

April 2013

## Zoning for Apartments: A Study of the Role of Law in the Control of Apartment Houses in New Haven, Connecticut 1912–1932

Marie Boyd

University of South Carolina School of Law, [boydmc@law.sc.edu](mailto:boydmc@law.sc.edu)

Follow this and additional works at: <https://digitalcommons.pace.edu/plr>



Part of the [Land Use Law Commons](#), and the [State and Local Government Law Commons](#)

---

### Recommended Citation

Marie Boyd, *Zoning for Apartments: A Study of the Role of Law in the Control of Apartment Houses in New Haven, Connecticut 1912–1932*, 33 Pace L. Rev. 600 (2013)

DOI: <https://doi.org/10.58948/2331-3528.1831>

Available at: <https://digitalcommons.pace.edu/plr/vol33/iss2/3>

This Article is brought to you for free and open access by the School of Law at DigitalCommons@Pace. It has been accepted for inclusion in Pace Law Review by an authorized administrator of DigitalCommons@Pace. For more information, please contact [dheller2@law.pace.edu](mailto:dheller2@law.pace.edu).

---

---

# **Zoning for Apartments: A Study of the Role of Law in the Control of Apartment Houses in New Haven, Connecticut 1912– 1932**

**Marie Boyd\***

## **I. Introduction**

On April 2, 1925, approximately one hundred citizens gathered at a hearing on a proposed zoning ordinance for New Haven, Connecticut.<sup>1</sup> They assembled to protest the placement of Whitney Avenue—a street at the center of a primarily residential section of New Haven known for “beautiful houses and pleasant lawns”<sup>2</sup>—in the lowest of three proposed residential zones: a zone which permitted the construction of apartments and tenements, albeit subject to certain supplemental requirements. The residents of the area who were present at the hearing “[w]ithout exception . . . objected to putting apartments on the avenue.”<sup>3</sup> Apartments were not foreign to the Avenue, however, as a number of apartment houses had been built along its course and in the surrounding neighborhoods beginning in 1920.

The concern that these residents expressed regarding apartment houses was not unique as the regulation of apartments occupied a central place in the early American zoning debates. Apartments incited a variety of often-passionate arguments by judges, city planners, and city residents

---

\* Visiting Assistant Professor, University of South Carolina School of Law, 701 Main Street, Columbia, SC 29208, (803) 777-2851, boydmc@law.sc.edu. Thanks to Professors Robert C. Ellickson and F. Patrick Hubbard for their helpful comments, to Chan Mo Ahn and Candle Wester-Mittan for their research assistance, to Vanessa Byars for her administrative support, and to Jaime Harrison and my parents, Harvey and Sherryl, for their assistance and support.

1. Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), in MINUTES OF THE NEW HAVEN ZONING COMMISSION 133 (1925) [hereinafter ZONING COMMISSION MINUTES] (on file at the New Haven City Plan Department).

2. SUSAN E. RYAN, NEW HAVEN PRES. TRUST, NEW HAVEN HISTORIC RESOURCES INVENTORY PHASE I: CENTRAL NEW HAVEN 61 (photo. reprint 2000) (1982).

3. Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 135.

concerned with both the constitutionality of zoning ordinances creating single-family residential districts and the wisdom of allowing apartment buildings in specific residential areas. At their best, apartments in their proper place were viewed as a necessary component of a healthy urban fabric.<sup>4</sup> At their worst, they were portrayed as a threat to the very heart of the country.<sup>5</sup>

Despite the centrality of apartment houses or multifamily dwellings in the early zoning discussions, there has been little in-depth examination of the impact apartments actually had on the process. The existing scholarship offers examinations of the impact of multifamily dwellings on zoning discussions on a general level.<sup>6</sup> Scholarship that focuses specifically on multifamily dwellings and zoning focuses on only one specific aspect of this relationship.<sup>7</sup>

This Article attempts to present a more comprehensive and detailed examination of the place of apartments—before, during, and after the enactment of zoning—than has been presented in the literature to date through an examination of the impact of apartment houses on *both* pre-zoning land use patterns and the zoning process in New Haven. This Study examines the period between 1912 and 1932, with a particular

---

4. See, e.g., Robert H. Whitten, The Zoning of Residence Sections, in PROCEEDINGS OF THE 10TH NATIONAL CONVENTION ON CITY PLANNING 34, 35-36 (1918) (stating that “apartments and tenements are in demand not only because a large number of people wish to live within a very limited area near the center of the city, but also because an increasing proportion of the people actually prefer apartment life”).

5. See, e.g., Richard F. Babcock & Fred P. Bosselman, *Suburban Zoning and the Apartment Boom*, 111 U. PA. L. REV. 1040, 1046 n.50 (1963) (“It is too much to expect, or at least it is a dangerous experiment to suppose, that the profound and dependable patriotism which is necessary to preserve and maintain an ideal government like ours could survive the lapse of time crowded into apartments and tenements . . .”) (quoting *City of Jackson v. McPherson*, 138 So. 604, 605 (Miss. 1932)).

6. See, e.g., RICHARD F. BABCOCK, *THE ZONING GAME: MUNICIPAL PRACTICES AND POLICIES* 3-4, 43-44 (1966); SAM BASS WARNER, JR., *STREETCAR SUBURBS: THE PROCESS OF GROWTH IN BOSTON, 1870-1900*, at 114-15 (2d ed. 1978); Garrett Power, *The Unwisdom of Allowing City Growth to Work Out Its Own Destiny*, 47 MD. L. REV. 626, 649-50 (1988); Andrew J. Cappel, Note, *A Walk Along Willow: Patterns of Land Use Coordination in Pre-Zoning New Haven (1870-1926)*, 101 YALE L.J. 617 (1991).

7. See, e.g., Babcock & Bosselman, *supra* note 5, at 1040-49 (discussing concerns with, and historical legal status of multifamily dwellings); J. Gregory Richards, *Zoning for Direct Social Control*, 1982 DUKE L.J. 761, 767 (discussing single-family ordinances as a means of direct social control); Christina G. Forbush, *Striving for Order: Zoning the City of Elms* (May 9, 1997) (unpublished manuscript, on file with Pace Law Review) (examining the impact of politics and special interests, such as industry and real estate, on the zoning of New Haven, Connecticut).

emphasis on the period between 1922 and 1926. The latter period begins with the selection of New Haven's first Zoning Commission in 1922 and concludes with the passage of New Haven's first zoning ordinance in 1926. This Article's subject is an eighteen-block area at the heart of which lies Whitney Avenue.<sup>8</sup>

This area, hereinafter the "Whitney Avenue area," was selected for this Study of apartments and the zoning of New Haven for several reasons. First, the character of the area of study, which was primarily residential, differed greatly from the surrounding areas and helped define a natural area of study. To the south of the area there was a diverse array of buildings, which, in addition to dwellings, included a number of non-residential uses such as the Peabody Museum and a variety of retail shops, offices, manufacturing complexes, clubs, and churches.<sup>9</sup> To the north lay the New Haven/Hamden city line. To the west there were a number of buildings used for public and semi-public uses including the Connecticut Agricultural Experimental Station, the Gateway School, the Yale Observatory, and the St. Francis Orphan Asylum.<sup>10</sup> To the east there was an area, which although also largely residential, exhibited greater coordination and uniformity in its pre-zoning land uses and less diversity in its lot sizes than the area of study.<sup>11</sup>

Second, the great increase in the number of apartments in this area over a relatively short period of time allowed for the study of the introduction of apartments and how this introduction impacted the area's character and growth. In 1923, the Whitney Avenue area contained ten apartment buildings and in less than ten years this number more than doubled.

