of Study and Report

The overall goal of this project has been to learn—from a variety of Westville residents, business owners, property owners, and visitors—how zoning helps or hinders the types of businesses and uses people would like to see in the community.

The impetus for the study was the loss of Delaney's, a beloved neighborhood restaurant, to an accidental fire. After the fire, many members of the Westville community hoped that Delaney's would be rebuilt. However, it was quickly apparent that Delaney's, or a similar establishment, could not be built under the current zoning ordinance due to the property's small lot size and limited parking. The discussion around Delaney's led to a greater discussion about what kind of

¹ City of New Haven Zoning Ordinance, Connecticut, Article V, Section 41.

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development the Westville Village community wanted. Throughout the study we sought to capture that discussion and determine the extent to which the New Haven Zoning Ordinance is meeting the community's needs, and where there is room for improvement. The study focuses primarily on the "Main Street District" of Westville Village, as identified in its action plan for revitalization.²

Our work does not purport to be exhaustive. Relying upon WVRA's expertise and knowledge of the community to define the scope of the study, we have made efforts to meet with specific stakeholders and community members by conducting five individual interviews and holding nine community focus groups. Additionally, we created an online survey that was completed by 369 community members. Due to space, time, and communication constraints, we have not been able to meet with every Westville community member. This report intends to spark a conversation about zoning, economy, and community in Westville.

Further, this report encompasses only a handful of zoning tools as well as several non-zoning regulatory options for addressing the challenges that Westville faces. In our Methodology and Results section, we note several key themes that emerged from our research. However, several of these themes (for example, forging a link with Southern Connecticut State University and traffic congestion and safety) are less directly related to zoning recommendations than other topics. Thus, we do not proffer suggestions here related to these topics. Based on input from the City Plan Department and WVRA, we decided to research and address several discrete issues that are important to the Westville community. These are the topics we address in this report.

III. Methodology and Results

Our research aimed to understand the extent to which the New Haven zoning ordinance is meeting the community's needs, and where zoning and other tools can improve the economic vitality and sense of community in Westville. We collected information in two ways: first, by surveying and interviewing community members and key stakeholders in Westville Village; and second, by reviewing public hearing agendas at the New Haven Board of Zoning Appeals (BZA). This section summarizes the major themes derived from this process. Exhibit 1 presents the survey results through tables and pie charts.

1) Focus Group, Interview, and Survey Summary

A. Zoning Code Opportunities and Challenges

² The "Main Street District" is defined as extending to "the limits of commercial or industrial properties in Westville." Village Connecticut Main Street Center Resource Team, *An Action Plan for the Revitalization of Westville Village*, 9, June 2009.

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Local developers expressed disparate views of Westville’s current BA zone. One developer was very positive about the BA zone, commending its flexibility. This developer also said that allowing more density as-of-right could be problematic if it allowed for denser development that was low in quality. On the other hand, a different developer had a much more negative view of the BA zone. This developer told us that the BA zone hinders mixed-use development because it does not permit enough density, requires too much parking, and has set back requirements. These developers’ differing views may be due to differences in the timelines and risk tolerances of projects on which they have worked. Seeking zoning relief takes time and flexibility on the part of financing sources. Additionally, one developer mentioned that, more dramatic code changes aside, the BA zone might benefit from design requirements that regulated characteristics such as signage. Regarding parking, many focus group participants felt that there was already sufficient parking, but that it was just not obvious to people where it was located. Furthermore, some thought parking requirements could be reduced because of the increased use of Zipcar and Uber. Acquiring access to the large parking lot associated with 500 Blake Street was also frequently mentioned as a potential solution to parking problems.

Additionally, many people expressed a desire for more mixed-uses in Westville, which is typically not supported in traditional zoning that focuses on segregating uses. People also generally spoke about the desire to maintain the character of Westville, including the historic look of buildings and maintaining the current height of buildings. This suggests that principles of a form-based code that can regulate the more subjective aspects of the Village, such as the architectural style, building mass and form, roof lines, exterior materials, colors and window placement, could help to address these concerns.

B. Absentee and Negligent Landlords

One of the most common themes across survey respondents, focus group participants, and landlords is the challenge of working with absentee landlords. Survey respondents noted that there is a problem with “[t]oo many non-resident landlords. Too many empty properties that are just sitting there rotting,” and that some property owners are difficult to work with because they are not invested in the community.

While the overall number of vacancies was viewed as problematic, the biggest concerns stemmed from the vacant buildings at 781 Whalley Avenue and 500 Blake Street. The emptiness of such large properties signals a lack of vibrancy as people enter Westville Village from either end, and contributes to a feeling of lifelessness in the Village more generally. One reason for these vacancies might be that the property owners are commanding rents and sale prices that are too high for the neighborhood. Another contributing factor might be the cost of rehabilitating these properties—it would be challenging to raise enough capital to turn these properties into

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productive spaces for the community. Acquiring flood insurance may also be costly. Several survey respondents suggested a lack of landlords' commitments to Westville has led to empty storefronts and many unsightly vacancies.

The Old Helix Building at 949 Whalley Avenue, which is owned by the Church of Scientology, is also a problem property. The owners do not pay taxes on this building. However, since they are no longer using it for the non-profit, religious purposes for which it receives the tax exemption, some suggested the tax situation should be re-examined.

C. Traffic Congestion and Lack of Pedestrian-Friendly Infrastructure

A majority of survey respondents do not use public transportation and believe that public transportation needs to be improved. Respondents selected "increasing pedestrian friendliness" as the most important issue, when asked to rank several goals related to transportation and access. Many focus group participants also stressed the importance of improving pedestrian friendliness in Westville Village. One of the major barriers to this, however, is the traffic and congestion along Whalley Avenue and Fountain Street. As one survey respondent put it, standing on one of these busy streets "feels like your [sic] in the middle of a highway median when traffic whizzes by." Because of the high volume of cars, trucks, and buses on the road, survey respondents and focus group participants noted that it can be dangerous to attempt to cross streets on foot or bike. The fast speed of traffic along Whalley Avenue prevents people from stopping in the Village to explore the neighborhood shops and restaurants. Further, the loud din of trucks, motorcycles, and buses is disruptive to the Village atmosphere: noise can be heard "inside shops even when their doors and windows are closed."

During the morning and afternoon commuting hours, traffic traveling to and from SCSU on Blake Street between Whalley and Fitch Street is also a problem. The lights are poorly timed, and one interviewee mentioned that the frustration the traffic causes makes people want to leave the Village immediately rather than patronize any of its businesses.

To alleviate these problems, many focus group participants stated that they would like to see longer crosswalk times, more crosswalks, wider sidewalks, and designated bike lanes in the Village. Many of these would require the cooperation of the State's Department of Transportation. Some specifically mentioned that they would like to see the new bikes lanes coming from downtown to Edgewood to pass through Westville Village as well. Community members would like to see slower speeds along Whalley Avenue and better traffic flow on Blake Street, along with roundabouts and other traffic-slowing mechanisms. Community Members suggested improving the timing of the lights so that drivers would be less likely to get frustrated, and also incentivized to drive within the speed limit so that they would hit all of the green lights without having to stop. They also advocated sending at least some of the funds from traffic

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violations to local governments rather than the state, so that local police would have more of an incentive to enforce traffic laws. At present, the traffic issues are preventing the Village from attaining the community's vision for a walkable, unique village.

D. Strength of Nearby Parks and Access to Nature

One of the great strengths of Westville Village to many is the proximity to West Rock and Edgewood Parks. The green space, trees, and easy accessibility of outdoor activities are touted as great advantages of the Village. These spaces attract "all types of people," and provide a recreational outlet within walking distance of the central downtown area. Survey respondents and focus group participants alike praised West Rock Park, but several focus group respondents noted that the Village could improve access to and publicity of the park. To do this, participants suggested that the signage to West Rock Park entrances could be better marked. Further, one focus group participant noted that "the river is overgrown with brush." There was also considerable discussion about creating a safer way for people to cross Blake Street to access West Rock Park, adding more access points to the river walk path between Blake Street and Whalley Avenue and making the park entrance more inviting overall.

While residents were generally in favor of Edgewood Park and the continuity of greenspace that the park helps to support throughout Westville Village, some noted safety concerns. The farmer's market and dog park are positive community assets, and several respondents noted that the Village could improve utilization of these facilities with improved safety measures.

Participants were also interested in the recent designation of the West River Greenway. They hope this can help to make the river more of an asset to the community than it currently is. There was also interest in more and better playgrounds, as well as community gardens.

E. Potential Link to SCSU

With regard to Southern Connecticut State University (SCSU), people seemed to feel that there was an opportunity for Westville to develop a stronger relationship with the school, but generally did not want undergraduate students living in Westville. A handful of focus group participants and survey respondents were open to more college students living in the Village. The vast majority of survey respondents, however, said they would not welcome this development and focus group participants were wary of the party atmosphere such residents might bring. Participants did think, however, that Westville merchants would benefit from more student business and thought that improving the physical link between Westville and SCSU, such as by improving the experience of walking or biking in between the locations (particularly along Fitch Street), would be beneficial. Our discussion with Mark Rozewski, SCSU's Executive Vice President for Finance and Administration, revealed that he would like to see similar improvements in the physical link and in the dining and retail options Westville has for students.

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Given SCSU's financial constraints, Mr. Rozewski said that any future SCSU development of housing or other facilities in Westville is highly unlikely, particularly for undergraduates. He did, however, think that older graduate students at SCSU might be interested in living in Westville, a development that might be more in line with the community's desires regarding students.

F. Housing

In the survey, we asked respondents what type of housing they wanted to have more of in Westville Village. The most popular answers were single-family and multi-family with two-to-four units. Current residents want to attract more young professionals, artists, families, graduate students, and seniors, as opposed to undergraduates, to visit and live in the Village. In general, focus group participants expressed interest in providing a wide variety of housing options in Westville, including mixed-use residential housing above commercial ground floor businesses. While a number of the housing needs are met, there are some notable exceptions. A number of participants mentioned that there was a lack of housing for empty-nesters who are looking to downsize and do not want to live in a house with lots of stairways. Participants also noted that there was not a large amount of affordable housing (except for artists). Additionally, people noted that it was hard to find a nice apartment to rent (stating that landlords aren't held to high standards). People generally were open to apartments with three to five floors but not much higher. One of the main concerns about building height was a desire to preserve the view of West Rock for as many buildings and people as possible. There was also some concern about historic buildings being removed and replaced with apartment buildings.

G. Community's Vision for Westville Businesses

Several patterns emerged from the focus groups and the survey about the types of businesses people would like to see in Westville. As a general matter, most people expressed a preference for non-national chains and/or locally owned businesses, and a dislike for drive-thru establishments. They also expressed a desire for a sufficient mix of businesses to allow residents to meet most of their needs in Westville, rather than having to travel further to shop. More specifically, many focus group participants mentioned that they would like to see a grocery store and certain types of eating establishments not currently represented in Westville. Focus group participants repeatedly mentioned that restaurants and bars that skewed family friendly and served high quality food (at a range of prices) would be a good addition to the brunch options currently available. The survey results to date conformed with these preferences—almost 90% of respondents did not want more fast food restaurants in Westville and over 70% wanted to see more fresh food/specialty food stores. Relatedly, many people in the focus groups and on the survey said specifically that a Delaney's-type establishment was needed. Some liked the idea of a brewery/brew pub. Some also expressed a desire for more businesses and opportunities that appealed to specific demographics, namely kids, next-generation or university students, families,

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and seniors. Some specific suggestions oriented towards children included a skating rink, small movie theater, bowling alley, and outdoor community pool. A number of participants suggested Upper State Street as an example of what they would like to see Westville emulate. In addition to eating establishments, people expressed preferences for a book store, gift store, hardware store and other businesses that would draw people to Westville. Finally, many participants suggested it would be helpful to have stores that attracted people during weekdays, and not just on weekends and evenings. One participant suggested enabling more people working in Westville (and thus the office space to support that) so that the workers could support businesses during the day.

