

*IN THE MATTER OF*

*: FLOOD MANAGEMENT EXEMPTION  
APP #FM-20141124*

*CT DEPT OF HOUSING*

*(WASHINGTON VILLAGE, NORWALK)*

*: APRIL 30, 2015*

*FINAL DECISION*

*I*

*SUMMARY*

The Connecticut Department of Housing has applied for an exemption from a certification requirement for floodplain management set out in General Statutes §25-68d (b) (4) in connection with the planned redevelopment of the Washington Village housing complex in Norwalk (“proposed activity”).<sup>1</sup> Under the provisions of General Statutes §25-68d (d), any state agency proposing an activity or critical activity within or affecting the floodplain may receive an exemption if the Department of Energy and Environmental Protection (DEEP) finds that an applicant has shown that the activity “is in the public interest, will not injure persons or damage property in the area of such activity, complies with the provisions of the National Flood Insurance Program, and, in the case of a loan or grant, the recipient of the loan or grant has been informed that increased flood insurance premiums may result from the activity or critical activity.”

DEEP Staff determined that the proposed activity met the requirements of §25-68d (d) and published a Notice of Tentative Determination to approve the application. The Friends of Ryan Park timely filed a petition for hearing and intervened as a party pursuant to General Statutes §22a-

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<sup>1</sup>The proposed activity complies with all the standards for a flood management certification set out in General Statutes §25-68d (b) except for subsection (4) regarding non-intensive floodplain uses because the number of proposed housing units is greater than those currently in existence. (Ex. APP-2A; test. 1/16/15, Yurasevecz, S., p. 45.)

19.<sup>2</sup> Other parties are the applicant Connecticut Department of Housing (DOH) and Staff from the DEEP Inland Water Resources Division, Bureau of Water Protection and Land Reuse (Staff). The Norwalk Housing Authority (NHA or the Authority) also intervened as a party pursuant to General Statutes §4-177a (a) (2) and Regs., Conn. State Agencies §22a-3a-6 (k) (1) (B).<sup>3</sup>

A hearing to receive public comment was held on December 15, 2014 at the South Norwalk Community Center. A site visit was also conducted on December 15.<sup>4</sup> Evidentiary hearing sessions were held at the DEEP in Hartford on December 19, 2014 and January 6, 2015.

The substantial evidence in the record shows that DOH has met its burden of proving that the criteria set out in General Statutes §25-68d (d) have been satisfied. The record also shows that the Friends of Ryan Park (FORP) failed to substantiate its claims of environmental harm, thereby failing to prove that the proposed activity is reasonably likely to result in unreasonable pollution, impairment or destruction of natural resources. §22a-19 (a). Because FORP did not satisfy this burden, I am not required to consider whether there are feasible and prudent alternatives to the proposed activity and I will not reconvene the hearing for this determination. §22a-19 (b). See *Evans v. Planning & Zoning Commission*, 73 Conn. App. 647 (2002) (§22a-19 (b) requires consideration of alternatives only when determination made that project would cause unreasonable pollution, impairment or destruction of the public trust in the natural resources at issue).

Under the power delegated to me render a final decision in this matter<sup>5</sup> and for the reasons set out more thoroughly herein, I approve this application submitted by the Connecticut Department of Housing for a floodplain management certification exemption pursuant to the provisions of General Statutes §25-68d (d) and grant the requested exemption.

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<sup>2</sup> Section 22a-19 permits intervention as a party upon the filing of a verified pleading asserting that the proceeding “involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.” §22a-19 (a) (1).

<sup>3</sup> NHA demonstrated that its legal rights, duties or privileges would be specifically affected by this decision.

<sup>4</sup> A map of the route taken during the site visit is included in the administrative record as Ex. APP-18.

<sup>5</sup> The Commissioner has delegated to this office and its hearing officers his authority to render a final decision in cases concerning “an exemption for a state agency from a floodplain certification approval, pursuant to Conn. Gen. Stat. §25-68d (d).” Delegations of Authority, January 9, 2014, § VIII, F. 4. c. iii.