Third, the zoning of this area, and specifically the zoning of the lots bordering Whitney Avenue, was the subject of significant debate and controversy. All but three of the blocks in the study area directly border Whitney Avenue. In 1926, the first zoning ordinance created a special residential zoning district—Residence "AA"—specifically for Whitney

---

8. See *infra* Appendix F. The area extends from Sachem Street to East Rock Road. On the west it is bound by St. Ronan Street and Edgehill Road above Edwards and by Whitney Avenue between Edwards and Sachem. On the east it is bound by Livingston.

9. See 2 SANBORN MAP CO., INSURANCE MAPS OF NEW HAVEN, CONNECTICUT, Nos. 209-12 (1923) [hereinafter SANBORN 1923].

10. See *id.* Nos. 267-71.

11. See *id.* Nos. 274, 278, 284, 287-88. For an in-depth study of the Willow-Canner strip, see Cappel, *supra* note 6. There is some overlap between the area in the Cappel area of study and the Whitney Avenue area.

Avenue to allow the construction of high-grade apartments.<sup>12</sup>

In addition, New Haven generally is a particularly good subject due to both the rich literature and the tremendous amount of easily accessible primary source data on its development. This Study builds off of Andrew J. Cappel's block-by-block examination of pre-zoning land use patterns in the Willow-Canner strip in northeastern New Haven;<sup>13</sup> Stephen Clowney's critique of Cappel's finding of coordinated land use patterns through a study of four separate New Haven neighborhoods;<sup>14</sup> Christina G. Forbush's study of the creation of and politics behind New Haven's first zoning ordinance;<sup>15</sup> and Valerie Jaffee's examination of the concerted use of restrictive covenants to control development in New Haven's Beaver Hills neighborhood.<sup>16</sup> The primary sources used in this Study include: the Sanborn Company 1923 maps and 1931 updates;<sup>17</sup> building department records and permits; the *Minutes of the New Haven City Plan Commission*; the *Minutes of the New Haven Zoning Commission*; the *Journal of the New Haven Board of Aldermen*; the 1923 proposed, 1924 draft, and 1926 final zoning ordinances; and three collections of historical papers—the Lawrence Johnson Carmalt papers, the George Dudley Seymour papers, and the White Brothers, Clark, Hall & Peck records.

This Article will proceed as follows: Part II provides a brief history of the development of the Whitney Avenue area and its physical growth. Part III examines the pre-zoning land use regulations and controls on apartment houses. Part IV looks at the land use patterns in the Whitney Avenue area in 1923 and 1931 with a focus on the land use patterns of

---

12. There was only one other area, along Chapel Street, where the Residence "AA" Zone District was used. See NEW HAVEN, CONN., BUILDING ZONE ORDINANCE MAP (1926).

13. Cappel, *supra* note 6.

14. Stephen Clowney, Note, *A Walk Along Willard: A Revised Look at Land Use Coordination in Pre-Zoning New Haven*, 115 YALE L.J. 116 (2005).

15. Forbush, *supra* note 7.

16. Valerie Jaffee, Note, *Private Law or Social Norms? The Use of Restrictive Covenants in Beaver Hills*, 116 YALE L.J. 1302 (2007).

17. The maps are part of a series of maps created for fire insurance purposes that show the lot lines, locations, construction, uses, and number of floors for all structures in New Haven. Between the publication of the 1923 maps and the 1931 maps, the Sanborn Company issued a series of updates for the 1923 maps. The updates, which were designed to be pasted on the 1923 maps, track the changes in the structures and lot boundaries in New Haven. This Study used data from these maps and updates to analyze the land use patterns for the Whitney Avenue area on a lot-by-lot basis in 1923 and 1931.

multifamily dwellings and how they compared to those of single-family dwellings. Part V focuses on the treatment of apartments in New Haven's zoning process, as well as the proposed and final zoning ordinances. Together these parts seek to provide a detailed examination of the impact of apartments on both pre-zoning land use patterns and the zoning process during the formative initial stages of United States zoning, and in so doing, contribute to the legal and policy debates over zoning. This historical account contrasts with the view, summarized in Justice Sutherland's opinion in *Village of Euclid v. Ambler Realty Co.*, of apartments as "mere parasite[s]" that would "utterly destroy" a neighborhood's "desirability as a place of detached residences" if not controlled through zoning regulations.<sup>18</sup> Because of delays in New Haven's enactment of zoning, New Haven's zoning ordinance, rather than shaping the future growth of apartments in the Whitney Avenue area, was instead shaped by existing land use patterns and political considerations.

Before embarking on an examination of the regulation of early apartments in New Haven, it is important to clarify the distinction between the use of the terms "apartments" and "tenements" and to provide a brief history of these terms.<sup>19</sup> The New Haven Building Inspector's Reports define tenements as "buildings which have been erected in accordance with the 'Tenement House Act.'"<sup>20</sup> The reports offer no definition of "apartment," and period dictionaries offer little further illumination.<sup>21</sup> In practice, the distinction between tenements and

---

18. *Vill. of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 394 (1926).

19. In addition to these two widely used terms, apartments were also referred to as "flats," "French flats," "apartment hotels" and "family hotels." ELIZABETH COLLINS CROMLEY, *ALONE TOGETHER: A HISTORY OF NEW YORK'S EARLY APARTMENTS* 5-6 (1990) (discussing terms used for apartment houses).

20. Report of the Building Inspector (1912), in *CITY YEAR BOOK OF THE CITY OF NEW HAVEN* 757 (1912). The amended Tenement House Act defined a "tenement house" as "any house or building, or portion thereof which is rented, leased, let, or hired out, to be occupied, or is arranged or designed to be occupied, or is occupied as the home or residence of three families or more, living independently of each other, and doing their cooking upon the premises, and having a common right in the halls, stairways, or yards." An Act Amending an Act Concerning Tenement Houses, 1911 Conn. Pub. Acts 1526; *see also* An Act Concerning Tenement Houses, 1905 Conn. Pub. Acts 376.

21. *See, e.g.*, THE COMPREHENSIVE STANDARD DICTIONARY OF THE ENGLISH LANGUAGE 30 (James C. Fernald & Frank H. Vizetelly eds., Funk & Wagnalls Co. 1921) [hereinafter *STANDARD DICTIONARY*] (defining "apartment" as "[a] room or suite of rooms"); WEBSTER'S NEW ILLUSTRATED DICTIONARY, at any-apo (Edward T. Roe & Charles Leonard-Stuart eds., Syndicate Publishing Co. 1911) (defining "apartment" as "a

apartments seems to be one of quality, with tenements denoting lower quality apartments and accordingly, a lower socioeconomic class of occupants.<sup>22</sup>

For the purposes of this Study, the terms “apartments,” “apartment houses,” and “apartment buildings” refer to all multifamily dwellings containing three or more dwelling units, including the high-grade multifamily dwellings in the Whitney Avenue area with one minor exception: two-row houses comprised of four dwellings each are classified as “four-family dwellings” in this Study in recognition of their different form and to maintain consistency with the building classifications used on the Sanborn Company maps. The term “tenements” is only used when the referenced material—primarily ordinances and acts—employs this term.