2) New Haven Board of Zoning Appeals Agenda Review

To understand why people applied for zoning variances and special exceptions, and from what part of the zoning ordinance they were requesting relief, we reviewed the public hearing agendas at the New Haven Board of Zoning Appeals from 2003 to 2016. We found 18 properties that were associated with variances and special exception applications in the Westville Village study area. The requested relief included special exception applications to allow certain types of businesses, bulk and yard regulation adjustments, parking relief, and liquor licenses, with parking relief and liquor licenses being the most frequently requested. Exhibit 2, BZA Review Summary Spreadsheet, provides more detailed information on the content of these variances and special exception applications.

IV. Zoning Tools and Recommendations

1) Parking Requirements

A. Existing Parking Guidelines in New Haven Zoning Ordinance

Under the New Haven Zoning Ordinance, BA districts require a minimum quantity of parking spaces per residence unit or per square feet for non-residential land uses. Homes, motels, hotels, and tourist homes need to have at least 1 parking space per unit. Other transient lodging requires 1 spot per 3 sleeping rooms. For every 600 square feet, offices need to have 1 parking space. Vocational schools and industrial, heavy commercial, transportation, marine, miscellaneous services need to have 1 parking space per 2 students or employees. Places of assembly, eating or drinking, and funeral homes must have 1 parking space per 4 seats. For other retail sales and services, 1 space is required per 200 square feet (when the sales or service area is between 600 and 5000 square feet), or per 100 square feet (when the sales or service area is over 5000 square feet).³

³ City of New Haven Zoning Ordinance, Connecticut, Article V, Section 45 (a)(1).

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Study participants perceived these requirements as unnecessary and restrictive to existing and prospective businesses. Many focus group participants felt that Westville Village already has sufficient parking. Our review of the BZA agenda suggests that about a third of 2003-2016 special exception applications are associated with parking relief. Restrictive parking requirements can also discourage new businesses from considering entering Westville Village. As mentioned in Section III's summary of our interviews and focus groups, several developers and property owner representatives mentioned that the BA zone requires too much parking. These groups mentioned that the village needs relaxed parking requirements, especially for restaurants, to attract new businesses into the village. Reduced parking requirements could also help to reduce the amount of stormwater runoff from paved, impervious areas, and would thus help to reduce pollution in the West River. (See *infra*, Stormwater Regulations V(A)).

B. Recommendation: Reduce Parking Requirements and Establish a Parking District

As part of the creation of a new BA-2 zone, we recommend adopting the BA-1 regulations for all nonresidential uses and further reducing the requirements as feasible. For example, parking requirements could be reduced beyond those currently required in the BA-1 zone by increasing the size of nonresidential uses that are not required to have parking. Currently, nonresidential uses of 2,000 square feet of gross floor area or less have no parking requirements.⁴ Requirements could also be reduced by permitting parking spots to be located at some distance from the property, as is permitted in the BD-1 and BD-3 districts.⁵ This recommendation reflects the consistent feedback from community members that there is plenty of parking already available in Westville. Establishing a parking district in Westville, as discussed below, mitigates the need for nonresidential parking requirements. In fact, if a parking district were established contemporaneously with a new zone, it might be possible to completely eliminate parking requirements for nonresidential uses. We further recommend reducing the residential parking requirement by lowering the number of spaces required per dwelling unit or by allowing spaces to be located at some distance away from the unit.

In conjunction with relaxed parking requirements, we recommend establishing a parking district in Westville that returns the revenue to the neighborhood.⁶ The parking district would mitigate

⁴ City of New Haven Zoning Ordinance, Connecticut, Article V, Section 45(a)(1)(8)(B).

⁵ *See id.* at 45(a)(1)(1) (permitting “parking spaces in the Business D-1 and D-3 Districts [to] be located within a 1,000-foot radius of the outside entrance of the dwelling if such spaces are not located on the same lot as such other uses.”)

⁶ This idea comes from Donald Shoup, who has written extensively about the problems of providing excessive free parking. In short, Shoup recommends the following: “These three reforms— charge fair-market prices for curb parking, return the resulting revenue to the neighborhoods that generate it, and remove the zoning requirements for off-street parking—can align our individual incentives with our collective interests and produce enormous benefits

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the need for businesses to have parking and allow them to put space that would otherwise be used for parking to a more economical use. Additionally, spaces within the parking district could also be utilized to meet residential parking needs. To create the parking district, Westville could monetize curb parking and convert existing, mostly empty parking lots to paid public parking lots.⁷ There is a large, privately owned lot bordering the West River behind the buildings at the corner of Blake Street and Whalley Avenue that is blocked off and always empty. The City could lease all or part of this lot from the owner for the cost of taxes on the parking lot, and then convert it into a paid public parking lot. West Hartford currently has such an arrangement with owners of parking lots. Monetizing parking is desirable for multiple reasons. It is likely to decrease traffic congestion because it will incentivize use of alternate forms of transportation. By charging market rate for a parking spot the city will be managing supply and demand and there is more likely to be available parking for Westville patrons who choose to drive. Further, the revenues that are generated by the parking district can then be returned to Westville and reinvested in neighborhood improvements that draw even more people and potentially increase property values.

Old Pasadena instituted such a program, charging for curb parking, and returning the revenues (\$1.2 million in 2001) to the neighborhoods (and even the streets) that generated them, and had significant success.⁸ The meter money has been used to provide various public services including street cleaning, police foot patrols, and marketing materials.⁹ Additionally, after the installation of the meters Old Pasadena's sales tax revenues increased and now exceed the sales tax revenues in other shopping districts in the city.¹⁰ While Connecticut towns and cities are not permitted to collect sales taxes, Old Pasadena's story is nevertheless compelling as it suggests that businesses saw the benefit of increased sales.

2) Design Guidelines

Throughout the focus group sessions, participants expressed interest in ensuring that Westville Village retains its "village character." To many, Westville's village character means that the streetscape has a particular design aesthetic that meshes with the Village's history as an antiques district and identity today as an artists' haven. Particularly in the "Main Street District", which

at almost no cost. All these benefits will result from subsidizing people and places, not parking and cars."⁶ The basic argument is that providing lots of free parking, and requiring lots of off-street parking, subsidizes the true costs of parking, and imposes large costs on everyone (whether they drive or not).

⁷ There are approximately 550 off street spaces and 200 curb spaces in Westville Village.

⁸ Kolozsvari, D. and D. Shoup, "Turning Small Change into Big Changes", *Access* No. 23, Fall 2003, available at: <http://www.accessmagazine.org/wp-content/uploads/sites/7/2016/02/Access-23-02-Small-Change-into-Big-Change.pdf>

⁹ *Supra*, at 5.

¹⁰ *Supra*

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constitutes most of our study site, our research revealed that it is important for buildings to look a certain way. This aesthetic can help preserve the sense of Westville as a destination, with a character distinct from surrounding areas. Because of the interest in creating a walkable community, focus group participants stressed that buildings should be welcoming and well maintained.

To create a safe and attractive pedestrian environment along streets, the Leadership in Energy and Environmental Design (LEED) Technical Manual recommends creating a streetscape “plac[ing] principal functional building entries on front façades that face a public space, such as a street, park or plaza and building entries at frequent intervals along streets and sidewalks.”¹¹ Other considerations include ground-floor retail space as well as installing clear glass façades on the ground floor and avoiding blank walls.¹² As many focus group participants stressed the importance of walkability in the Village, the next sections recommend using design guidelines in the zoning ordinance to encourage a thriving, walkable, pedestrian friendly Village.

A. Existing Design Guidelines in New Haven Zoning Ordinance

One way to ensure that buildings conform to a particular aesthetic is through enacting design guidelines in the zoning ordinance. These could specify types of materials, building proportions, and/or many other design and aesthetic choices. These types of guidelines already exist within the City of New Haven Zoning Ordinance. Specifically, design guidelines are present in the Whalley Avenue Overlay District as well as the BA-1 zone—but not the BA zone.

In both the Whalley Overlay and the BA-1 zone, the design guidelines shall, “to the greatest extent possible,” be incorporated into the design of new buildings as well as the renovation of existing structures.¹³ The guidelines follow general design principles emphasizing a pedestrian-scaled environment, and buildings “harmoniously blend[ing]” and balancing each other in terms of size and scale.¹⁴ In line with this harmonization of design, the materials, colors and architectural details should also be compatible with the building style, and the historical development of the area.¹⁵

The BA-1 zone specifies additional goals that are consistent with community goals of walkability and façade maintenance, as evidenced by the focus group and survey results. Specifically, the BA-1 design guidelines require that buildings be oriented to the street and that

¹¹ LEED Technical Manual, U.S. Green Bldg. Council (Dec. 7, 2012) 21, <http://www.usgbc.org/resources/technical-guidance-manual-sustainable-neighborhoods>.

¹² *Id.*

¹³ New Haven Zoning Ordinance §§ 43; 59.

¹⁴ *Id.* at § 43.

¹⁵ *Id.*

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parking requirements encourage walkability.¹⁶ New development must conform to the neighborhood context to “improve the retail character of the street as a neighborhood center.”¹⁷ To achieve that objective, the guidelines specify the location of building entrances, arrangement and design of windows, roof types, and façades.¹⁸

In addition, several focus group participants noted that they liked the look and feel of a streetscape with buildings built directly at the sidewalk: This allows passersby to stop and shop or eat, and makes the Village feel more like a community. Moreover, design-related zoning can be crafted to increase pedestrian friendliness and traffic calming. As noted in the 2009 Action Plan for the Revitalization of Westville, certain patterns of development change the psychological feel of streets and can provide visual cues to motorists that they should be driving slower and more cautiously.¹⁹ Such patterns include 1) “street walls,” where buildings are built close to the street, and vegetation and other sidewalk features help to create a more enclosed space that tends to slow drivers, and 2) the presence of pedestrians, bicycle lanes, and pronounced crosswalks that help to remind drivers that streets are not just used by cars.

In at least one way, the current zoning is antithetical to the community goals of a walkable, pedestrian friendly village. As highlighted in the Revitalization Report, it provides a density bonus for buildings that are set back further from the street. Specifically, while there are no setback requirements for the BA zone, “for each one foot of frontyard depth...that is provided for the full width of the principal building along any street, the maximum floor area ratio...may be increased by one percent above the base amount permitted.”²⁰ Thus, developers have an incentive not to create the street wall, which can reduce walkability and fail to provide visual clues that would slow drivers down.

In comparison, the BA-1 District’s bulk requirements do not incentivize front yard setbacks, thus promoting a more walkable neighborhood. Building façades are required to be closer to the street, creating a cozier, more pedestrian friendly environment.²¹

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* For specific language of the BA-1 zone, see Exhibit 3.

¹⁹ Connecticut Main Street Center, *Westville Village: An Action Plan for the Revitalization of Westville*, at 30 (2009) available at:

<http://westvillcct.editme.com/files/wvrapage/An%20Action%20Plan%20for%20the%20Revitalization%20of%20Westville%20Village.pdf>

²⁰ New Haven Zoning Ordinance § 43(f)(1).