**II**  
**PUBLIC COMMENTS**

Oral and written comments expressed both support for and opposition to this project. Some expressed a belief that this project is a much-needed initiative to improve the Washington Village housing complex and to revitalize the neighborhood. Others expressed concerns about the sufficiency of the public outreach process, whether this project is in the public interest, whether persons or property will be protected from injury, and claimed that this project will actually exacerbate flooding in the area. The public also raised fears about impacts to Ryan Park and questions as to whether there are more appropriate and feasible alternative sites for the project.

My decision must be based on the criteria outlined in General Statutes §25-68d (d). My findings of substantial evidence to satisfy this criteria address the majority of the public's concerns. Although other issues raised by the public did not fall within this criteria, they may still be addressed in this decision if they were related to relevant aspects of this project.

**III**  
**DECISION**  
**A**  
**FINDINGS OF FACT**

**1**

***The Proposed Activity***

1. The Authority owns and operates 136 units of public housing known as Washington Village in a neighborhood of Norwalk known as South Norwalk. Located at the intersection of Raymond and Day Streets, the Washington Village site is the southernmost parcel in the three-parcel redevelopment site. The Authority and its partner Trinity Financial, Inc. are proposing to acquire two parcels from the City of Norwalk. The first is 13 Day Street, the northernmost site, and the second is 20 Day Street, between 13 Day Street and the Washington Village site. These three parcels totaling 6.55 acres will be redeveloped in three phases, resulting in 273 units of

mixed-income housing and 500 parking spaces.<sup>6</sup> The development will also have a community center and open space. Construction will begin at the 13 and 20 Day Street parcels; once these units are constructed, current Washington Village residents will be relocated, the existing units will be demolished and the balance of the remaining construction will be completed. (Exs. APP-1, 2A, 2B, 2E, 9, INT/NHA-3A, 3B, 5; test. C. Meyer, 12/19/14, pp. 215-217, T. Doherty, 1/6/15, p. 183.)

2. The Washington Village site and the 20 Day Street property are located entirely within the 100-year coastal floodplain; 13 Day Street is situated partially in the floodplain. All of the first-floor units in Washington Village are below the base flood elevation and therefore subject to flooding by a 100-year flood. The current Washington Village site also provides no access to dry land from its buildings if they are inundated by floodwaters. (Exs. APP-2D/Appendix I, 2E, 3D/Appendix H, INT/NHA-3A; test. J. Canas, 12/19/14, p.13.)

3. A conceptual plan submitted with this application provides for a pathway for dry emergency egress through Ryan Park, an approximately two-acre site at the southwestern quadrant of the intersection of Raymond and Day Streets. This egress plan will provide access to dry land above the flood elevation. This conceptual plan was created to demonstrate that a dry egress route was feasible, but does not represent an approved design. A revised conceptual plan shows that a pedestrian pathway along the perimeter of the Park is also feasible. Dry egress may be for pedestrians only and does not have to provide vehicular access. (Exs. APP-1, 4C/Appendix C, 5, 7, 21, 22, DEEP-7, 8, 9, INT/NHA-2; test. J. Canas, 12/19/14, pp. 9-11, 18-25, 28-33, 1/6/15, pp. 24-36, 42, S. Yurasevecz, 1/6/15, pp. 49-51.)

4. Infrastructure improvements associated with this project include the raising of the profile of Raymond and Day Streets so that the elevation of the intersection is above the base flood elevation. Raising this intersection will not impact flood elevations or adjacent properties. The fill required to raise the intersection will not impact flood elevations as it is a small amount of fill being placed in the vast Long Island Sound floodplain. Improvements will also include the installation of new storm drains and enhanced storm water management. Ryan Park, which is a public park owned by the City of Norwalk, will be redeveloped and realize infrastructure improvements. (Exs. APP-1, 5; test. J. Canas, 12/19/14, pp. 16-18.)

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<sup>6</sup> 198 parking spaces will be at-grade beneath the proposed buildings and 302 will be at-grade in surface lots. (Ex. APP-1.)