The distinction between apartments and tenements did not always exist. Before the Civil War, the term “tenement” was used to refer to any dwelling that housed three or more families.<sup>23</sup> Apartments did not begin to become an acceptable form of dwelling for middle and upper class families until the 1870s.<sup>24</sup> The first high-grade apartments in the United States were the Stuyvesant Apartments built in New York City in 1870.<sup>25</sup> The construction of additional lavish apartments in New York, Philadelphia, Boston, Chicago, and Baltimore followed.<sup>26</sup> Along with the creation of new classes of multifamily dwellings came the need to distinguish among these dwelling types.

Although the distinctions between tenements and apartment houses were not crucial to regulations and zoning law,<sup>27</sup> many people living in or near the areas where multifamily dwellings were built were concerned with drawing distinctions between the different classes of dwellings.

---

room or part of a divided building”).

22. See, e.g., STANDARD DICTIONARY, *supra* note 21, at 603 (defining the word “tenement” as “[a] room or rooms for the occupancy of a family: usually applied to apartments of inferior grade”).

23. KENNETH T. JACKSON, CRABGRASS FRONTIER, THE SUBURBANIZATION OF THE UNITED STATES 90, 343 n.5 (1985).

24. *Id.* at 90 (stating that “any family of even modest social aspirations insisted on a private dwelling, however humble”); CROMLEY, *supra* note 19, at 6 (citing directories of genteel individuals which included individuals living in apartments).

25. JACKSON, *supra* note 23, at 90.

26. *Id.*

27. Indeed, the 1922 New Haven building code defined “apartment house” as the “[s]ame as tenement house.” NEW HAVEN, CONN., OFFICIAL BUILDING CODE pt. V § 13.1 (1922).

Both supporters and opponents of land use planning utilized these distinctions. Gradually the early zoning supporters moved away from labeling all multifamily dwellings as “tenements” and instead often employed the term “apartments,” as a means of gaining acceptance for, and distinguishing between, different classes of dwellings.<sup>28</sup>

## II. Background

### A. *History of the Whitney Avenue Area*

During the process of establishing zoning for New Haven, many residents tried to maintain the Whitney Avenue area as an upper-middle class, single-family residential neighborhood by excluding multifamily dwellings. However, as the history of this area shows,<sup>29</sup> the area had

---

28. Up until 1916, with a few minor exceptions, the Report of the Building Inspector labeled almost all multifamily dwellings “tenements.” See, e.g., Ninth Annual Report of the Building Department (1914), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 242 (1914); Eighth Annual Report of the Building Department (1913), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 778 (1913); Report of the Building Inspector (1912), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 753-54 (1912). Beginning in 1917, apartments and tenements were grouped together in the Building Inspector’s Reports. See Report of the Building Inspector (1917), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 447 (1917). It was not until 1920, incidentally the same year that the first apartment house was built along Whitney Avenue, that the reports began to refer to all multifamily dwellings as apartments. Compare Report of the Building Inspector (1912), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN (1912), with Report of the Building Inspector (1920), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 512 (1920).

In a hearing on the zoning of Whitney Avenue, a City Plan Commission member distinguished between high and low class multifamily dwellings and argued for the creation of a zoning district “designating high class apartments, [and] excluding the low type.” Henry F. Parmelee, Comment at the Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 134-35. In making this argument he distinguished between apartment and tenements, asking “[w]hy zone [Whitney Avenue] for tenement houses, boarding houses, the lowest type of residence[?]” *Id.* A Zoning Commission member defined a tenement house as one that houses the greatest number of people allowed. Leonard S. Tyler, Statement at the Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 134; see also CROMLEY, *supra* note 19, at 6 (stating that “[p]eople felt the need to discriminate more finely among classes of buildings than the law did, in order to protect the boundaries of their own middle-class status” and describing a case in which in a property owner sued her neighbor for constructing a tenement house in violation of the deed restrictions and the neighbor argued in his defense that the building was an apartment house).

29. For a more detailed account of the history of this area, see ELIZABETH MILLS BROWN, NEW HAVEN: A GUIDE TO ARCHITECTURE AND URBAN DESIGN 34-36 (1976);



undergone a number of substantial changes even before the debate over the construction of apartment houses began.

Whitney Avenue was originally known as the Long Lane in the mid-seventeenth and eighteenth centuries and was used for “weekly mail runs and for stage coach runs . . . to Hartford.”<sup>30</sup> During this period there were no major improvements made to the Lane, and little construction occurred alongside its course.<sup>31</sup> The beginning of notable development in this area began in 1789 when James Hillhouse formed the Hartford and New Haven Turnpike Company to construct a highway along what would become known as Whitney Avenue.<sup>32</sup> The turnpike, in addition to facilitating travel between New Haven and Hartford, linked downtown New Haven and Eli Whitney’s Armory, which was located to the north of New Haven in the town of Hamden.<sup>33</sup> Hillhouse and Whitney owned most of the land bordering the highway.<sup>34</sup> At this time, the land alongside the Avenue was primarily undeveloped, although there were two or three frame houses at the southern end of the Avenue and a small neighborhood of factory workers at the northern end.<sup>35</sup> With the completion in 1828 of the New Haven-Farmington section of the Farmington Canal, which crossed Whitney Avenue, the southern end of the Avenue became a commercial and industrial center.<sup>36</sup>

By 1859, the Hillhouse and Whitney properties had been divided into a number of large estates.<sup>37</sup> Many of these grand estates were then divided into smaller lots on which prominent members of the community built large, luxurious houses between 1865 and 1900.<sup>38</sup> This transition was perhaps spurred by the opening of a horse car line in the late 1800s along Whitney Avenue.<sup>39</sup> By the time the trolley replaced the horse car in

---

RYAN, *supra* note 2, at 58-65.

30. RYAN, *supra* note 2, at 59.

31. *Id.*

32. *Id.* at 59-60.

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.* at 60-61.

38. *Id.* at 61.

39. BROWN, *supra* note 29, at 36; The Shore Line Trolley Museum, *A Century Along the Branford Electric Railway*, <http://www.bera.org/articles/bery100p1.html> (last

the early 1900s,<sup>40</sup> businessmen, merchants, and other members of the upper-middle class had begun to build homes characterized by a “new simplicity” along the northern part of Whitney Avenue.<sup>41</sup> The area subsequently came to be “considered one of the healthiest and most advantageous in the city.”<sup>42</sup>

The 1911 Sanborn Map for the Whitney Avenue area shows the area was becoming increasingly residential; however, a number of large estates and open tracks of land were still present.<sup>43</sup> The map also shows there were no apartment buildings in the area in 1911. By 1923, however, a number of high-grade apartment buildings had been built along Whitney Avenue on land previously occupied primarily by large estates.<sup>44</sup> In the years preceding 1931, additional apartments were built along Whitney Avenue.<sup>45</sup> This Article focuses on this dramatic increase in the number of apartments and the accompanying debate.