²¹ The BA-1 District’s specific setback and siting requirements are as follows:

(1) Yards facing the public right-of-way: Building façades must abut or be located within 10 feet of at least 75 percent of the each property line abutting the public street. (see figure 43.1 below) New Haven Zoning Ordinance § 43(h)(1) *Id.*

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B. Recommendation: Apply Design Guidelines to Westville Village

There are several ways in which Westville, currently a BA zone, might adopt design standards that are consistent with the community's vision. One way is to insert the design guideline language applicable to the BA-1 zone (or similar language) into the anticipated BA-2 zone. The current language for a BA zone does not specify any design guidelines, although, as described above, a portion of the BA zone is subject to the Whalley Avenue Overlay District.²² The BA-1 zone currently incorporates many of the design guidelines that Westville community members in our research wanted. The façade maintenance standards would help to keep new development and renovations aesthetically similar to Westville's current look.²³ Another possibility is to adopt an overlay, like that for Whalley Avenue between Ella T. Grasso Boulevard and Sherman Avenue, for Westville Village. In adopting standards, it would be important to consider whether such standards would be recommendations, which property owners would be encouraged but not mandated to follow, or requirements, to which structures would be obligated to adhere. The BA-1 zone currently has both recommendations and requirements.²⁴

Westville Village might also consider incorporating design standards and concepts from other zoning ordinances into the anticipated BA-2 zone. Many other small towns and cities have enacted design guidelines within their town ordinances as well as through external guidance. The Town of Hamden, which has a modified form-based code, specifies the design and extent of glass coverage shopfront façades as well as design specifications for many types of buildings in Hamden.²⁵ Hartford incorporated design specifications throughout its new Zoning Regulations, which went into effect earlier this year. While the Hartford Zoning Regulations continue to impose traditional bulk and use restrictions, every building is also subject to some type of design specification as well. Hartford defines buildings types, including three types of houses (A, B and C), row buildings, apartment buildings, storefronts and "general building."²⁶ Each zone permits some subset of building types.²⁷ The Zoning Regulations then set out design requirements, some of which are general and apply to all structures while others apply to individual building types. The general design requirements "include such items as materials, windows, and balcony design

²² New Haven Zoning Ordinance, Section 59(b).

²³ In addition the BA-1 zone's reduced setback requirements would support a pedestrian-friendly neighborhood, as well as prevent some of the uses, such as drive-throughs, that the community does not want expanding. In line with this, we recommend removing the density bonus for building setbacks that is currently in the BA district. *Infra* at IV(3).

²⁴ Compare New Haven Zoning Ordinance, Section 43(h)(7)(k) ("[s]olid, lighted awnings and canopies are not permitted") with *id.* at Section 43(h)(7)(d) ("[t]o the extent possible, upper story windows should be vertically aligned with the location of windows and doors on the ground level.").

²⁵ Zoning Regulations, Town of Hamden, Conn, § 330.

²⁶ Hartford Zoning Regulations, Building Types, Section 4.1, Figure 4.1-A.

²⁷ *Id.*

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requirements.”²⁸ The design requirements specific to building type govern architectural characteristics such as “minimum primary street ground story transparency,” “principal entrance location,” “horizontal façade divisions” and “permitted roof types.”²⁹ By way of example, Downtown Storefront Buildings may have parapet, pitched or flat roofs³⁰ while House B buildings must have pitched roofs.³¹ Westville Village might consider similarly identifying those architectural features considered most germane to the Village’s character and mandating that building renovations and new buildings incorporate those features.

3) Density

A. Existing Density Standards in Westville

We also explored the topic of density in our interviews and research. One property developer and one real estate broker voiced their concerns that the current zoning does not allow enough density to attract new businesses and people into the village. In general, participants in focus groups and interviews did not regard higher density as a concern for the community. Although people may not have been able to give specific answers about how many housing units they wanted to see, no one expressed a desire for less dense housing, and many expressed that more density would be acceptable. In general, people were open to housing units (apartments) above commercial uses, so long as buildings were not taller than 3-5 floors, depending on the location within Westville.

Currently, the BA district permits a maximum floor area ratio (FAR) of 2.0 (as does the BA-1 district).³² FAR, which is calculated as the ratio between a building’s total floor area and the total area of its lot,³³ impacts density by regulating a structure’s bulk or mass on a given lot. By comparison, the maximum FAR in the BD, BD-1, BD-2, BD-3 and BE districts is 6.0, and no business or industrial district has a FAR lower than 2.0.³⁴ In addition, as noted above, the BA zone offers a density bonus that increases the maximum FAR in exchange for building setbacks,³⁵ which disincentivizes the creation of a street wall.

B. Recommendations

²⁸ Hartford Zoning Regulations, Building Types, Section 4.1.3(B).

²⁹ See, e.g., Hartford Zoning Regulations, Building Types, Section 4.3.2(C).

³⁰ Hartford Zoning Regulations, Building Types, Section 4.3.2(C)(29).

³¹ Hartford Zoning Regulations, Building Types, Section 4.15.2(D)(26).

³² *Id.* at §43(b)

³³ New Haven Zoning Ordinance §43(a) (“The ratio of the *gross floor area* to the *principal building* or *principal buildings* on a *lot* to the total *lot area*. In calculating FAR, the *gross floor area* of a parking structure shall not be included.”)

³⁴ New Haven Zoning Ordinance §43(a).

³⁵ New Haven Zoning Ordinance §43(f)(1).

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We recommend greater density as a general policy matter and make the following suggestions for the regulation of density in an anticipated new BA-2 zone. First, we recommend increasing the FAR in Westville Village to 4.0. There are few large parcels available for development in the Village, and a low FAR discourages denser development on those small parcels that are available. A higher FAR is in keeping with the community's receptiveness to higher density and would encourage further development of the Village to attract new businesses and people. However, in the areas of Westville where commercial uses transition to residential uses, it may be appropriate to have an FAR of less than 4.0. As part of the process of increasing the FAR, it may be helpful to ascertain the Village's current FAR and to perform a "test fit" on one of Westville's parcels in order to conceptualize the visual effect of a 4.0 FAR structure.

Second, as noted above, we recommend eliminating the density bonus for building setbacks. Doing so would help maintain the dense street wall along Whalley Ave and improve infill along Whalley, Fitch, Blake, and Fountain streets. In place of such density bonus, we suggest setbacks of 5 feet for side yards and 10 feet for rear yards, with no setback for front yards in the case of nonresidential uses, and no connection between setbacks and FAR. A modest front yard setback may be appropriate for structures with residential units on the first floor. Such setbacks may be necessary to protect the privacy of residences and to create some separation between residences and the sidewalk and street. We applaud the City Plan Department's current proposal to eliminate the density bonus through a text amendment.

Third, we recommend introducing a minimum building height. While the BA zone does not have a minimum building height, the BA-1 zone requires buildings to be at least two stories and at least 25 feet high.³⁶ In keeping with our recommendations regarding FAR and setbacks, we suggest adopting this requirement from the BA-1 zone to encourage maintenance of a dense street wall. In implementing this requirement, it will be important to consider whether additions to existing structures will be required to meet these minimums.

Fourth, we recommend establishing a minimum lot area per dwelling unit of 750 square feet. The BA zone's current minimum lot area for each standard dwelling unit is 2,000 square feet.³⁷ Reducing the minimum lot area requirement would complement our other recommendations that encourage greater density—by permitting a greater number of residential units, this lowered minimum would allow for a critical mass of people to live in the Village. The City Plan

³⁶ New Haven Zoning Ordinance §43(c)(4).

³⁷ The BA zone incorporates by reference the RM-2 bulk regulations for residential uses. *See id.* at §§ 42-43. The RM-2 zone has a minimum lot area per dwelling unit of 2,000 square feet, except for efficiency units and elderly housing units, which have minimum lot areas per dwelling units of 1,400 square feet and 1,000 square feet, respectively. *Id.* at §14(a)(1).

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Department has proposed to greatly reduce the minimum lot area per dwelling unit to one unit per 1,000 square feet of gross floor area of the entire building. This amendment, should it be adopted, would satisfy our recommendation about minimum lot area per dwelling unit.

Fifth, to mitigate certain indirect effects of our recommendations on density, we suggest introducing direct height limitations in Westville Village. Currently, the New Haven Zoning Ordinance does not impose height restrictions in the Village and instead relies on indirect height limitations, such as FAR requirements³⁸ Because we are advocating loosening those indirect limitations and because study participants value the views of West Rock that are currently found throughout the neighborhood, we suggest that a direct height limitation be imposed. We suggest studying the impact of a 60 foot height limitation in the Village, which is consistent with the feedback from participants expressing comfort with 3-5 stories.³⁹ As an exception, in those parts of the Village that are adjacent to residential neighborhoods, a 45 foot height restriction, such as that applicable in the BA-1 zone, might be more appropriate.⁴⁰ Further, to improve sight lines to West Rock, we suggest introducing increased setbacks that apply only to portions of buildings exceeding a certain height.

Finally, though not a first priority, strategically introducing density bonuses should be considered in the future. Density bonuses are a zoning tool that permits developers to build more units than the zoning code would normally allow in exchange for providing some public benefit. Rather than using a density bonus to encourage setbacks (which diminish the “street wall”), we recommend that density bonuses be used to incentivize different public goods, such as green roofs, winter gardens, and affordable housing. The New Haven Zoning Code currently has a density bonus for LEED-certified buildings in BD-2 districts: such buildings are entitled to ten feet of additional height over the BD-2’s maximum height cap.⁴¹ As demonstrated in Chicago, cities can have broad density bonus programs and offer a range of bonus densities for a wide number of public amenities. The city of Chicago’s website provides a full list of public amenities, as well as eligibility criteria and bonus formulas.⁴² Some highlights that might be of interest to New Haven and Westville include green roofs, winter gardens, Chicago Riverwalk improvements, sidewalk widening, open space contributions, public plazas and pocket parks, and even payments to Chicago Public Schools Capital Improvement Fund. Los Angeles County also grants density bonuses to projects that contain either affordable units or senior citizen units.

³⁸ New Haven Zoning Ordinance §43(c)(1)

³⁹ New Haven Zoning Ordinance §43(c)(4) requires a minimum of two stories and a minimum building height of 25 feet for the BA-1 zone, which suggests that one story is roughly equivalent to 12.5 feet.

⁴⁰ New Haven Zoning Ordinance §43(c)(4)

⁴¹ New Haven Zoning Ordinance §43(c)(3).

⁴² Chicago Zoning Ordinance Chapter 17-4 Downtown Districts, 17-4-1000 Floor Area Bonuses, <https://secondcityzoning.org/resources/Chicago-Zoning-Ordinance.pdf>; City of Chicago, Density Bonuses, <http://www.cityofchicago.org/content/dam/city/depts/dcd/general/maps/bonuses.pdf>.

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Qualified projects may also receive other benefits such as relaxed parking requirements.⁴³ Similarly, the City and County of San Francisco and Washington D.C. respectively have Affordable Housing Bonus Program (AHBP) and Inclusionary Zoning Affordable Housing Program, to allow for more density and promote inclusionary zoning.⁴⁴ These examples from Chicago and other cities demonstrate that New Haven could embrace creativity and use the density bonus tool to incentivize public goods that are important for the City.⁴⁵ Public goods that help to reduce stormwater runoff could be of particular interest in Westville, where people are especially interested in reducing stormwater runoff (See Section V(A) Stormwater Regulations).

4) Use Requirements

In addition to providing design standards and a more flexible parking requirement, the Westville community expressed a desire for more mixed-use development. Many Westville Village residents appreciate and want to see more mixed-use developments. Several focus group participants described their preference for upper story residential uses on top of ground floor retail businesses or offices.⁴⁶ Community members also expressed a dislike for drive-in establishments, which are an allowed use in the BA zone (but not in the BA-1 zone). Both indicate that the BA zone is not serving the community's needs.

In general, the BA-1 zone supports mixed-use and the range of retail and commercial uses necessary for a thriving neighborhood. The BA-1 zone's regulations, however, may be too strict for certain uses which currently contribute to Westville's vibrancy or which could do so in the future. For example, many community members expressed a desire for a restaurant like Delaney's, which had served alcohol in addition to food.⁴⁷ Under the BA-1 zone, however, restaurants that serve alcohol are not permitted as-of-right.⁴⁸ (In the BD-1 zone, in contrast, such restaurants are permitted as-of-right, although bars are still only permitted by special exception.) Similarly, although Westville residents believed that the artists' lofts on West Rock Avenue were

⁴³ Los Angeles County Dep't of Regional Planning, "Density Bonus Ordinance," <http://planning.lacounty.gov/density> (last accessed April 2016).