5. An environmental site assessment performed as part of the planned redevelopment indicated that the three parcels have experienced environmental degradation due to the historic use of the properties, the presence of underground storage tanks, the presence of polluted fill materials, and impacts related to documented spills and releases. Portions of the 13 Day Street and 20 Day Street parcels meet the definition of an “establishment” as defined in General Statutes §22a-134(3) of the Connecticut Transfer Act due to the possible generation of hazardous waste above the 100 kilogram threshold level at 13 Day Street and the former use of 20 Day Street as an auto body repair facility. Both of these parcels also meet the definition of a “brownfield” under General Statutes §32-760(2), as both parcels have been vacant, underutilized sites since at least the late 1970s, where redevelopment, reuse or expansion has not occurred due to the presence or potential presence of contamination from their historic use. Assessment activities have also indicated the presence of impacted soils and groundwater concentration exceeding the default numeric threshold criteria under the Remediation Standard Regulations (RSRs), Regs., Conn. State Agencies §§22a-133k-1 through 3, including volatile organic compounds, petroleum hydrocarbons, metals, and polyaromatic hydrocarbons. The observed impacts at the three sites are attributed to historic operations, including the use of underground storage tanks at the sites, as well as the presence of polluted fill materials. Neither 13 nor 20 Day Street act as natural buffers to flooding and neither is currently pristine. (Exs. APP-11, 12; test. A. Duskocy, 12/19/14, pp. 68-70, 79, 83, S. Yurasevecz, 1/6/15, p. 206.)

6. A conceptual remedial action plan has been prepared and a loan of more than one million dollars has been received from the Connecticut Department of Economic and Community Development. As a condition of this funding, 13 and 20 Day Street will be remediated and ultimately improved in accordance with a DEEP-regulated clean-up program subject to the RSRs. (Exs. APP-11, 13, 14; test. A. Duskocy, 12/19/14, pp. 75-77, 83, T. Doherty, 1/6/15, pp. 191-192.)

2

*Consideration of Alternatives*

7. The applicants considered other alternatives, including other sites that were outside the floodplain, but found no acceptable location as an alternative to the present three-parcel site. Sites (or combinations of smaller sites) had to be at least six acres in total in order to address density issues of concern to the Housing Authority (e.g., lack of open space, need for townhouses or buildings over five stories). Because of the expense and uncertainty of acquiring property from

private owners, sites also had to be City-owned. Sites had to be for sale, considered ready for redevelopment, and not already the site for an approved development project. Sites also had to be in the South Norwalk neighborhood to avoid relocation of residents and to avoid the possibility that HUD would not consider a site to be in a demographically desirable location. Also, moving from the present site could allow a market rate development to develop the current site, thwarting the mixed-housing objective of the project. Other sites were contemplated and determined to be inconsistent with the objectives of the South Norwalk/Washington Village Neighborhood Transformation Plan. Still other locations could have impacted the competitiveness of the Authority's application for the Choice Neighborhood Implementation Grant. (Exs. APP-15, 16, 17, INT/FORP-18; test. T. Sheehan, 12/19/15, pp. 85-86, 89-90, 95-116.)

3

*General Statutes §25-68d (d): Flood Plain Exemption Criteria*

*(a)*

*In the Public Interest*

8. The proposed activity will replace an outdated housing complex that suffered flood damage with new, more functional, flood-resilient units that comply with applicable building and safety codes. Constructed in 1941, Washington Village is currently the oldest public housing complex in the State. Its dwelling units are obsolete and in need of substantial improvements to be more functional and meet the needs of its residents. The complex also experienced significant coastal flooding as a result of "Super Storm Sandy" in October 2012 that resulted in damage to the site and to residents' personal property; many residents also required temporary relocation. Given the age of the complex, its overall obsolescence, the damage done by Sandy, and the site's predilection to flooding even in instances of lesser storms, it is not cost effective or feasible to renovate or continue to operate the complex as it now stands. The new development will be a 273-unit mixed income community consisting of 136 replacement public housing units, sixty-seven rent and income-restricted affordable housing units and seventy unrestricted market rate structures. The income generated from the market-rate units that will be included in the new housing is earmarked to offset and supplement the cost of operating the affordable public housing. (Exs. APP-1, 9, INT/FORP-23; test. T. Doherty, 1/6/15, p. 193.)