### B. *Building Trends*

The 1920s were a time of growth for post-war America, as reflected in increases in population and new construction expenditures. The nation’s population increased from approximately 76,094,000 in 1900 to 83,822,000 in 1905; 92,407,000 in 1910; 100,546,000 in 1915; 106,461,000 in 1920; 115,829,000 in 1925; and 123,076,741 in 1930.<sup>46</sup> In the same period, the Connecticut population also increased from

---

visited May 15, 2013) (stating that New Haven’s first horsecar line opened in 1861 and that later lines included a Whitney Avenue line).

40. BROWN, *supra* note 29, at 36; *see infra* Appendix E (showing trolley lines running along Whitney Avenue).

41. RYAN, *supra* note 2, at 62.

42. *Id.* at 61.

43. *See infra* Appendix E. *See generally* SANBORN MAP CO., INSURANCE MAPS OF NEW HAVEN, CONNECTICUT (1911) [hereinafter SANBORN 1911].

44. *See infra* Appendix F; *see also* Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), ZONING COMMISSION MINUTES, *supra* note 1, at 134 (noting that in the prior few years four of the largest estates in the Whitney Avenue area were on the market and “that there is no more land for houses”); SANBORN 1923, *supra* note 9, Nos. 267, 270-73, 277, 283, 287.

45. *See infra* Appendix G; *see also* 2 SANBORN MAP CO., INSURANCE MAPS OF NEW HAVEN, CONNECTICUT (1931 updates) [hereinafter SANBORN 1931].

46. BUREAU OF THE CENSUS, U.S. DEP’T OF COMMERCE, HISTORICAL NATIONAL POPULATION ESTIMATES: JULY 1, 1900 TO JULY 1, 1999, *available at* <http://www.census.gov/population/estimates/nation/popclockest.txt> (last modified June 28, 2000).

approximately 908,000 at the turn of the century to 1,115,000 in 1910, 1,381,000 in 1920, and 1,607,000 in 1930.<sup>47</sup>

New Haven was not exempt from the growth that was taking place on both the state and national level. New Haven's population increased from 108,027 in 1900 to 133,605 in 1910, and 162,537 in 1920.<sup>48</sup> The population then remained relatively steady, reaching 162,655 in 1930.<sup>49</sup> In addition to a growth in population during this period, New Haven also experienced a tremendous physical growth in the form of new construction. Of particular note was the growth in the Whitney Avenue area, characterized by the construction of many high-grade apartment houses.

The annual reports of the New Haven Building Inspector provide an invaluable glimpse into the physical growth of New Haven. Based on building permit estimates, the cost of new construction in New Haven demonstrated an overall trend of growth between 1912 and 1930 before sharply decreasing in 1931 and 1932.<sup>50</sup> In 1926, the year that New Haven passed its first zoning ordinance, construction activity in New Haven reached a new high resulting in the second highest aggregate outlay within the examined period, with an estimated cost of about thirteen million dollars.<sup>51</sup> Some of the fluctuations in aggregate costs were due to large semi-public, public, and commercial use projects, which obscure

---

47. BUREAU OF THE CENSUS, 1 U.S. DEP'T OF COMMERCE, FIFTEENTH CENSUS OF THE UNITED STATES—POPULATION: 1930, 173 tbl.1 (1931).

48. *Id.*

49. *Id.*

50. See *infra* Appendix A, Table 1. In 1920, the city issued 1369 building permits with a total cost of \$5,134,343. Report of the Building Inspector (1920), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 513 (1920). By 1921, the number of building permits issued had risen to 1675 with a total cost of \$6,487,808. Report of the Building Inspector (1921), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 520, 521 (1921). By 1922 the number of building permits issued had risen to 1758 with a cost of \$9,625,918. Report of the Building Inspector (1922), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 568, 570 (1922). A decade earlier in 1912, the city had issued 1330 permits with a cost of \$4,761,311. Report of the Building Inspector (1912), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 757 (1912). By 1932, the permits had fallen to 1240 and the cost had fallen to \$2,645,778. Report of the Building Inspector (1932), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 678, 679 (1932).

51. See Report of the Building Inspector (1926), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 508 (1926) (providing the approximate aggregate outlay for work for which permits were issued).

the construction trends for new housing in New Haven.<sup>52</sup> An examination of the estimated cost of new residences, dwellings, tenements, and apartments,<sup>53</sup> as well as the number of families for which new housing was constructed,<sup>54</sup> provides further illumination on the construction of new housing accommodations in New Haven during this period.

Overall, the cost of new housing accommodations in New Haven increased during the period between the end of World War I and New Haven's enactment of a zoning ordinance.<sup>55</sup> New Haven's housing industry, which had drastically decreased during War World I, experienced a period of rapid post-war growth as it worked to catch up with pent-up demand.<sup>56</sup> In 1926, the aggregate cost of building operations spiked and reached almost \$13.2 million, whereas the outlay had never surpassed about \$9.6 million in any of the proceeding ten years.<sup>57</sup> New housing accommodations accounted for about \$3.8 million of which apartments accounted for about \$2.6 million.<sup>58</sup>

The number of permits issued for multifamily dwellings fluctuated substantially between 1912 and 1932. There were 150 permits issued in 1912; however, this number fell to eighty-one in 1913.<sup>59</sup> From 1918 to

---

52. For example, construction by Yale University alone accounted for over seven million dollars in 1931. Report of the Building Inspector (1931), in *CITY YEAR BOOK OF THE CITY OF NEW HAVEN* 744 (1931).

53. See *infra* Appendix A, Table 3.

54. See *infra* Appendix A, Table 4.

55. See *infra* Appendix A, Table 3.

56. See *id.*

57. Report of the Building Inspector (1926), in *CITY YEAR BOOK OF THE CITY OF NEW HAVEN* 508 (1926); Report of the Building Inspector (1925), in *CITY YEAR BOOK OF THE CITY OF NEW HAVEN* 677 (1925). Given that the day before New Haven enacted zoning was the busiest day in the Building Office's history, *Building Office Has Busiest Day Since Creation*, NEW HAVEN J.-COURIER, Dec. 15, 1926, at 1, this spike is probably attributable to a rush to beat zoning. Buildings for which permits were granted before the enactment of zoning were not subject to the zoning requirements as long as they met certain timing requirements. See NEW HAVEN, CONN., BUILDING ZONE ORDINANCE § 1307 (1926).