⁴⁴ City and Cty. of San Francisco Planning Department, *Affordable Housing Bonus Program (AHBP)*, <http://sfplanning.org/affordable-housing-bonus-program-ahbp> (last accessed April 2016); DC Dep't of Housing and Community Dev., *Inclusionary Zoning Affordable Housing Program*, <http://dhcd.dc.gov/service/inclusionary-zoning-affordable-housing-program> (last accessed April 2016).

⁴⁵ There is some Fifth Amendment case law indicating that density bonuses may be found unconstitutional unless there is a "nexus between a condition triggering waiver and the purpose for the restriction waived." The cases rely on the *Nollan* and *Dolan* tests requiring that land use regulations "substantially advance legitimate state interests" and that the condition is closely related to the advancement of that interest. Edward H. Ziegler, Jr., *3 Rathkopf's The Law of Zoning and Planning* 4th ed, Section 60.16; *Nollan v. California Coastal Com'n*, 483 U.S. 825, 834 (1987).

⁴⁶ Focus group notes, 2.18.2016.

⁴⁷ See, e.g., Focus group notes, 2.29.2016.

⁴⁸ New Haven Zoning Ordinance §41.

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a community asset,⁴⁹ the BA-1 zone prohibits this use.⁵⁰ We recommend basing the use table for the anticipated BA-2 zone on the BA-1 use table but revising that table to be more permissive of uses that could or already are contributing to Westville's vitality.⁵¹

Our research indicated two specific uses for which changes to the BA-1 zone use regulations might be especially beneficial. The BA-1 zone prohibits hotels or motels with thirteen or more guest rooms.⁵² One interviewee, Mark Rozewski of Southern Connecticut State University, noted the University's desire to see a guesthouse or additional bed and breakfast in the Village.⁵³ No concerns regarding the allowance of hotels or motels in the current zone were raised in focus groups. Accordingly, we recommend allowing hotels and motels with thirteen or more guest rooms in the new zone. Additionally, the benefit that Neville Wisdom, a clothing manufacturer and retailer, has brought to Westville would suggest that more light manufacturing should be encouraged in the Village. Neville Wisdom's use may currently be permitted under the BA-1 zone as an accessory use.⁵⁴ However, creating a new use that would explicitly allow light manufacturing that does not use heavy chemicals and is ancillary to retail may help attract more businesses like Neville Wisdom.⁵⁵

We recommend incentivizing mixed-use with active commercial use (e.g., retail, restaurant, etc.) on the first floor by providing that the first floor space dedicated to and reserved for commercial space would not be counted against the overall gross area of a mixed-use building, thus allowing for a higher residential or office unit count above ground. This mixed-use incentive would encourage density and simultaneously help the economic feasibility of these projects. A text amendment proposed by City Plan to make the minimum lot area per dwelling unit 1,000 square feet of the entire building's gross floor area will incentivize mixed-use in a manner similar to this recommendation. Should that text amendment be adopted, this recommendation may no longer be necessary.

5) Light Industrial Zone

In addition to the portion of the study site zoned BA that is discussed at length above, the study site includes a light industrial zone along Fitch Street between Whalley Avenue and Blake Street.

⁴⁹ Focus group notes, 11.11.2015.

⁵⁰ New Haven Zoning Ordinance §41.

⁵¹ Hair salons are an example of another use for which we recommend the BA-1 zone be made more permissive. Community members reported that they enjoyed having hair salons in Westville, Focus group notes 10.28.2015, but the BA-1 zone does not permit this use as-of-right, New Haven Zoning Ordinance §41.

⁵² New Haven Zoning Ordinance §41.

⁵³ In addition, at least one other focus group participant said it would be helpful to have a small guesthouse or bed and breakfast for her guests to stay when they came to visit.

⁵⁴ See New Haven Zoning Ordinance §42.

⁵⁵ Allowing light manufacturing that is uncoupled from retail could also be considered.

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We recommend that this portion of the study site remain available for light industrial use although we suggest that the zoning along Fitch Street be simplified in order to encourage development. Additionally, we recommend that the vacant portions be converted to green space, a process which could be facilitated through grant money that is currently available through the Connecticut Department of Energy and Environmental Protection.

6) Overall Recommendations

The BA-1 zone offers a good framework for many of the community's needs, but ultimately we recommend the creation of a new "BA-2" zone for Westville Village. Many aspects of the BA-1 zone are in line with the recommendations in this report, but enough depart that we advocate the creation of a new zone as the best option.

The BA-1 zone parking requirements would reduce the burden placed on business owners under the current BA zone requirements. We recommend reducing the parking requirements for all nonresidential uses by lowering the number of required spaces and/or by allowing spaces to be located within a designated radius of the structure. In order to mitigate the effect of such a reduction (and to possibly allow for the complete elimination of nonresidential parking requirements) we recommend that the city establish a parking district in Westville, utilizing the ample parking already available there. We further recommend reducing the residential parking requirement by lowering the number of spaces required per dwelling unit and/or by allowing parking spaces to be located at some distance from the unit.

Of the density standards in the BA-1 zone the only one we recommend adopting is the 25 foot, 2 story minimum height requirement for buildings. To achieve the desired density in Westville we recommend adopting a FAR of up to 4.0 in commercial areas. We also recommend increasing the FAR in areas that have both commercial and residential uses. In such areas, an FAR of less than 4.0 may be appropriate. Additionally, we recommend a maximum height of 50-60 feet, while the BA-1 zone sets the cap at 45 feet. Finally, we recommend eliminating the density bonus for building setbacks and reducing the minimum lot area required per dwelling unit. Although not a first priority, density bonuses could be instituted in the future that incentivize different public goods such as affordable housing and green roofs. Notably, the City Plan Department has proposed amendments that would address our recommendations related to the density bonus for building setbacks.

The BA-1 requires new development to follow form requirements and design guidelines so that it conforms to the neighborhood context.⁵⁶ The BA-1 design guidelines offer a good starting

⁵⁶ City of New Haven, Connecticut, Zoning Ordinance, Article V, Section 41.

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place, but Westville Village may also consider identifying the architectural features that are considered most germane to the Village's character and incorporating those features into the design guidelines.

Many BA-1 use regulations would work well in the village. Those regulations promote mixed-use, neighborhood goods and services, and storefront retail and dining.⁵⁷ All of these features align with Westville Village residents' desire to conserve a sense of community. However, some of our recommendations depart from the regulations in the BA-1 zone. The BA-1 zone does not allow transient lodging, such as hotels or motels with thirteen or more guest rooms. Because of Mr. Rozewski's and one other focus group participant's stated desire to see an additional place of lodging in Westville, as well as the lack of community feedback expressing displeasure with the current allowance of motels and inns in Westville, we recommend retaining the ability to operate hotels, motels, or bed and breakfasts, but not rooming houses. Additionally, we recommend creating at least one new use for the zone that will explicitly allow retail businesses to have ancillary light manufacturing on site.

Finally, we recommend reserving the portion of the study site along Fitch Street between Whalley Avenue and Blake Street for green space or future light industrial use while also simplifying zoning in that corridor in order to attract future development.

V. Non-Zoning Regulatory Tools and Recommendations

1) Stormwater Regulations

Focus group participants repeatedly identified the green and natural areas, including the West River and Edgewood Park, as one of the best things about the neighborhood. Participants expressed considerable interest in making the river more of a community asset than it currently is. Additionally, the West River Watershed Coalition, a local, grass-roots organization, has demonstrated a strong community interest in a clean and healthy West River. One major problem for the West River is stormwater runoff and combined sewer overflows, which occurs when stormwater from large storms overtaxes the sewage treatment plant, resulting in sewage being dumped directly into the West River. Reducing stormwater runoff is one way to address this problem and reduce sewage and stormwater pollution in the West River.

The City of New Haven has taken positive steps to enact strong stormwater regulations. Developments and redevelopments that are at least half an acre in size (smaller and stricter than the one acre minimum required by the state) are required to submit stormwater management

⁵⁷ City of New Haven, Connecticut, Zoning Ordinance, Article V, Section 41.

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plans and also capture the first inch of water in a storm.⁵⁸ There do not appear to be any impediments in the zoning code (no curb requirements or landscaping requirements) that prohibit the use of green infrastructure.

There are, however, a few areas which merit attention. First, for those developments and redevelopments that are required to submit site plan reviews and are subject to the stormwater ordinance, there is no requirement or incentive to use vegetated or green infrastructure to capture the stormwater from those properties. Instead, many of the stormwater plans opt to use underground holding tanks rather than aboveground green, vegetative infrastructure. In comparison to underground holding tanks, green infrastructure has the additional benefits of pleasing aesthetics and water purification. Furthermore, as mentioned above in the Section IV(2) (Design Guidelines), vegetation can help to create the pedestrian-friendly environment that can help to calm traffic. New Haven could require stormwater management plans to address stormwater first with vegetated green infrastructure and then with underground tanks only when green infrastructure is not feasible. One way to fix this would be to amend the relevant section of the New Haven Municipal Code by adding the following language (in bold) to the definition of Best Management Practices (BMPs) in §60 (b)⁵⁹ and to the required contents of stormwater management plans in §60 (d)(5) and (6)⁶⁰:

- (b) BMPs—best management practices: Techniques or structural devices that are effective practical ways of preventing or reducing pollution. **Vegetative or on-site natural filtration BMPs include vegetated swales, rain gardens, landscaped bioretention islands, and vegetated roofs.**
- (d) Contents of stormwater management plan. Where a stormwater management plan is required, such plan shall provide, at a minimum, the following information:
 - (5) Location and description of all proposed stormwater control BMPs for both construction activities and post-construction, long-term stormwater control. **Such plans shall employ vegetative or on-site natural filtration BMPs or explain why such BMPs are not feasible for the proposed project.**
 - (6) Proposed operation and maintenance manual and a schedule for maintaining any trash hoods, catch basins, or other BMP devices used to prevent runoff, facilitate sheet flow or infiltration, or treat stormwater. **Such plans shall employ vegetative or on-site**

⁵⁸ New Haven Municipal Code §60 – Stormwater Management Plans.

⁵⁹ New Haven Municipal Code, § 60 (b).

⁶⁰ New Haven Municipal Code, § 60 (d)(5-6).

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natural filtration BMPs or explain why such BMPs are not feasible for the proposed project.

Furthermore, New Haven's stormwater ordinance does not contain an enforcement provision to address violations of the ordinance. The 2004 Connecticut Stormwater Quality Manual contains a model enforcement provision that New Haven could adopt to strengthen the effectiveness of the stormwater ordinance.⁶¹

2) Dilapidated Properties

As noted above in Section III (Methodology and Results), focus group and survey participants repeatedly identified vacant buildings as one of the major challenges facing Westville. Accordingly, this section discusses certain tools that New Haven could potentially use to address these problem properties.

Vacant and dilapidated buildings and properties are a problem for many communities across the country. As a result, numerous municipalities have experimented with various tools to address these problem structures and properties. However, Connecticut municipalities have only the powers granted to them by statute or special act, or that are implied as necessary to carry out expressly granted powers. Therefore, they can only employ such tools as are explicitly or implicitly granted to them. Fortunately, the Supreme Court of Connecticut has adopted a broad understanding of the powers granted to municipalities in Connecticut, as demonstrated in *Greater New Haven Prop. Owners Ass'n v. City of New Haven*, among other cases.⁶²

⁶¹ 2004 Connecticut Stormwater Quality Manual, available at:

<http://www.ct.gov/deep/cwp/view.asp?a=2721&q=325704>, Appendix C, Model Ordinances, C-5-7,

http://www.ct.gov/deep/lib/deep/water_regulating_and_discharges/stormwater/manual/Apx_C_Model_Ordinances.pdf.