9. Two environmentally-impacted vacant properties will be remediated and returned to productive use. This remediation will improve the existing environmental conditions on the sites

and, as the conditions on site become more understood and addressed, will ultimately be more protective of human health and the environment. (Exs. APP- 9, 11; test. A. Duskoey, 12/19/14, pp. 65-70, 75- 77, C. Mayer, 12/19/14, p. 205.)

10. The proposed activity will employ Low Impact Development practices and uses infiltration to reduce stormwater volume and promote stormwater quality. The project will provide pervious vegetated areas where none exist, will use permeable pavement, and will employ other methods to improve water quality. Currently, stormwater runoff discharges from the site untreated. The proposed activity will use stormwater treatment practices that will improve stormwater quality as it is discharged from the site. (Exs. APP-1, 5, DEEP-8; test. S. Yurasevecz, 1/6/15, pp. 47-48, 90.)

11. Washington Village is located in the South Norwalk Regional Center. The Growth Management Principles of the State of Connecticut Plan of Conservation and Development call for revitalization of regional centers by expanding housing opportunity and choice and concentrating investments that support both development and transportation. (Ex. APP-9; test. C. Mayer, 12/19/14, p. 205, T. Doherty, 1/6/15, p. 190.)

12. This proposed activity is the “housing” component of a comprehensive, community master plan called the South Norwalk/Washington Village Neighborhood Transformation Plan. This Plan, which was formally approved and adopted by the Norwalk Common Council on May 28, 2013, is expected to help families improve their economic self-sufficiency and improve education for children in South Norwalk, including Washington Village. (Exs. APP-9, 10; test. C. Mayer, 12/19/14, p. 206.)

13. The adoption of the Transformation Plan came after an eighteen months-long inclusive community planning and public outreach process that involved the City of Norwalk, the residents of Washington Village and the larger South Norwalk neighborhood, key stakeholders, elected officials, local businesses and city-wide organizations, including the Norwalk Redevelopment Agency. The residents of Washington Village and others were provided with opportunities to be informed and involved throughout the planning process. There was no requirement that FORP be specifically invited to participate in this process, but persons with an interest in the Park, including members of FORP, were undoubtedly aware of and part of this broad-based process.<sup>7</sup> HUD, which funded the planning initiative, found that the public participation plan complied with its

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<sup>7</sup> Groups involved in this project include the Ryan Park Advisory Committee. Members of the Committee include leaders of FORP. (Ex. APP- 020; test. 12/19/14, J. Canas, p. 25.)

requirements for public notification and participation in the planning process. (Exs. APP-9, 10, 20, INT/NHA-3, INT/NHA-4; test. J. Canas, 12/19/14, p. 25, C. Mayer, 12/19/14, pp. 208, 211-212, 221-225, 232-236, R. Parkes, 12/19/14, pp. 260-268, 270-277.)

14. The Authority and the City of Norwalk (through the Norwalk Redevelopment Authority) applied for and received a thirty million dollar Choice Neighborhoods Implementation Grant (CNI Grant) from the U.S. Department of Housing and Urban Development (HUD). Eighteen million dollars of this CNI Grant will be used to fund this proposed activity. Twelve million dollars of the Grant will be used for neighborhood improvements, including public infrastructure improvements, improvements for commercial properties in the South Norwalk neighborhood, and one million dollars for the improvement of Ryan Park. This project will meet one of the purposes of the Choice Neighborhoods Program, which is to transform neighborhoods of concentrated poverty into mixed-income neighborhoods of long-term viability by revitalizing severely distressed housing, growing communities and metropolitan areas by concentrating, leveraging, and coordinating federal, state, regional, local and private funding for public housing and ensuring that current residents benefit from transformation by preserving affordable housing in the neighborhood. The more economically diverse mixed income community will increase neighborhood stability and safety, will better support the local business community, and will provide an incentive for investment in this South Norwalk neighborhood. (Exs. APP-9, INT/NHA-2; test. C. Mayer, 12/19/14, pp. 204, 228, T. Doherty, 1/6/15, pp. 186-187, 190-191.)