58. Report of the Building Inspector (1926), in *CITY YEAR BOOK OF THE CITY OF NEW HAVEN* 508 (1926). The 1926 Report of the Building Inspector stated that "[t]he activity in apartment and business buildings contributed largely to [the] increase" in building expenditures that year. See *id.*

59. Eighth Annual Report of the Building Department (1913), in *CITY YEAR BOOK OF THE CITY OF NEW HAVEN* 780-781 (1913) (reporting permits for seventy-nine tenement houses, one tenement house addition, and one apartment addition); Report of the Building Inspector (1912), in *CITY YEAR BOOK OF THE CITY OF NEW HAVEN* 756 (1912) (reporting permits for 149 tenement houses and one apartment). An Act Amending an Act Concerning Tenement Houses was passed in 1911 and further amended in 1913. See An

1925, the overall number of permits issued for apartments increased.<sup>60</sup> The number of permits issued for apartments decreased by one-fifth between 1925 and 1926, and then decreased drastically in 1927, the year following the passage of the zoning ordinance.<sup>61</sup> These data suggest that the construction of new apartments in New Haven was influenced by changes in the zoning and land use ordinances. During the period from 1912 to 1932, apartments accounted for between twenty and eighty percent of new housing accommodations in New Haven.<sup>62</sup> On average, for the period between 1912 and 1926, apartments accounted for fifty-five percent of the new housing accommodations when measured by the number of families.<sup>63</sup>

Between 1922 and the passing of New Haven's zoning ordinance in 1926, new apartments in the Whitney Avenue area routinely appeared on the list of New Haven's biggest building operations of the year as measured by cost. For example, among the largest building operations during this period were the following:

**Figure 1**

Year	Property Description	Price
1922	Goldfarb, Lebedeker & Rothchild's apartment house at 663-67 Whitney Avenue	\$80,000 <sup>64</sup>
1922	Louis Miller's apartment house at 482-98 Whitney Avenue	\$75,000 <sup>65</sup>

Act Amending an Act Concerning Tenement Houses, 1911 Conn. Pub. Acts 1526; Act Amending an Act Concerning Tenement Houses, 1913 Conn. Pub. Acts 1639. The Act Concerning Sanitary Conditions in Tenement, Lodging, and Boarding Houses was passed in 1911 and amended in 1913. An Act Amending an Act Concerning Sanitary Conditions in Tenement, Lodging, and Boarding Houses, 1913 Conn. Pub. Acts 1643; An Act Concerning Sanitary Conditions in Tenement, Lodging, and Boarding Houses, 1911 Conn. Pub. Acts 1505.

60. *See infra* Appendix A, Table 2.

61. *See id.*

62. *See infra* Appendix A, Table 4.

63. *See id.*

64. Report of the Building Inspector (1922), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 571 (1922).

65. *Id.* There are some discrepancies between the values and addresses (and spellings) given in the Building Inspector's Reports and those listed on the building permit records. It is unclear from the available data whether these discrepancies are the result of revised estimates, changes in street numbering, rounding errors, or mistakes. *See infra* Appendix B (containing data from building permit records and Building Inspector's

Year	Property Description	Price
1923	A. Abelson's apartment house at 629-31 Whitney Avenue	\$40,000 <sup>66</sup>
1923	Lewis Miller's apartment house at 482-84 Whitney Avenue	\$70,000 <sup>67</sup>
1923	Vernoff & Richmond's apartment house at 408-16 Whitney Avenue	\$45,000 <sup>68</sup>
1923	Vernoff & Richmond's apartment house at 420-24 Whitney Avenue	\$73,000 <sup>69</sup>
1924	Adelman Brothers' apartment house at 431-37 Whitney Avenue	\$70,000 <sup>70</sup>
1924	L. Pannone's apartment house at 401-05 Whitney Avenue	\$50,000 <sup>71</sup>
1924	L. Pannone's apartment house at 407-09 Whitney Avenue	\$50,000 <sup>72</sup>
1924	Sherman Construction Company's apartment house at 396 Whitney Avenue	\$60,000 <sup>73</sup>
1925	A. Abelson's apartment house at 621-25 Whitney	\$30,000 <sup>74</sup>
1925	Lebedeker & Drutman's apartment house at 151-53 Cold Spring Street	\$50,000 <sup>75</sup>
1926	Rubino & Dainesis' apartment house at 255 Whitney Avenue	\$160,000 <sup>76</sup>

Against this background of tremendous growth in new construction

Reports).

66. Eighteenth Annual Report of the Building Department (1923), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 626, 629 (1923).

67. *Id.*

68. *Id.*

69. *Id.* at 630.

70. Nineteenth Annual Report of the Building Department (1924), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 646, 649 (1924).

71. *Id.*

72. *Id.*

73. *Id.*

74. Report of the Building Inspector (1925), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 672, 676 (1925).

75. *Id.*

76. Report of the Building Inspector (1926), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 512 (1926).

in New Haven, many people expressed concern that New Haven was behind other cities in its program to encourage and control residential growth. At the first meeting of the Zoning Commission, George B. Ford—an architect, consulting engineer, and city planning consultant—noted that one hundred cities had adopted zoning.<sup>77</sup> A 1920 Report of the Housing Committee of the New Haven Chamber of Commerce recommended the formation of a Housing Corporation to encourage the construction of new single- and double-family houses.<sup>78</sup> It was within this context of growth that New Haven began to explore the enactment of a zoning ordinance.

### III. Pre-Zoning Land Use Controls on Apartments

In order to appreciate the impact of non-legal forces on the construction of early apartments in New Haven, as well as to better understand the concerns expressed about apartment buildings in the Whitney Avenue area, it is important to understand the legal constraints on the construction of apartments in pre-zoning New Haven. As Richard F. Babcock and Fred P. Bosselman note in their article, *Suburban Zoning and the Apartment Boom*, “[a]ttempts to regulate multiple-family dwellings are almost as old as multiple-family dwellings themselves.”<sup>79</sup> The pre-zoning legal controls in New Haven fall into two broad categories: public and private law. While there were no consciously

---

77. George B. Ford, President, Technical Corp. of N.Y., Statement at a Zoning Commission Meeting (Mar. 22, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 4. The implication appeared to be that if all of those other cities had adopted zoning so should New Haven. This desire not to fall behind other cities in zoning is even more evident in the statement made by the Office of the Zoning Commission in June of 1923:

Zoning has come to be included among those things necessary for the development of the efficient, growing community. Of the 37 cities in the United States which are larger than New Haven 16 have already passed ordinances and all but four or five of the balance are not actively at work preparing them . . . . About 100 of the other cities smaller than New Haven have also taken the same steps.

Office of the Zoning Commission, The Zoning of New Haven (June 2, 1923) (on file with Yale University Manuscripts and Archives MS847, Series I, Box 3, Folder 36).

78. Housing Committee, Greater New Haven Chamber of Commerce, Report on Housing Conditions, in MINUTES OF THE EXECUTIVE COMMITTEE, GREATER NEW HAVEN CHAMBER OF COMMERCE (1920) (on file with the New Haven Museum).

79. Babcock & Bosselman, *supra* note 5, at 1040.

planned regulations that mirrored the scope of the later zoning ordinances in pre-zoning New Haven, the city did exert control over many concerns that related to urban development and land use through municipal ordinances and regulations. In addition, private citizens, most notably through restrictive covenants, were able to impose restrictions on pre-zoning land use, including the restriction of apartment buildings.

