



## Memorandum

**September 19, 2022**

**To: Planning & Zoning Commission**

**From: Steve Kleppin, Planning & Zoning Director**

**Re: Update to the Citywide Plan (POCD) & Industrial Zones Regulations**

There are two items in front of the Commission for consideration:

1. An amendment to the Citywide Plan to incorporate the recommendations of the Industrial Zone Study; &
2. Consideration of the zoning amendments, as proposed, in response to the Industrial Zone Study.

### **Introduction and Background**

The 2019 Citywide Plan recommended retaining, evaluating and reviewing where the city's industrial zones are and should be located and what are the appropriate uses within those zones. These recommendations were the justification cited when the City and Common Council allocated funds to conduct the Industrial Zones Study. To support these goals, we need to strike a balance between neighborhood improvement and economic growth which bolsters Norwalk positively and sustainably.

In addition, historic land use discrepancies have not been addressed. What I mean by that is, as the City developed (similar to other cities), housing for the workforce was initially located near places of employment, such as the factories in South Norwalk and East Norwalk. As the City further evolved, much of the industrial land uses changed as well, transitioning to uses such as contractor yards, which remain on legacy parcels, that are now surrounded by or near residential development. These uses are often in direct conflict with their neighbors. Unfortunately, prior to this study, there had been no comprehensive evaluation of these land uses and where they are and should be located.

It is important to reiterate that the Industrial Zones Study had three principal tasks:

1. Ensure there was adequate land left for future economic growth in the City,
2. Identify the types of businesses that could be successful, and Norwalk should target,
3. Reduce or remove conflicts between land uses that historically have been inappropriately located.

## Approval Process

As you will recall, the Commission spent several months reviewing the recommendations within the plan and evaluating the proposed zoning, before deciding to move the POCD amendment and draft zoning onto referral.

Since the Commission last discussed the proposed amendments to the industrial zones, the two items were referred out to WestCog, Harbor Management, CT DEEP, and the Towns of Darien, Westport and Wilton. None of the comments received were contrary or raised concerns about what is proposed. Amendments to the POCD are also required to be sent to the Common Council for consideration.

During the referral process, the City announced that they were purchasing the Hatch and Bailey property for the site of a new South Norwalk school. Taking into consideration the significant investment of time and funding the City has allocated for the new South Norwalk school, there was significant discussion and concern expressed related to student and resident health and safety from the current and potential users in the Meadow Street area. Staff, in working with ECD, agreed that changing the zone from Industrial 1 to Industrial 2, would be appropriate.

The referral was approved **unanimously** by the Economic and Community Development (ECD) Committee of Council on 7.7.22 and subsequently approved **unanimously** by the full Council on 8.9.22.

## Questions and Concerns

Based on our last conversations about the proposed changes, there were still some questions and concerns about some specific items as well as other items brought up by the public that should be addressed:

1. How do we incentivize commercial uses for these properties that will result in positive change on those properties?
2. Concerns were raised about creating nonconformities, including the properties on Bouton Street.
3. Norden is proposed to be rezoned from RI to I2. Some of the proposed I2 uses, have raised concerns.
4. Appropriateness of rezoning the Perry Avenue area from B2 to I2.
5. Consistency with the Citywide Plan

## Positive Change

So how do we realize positive change for the neighborhoods, while accommodating the needs of all the users and expanding the business potential for the City? Recognizing the legal rights of the existing businesses and the desire to bring about positive change for the area, the Plan provides incentives for property owners to reconsider alternate uses for their properties. The incentives include increased number of stories for buildings, reduction in the amount of required parking and flexibility in uses and approval.



Figure 37. Brooklyn Navy Yard Building 127 (Brooklyn, NY)



Figure 38. Raymond Flynn Marine Industrial Park (Boston, MA)



Figure 39. Pennovation Works (Philadelphia, PA)



Figure 40. Farm Fresh RI Food Hub (Providence, RI)

The images above are indicative of the plan's aspirations. Appendix C of the Plan, provides an analysis of the potential impacts should the City be fortunate to obtain a different dynamic in terms of the proposed uses, focusing on job growth. As you can see from the examples provided, there are significant advantages in terms of job growth and in terms of the impacts, or lack of impacts, the proposed uses will have on the neighborhood if the City rethinks the types of uses allowed. I would stress, while these uses remain predominantly commercial, the impacts on the neighborhood are significantly less than many of the current uses.

So how do we bring this to fruition? First, enact changes to the regulations that allow this type of development to potentially occur. Second, the City needs to proactively seek these types of businesses through marketing and through cooperation with the State of CT Department of Economic & Community Development, AdvanceCT, and through such programs such as CTNext.

### Nonconformities

The proposed rezoning removes several of the uses that are objectionable to residential neighbors; and while some remain, others like contractor yards are proposed to become Special Permit uses versus Site Plan uses. As we discussed, ALL the existing uses can continue to operate in perpetuity, regardless of whether the ownership changes or not.