15. The proposed activity meets the eligibility threshold requirements and the funding priorities of the Connecticut DOH Community Development Block Grant – Disaster Recovery Multifamily Rehabilitation/Rebuilding and Mitigation Inside Flood Plain Multifamily Assistance Program. This program targets low to moderate income multifamily properties located in an eligible community within the 100 or 500-year floodplain that were damaged by Super Storm Sandy. This proposed activity satisfies this criteria by providing benefits to low and moderate income persons and families, addressing existing conditions that threaten the health and safety of current occupants of Washington Village, and contributing significantly to the long-term recovery and economic revitalization of South Norwalk, a neighborhood damaged during Super Storm Sandy. (Ex. APP-9; test. C. Mayer, 12/19/14, p. 204.)

16. The proposed activity complies with the State of Connecticut Consolidated Plan for Housing and Community Development. Its location supports responsible growth and development



in the state and the efficient use of existing infrastructure investment in transportation, water, sewer and other utility systems; it preserves and increases the supply of quality affordable housing, expanding housing choice and opportunity, in order to support economic growth and the development of stable and healthy communities and neighborhoods. It also includes 136 public housing units with operating subsidies that will serve the area's lowest income residents, helping to reduce the incidence of chronic homelessness. (Ex. APP-9; test. C. Mayer, 12/19/14, pp. 204-205, 231.)

17. The proposed activity complies with the Connecticut Housing Finance Authority Qualified Allocation Plan for Low-Income Housing Tax Credits because it creates and preserves rental units dedicated to low-income families, households and individuals with incomes below 50% of the Area Median Income; remediates two brownfields located in a "built-up" area of South Norwalk close to existing commercial properties; enhances housing mobility and choice across income levels and promotes a vibrant mixed-income neighborhood. It also supports local efforts to make better use of limited urban land; develops transit-oriented housing; creates access to parks and recreational opportunities for affordable and mixed-income housing; and promotes economic integration and reduces the isolation of public housing residents by creating a mixed-income community for residents at all income levels. (Ex. APP-9; test. C. Mayer, 12/19/14, p. 205.)

18. The proposed activity complies with federal requirements of Section 42 (m) of the Internal Revenue Code of 1986 because it includes 136 public housing units with a dedicated operating subsidy from HUD that ensures the lowest income tenants will be served and contributes to a concerted community revitalization plan. (Ex. APP-9; test. C. Mayer, 12/19/14, p. 205.)

19. Construction on the project will generate approximately two and one-half to three construction-related jobs per housing unit for a total of approximately 680 to 820 construction-related jobs. This estimate includes jobs generated by related suppliers, fabricators and shippers. Permanent jobs will be created that are related to on-going property management, as well as community outreach, education and social services jobs created to support components of the Transformation Plan. (Ex. APP-9; test. C. Mayer, 12/19/14, pp. 205, 228.)

20. Ten percent of all subcontracts will be awarded to qualified businesses as defined in §3 of the Housing and Urban Development Act of 1968. Twenty-five percent of all subcontracts will be awarded to state-certified small business enterprises and twelve and one-half percent to state-certified minority small business enterprises. Thirty percent of workforce hours for new hires for

each trade will be performed by qualified individuals as defined in the Act; twenty-five percent of workforce hours will be performed by members of minority groups and almost seven percent will be performed by females. Apprentices will comprise fifteen percent of the workforce in each trade, half of whom must be first-year individuals. (Ex. APP-9; test. C. Mayer, 12/19/14, pp. 205, 228.)

21. The proposed activity will create a mixed-income community by bringing market rate housing and people with a range of incomes into the neighborhood. The activity will also address two concerns raised by the community during the planning process: 1) the preservation of public housing units and 2) the provision of additional units for working households with incomes greater than fifty percent of Area Median Income. The proposed activity incorporates green design standards for energy efficiency and the promotion of healthy living environments. (Ex. APP- 9; test. C. Meyer, 12/19/14, pp. 206, 231, T. Doherty, 1/6/15, p. 190.)