#### A. *Public Law*

##### 1. The Tenement House Act

One important pre-zoning regulation in early twentieth century New Haven with direct relevance to the construction of new apartments generally, as well as in the Whitney Avenue area, was An Act Concerning Tenement Houses ("Tenement House Act").<sup>80</sup> This Act, passed by the state legislature in 1905 and amended in 1911 and 1913,<sup>81</sup> directly addressed many aspects of land use and was an important control on the development of multifamily dwellings. The discussion herein is largely limited to the provisions of the amended Act, which was in effect when all of the apartments in the Whitney Avenue area were built. The 1911 amended Act largely retained the provisions of its predecessor; however, it strengthened the restrictions on tenement houses by increasing the minimum yard requirements.<sup>82</sup> The Act specifically applied to houses and buildings that were either rented and occupied or intended to be occupied by three or more families,<sup>83</sup> and as such it would

---

80. An Act Concerning Tenement Houses, 1905 Conn. Pub. Acts 376, *amended by* 1911 Conn. Pub. Acts 1526, 1913 Conn. Pub. Acts 1639.

81. 1911 Conn. Pub. Acts 1526.

82. *Compare id. with* 1905 Conn. Pub. Acts 376 (containing less stringent minimum requirements than the 1911 amended act). The 1913 Act included provisions regarding window requirements, enforcement, penalties, and records. 1913 Conn. Pub. Acts 1639.

83. The Act defines a tenement house as

any house or building, or portion thereof which is rented, leased, let or hired out, to be occupied, or is arranged or designed to be occupied, or is occupied as the home or residence of three families or more, living independently of each other, and doing their cooking upon the premises, and having a common right in the halls, stairways



have applied to the Whitney Avenue area apartments.

The Act contained a number of provisions that governed land use. The Act specified that the maximum building coverage of a lot ranged from seventy percent to ninety percent depending on the location and depth of the lot.<sup>84</sup> Further, it set forth minimum depths for rear yards, beginning at ten feet and increasing according to building height and location,<sup>85</sup> and it prohibited the construction of tenement houses in the rear yards of existing tenement houses, unless a minimum distance between the two buildings was maintained.<sup>86</sup> The Act also limited tenement houses to four stories in height unless they had a passenger elevator.<sup>87</sup> Other provisions in the Act addressed issues such as ceiling heights and the required number of windows, doors, and water closets.<sup>88</sup>

An analysis of the pre-zoning apartment land use in the Whitney Avenue area, which is discussed in greater detail in Part IV, demonstrates that, for the most part, the Tenement House Act did not create binding constraints on apartments in this area. More specifically, the apartments were significantly under the maximum allowed percentage of site building coverage and exceeded the minimum rear yard requirements.<sup>89</sup> Only one apartment house in the area, an apartment built after 1923, had a rear yard that was as small as the minimum rear yard required by the Act.<sup>90</sup> Furthermore, only one apartment house in the area was required by the Act to have a passenger elevator because it exceeded the maximum allowable walk-up height.

In some areas of New Haven, the Tenement House Act may have been necessary to ensure that certain minimum standards were met and to prevent a race to the bottom.<sup>91</sup> However, there appear to have been few instances where apartments were built to the lowest specifications

---

or yards.

1911 Conn. Pub. Acts 1526.

84. *Id.*

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

89. *See infra* Appendix C, Tables 2A, 2B, 4.

90. *See infra* Appendix C, Table 4.

91. *See, e.g.*, 1 SANBORN 1923, *supra* note 9, No. 1 (showing apartments on York Street between Chapel Street and George Street that occupy eighty to ninety percent of the lot area).

allowed by the Act in the Whitney Avenue area. This suggests that there were other factors influencing the construction of apartments in the area.

## 2. Building Lines

The city's attempts to establish and manage building lines—also known as front yard setbacks or setbacks—were another control on early land use in New Haven. By 1870, New Haven passed an ordinance that provided for the establishment of building lines and, in the absence of established building lines, specified that no building should be placed within fifteen feet of any street.<sup>92</sup> These early attempts to control building lines were “defective” and could not be enforced.<sup>93</sup> In 1911, New Haven petitioned Connecticut's General Assembly for and received permission to establish a Commission on Building Lines.<sup>94</sup> Although the legal basis for the regulation of building lines was provided by public municipal ordinance, the actual establishment of building lines varying from the statutory minimum seems to have resulted largely from individual petitions rather than comprehensive city planning.<sup>95</sup>

In the Whitney Avenue area the building lines appear to have varied significantly. On a number of streets there appear to have been no petitions to change the building lines, and thus the lines remained at the statutory minimum, or fifteen feet. On other streets in the Whitney Avenue area, however, people petitioned the Board of Aldermen to change the building lines. A review of the *Journal of the Board of*

---

92. NEW HAVEN, CONN., ORDINANCES: BUILDINGS §§ 1-2 (1870). The Connecticut General Assembly gave New Haven the power to regulate building lines in the city's charter. NEW HAVEN, CONN., CITY CHARTER § 13 (1870) (giving the city the power “[t]o establish building lines in the streets and ways of [the] city beyond which it shall not be lawful to erect buildings or other structures”).

93. 1911 J. BOARD OF ALDERMEN OF NEW HAVEN 46 (petition from John K. Beach, George D. Watrous, and Lewis Welch). The impetus for the creation of a Commission on Building Lines was a petition that stated an “investigation has shown that many of the building lines supposed to have been legally established in the City are defective and cannot be enforced.” *Id.* at 46. This prompted the Board of Aldermen to submit a proposed amendment to New Haven's Charter to the General Assembly. *Id.* at 100.

94. An Act Establishing a Special Commission on Building Lines in the City of New Haven, 1911 Conn. Spec. Acts 480.

95. See, e.g., 1921 J. BOARD OF ALDERMEN OF NEW HAVEN 143 (petition of Jacob H. Rubin for a change in the building lines on streets in Morris Cove); 1902 J. BOARD OF ALDERMEN OF NEW HAVEN 139 (petition of H.A. Warner for the establishment of building lines in the central part of the city); see also Cappel, *supra* note 6, at 627-28 (discussing the establishment of building lines in New Haven, Connecticut).

*Aldermen* between 1870 and 1922 reveals a number of instances in which the building lines in the Whitney Avenue area were changed following such a petition.<sup>96</sup> In each case, the building line was increased.<sup>97</sup> As a result, the legally permissible minimum building lines in the Whitney Avenue area ranged from fifteen to twenty-five feet.

The actual building lines in the Whitney Avenue area exhibit even greater variation than the law allowed.<sup>98</sup> The front yard setbacks varied from just under four feet to just over one hundred and eighty feet.<sup>99</sup> Approximately eleven percent of the setbacks in the area were fifteen feet or less and twenty-nine percent of the building lines were greater than fifteen and less than or equal to twenty-five feet.<sup>100</sup> All of the apartment buildings had setbacks of more than thirty feet.<sup>101</sup> The data for the period to 1927 are similar, although one apartment had an approximately fourteen-foot setback and one complex had a setback of about twenty-two feet.<sup>102</sup> This suggests that although the law may have played some role in determining the setbacks in the Whitney Avenue area, the setbacks were not entirely constrained or determined by the legal boundaries.<sup>103</sup>

---

96. For example, Lewis S. Welch requested the establishment of building lines along several streets. 1911 J. BOARD OF ALDERMEN OF NEW HAVEN, *supra* note 93, at 444. Building lines were subsequently set at twenty-five feet on the south side of Edwards between Prospect and Whitney, the north side of Sachem between Prospect and Whitney, the east side of Prospect between Edwards and Sachem and the west side of Whitney between Sachem and Edwards. *Id.* at 498. After similar petitions by other New Haven residents, the building lines were set at twenty feet on both sides of Livingston between Edwards and Canner, on both sides of Willow between Whitney and Livingston, and on the east side of Livingston between Avon and Canner. 1893 J. BOARD OF ALDERMEN OF NEW HAVEN 289-91.