⁶² *Greater New Haven Prop. Owners Ass'n v. City of New Haven*, 288 Conn. 181, 187-88, 951 A.2d 551, 557 (2008) ("The statutory scheme of § 7-148 [Scope of Municipal Powers], we noted, "envisages its adaptation to infinitely variable conditions for the effectuation of the purposes of these statutes." The test for determining the validity of a municipal ordinance enacted pursuant to § 7-148 is whether it is " 'reasonably calculated' " to achieve public health, safety and welfare. In other words, a municipal ordinance "must have a rational relationship to its objective." We explained: "The [s]tate may regulate any business or the use of any property in the interest of the public welfare or the public convenience, provided it is done reasonably.... The limit of the exercise of the police power is necessarily flexible, because it has to be considered in the light of the times and the prevailing conditions.... Whether the times and conditions require legislative regulation, as well as the degree of that regulation, is exclusively a matter for the judgment of the legislative body.... Courts can interfere only in those extreme cases where the action taken is unreasonable, discriminatory or arbitrary.... Every intendment is to be made in favor of the validity of [an] ordinance and it is the duty of the court to sustain the ordinance unless its invalidity is established beyond a reasonable doubt.... [T]he court presumes validity and sustains the legislation unless it clearly violates constitutional principles.... If there is a reasonable ground for upholding it, courts assume that the legislative body intended to place it upon that ground and was not motivated by some improper purpose.... This is especially true where the apparent intent of the enactment is to serve some phase of the public welfare.") (Internal quotation marks and citations omitted.) See also, *Greater New Haven Prop. Owners Ass'n v. City of New Haven*, No. CV064020494S,

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The following are potential strategies that New Haven could employ to address the problem properties.

A. Stronger Enforcement of Anti-Blight Ordinance

New Haven has an anti-blight and property maintenance ordinance, administered by the Livable City Initiative (LCI). The ordinance sets forth a number of property conditions that constitute anti-blight violations or property maintenance violations, including a property becoming “dilapidated,”⁶³ a property’s exterior failing to be “maintained so that it is not dilapidated or decaying, not open to the elements, and so that its appearance shall not have a tendency to depreciate adjoining property,”⁶⁴ or a property’s overall condition causing “an unreasonable impact on enjoyment of or value of neighboring properties as expressed by persistent complaints from adjoining and nearby property owners.”⁶⁵ The ordinance allows LCI to issue a notice directing abatement of the violation within ten days.⁶⁶ Failure to comply with the notice results in a fine, which can be enforced as a lien on the property.⁶⁷ Given the anti-blight ordinance’s broad definition of what constitutes a violation, if LCI and the City wanted to aggressively enforce the ordinance in Westville it may be possible to use the enforcement mechanisms to put pressure on the commercial property owners who are allowing key storefronts to remain vacant to make better use of the buildings, including 781 Whalley Avenue and 500 Blake Street. LCI currently provides three ways for citizens to report blight: concerned neighbors can call LCI, contact LCI staff via email, or use the “SeeClickFix” website to report problems.⁶⁸

1. Prompt and Regular Maintenance of Vacant Buildings and Properties

2007 WL 241219, at *9 (Conn. Super. Ct. Jan. 17, 2007), *aff’d*, 288 Conn. 181, 951 A.2d 551 (2008) (“It is also clear, however, that the legislature, in enacting this statute, made no effort to enumerate the precise forms that such rules and regulations might take. Rather, it is apparent that the legislature purposefully used broad and general terms in the statute to allow municipalities to address “safety, health, morals and general welfare issues” intelligently and effectively. Indeed, the very existence of General Statutes § 7-148(c) [Scope of Municipal Powers] makes clear the fact that the State has not elected to preempt the field in this regard, and the use in § 7-148(c) of the word “expedient,” which may be defined as “suitable for achieving a particular end in a given circumstance,” further supports the position that the legislature intended to give municipalities a fair amount of freedom in carrying out the statute’s mandate.”)

⁶³ City of New Haven Zoning Ordinance, Chapter 9, Article II, Section 9-51, Subsection (c)(2). “Dilapidated” is defined as referring to “a building or structure or part thereof that would not receive a certificate of occupancy if it were applied for. Id. at Subsection (a)(5).

⁶⁴ Id. at Subsection (d)(i).

⁶⁵ Id. at Subsection (d)(vii).

⁶⁶ Id. at Subsection (i).

⁶⁷ Id.

⁶⁸ City of New Haven, *LCI Anti-Blight*, <http://www.cityofnewhaven.com/LCI/ReadMore.asp?ID={0A2A00F1-94BC-4F37-9FDF-71E64F37B7E2}> (“Please call 203.946.7090 to report blight.”); <http://www.cityofnewhaven.com/LCI/Administration/Staff.asp>; <http://en.seeclickfix.com/new-haven>

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One way LCI could use the anti-blight ordinance to put more pressure on property owners to do something with vacant buildings is to quickly perform snow removal and any other maintenance at these properties to remedy violations that pose a danger to the safety, health and welfare of the public. LCI can then charge these expenses to the property owners in accordance with section (j)(7) of the ordinance, which allows the City to correct, remove or abate an violation that poses a danger to the public health, welfare, and safety, at the expense of the owner.⁶⁹ These charges, if not paid, can result in a lien against the property. LCI already has the authority to do this, but it could potentially use the authority more aggressively by acting more quickly to address snow and other maintenance problems.

2. Appoint an LCI Neighborhood Specialist for Westville

LCI's Neighborhood Specialist program assigns each neighborhood an individual staff member who is responsible for coordinating and managing all of LCI's activities in the neighborhood, including tracking, monitoring, and ensuring proper maintenance of all vacant properties.⁷⁰ However, the Neighborhood Specialist position for Westville is currently vacant. LCI should act quickly to fill this position.

While these actions could help LCI to enforce the anti-blight ordinance more effectively, given the good work that LCI is already doing in this area, these small changes may not be enough to pressure resistant property owners from changing their behaviors. It may be that more drastic measures are necessary.

B. Neighborhood Early Warning System

Another way to proactively address blight is to improve the availability and accessibility of information about properties that risk becoming blighted, using a Neighborhood Early Warning Systems (NEWS). NEWS are web-based systems that pinpoint deteriorating buildings. Several cities, such as Minneapolis, Chicago and Los Angeles, have created NEWS to alert policy-makers and community advocates to buildings at risk and to craft strategies to revive failing neighborhoods. Early warning systems track key variables, such as tax delinquency, code violations, and crime indicators.

The term "Neighborhood Early Warning System" reflects the belief that financial disinvestment, which is generally invisible to neighbors, precedes and causes physical decline and finally

⁶⁹ New Haven Municipal Code, Sec. 9-51 Anti-blight and property maintenance ordinance.

⁷⁰ LCI, Neighborhood Specialists, <http://www.cityofnewhaven.com/LCI/ReadMore.asp?ID={5D317797-0172-4C12-BD48-56ED0630C89E}> (last accessed Apr. 20, 2016).

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abandonment of residential and commercial real estate. By providing timely notice of such financial disinvestment, NEWS operators hope that interventions can be designed to prevent abandonment, or to facilitate remedial actions and redevelopment once it has occurred.

These interventions, which are typically planned and carried out by local government or non-profit organizations rather than the NEWS operators, may involve confronting absentee or institutional landlords, preparing financing to buy properties at tax or scavenger sales, or targeting assistance to elderly homeowners to file for property tax exemptions or to accomplish deferred maintenance before they lose their homes. Public agencies and nonprofit organizations can target their efforts more effectively when they have access to the information that a NEWS provides.⁷¹

C. Vacant Building Permit

Burlington, Vermont has a vacant building and dangerous structures ordinance that requires owners of vacant buildings and dangerous structures to apply for a vacant building permit.⁷² The permit applications must contain a maintenance plan covering the permit period (up to 3 months), and disclose all measures to keep the property in good order and in conformance with all building code requirements.⁷³ The director of the public works department reviews the maintenance plan and inspects the building and premises and will issue a permit if the building is in compliance with the relevant standards, or issue an order for any work needed.⁷⁴ Property owners pay a quarterly fee of \$500 to cover the costs of the departments that have to monitor such properties and enforce code violations.⁷⁵ If the building is being actively marketed for sale or lease, then all but \$75 of the fee is refunded, subject to an eight permit period (two year)

⁷¹ For more information, see The Urban Institute, *Neighborhood Early Warning Systems: Four Cities Experiences and Implications for the District of Columbia*, (2003) <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412366-Neighborhood-Early-Warning-Systems-Four-Cities-Experience-and-Implications-for-the-District-of-Columbia.PDF>.

⁷² “Application by the owner of a vacant building or structure for a vacant building permit shall be made on a form provided by the director. Applicants shall provide a maintenance plan covering the permit period which shall disclose all measures to be taken to ensure that the building or structure will be kept weather- tight and secure from trespassers, safe for entry by police officers and firefighters in times of exigent circumstances or emergency, compliant with the obligations set forth in section 8-46 and 8-47 (e) and together with its premises be free from nuisance and in good order in conformance with the vacant building maintenance standards. Applicants shall disclose the expected period of vacancy (including the date of vacancy), and state the plan and timeline for the lawful occupancy, rehabilitation or removal or demolition of the structure.” Burlington Code of Ordinances, Chapter 8, Art. III, 8-47.

⁷³ *Id.* at 8-47 (b)& (c).

⁷⁴ *Id.*

⁷⁵ *Id.* at 8-47 (f).

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limitation on fee waivers.⁷⁶ Fee waivers can also be granted when buildings are being rehabilitated or demolished.⁷⁷

Burlington's ordinance is based on ordinances in Cincinnati⁷⁸ and San Diego, and the group that drafted the ordinance (the Vacant Building Committee, composed of representatives from the Departments of Public Works, Police, Fire, Planning and Zoning, Community and Economic Development, and the City Attorney's Offices) consulted with the owner of every vacant structure in Burlington.⁷⁹ Burlington officials believe that liberal fee waiver provisions have allowed honest owners to sell or renovate their properties without paying the fee, and have also undercut the argument from dishonest owners that the city is unfairly gouging them.⁸⁰

Such a program as Burlington's would go beyond New Haven's current blight ordinance. To administer such a program would likely require more resources, but the permit fees would be used to pay for the cost of the enhanced monitoring and enforcement costs, while simultaneously encouraging property owners to use, rent or sell their properties. Indeed, the fees would have to be directly related to the costs of administering such a program.

It does not appear that other Connecticut municipalities have experimented with such a program. However, the Supreme Court of Connecticut's holding in *Greater New Haven Prop. Owners Ass'n v. City of New Haven* suggests that such a program is within municipalities' authority to regulate housing and blight.⁸¹ As mentioned above, the Supreme Court of Connecticut adopted a broad view of the powers granted to municipalities and upheld a New Haven program that required rental landlords to get licenses.⁸² Permits for vacant buildings are similar to a landlord licensing program, and so would likely be upheld. However, New Haven should match the cost of permit with the costs of administering the program so that the permit fees are viewed as a legal user fee rather than an illegal tax.

D. Tax Vacant Buildings at a Higher Rate

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ In an unpublished opinion, the Ohio Court of Appeals invalidated the portion of the statute that imposed criminal penalties for not obtaining a vacant building license because it required the owner to submit to a warrantless search. *City of Cincinnati v. Northern Liberties Corporation*, 1998 Ohio App. LEXIS 3460, 8-10. The ordinance still requires licensing of all vacant buildings, but now only requires an inspection to prove the building was brought into compliance and the owner is entitled to a refund of fees paid. Cincinnati, OH Code of Ordinances, Chapter 4, section 1101-129.1, 1101-129.4.