22. The proposed activity is intended to create opportunities for families to increase economic self-sufficiency and to thrive based on strategies adopted in the Transformation Plan, which include the improvement of educational outcomes for all children living in the South Norwalk neighborhood. The activity, which will improve sidewalks and beautify the public area, is intended to encourage investment in the neighborhood and have other positive and transformative impacts on the South Norwalk neighborhood, such as an increased demand for goods and services from neighborhood retail businesses due to the increased residential population. To impact the crime rate, improved lighting and the orientation of residential units towards to street are planned to have as many “eyes on the street” as possible. (Ex. APP-9; test. C. Meyer, 12/19/14, pp. 206-207, T. Doherty, 1/6/15, pp. 190-191.)

**(b)**

***No Injury to Persons or Property***

23. The buildings to be constructed as part of the proposed activity will elevate the first floor residential units above the 500-year flood elevation. The space below this elevation will also be designed with openings sufficient for the passage of floodwaters. Parking will be located at-grade below the first floor units and at-grade in surface lots. Flood-proofed elevators and stairwells will provide access to street level from the elevated units. The building columns, footings and foundations will be designed to resist both hydrostatic and hydrodynamic forces. All mechanical units will be placed above the 100-year flood elevation; utilities below this elevation will be flood-

proofed to minimize infiltration or discharge. (Exs. APP-1, 2E, 3D, 5, INT/NHA-3A; test. J. Canas, 12/19/15, p. 14.)

24. The redevelopment will also be located in a coastal zone, where tidal influences are the primary reason for flooding events. The buildings will be located landward of the limit of damaging wave action from coastal storms and surges. The area below the buildings for parking will also be open and will allow for the passage of flood waters. Catch basins will be installed where needed to provide a means for water to drain. These new storm drains will have a backwater preventer to prevent high tides from backing up through the system and ponding at storm sewer inlet structures. This will provide further local flood protection to the area, including Ryan Park. The construction of the buildings will not negatively impact conveyances of water or increase flood heights. Placing any fill to construct new buildings, increase the elevation of Raymond and Day Streets, and for a pathway for dry egress, will not raise flooding elevations as the amount of fill is small relative to the large size of Long Island Sound. The project is also not increasing the amount of impervious surfaces in the area. Neighboring structures will not be impacted. (Exs. APP-1, 5, DEEP-8; test. J. Canas, 12/19/14, pp. 16-18, 42-45, 1/6/15, pp. 213-218.)

25. The application includes a detailed Flood Contingency Plan, which was coordinated with the City of Norwalk and which is modelled on the City's emergency preparedness plan. The Contingency Plan describes measures to be taken at the site to protect life and property in the event of a significant flooding event and includes a timeline for implementation of emergency procedures. Coastal flooding events typically have a fairly long warning period. Part of the Contingency Plan involves notification to residents in enough time to evacuate using local roads. The dry egress plan is a secondary means of egress if local roads are impassable. Residents will be timely advised to move their cars off site, including to public garages. (Exs. APP-2D/Appendix I, 4C/Appendix C, 5; test. J. Canas, 12/19/14, pp. 12-16, 18, 48-50, 52, 56, 59, 60, S. Yurasevecz, 1/6/15, pp. 92-94, 98, T. Doherty, 1/6/15, pp. 188-189.)

26. The conceptual plans have enough design detail for DEEP to conclude that people will be able to get out of harm's way through the use of an adequate means for dry access in case of a flood. Dry egress through Ryan Park is intended to provide resiliency for the project in the event of a flood and ensure the safety of residents by providing a way to leave buildings that are inundated with flood waters. Buildings at 20 Day Street and the Washington Village site will have connecting pedestrian walkways which will ultimately connect to the corner of Raymond and Day,