97. 1911 J. BOARD OF ALDERMEN OF NEW HAVEN, *supra* note 93, at 498; 1893 J. BOARD OF ALDERMEN OF NEW HAVEN, *supra* note 96, at 289-91.

98. It is unclear from the present analysis if these variations arose before or after the creation of a Commission on Building Lines, and hence it is unclear whether this change was effective.

99. *See infra* Appendix C, Table 3.

100. *Id.*

101. The setbacks ranged from thirty-one to forty-one feet. *See id.*

102. *See* 2 SANBORN 1931, *supra* note 45, Nos. 272, 277; *infra* Appendix B. These apartments were located on the north side of Cold Spring Street between Everit and Livingston, and on the north side of Cottage Street on a lot bordering Whitney Avenue. *See* 2 SANBORN 1931, *supra* note 45, Nos. 272, 277.

103. *Cf.* Cappel, *supra* note 6, at 627-28 (discussing city's attempts to regulate building lines).

### 3. Building Ordinances

The city also controlled land use through the Building Ordinance, later known as the Building Code.<sup>104</sup> The Building Ordinance, which in 1914 was seventy-three pages long and contained 203 sections, governed many aspects of the construction, alteration, and removal of buildings.<sup>105</sup> The ordinance contained provisions covering topics such as permits and permit fees, construction materials, loads, means of egress, and the permissible locations of certain types of buildings.<sup>106</sup> Of particular note for the purposes of this Article are the provisions relating to fire, light and air, rear tenements, and public nuisances. In 1914, the fire district as defined by the Building Ordinance contained the southernmost section of the Whitney Avenue area, which was located south of a point 691 feet south of Humphrey Street.<sup>107</sup> Other provisions in the ordinance placed limitations on the construction of new buildings within the fire district.<sup>108</sup> The ordinance also contained provisions that mandated fireproof, also known as mill, construction for apartment buildings that exceeded certain height limits,<sup>109</sup> placed limitations on the maximum building coverage,<sup>110</sup> prohibited rear tenements,<sup>111</sup> and made it a public nuisance to violate these provisions,<sup>112</sup> regardless of whether or not the structure was located in the fire district. The 1920 Building Code, although almost two and a half times longer than the 1914 Building Ordinance, contained similar types of regulations, though often in greater detail.

---

104. Although New Haven regulated many aspects of building before 1914, the discussion herein is limited to the 1914 Building Ordinance and the 1920 Building Code, which are illustrative of the type of building regulations that were in effect during the time period in which the apartments in the Whitney Avenue area were built. These ordinances, however, underwent changes on a yearly basis. *See, e.g.*, NEW HAVEN, CONN., BUILDING CODE (1922); NEW HAVEN, CONN., BUILDING CODE (1921); NEW HAVEN, CONN., BUILDING CODE (1920).

105. NEW HAVEN, CONN., ORDINANCES: BUILDINGS (1914).

106. *Id.*

107. *Id.* § 65.

108. *See id.* §§ 220-222 (restricting the construction of wooden and frame buildings within the fire district).

109. *Id.* § 114 (specifying height limitations).

110. *Id.* § 240. This provision was less restrictive than the restrictions governing building coverage in the Tenement House Act. *See An Act Concerning Tenement Houses*, 1905 Conn. Pub. Acts 376, *amended by* 1911 Conn. Pub. Acts 1526, 1913 Conn. Pub. Acts 1639.

111. NEW HAVEN, CONN., ORDINANCES: BUILDINGS § 238 (1914).

112. *Id.* § 239.

Although the vast majority of the apartments built in the Whitney Avenue area were outside the fire district, they were subject to the construction requirements related to fire control for apartment buildings generally. In addition, the city's regulation of various aspects of construction ranging from how reinforced concrete work was to be done to the safety factors for supports probably would have had a substantial impact on the cost of apartment construction. Thus, this regulation could have influenced and constrained apartment construction and placement.

#### 4. Public Health

The Public Health Department also played a role in the regulation of apartment buildings in pre-zoning New Haven. Through the Act Concerning Sanitary Conditions in Tenements and the appointment of a Tenement House Inspector—devoted exclusively to supervising housing conditions—the City's Public Health Department helped regulate apartments in pre-zoning New Haven.<sup>113</sup> In addition, public health concerns were often cited as justification for strengthening other provisions of local and state law regulating multifamily dwellings. In 1917, for example, a health survey conducted at the request of the Civic Federation of New Haven reported that New Haven had 3200 tenement houses.<sup>114</sup> The report, which analyzed the living conditions in multifamily dwellings in New Haven, made specific recommendations concerning potential changes in the housing laws of Connecticut, as well as ways in which the city government could encourage the construction of higher-quality dwellings through appropriations for municipal tenements.<sup>115</sup>

#### B. *Private Law*

##### 1. Protective Covenants

---

113. See CHARLES-EDWARD AMORY WINSLOW ET AL., HEALTH SURVEY OF NEW HAVEN 24 (1917).

114. See *id.*

115. *Id.* at 20-26.

Although many of the pre-zoning land use controls were public controls, significant private land use controls were also employed to control development in the Whitney Avenue area before the enactment of zoning. The most notable of these pre-zoning private controls were protective covenants, which served to restrict the permitted uses of the land to which they applied.<sup>116</sup> Unlike many of the public controls on pre-zoning land use, which regulated uses through the specification of permitted minimum and maximum characteristics, the covenants specified the permitted and prohibited land uses. Protective covenants in twentieth century New Haven found both lot-by-lot and large-scale application.<sup>117</sup> Although the efficiency and effectiveness of protective covenants were often questioned in the twentieth century, protective covenants were a means by which private parties were able to control and shape how land was developed.<sup>118</sup>

Protective covenants appear to have had a significant impact on the development of the Whitney Avenue area. This Study does not undertake a comprehensive lot-by-lot examination of the degree to which covenants served to restrict and regulate land use in the Whitney Avenue area; however, a more limited examination suggests that deed restrictions imposed significant controls on the use of many lots in the area. Although the deed restrictions in this area contained many different requirements,<sup>119</sup> those of particular relevance to this Study prohibited the

---

116. See Jaffee, *supra* note 16, at 1313-18, for a discussion of the history of restrictive covenants.

117. *Compare* Deed of Sale from the Union & New Haven Trust Co. to Mervin J. Gibbud (recorded Nov. 11, 1915) in 250 New Haven Land Records 245 (on file with the New Haven City Clerk's Office) [hereinafter NHLR] (prohibiting the erection of a barn or garage nearer than thirty-five feet from Canner Street on a lot located on the southwest corner of Whitney and Canner), *with* Saint Francis Orphan Asylum of New Haven, Draft Agreement (1915) (on file with Yale Manuscripts and Archives, MS1820, Series I, Box 62) [hereinafter Draft Agreement (1915)] (restricting the development of a tract of land originally held by the asylum to single-family houses).