⁷⁹ United States Conference of Mayors, *Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities*, 11 (June 2006), <http://www.usmayors.org/bestpractices/vacantproperties06.pdf>.

⁸⁰ *Id.*

⁸¹ No. CV064020494S, 2007 WL 241219 (Conn. Super. Ct. Jan. 17, 2007), *aff'd*, 288 Conn. 181, 951 A.2d 551 (2008) (upholding rental property licensing program).

⁸² *Id.*

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Washington, D.C. taxes vacant buildings at a higher rate than buildings that are occupied.⁸³ Currently, Connecticut law does not authorize municipalities, other than Hartford, to tax real property at different rates depending on use. In 2013, the Connecticut legislature authorized three municipalities to pilot a bifurcated property tax, which would permit those towns, first, to tax land and buildings separately and, second, to apply a higher tax rate to land. If Connecticut were to authorize such a system statewide, New Haven could choose to create incentives in favor of development by taxing land at a significantly higher rate than it taxes buildings.

E. Public Shaming/Press Attention

Municipalities have also used negative media (or social media) attention to shame recalcitrant property owners. New Haven could identify a certain number of properties each year that are in violation of the building code and blight ordinances (Toledo has The Dirty Dozen⁸⁴), and provide locations and pictures of the properties, as well as names of the owners of the properties to local news media. The City could also post these on City websites and social media sites in an effort to shame people into revitalizing these buildings. The City could also post large, colorful signs on properties, or create a “Wall of Shame” in a public place.⁸⁵

A more positive option would be to create a list and provide it to private developers interested in developing in New Haven. Boston creates an annual list with contact information for each property and posts it on the City’s website with contact information for each property so that developers can contact property owners if they are interested in the properties.⁸⁶

Additional information and resources for addressing dilapidated properties are provided in Appendix A.

3) Signage Concerns

As noted above, participants in focus groups also indicated concern about inadequate signage, especially with respect to wayfinding to West Rock Park or other local outdoor spaces. New Haven’s recent downtown wayfinding project might serve as a model for Westville. That project, however, was undertaken by the City’s Office of Economic & Business Development for

⁸³ Washington, D.C., Office of Tax and Revenue, <http://otr.cfo.dc.gov/page/otr-vacant-real-property>

⁸⁴ United States Conference of Mayors, *Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities*, 38 (June 2006), <http://www.usmayors.org/bestpractices/vacantproperties06.pdf>.

⁸⁵ See also West Virginia University Land Use & Sustainable Development Law Clinic, *From Liability to Viability: A Legal Toolkit to Address Neglected Properties in West Virginia*, 33 (2015), <http://wvleap.wvu.edu/files/d/cf7aade6-10ca-4df7-b154-6956dbad3b85/from-liability-to-viability.pdf>.

⁸⁶ United States Conference of Mayors, *Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities*, 9 (June 2006), <http://www.usmayors.org/bestpractices/vacantproperties06.pdf>.

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downtown specifically. It did not codify signage or wayfinding requirements in the zoning code or any other design manual to apply citywide. Alexandria, Virginia provides a useful example of comprehensive wayfinding that “projects a consistent image for the entire city; reduces visual clutter; and promotes walking, bicycling, and use of mass transit.”⁸⁷

Alexandria’s Wayfinding Design Manual was approved by the Alexandria City Plan Commission, but is not technically part of the city’s zoning ordinance. The Wayfinding Design Manual describes the city’s comprehensive signage system that has been implemented and maintained by Alexandria’s Department of Transportation and Environmental Services. The signage system seeks to create “a consistent image for the city; reduce[] visual clutter; and promote[] walking, biking, and use of mass transit.”⁸⁸ These wayfinding guidelines, which include sign designs for parking, parks and other recreation spaces, and vehicular directions, among others might serve as an example for Westville, or the City of New Haven more broadly, in endeavoring to make the Village more of a destination for people driving through the neighborhood. These signage guidelines are not in the city’s zoning codes; rather, they are “designed to enable flexible application to a variety of installation conditions in order to be responsive to issues of maintenance, management and cost-effectiveness.”⁸⁹ Further, the City’s Department of Transportation and Environmental Services is responsible for carrying out these changes, relieving ordinary property owners from bearing the costs of following these standards.

Other municipalities have more detailed signage restrictions in their zoning codes than the New Haven Zoning Ordinance. Specifying particular materials and sizes for building sizes would address a slightly different aesthetic issue than wayfinding guidelines. Some of these specify height and materials of signs, as well as the method and type of lighting illuminating the signs.⁹⁰ While concerns about lighting and signage materials (e.g., a dislike for neon lights) does not appear to be an area of particular concern for Westville stakeholders—although participants in one focus group specifically stated they did not want neon lights—incorporating restrictions as to the signage requirements may be a way to prevent certain types of signage from occurring in the Village in the future.

VI. Conclusion

⁸⁷ Wayfinding Program, City of Alexandria, VA (2010), <https://www.alexandriava.gov/Wayfinding>.

⁸⁸ *Id.*

⁸⁹ *Wayfinding Design Guidelines Manual*, City of Alexandria, VA 2 (Sept. 7, 2010), <http://dockets.alexandriava.gov/icons/pz/bar/pc/CY10/090710/di08.pdf>.

⁹⁰ See, e.g., Jersey City, NJ Ordinance § 348; New Canaan, CT Design Guidelines (2010), http://www.newcanaan.info/filestorage/9490/293/331/New_Canaan_Design_Guidelines_Doc_final_comments_rev_4-8-10.pdf.

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In sum, with this project we have attempted to better understand the needs and desires of the Westville community. Through a survey, focus groups, and individual interviews, we have received feedback from almost 400 people who visit, work, and live in Westville. After analyzing this information, we were able to identify a number of discrete zoning and non-zoning recommendations for Westville.

For the zoning changes, we recommend relaxing the parking requirements; adopting design guidelines to ensure that Westville's aesthetic character remains preserved; and encouraging higher density by increasing the FAR, eliminating the density bonus for building setbacks, setting a minimum building height requirement, reducing the minimum lot area per dwelling unit, increasing the maximum building height requirement, and considering—at some point in the future—density bonuses for providing public goods such as green roofs or affordable housing. We also recommend encouraging mixed-use by allowing residential units above commercial spaces and by explicitly allowing light manufacturing that is ancillary to retail. We applaud the City Plan Department's proposed amendments to the B zones which address our recommendations related to the density bonus for building setbacks and the minimum lot area per dwelling unit. Especially with those amendments incorporated, the BA-1 zone is a good starting point for implementing many of our recommendations. However, since our recommendations would still depart in many ways from what the BA-1 zone allows, we advocate the creation of a new "BA-2" zone as the best option.

In our non-zoning recommendation section, we recommend encouraging vegetated infrastructure as the preferred option to meet stormwater retention standards. We recommend addressing vacant properties by either strengthening existing tools such as the anti-blight ordinance or through a new permit-based program as seen in other municipalities. A wayfinder design manual would help create a consistent image for Westville while reducing visual clutter, and promoting walking, bicycling, and use of mass transit.

We have proposed these zoning and other legal tools in order to provide a starting point for Westville to continue addressing community concerns and realizing the community's vision. In addition to this report, the 2009 Revitalization Report for Westville Village⁹¹ also contains important information and analysis that should be considered as Westville moves forward on these issues. We think that, by enacting these suggestions, Westville can take positive steps towards becoming a more vibrant, inclusive community.

⁹¹ Connecticut Main Street Center, *Westville Village: An Action Plan for the Revitalization of Westville* (2009) available at: <http://westvillect.editme.com/files/wvrapage/An%20Action%20Plan%20for%20the%20Revitalization%20of%20Westville%20Village.pdf>.

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Appendix A

Additional information and resources for municipalities looking for ways to deal with vacant buildings are provided here.

The most useful and up-to-date website with current information and resources is the Center for Community Progress: Vacant Spaces into Vibrant Places website:
<http://www.communityprogress.net/>.

They have assisted states to develop enabling legislation for various tools to address vacant properties. They also offer fee-for-service consulting to local municipalities, and have some scholarships available as well. See the Technical Assistance page:
<http://www.communityprogress.net/technical-assistance-pages-45.php>.

Another helpful website is: International City/County Management Association's collection of reports dealing with vacant properties: <http://icma.org/en/Search?s=vacant%2Bproperties>.

The following are three helpful reports:

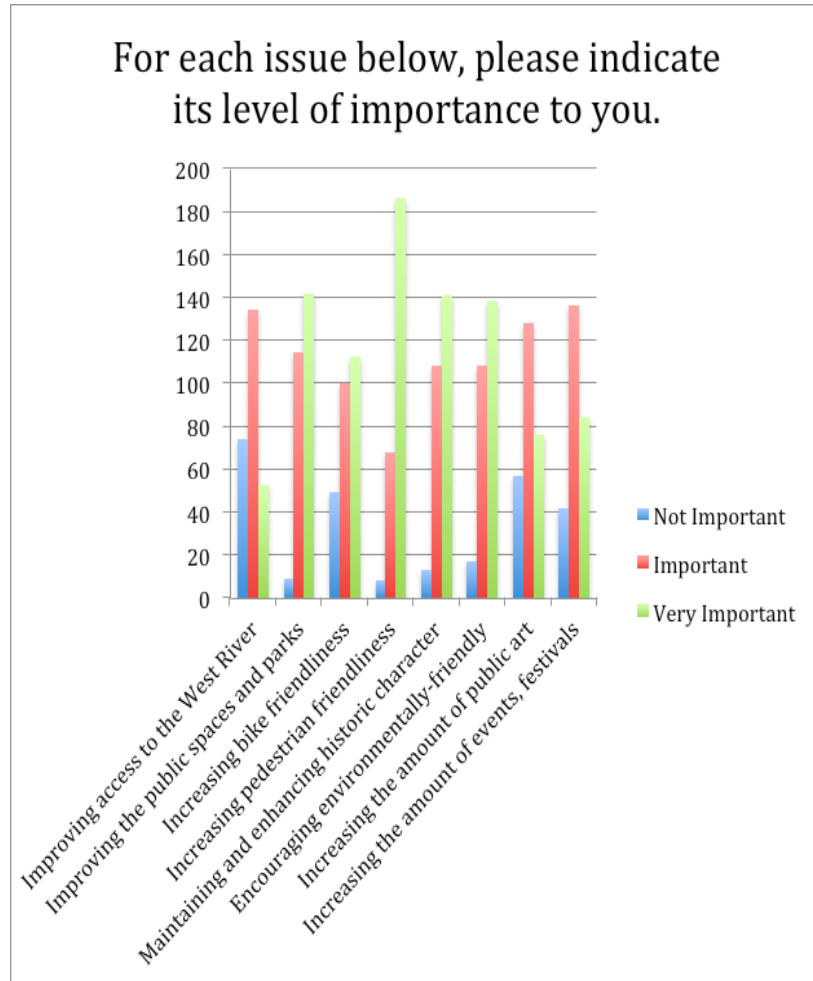
United States Conference of Mayors, *Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities*, June 2006, available at:
<http://www.usmayors.org/bestpractices/vacantproperties06.pdf>.

An Ounce of Prevention: How Connecticut Cities and Towns Can Keep Landlords from Becoming Slumlords, available at:
http://www.hartfordinfo.org/issues/wsd/housing/ounce_prevention.pdf.