which will be elevated above the floodplain. Residents will access that intersection and walk across Ryan Park via a pathway to reach contiguous land above the floodplain elevation. Buildings on the northern parcel (13 Day Street) are adjacent to land above the 100-year floodplain elevation and there will be dry access to contiguous dry land without further infrastructure improvements. During the hearing, the applicants changed the location of the pathway and limited its use to pedestrians. DEEP Staff provided conditions regarding the construction of the pathway for its conditional approval of the revised plan; the applicant confirmed that it could comply with these conditions. This plan for dry egress will not result in additional flooding of the Park, which is in a floodplain and currently subject to flooding during certain coastal events. (Exs. APP-5, 21, 22, DEEP-1, 5, 8, 9; test. J. Canas, 12/19/15 pp. 9-12, 14, 19-25, 28-33, 42-46, 56-57, 63-64, 1/6/15, pp. 24-26, 29-36, 42, S. Yurasevecz, 12/19/14, pp. 34-36, 1/6/15, pp. 49-68, 79.)

(c)

***Compliance with National Flood Insurance Program***

27. As a participant in the National Flood Insurance Program (NFIP), the City of Norwalk has adopted ordinances in accord with the NFIP to reduce the risk of flooding. It is undisputed that specific provisions incorporated into the design of this proposed activity comply with City ordinances and meet or exceed the basic requirements of the NFIP. These include the requirements that the lowest habitable floors be above the 100-year flood plain elevation and that utilities be above the base flood elevation or flood proofed to minimize infiltration of flood waters. In addition, openings below the building at flood elevation will permit the passage of floodwaters and the design of sanitary sewer and potable water systems will minimize the infiltration of flood waters. (Exs. APP-1, 1/ Appendix A, 5, DEEP-8; test. S. Yurasevecz, 1/6/15, p. 52.)

(d)

***Awareness of Increased Flood Insurance Premiums***

28. The Authority and its partner Trinity Financial, Inc., the recipients of the Choice Neighborhoods Implementation Grant from the US Department of Housing and Urban Development, are aware that this development in the floodplain requires flood insurance coverage and that increased premiums may result from the increase in the number of units within the horizontal limits of the flood plain. (Exs. APP-5, DEEP-8; test. J. Canas, 12/19/14, p. 7, S. Yurasevecz, 1/6/15, p. 51.)

***No Proof of Unreasonable Pollution, Impairment or Destruction of Natural Resources***

29. The basis for the intervening party status of the Friends of Ryan Park (FORP) were its allegations of “potential harm brought by building within the 100-year floodplain while scientific fact shows that sea level is rising” and the “potential for construction to actually spread flood damage throughout the neighborhood and inundate the Park system.” FORP did not present any expert witnesses to support these allegations or effectively challenge the witnesses for the other parties on these or any other environmental claims or relevant issues. FORP’s witnesses were not experts on any relevant issue and presented factual testimony on matters not directly relevant to this approval of an application for a floodplain management exemption. FORP also alleges it has a legal claim under the provisions of General Statutes §7-131n and that a restrictive covenant exists that prevents the use of Ryan Park for a dry access route. (Exs. INT/FORP-1, 18.)

***B***

***CONCLUSIONS OF LAW***

***1***

***General Statutes §25-68d (d)***

General Statutes §25-68d (d) provides that the Commissioner may approve, or approve with conditions an exemption from the certification requirements of §25-68d (b) (4) if the Commissioner determines that “the agency has shown that the activity...is in the public interest, will not injure persons or damage property in the area of such activity, complies with the provisions of the National Flood Insurance Program, and...the recipient of the loan or grant has been informed that increased flood insurance premiums may result from the activity.”

***(a)***

***In the Public Interest***

General Statutes §25-68d (d) provides that “[a]n activity shall be considered to be in the public interest if it is a development subject to environmental remediation regulations...and it is in or adjacent to an area identified as a regional center...in the State Plan of Conservation and Development....” This criterion is satisfied. Washington Village is situated in a regional center and the remediation of the 13 and 20 Day Street parcels will be subject to environmental remediation regulations.

