

**DEVIATION FROM SECTION 6-14-4:3.2.5 TO ALLOW LIGHT POLES TALLER
THAN TWENTY-FIVE (25) FEET IN A COMMERCIAL DISTRICT AND FROM
SECTION 6-14-4:3.3.3 TO PERMIT A MAXIMUM OF 0.5 FOOTCANDLES
ADJACENT TO RESIDENTIAL USE**

- a. The requested deviation would not undermine the intent and purpose of the underlying zoning district.*

Section 6-14-4:3.2.5 provides that poles supporting lights shall be no taller than twenty-three (23) feet in a residential district, twenty-five (25) feet in a commercial district, a commercial part of a residential planned unit development, or in office/business park districts,

and thirty-two (32) feet in any industrial district. The intent and purpose of this provision is to ensure that lighting standards are appropriate for the context of the associated land use. It is notable that the zoning provision does not establish pole height standards based on the use of adjacent property, but only considers the classification (residential/commercial/industrial) of the subject property.

Section 6-14-4:3.3.3 provides that the maximum horizontal footcandles at the property line adjacent to a residential use is 0.1 horizontal footcandles. The intent and purpose of this provision is to ensure that the lighting of parcel adjacent to a residential parcel does not unnecessarily impact the quiet use and enjoyment of a residential parcel.

The Subject Property is currently improved with thirty (30) foot tall light poles. The existing light poles are set on concrete bases that range from one (1) foot to two and one-half (2 1/2) feet in height, with the overall height of the poles being not greater than thirty-two and one-half (32 1/2) feet. The existing light poles are consistent with the historical zoning designation of the property as ORI (Office, Research, and Light Industrial District). With the rezoning of the Subject Property to the OCI (Office, Commercial, and Institutional District) pursuant to Ordinance No. 24-119, the existing light poles become a legal non-conforming use.

Due to the scale of the proposed redevelopment of the Subject Property, the existing poles will lose their legal non-conforming designation. Accordingly, Petitioner seeks a deviation to permit the reuse of the existing poles with the proposed mixed-use development of the Subject Property. Petitioner, based on its extensive experience as a developer, owner, and operator of mixed-use properties across the globe, believes that the existing poles are consistent with the character of the proposed development and will not impair the enjoyment and use of the Subject

Property.

Petitioner believes that context is an important consideration. In this case, the development sits within one of the most intensive land use corridors in the City. Residents will consciously choose to live at the Subject Property based on this context. Their expectation of quiet enjoyment is fundamentally different than that of a single-family homeowner on a cul-de-sac in Saybrook. Residents of the Subject Property are specifically choosing to reside in an area because of the location and the energy/activity around the residential land use. Light poles that are 32.5' instead of 25' will not impair residents' expectation of quiet enjoyment.

The existing light levels along the south property line of the Subject Property vary. At its peak, existing light levels are approximately 0.9 horizontal footcandles as depicted on the existing photometric plan, attached hereto as Exhibit B. These light levels are well established and have operated in close proximity to residential development along the south line of the Subject Property for many years. The established light levels have not impaired the development and use of adjacent property. Any perceived impact is minimized by the substantial actual separation between the south line of the Subject Property and the actual residential use of the property adjacent to the south. The lighted area of the parking lot located on the Subject Property is immediately adjacent to a large regional stormwater detention basin that collectively serves the Subject Property, Costco, and adjacent residential development. While the proposed lighting plan for the Subject Property, attached hereto as Exhibit C, shows spillage of light onto the adjacent residential parcel, the impact of that light spillage above Code requirements is entirely constrained to the walking path around the detention basin. The proposed design both improves existing conditions and appropriately eliminates any real impact to the core residential use of the adjacent residential property.

- b. The requested deviation will not be a detriment to the provision of municipal services and infrastructure.*

The requested deviation will have no effect on the provisions of municipal service or infrastructure.

- c. The requested deviation will contribute to a planned unit development which offers a superior level of design, amenity enhancement, or environmental benefit, or would enhance the community vitality through the inclusion of attainable or barrier free housing.*

The requested deviations will allow Petitioner to provide a superior level of design that is environmentally beneficial. The thirty (30) foot light poles, some of which sit atop of a two and one-half foot concrete base, are an existing condition. In their current condition, the lights project beyond the property boundary in a manner that is not compliant with Code. There is no evidence that the operation of these light poles, over many years, has impaired the use and operation of surrounding properties. To the contrary, surrounding properties have both developed and redeveloped, representing significant investment, in the shadow of the existing light poles. Petitioner's plan will ultimately result in a superior level of design, as there will be less light spillage beyond the boundary of the Subject Property, particularly along the south line adjacent to existing residential development.

Petitioner is also environmentally conscious, and took great care in site selection and building design. Petitioner is not working from a blank slate, but is working from the context of the existing built condition. From inception, Petitioner has consciously focused redevelopment efforts around the context of the existing improvements. The existing parking garage will undergo minor repairs and be repainted, but the adaptive reuse of the existing structure is a critical component of Petitioner's efforts to manage redevelopment costs and corresponding

rental rates. Likewise, Petitioner's demolition plan evidences the care that has been taken to reuse other components of existing infrastructure. While pavement sections are roughly 40 years old and require replacement, Petitioner is consciously preserving the base or foundation of most drive aisle and parking fields. Around the parking garage existing light poles will not be disturbed. In other areas, poles may be relocated, but reuse of the poles will establish a consistent framework across the Subject Property. Petitioner's adaptive reuse of the light poles is environmentally conscious.

The proposed deviations present a unique scenario where Petitioner is consciously repurposing infrastructure associated with the transition of a commercial property to residential land use. Petitioner has taken appropriate steps to minimize impacts associated with the reuse of infrastructure and, in all cases, is improving the existing condition. Failure to grant the deviations would increase costs of the project, unnecessarily divert quality resources to a landfill, and impair Petitioner's intent to minimize prevailing rental rates in the market.