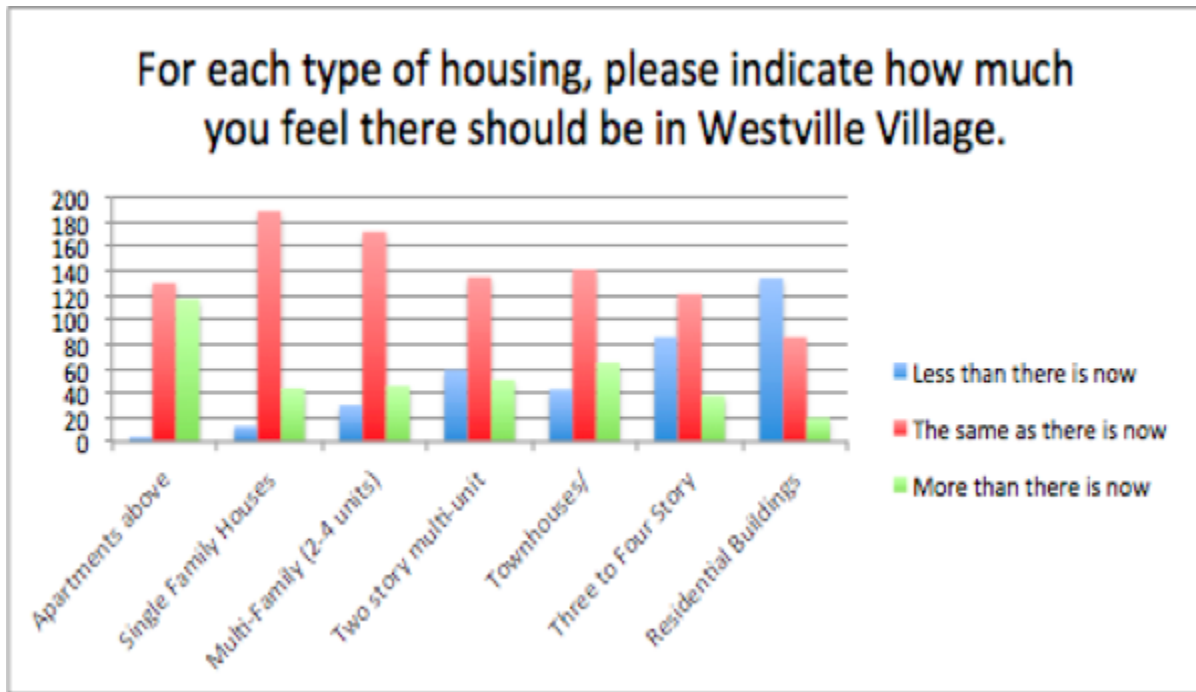
West Virginia University Land Use & Sustainable Development Law Clinic, *From Liability to Viability: A Legal Toolkit to Address Neglected Properties in West Virginia*, 2015, available at:
<http://wvleap.wvu.edu/files/d/cf7aade6-10ca-4df7-b154-6956dbad3b85/from-liability-to-viability.pdf>.

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Exhibit 1: Survey Results Summary

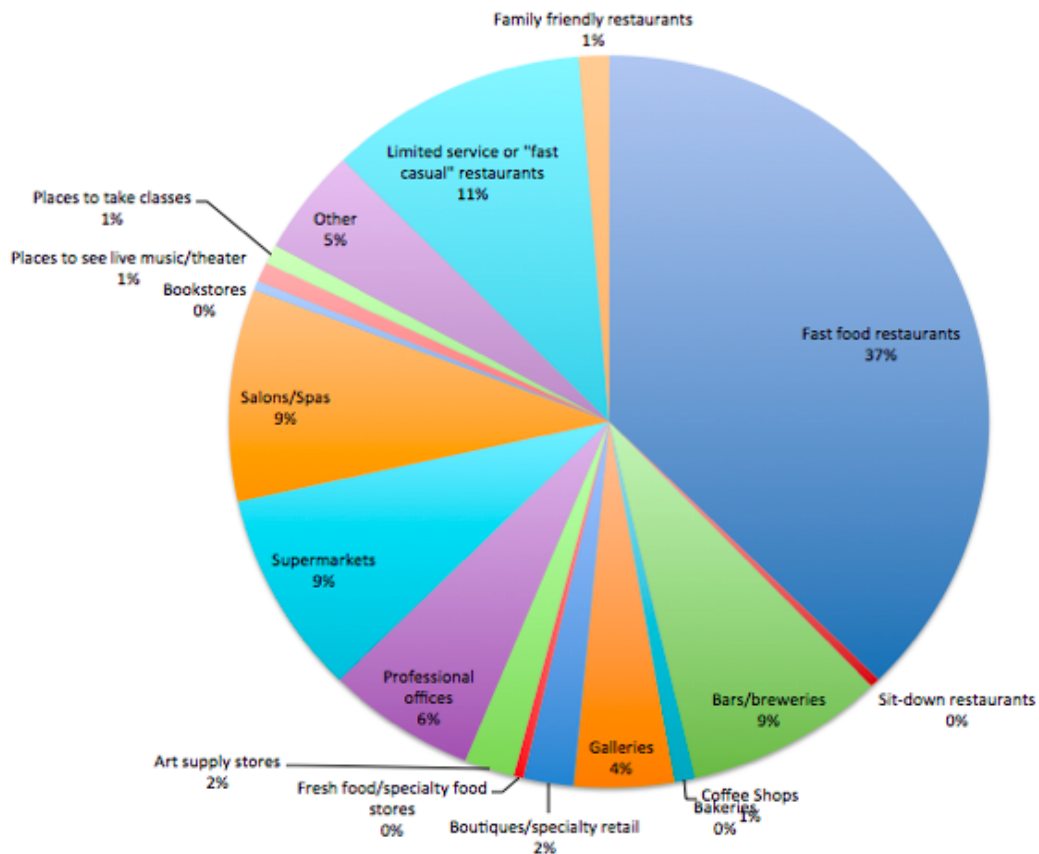


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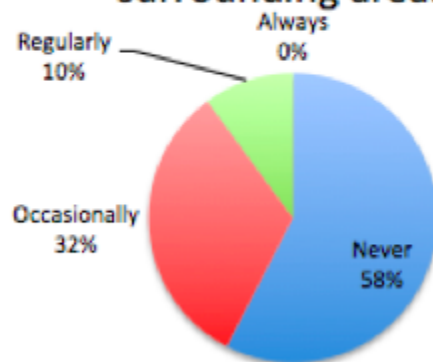


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Please select each type of business you would like less of in Westville Village. (select all that apply)



Do you take public transportation from Westville Village to other places in New Haven or to surrounding areas?

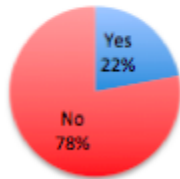


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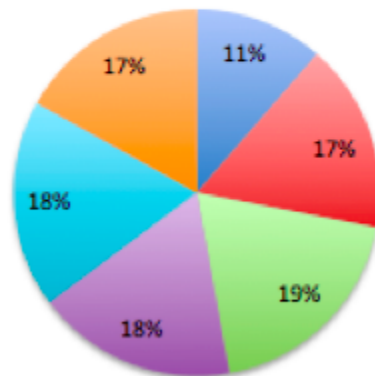
Do you think public transportation into and out of
Westville Village could be improved?



Do you have concerns with noise
in Westville Village?



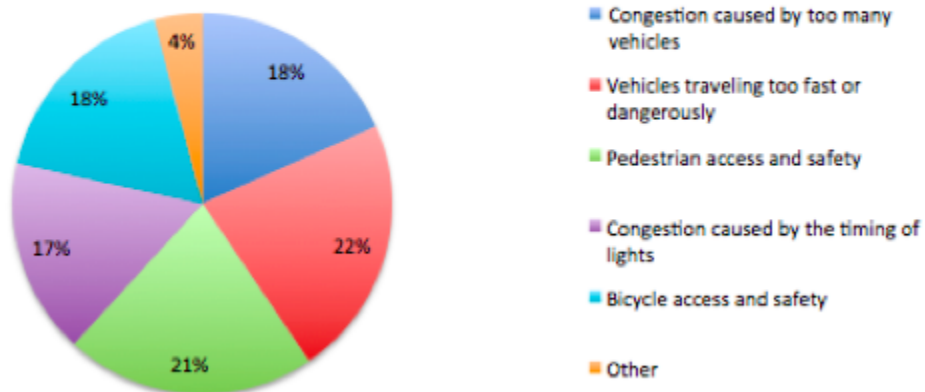
Should Westville Village try to attract more of the
following to visit the Village?



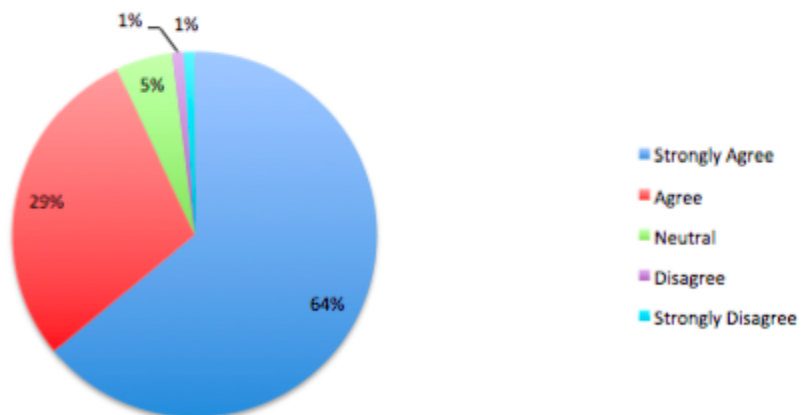
- Undergraduate students
- Graduate students
- Young professionals
- Artists or other creative professionals
- Families
- Retirees and seniors

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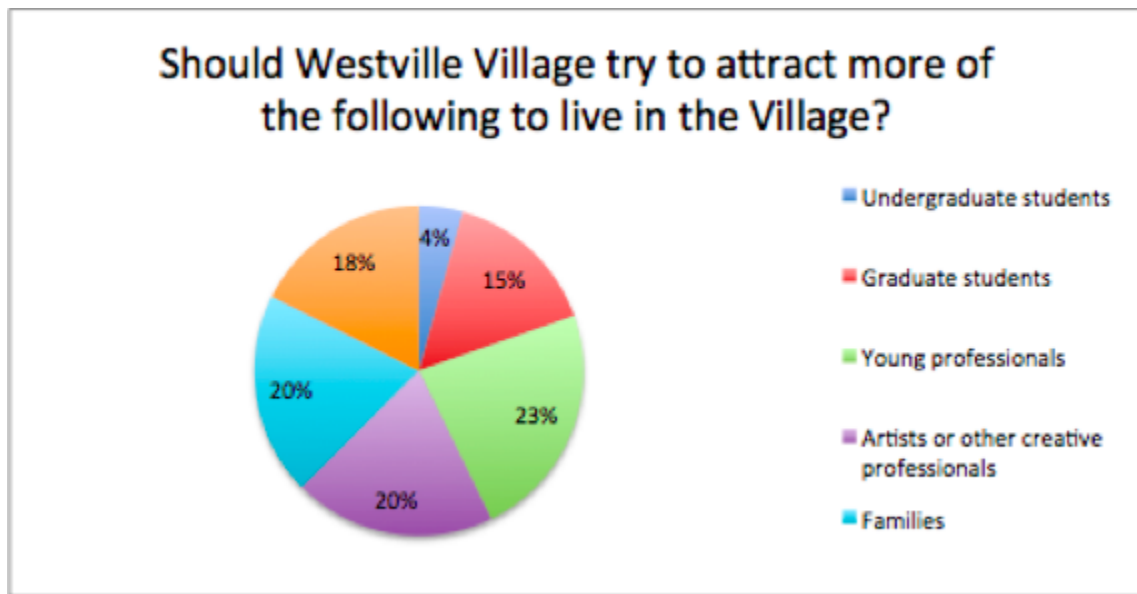
Which of the following traffic issues are present in Westville Village?