There was concern expressed about creating nonconformities, which is a significant consideration when rezoning. However, to enact the changes needed, it was inevitable that the final recommendations would result in certain properties and uses becoming nonconforming. It would be easier to leave the allowed land use as-is, but that is not in the best long-term interest of the City. It is important to reiterate that none of the properties and uses that will become nonconforming as a result of rezoning will lose their rights to operate their business in perpetuity, regardless of a change in ownership. To address concerns raised regarding contractor yards becoming nonconforming, staff provided a relief valve to allow contractors to reconfigure operation on their site, which should provide flexibility.

*“Approved and properly permitted contractor’s yards, that became legally nonconforming at the time of the adoption of these regulations, may, in response to changing industry trends and needs, manufacture and sell new materials and products and use new techniques and methods to create such products; provided that, any new materials or processes employed, are not noxious, hazardous, or result in dust or noise that violates any provision of these regulations or other City or state ordinance. Such new products, materials, methods and techniques shall not constitute an expansion of legally nonconforming contractor’s yards. Further, owners of approved and properly permitted contractor’s yards in existence at the time of the adoption of these regulations, may relocate existing buildings, material piles and machinery throughout their properties and may construct new structures; provided that 1) relocated piles are not relocated to areas designated as flood zone, 2) or located closer than ten (10) feet from a residentially zoned property line, otherwise five (5) feet from a commercial property line, 3) a vegetative screen is placed between the properties and 4) any buildings comply with all applicable bulk and height standards. In addition, any approved and properly permitted contractor’s yards, that became legally nonconforming at the time of the adoption of these regulations, may use adjoining properties that they own or control as permitted intensification of their contractor’s yards, provided those properties are also approved and properly permitted contractor’s yards, in existence at the time of the adoption of these regulations.”*

Should the Commission consider including the clause above, I don’t see how someone can argue that is a negative impact on making the contractor yards legally nonconforming. I do understand and appreciate the concerns about making a property or use nonconforming, but in this instance, I do not see how the proposal negatively impacts existing operations.

Specifically, as it relates to Bouton Street, the same arguments stated above, apply to the Bouton Street properties as well. It should also be stated, that on the consultant team’s first visit to the City, they noted that Bouton Street was too narrow for the types of trucks and activities occurring presently and should be rezoned. In my opinion, should the Commission include the proposed clause, there is nothing in changing the zoning that negatively impacts their right to operate as-is and make internal changes to operations. In addition, while there are several other uses that will no longer be allowed, looking at those uses, it is clear why they are being removed.

## Norden

In conversations with ENNA, objections were raised to several uses, such as the lack of limitations on the size of Building Materials Storage Yards, Commercial Vehicle Storage Yards, Transportation Maintenance Terminals and Warehouses. Recognizing that the Norden property is a unique parcel, the concerns have merit. However, simply removing them from all of the I2 zone is not necessary. Staff recommends some constraints in the I2 zone as follows:

- Building Materials Storage Yards: Allow via Site Plan, < 20,000 SF and via Special Permit > 20,000 SF
- Commercial Vehicle Storage Yards: Limit that to parcels that do not exceed 2 acres.

Staff does not feel any changes are necessary for Transportation Maintenance Terminals or Warehouses.

## Muller Avenue/New Canaan Avenue

The Muller Avenue area and New Canaan Avenue areas have historically had legal and illegal heavier commercial uses operating within them. This location is well situated to handle the I2 uses proposed. While there are also compatible uses that may be appropriate, maintaining and enhancing industrial uses where there is a much lower chance of conflict with residential uses, makes this area ideally suited for increased use.

## Goals & Consistency of POCD

Maintaining industrial land and expanding commercial growth were important considerations and discussion points within the Citywide Plan. This consideration holds true as many potential businesses and tenants have a desire for industrial space and its characteristics based on market trends. While the Citywide Plan may not foresee all potential changes and outcomes, such as a new school campus, maintaining flexibility is important to realize other POCD goals such as ensuring the City's educational system is a community strength.

## **Summary**

In South Norwalk, the proposed changes result in an approximately 75% reduction in the amount of Industrial 1 zoned land and an approximately 25% overall reduction in industrial zoned land overall. The plan seeks to rectify, over time, many of the land-use conflicts that occur based on uses that have been permitted where they are not appropriate or are allowed without enough consideration of the abutting users.

There are numerous factors to consider when thinking about the broader needs of the City. While there may be individual arguments for changing or not changing the zoning on individual parcels, the proposed changes are the recommendations of the Staff in consultation with Utile and based on considerations and input from a broad constituency. Making the difficult changes necessary to rectify current conflicts and provide a clear path for future land uses, often results in one party or another not liking your decisions, but the broader needs of the City must be considered over the objections of a few.