However, there is additional sufficient evidence that the redevelopment of Washington Village will provide a number of benefits in the public interest of not only the residents of Washington Village, but also for other occupants of the neighborhood and of the greater South Norwalk community. Two vacant contaminated properties will be remediated and returned to productive use as a result of this project. Storm water impacts will be reduced. Construction will provide jobs and economic benefits for the area and will result in the replacement of an existing, outdated flood-prone housing complex with new and updated flood-resilient housing for not only the current residents of Washington Village but also for new occupants of moderate and mixed income housing. The funding that will be part of the proposed activity will provide revenue for infrastructure, environmental and other improvements that will impact the entire South Norwalk neighborhood, including Ryan Park. Part of the community-based South Norwalk Transformation Plan, the redevelopment of Washington Village meets the objectives of not only this Plan but also the goals of the many State and federal programs designed to provide housing for low or moderate income families that promotes economic self-sufficiency and enhances their neighborhoods and their lives.

*(b)*

***No Injury to Persons or Damage to Property***

As required by General Statutes §25-68d (d), there is ample evidence that this proposed activity will not injure persons or damage property. This evidence includes the fact that residential units that are currently in the floodplain will be elevated above the 500-year flood elevation in buildings that will include flood-proofed elevators and stairwells. The new buildings produced will also be designed to resist the forces of water and open passageways under them will permit the free flow of floodwaters. The placement of fill to elevate Raymond and Day Streets and construct other buildings and the dry egress pathway will not impact the Long Island Sound floodplain or increase flooding in the area or impact adjacent properties. A Flood Contingency Plan will outline procedures to evacuate persons and remove property, such as cars, in a significant flooding event. Additional access to land outside the flooded area will be provided through a plan for a dry egress route.

The proposed activity will provide for better management of flooding in the area. Improved storm water management will reduce storm water volume. The installation of catch basins will enhance the drainage of water in areas that include Ryan Park and prevent high tides from backing up throughout the system and ponding at storm sewer inlet structures. Compared to the current situation at Washington Village and the potential impacts of flooding in the area, the proposed project will reduce the impacts of floods and the consequent injury to persons or property.

(c)

***Compliance with the National Flood Insurance Program***

There is undisputed sufficient evidence that specific provisions incorporated into the design of the proposed activity satisfy or exceed the requirements of the National Flood Insurance Program.

(d)

***Notice of Increased Flood Insurance Premiums***

The sufficient undisputed evidence shows that the recipients of the Choice Neighborhoods Implementation Grant from the US Department of Housing and Urban Development are aware that this proposed activity requires flood insurance coverage and that increased premiums may result.

2

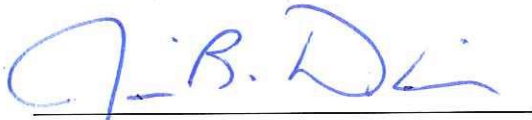
***General Statutes §22a-19 (a) (1)***

Section 22a-19 (a) (1) requires that issues raised by intervening parties implicate issues within the jurisdiction of DEEP. The two legal issues raised by FORP are not within the jurisdiction of DEEP and outside the parameters of §22a-19 (a) (1). The first allegation of a claim pursuant to General Statutes §7-131n is properly brought against a municipality. FORP's second claim that a restrictive covenant is in place that would prohibit the use of Ryan Park for dry egress is outside DEEP's jurisdiction and the scope of this proceeding.

C

**CONCLUSION**

This application for an exemption from a certification requirement for floodplain management complies with the criteria set out in General Statutes §25-68d (d). The applicant Connecticut Department of Housing has demonstrated that the redevelopment of the Washington Village housing complex in Norwalk is in the public interest and will not injure persons or damage property in the area. This proposed activity also complies with the provisions of the National Flood Insurance Program and the recipient of the grant has been informed that increased flood insurance premiums may result from the activity. The application is therefore approved and the exemption from a certification requirement for floodplain management set out in General Statutes §25-68d (b) (4) is granted to the Connecticut Department of Housing.



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Janice B. Deshais, Hearing Officer



## SERVICE LIST

### CT Dept of Housing/Flood Management Exemption – Washington Village, Norwalk

#### Party

#### Representative(s)

##### Applicant

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