Please indicate how you feel about this statement: Westville Village should have a set of design principals and/or architectural guidelines in place to ensure that new buildings and renovations create a pedestrian-scale environment and blend with or comple



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Exhibit 2: BZA Review Summary Spreadsheet

Board of Zoning, Zoning Appeals Public Hearing Agenda Review: 2003-2016

Property	Zone	Area	Date	Content	Keywords
39, 43 and 47 Dayton Street, 1122, 1130, 1136, 1144, 1146, and 1150 Whalley Avenue 837-841 Whalley Avenue	BA and RM-2	1.53 Acres	11/10/15	Special Exceptions to permit transition parking in a Residence District and to permit 70 on site parking spaces where 133 spaces are required for a retail store.	Parking
			12/8/15	same above	
			2/9/16	same above	
	BA	0.7 Acres	10/13/15	Special Exception to allow 0 on-site parking spaces where 6 spaces are required for expansion of customer space in a General Business (BA) District.	Parking
827 Whalley Avenue	BA	0.09 Acres	12/9/14	Special Exception to allow a Tavern License in an existing live performance theater in a General Business(BA) District.	Liquor License; Parking
			10/12/10	Special Exception to permit zero parking spaces where 12 are required for a theater in BA zone	Parking
			12/6/05	Special Exception to permit 0 parking requirement where 3 parking spaces are required to convert commercial building to 3 dwelling units and an antique store in a BA zone.	Parking

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1116 Whalley Avenue	BA	0.14 Acres	6/10/14	Variances to allow front yard of 0ft where 17ft is required and two side yards of 1ft each where 8ft and 10ft are required for second story residential structure.	Bulk & Yard Regulation
	RM-1	0.12 Acres	4/8/14	Special Exception to permit Transition Parking in a Residence District	Parking
			5/13/14	same above	
			5/13/14	Variance to allow driveway associated with Transition parking 10.48ft from adjacent Residence District property where 20ft is required. Zone: RM-1. Owner: Brian Shatz. Applicant: Jay Patel	Bulk & Yard Regulation
			6/10/14	Special Exception to permit Transition Parking in a Residence District. Variance to allow driveway associated with Transition parking 10.48ft from adjacent Residence District property where 20ft is required.	Bulk & Yard Regulation; Parking
47 Dayton Street, 1122, 1130, 1138, 1144, 1146, 1150 Whalley Avenue	BA	1.24 Acres	12/10/13	Special Exceptions to allow a Gasoline Station and a 24-Hour convenience store	Type of Business
			2/11/14	same	
1158 Whalley Avenue	BA	0.27 Acres	12/13/11	Special Exception to allow a 16 seat Cafe.	Type of Business
			6/11/13	Special Exception to allow a Restaurant Beer and Wine License.	Liquor License

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838 Whalley Avenue	BA	0.59 <i>Acres</i>	09/14/2010	Special Exception for a restaurant wine and beer permit in an existing restaurant in a BA zone	Liquor License
			3/13/12	Special Exceptions for a Full Restaurant Liquor License for a 130 seat Restaurant and to allow 9 on-site parking spaces where 34 are required.	Liquor License; Parking
			4/10/12	same above	
	BA and RM-1		6/10/03	Special Exception to permit 28 parking spaces where 38 are required, also permit transition parking for mixed use building—construction and renovation of existing commercial building in RM-1 and Business A zones. Application for Coastal Site Plan Review was filed in accordance with Section 55 of New Haven Zoning Ordinance.	Parking
1094 Whalley Avenue	RM-1		7/8/03	Special Exception to permit 0 front yard setback where 20 ft. is required to permit construction of a mixed use structure in RM-1 zone.	Bulk & Yard Regulation
	BA	0.77 <i>Acres</i>	11/15/11	Special Exception to allow a Drive-in establishment selling food for immediate consumption on or off premises within 250 feet of any residential use.	Type of Business

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894 Whalley Avenue	RM-2	0.24 <i>Acres</i>	10/11/11	Special Exception to allow 3 transition parking spaces in a High Middle Density (RM-2) Residential District.	Parking
781 Whalley Avenue (aka 50 Fitch Street)	BA	3.62 <i>Acres</i>	4/13/10	Special Exception to permit outdoor patio for existing restaurant selling alcoholic beverages in a BA zone; Coastal Area Management review for same	Bulk & Yard Regulation
50 Fitch Street	BA	3.62 <i>Acres</i>	5/11/10 8/29/08	same Special Exception for restaurant w/entertainment & full liquor in a BA Zone	Liquor License
873 Whalley Avenue	BA	0.15 <i>Acres</i>	10/7/08 11/12/08 6/10/08	same above same above Special Exception to permit the sale of beer and wine in conjunction with a 56-seat restaurant in a BA zone	Liquor license

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70 Fountain Street	RM-1	2/1/05	Side Yard Variance (unit 1) to permit 2 ft. where 8 ft. is required; Side Yard Projection Variance (remaining buildings) to permit 6 ft. where 3 ft. is allowed; Rear Yard Variance to permit 17.8 ft. where 25 ft. is required (units 13-15); Projection Variance (rear decks – units 13-15) to permit 13 ft. where 3 ft is allowed; Lot Area Variance Per Dwelling Unit to permit 2,276 sq. ft. where 3,500 sq. ft. is required; Lot Line Variance to permit 2.2 ft. from lot line where 5 ft. is allowed to permit construction of 15 condominium units in a RM-1 zone.	Bulk & Yard Regulation
		3/8/05	same above	
967 Whalley Avenue - Room 115	RM-1	6/8/04	Special Exception to permit a Preschool Child Daycare Center (serving 20 children) using space at Beth El-Keser Israel in RM-1 zone.	Type of Business

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64 Emerson Street	RM-2		7/8/03	Lot Area Variance to permit 4,365 sq. ft. where 5,400 sq. ft. is required; Lot Width Variance to permit 45 ft. where 50 ft. is required; Front Yard Variance to permit 10 ft. where 17 ft. is required; Lot Coverage Variance to permit 34 % where 30% maximum is allowed to widen Whalley Avenue in a RM-2 zone.	Bulk & Yard Regulation
	RM-1	0.36 Acres	6/10/03	Use Variance to permit a Rooming House (women only) in a RM-1 zone.	Type of Business
	BA	0.19 Acres	2/11/03	Special Exception to add Convenience Store to existing Gasoline Station in a BA zone.	Type of Business
158 Fitch Street			3/18/03	same above	

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Exhibit 3: Selected Ordinance Provisions

City of New Haven Zoning Ordinance

Section 43. - Bulk and yard regulations for business and industrial districts.

Additional requirements for buildings in a BA-1 District:

(1) *Yards facing the public right-of-way:* Building façades must abut or be located within 10 feet of at least 75 percent of the each property line abutting the public street. (see figure 43.1 below)

(2) *Side yards:* No minimum side yards are required.

(3) *Rear yards:* Minimum ten-foot rear yard.

(4) *Corner lots:* Are exempt from rear yard requirements for the first 50 feet from the street.

(5) *Doors and Entrances:* Buildings must have a primary entrance facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement. Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

(6) *Transparency:* In new buildings, except for buildings or portions of buildings containing residential or religious uses or health care facilities on the first floor, a minimum of 75 percent of the street-facing first floor building façade between two feet and eight feet in height must comprise clear windows that allow views of indoor space or product display areas. The bottom of any window or product display window used to satisfy this standard may not be more than three feet above the adjacent sidewalk.

(7) *Security bars and Gates:* Solid metal security gates, bars, or solid roll-down metal windows shall not be permitted. Link or grill type security devices shall be permitted. If installed on the outside, the coil boss shall be recessed and concealed behind the building wall.

(8) *Landscaping:* All parts of the property visible from the public right-of-way or from residential units contained on the property or adjoining properties shall be adequately landscaped to maximize recreational utility and aesthetic views. Landscape improvements may include pavers or paved surfaces, gravel, trees, shrubs, ground cover, and wherever possible, the retention of existing landscape features.

(9) *Fencing:* Rear yard property lines should be fenced where they abut residential zones. Alleyways should have decoratively designed gates or fences. Fences in front or side yards should not obscure sight lines to increase public safety. Chain link fences are prohibited except for temporary fences for construction.

(10) *Screening:* All trash receptacles, dumpsters, or bins placed outside the building must be screened from view from the public right-of-way and constructed and maintained so as to prevent noxious sights, odors, vermin, or other nuisances.

(11) *Design guidelines:* The following design guidelines should apply to all buildings in a BA-1 District. They should to the greatest extent possible, be incorporated into the design of new buildings and the renovation of existing structures. Guidelines shall apply

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when there are proposed modifications to a building façade to include replacement of windows, replacement of façade materials, or additions to or extensions of a façade.

a. *General design principles:* Emphasis should be on a pedestrian-scaled environment. Buildings should harmoniously blend with the existing neighborhood character. All materials, colors, and architectural details used on the exterior of a building should be compatible with the building style, and with each other. A building designed of an architectural style that normally includes certain integral materials, colors, and/ or details should incorporate such into its design. Plans should reflect an attention to detail, the use of quality materials, and good craftsmanship.

b. *Scale, mass and continuity:* Buildings should generally relate in scale and design to the surrounding buildings where such buildings represent quality construction and design associated with historical development of the area. Buildings should reflect a continuity of treatment in the following ways:

1. Maintain, when appropriate, the building mass and scale of adjacent buildings.
2. Maintain front yard build-to lines.
3. Maintain cornice and transition lines in buildings of the same height.
4. Primary horizontal and vertical lines in the architectural composition should remain visible or be incorporated into the design.

c. *Building entrances:* All entrances to a building should be defined and articulated by architectural elements of the building. Any such element utilized should be architecturally compatible with the style, materials, colors, and details of the building as a whole.

d. *Fenestration:* The arrangement and design of windows and doors in a building should be architecturally compatible with the style, materials, colors and details of the building. Windows should be vertically proportioned wherever possible. To the extent possible, upper story windows should be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows. All windows should be stylistically consistent with the building and energy efficient.

e. *Roofs:* Roof types should be appropriate to a buildings architectural type. Embellishments such as dormers, belvederes, masonry chimneys, cupolas, clock towers and other such embellishments are encouraged if appropriate to the building vernacular. Repairs to existing construction should conform to the building vernacular.

f. *Buildings on corner lots:* Buildings on corner lots should be considered important structures because they contain more than one façade that is exposed to the street. These buildings should be enhanced with appropriate architectural embellishments.

g. *Façades:* The architectural treatment of the front façade should be continued, in its major features, around all visibly exposed sides of a building. All sides of a building should be architecturally designed to be consistent with regard to style, materials, colors, and details. Deteriorated materials should be restored to actual function if possible, and if not possible, should be replaced with similar materials

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that have the same form and surface characteristics without visually changing the façade's character. New buildings should, at street level, have clear glass windows sufficiently transparent to provide views into the interior of the building.

h. *Storefront façades*: Storefronts should be integrally designed as part of the entire façade. Buildings with multiple storefronts should be architecturally uniform throughout through the use of architecturally compatible materials, colors, details, awnings, canopies and marquees.

i. *Signage and lighting fixtures*. Attachments and/or fixtures should complement the architectural design of the façade and should be appropriate in scale to the ornamentation and the design elements of the building. Fixtures and attachments should not obscure historically significant materials, architectural features or decorative details.

j. *Signage*: Signage should be architecturally compatible with style, materials, color and details of the building and neighborhood.

k. *Awnings, canopies and marquees*: Awnings, canopies and marquees are permitted at ground level. Such treatments should be designed to complement the building and should be compatible with the materials, colors, and details of the building and neighborhood. In buildings with multiple storefronts compatible awnings, canopies and marquees should be used as a means to unify the building. Solid, lighted awnings and canopies are not permitted. Vinyl awnings are not permitted.

(12) *Special permit*: All proposed uses of greater than 5,000 net square feet, whether located in new or existing structures, shall require a Special Permit in order to ensure that such relatively large proposals are compatible with and meet the general criteria and standards of the Business A-1 District as described and defined in Section 41.