118. See Jaffee, *supra* note 16, 1326 (examining the use of restrictive covenants in the Beaver Hills development in New Haven and proposing that the "covenants functioned less as binding legal commitments than as signals more akin to social norms").

119. For example, restrictive covenants helped establish building lines, specified the minimum number of stories for a dwelling, and prohibited athletic games with the exception of tennis and other games "equally quiet and unobjectionable." Deed from Edward Hunn to William Schoenberger (recorded July 1, 1915) in 753 NHLR 428-29 [hereinafter Edward Hunn to William Schoenberger]; Memorandum of House on Land Formerly Owned by James Fellowes on Whitney Ave. (Sept. 13, 1911) (on file with Yale Manuscripts and Archives, MS1820, Series I, Box 61) [hereinafter James Fellowes

construction of apartment buildings by specifying that only single-family dwellings could be constructed on certain lots.<sup>120</sup> Restrictions, which in effect prohibited the construction of apartment buildings, appear to have applied to a limited percentage of the lots in the Whitney Avenue area. They are nevertheless significant because of the scope of their impact on the use of affected lots. An examination of the use of protective covenants in two sections of the Whitney Avenue area—a tract of land previously held by the Saint Francis Orphan Asylum and a few lots on the west side of Whitney Avenue—serves to illustrate this point.

At a time when many of the large open tracts of land in the Whitney Avenue area were being divided into smaller lots and developed, protective covenants helped ensure that at least one tract, originally owned by the Saint Francis Orphan Asylum, was off-limits to apartment buildings. On May 2, 1914, the Board of Directors of the Saint Francis Orphan Asylum voted to sell the land it owned on the southern portion of the block bound by Whitney Avenue, St. Francis Avenue, Edgehill Road, Highland Street, and Huntington Street.<sup>121</sup> This land might have become the future site of apartment buildings if the vote had not specified that the corporation's agents had the option of "requir[ing] any purchaser to sign an agreement restricting [the purchaser] to the provisions as to building thereon," an option the agents appear to have exercised.<sup>122</sup> Numerous draft documents, as well as executed final agreements in the White Brothers, Clark, Hall & Peck Collection have preserved these restrictions. All of these agreements state that "no buildings except one family dwelling houses . . . shall be erected on said land and that no building on said land shall be used for other than residential purposes for

---

Memorandum] (noting that James Hillhouse conveyed a number of building lots by deed that specified "that no dwelling house shall be erected on these lots less than two stories high"); Deed from the Estate of Isaphene Hillhouse (recorded Sept. 15, 1905) in 582 NHLR 286-91.

120. See, e.g., Notes on Deed of Sale from the Union & New Haven Trust Company to Mervin J. Gibbud (June 3, 1919) (on file with Yale Manuscripts and Archives, MS1820, Series I, Box 61) [hereinafter Notes on Deed (June 3, 1919)]; Notes on Deed of Sale from the Union & New Haven Trust Company to Mervin J. Gibbud (Apr. 28, 1919) (on file with Yale Manuscripts and Archives, MS1820, Series I, Box 61) [hereinafter Notes on Deed (Apr. 28, 1919)]; Notes on Deed of Sale from the Union & New Haven Trust Company to Mervin J. Gibbud (Jan. 3, 1919) (on file with Yale Manuscripts and Archives, MS1820, Series I, Box 62) [hereinafter Notes on Deed (Jan. 3, 1919)].

121. Record of the Vote of the Saint Francis Orphan Asylum of New Haven (May 2, 1914) (on file with Yale Manuscripts and Archives, MS1820, Series I, Box 62).

122. *Id.*

a term of twenty five years.”<sup>123</sup> These documents indicate that dwellings erected on these lots were subject to minimum setbacks that varied by block.<sup>124</sup> In addition, the houses on Highland were to cost at least six thousand dollars,<sup>125</sup> while those on Whitney Avenue were to cost at least ten thousand dollars.<sup>126</sup> This was a hefty price considering that the average cost of a new one-family dwelling in New Haven in the years that these documents were drafted, 1914 and 1916 respectively, was under five thousand dollars.<sup>127</sup>

In addition, at least three land transactions between the Union & New Haven Trust Co. and Mervin J. Gibbud included restrictions on the permitted uses of land located along the northern section of Whitney Avenue in the deeds.<sup>128</sup> These covenants, although containing slight variations in language and length of applicability, specified that “only a one-family house and garage capable of holding respectively one family and one motor car and no more shall ever hereafter be erected on said land.”<sup>129</sup> Thus, covenants helped to maintain the single-family character of the Whitney Avenue area by functioning to prevent the construction of multifamily dwellings on lots in the area, both on the Avenue itself and in the neighborhood to the west.<sup>130</sup>

---

123. Agreement Between the Saint Francis Orphan Asylum of New Haven and A. William, Sperry (May 11, 1917) (on file with Yale Manuscripts and Archives, MS1820, Series I, Box 62) [hereinafter Sperry Agreement]; Agreement Between the Saint Francis Orphan Asylum of New Haven and Esther Alder (July 20, 1916) (on file with Yale Manuscripts and Archives, MS1820, Series I, Box 62) [hereinafter Alder Agreement]; Saint Francis Orphan Asylum of New Haven, Draft Agreement (1916) (on file with Yale Manuscripts and Archives, MS1820, Series I, Box 62) [hereinafter Draft Agreement (1916)]; Draft Agreement (1915), *supra* note 117.

124. Draft Agreement (1916), *supra* note 123; Draft Agreement (1915), *supra* note 117.

125. Sperry Agreement, *supra* note 123.

126. Adler Agreement, *supra* note 123.

127. The average cost of a new single-family dwelling in New Haven was \$4781 in 1914 and \$4750 in 1916. See Report of the Building Inspector (1916), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 497 (1916); Ninth Annual Report of the Building Department (1914), in CITY YEAR BOOK OF THE CITY OF NEW HAVEN 242 (1914).

128. Notes on Deed (June 3, 1919), *supra* note 120; Notes on Deed (Apr. 28, 1919), *supra* note 120; Notes on Deed (Jan. 3, 1919), *supra* note 120.

129. *Id.*

130. In addition, covenants were used to control building lines and in one case specify a minimum building height. See Edward Hunn to William Schoeberger, *supra* note 119 (noting that premises are subject to building lines if established); James Fellows Memorandum, *supra* note 119 (noting that James Hillhouse conveyed a number of building lots by deed which specified “that no dwelling house shall be erected on these



## 2. Nuisance

While there were no cases definitively holding that apartments qualified as nuisances pre-*Euclid*, public nuisance law did apply to apartments to the extent that they were deemed nuisances as a result of violating provisions for good order and decency,<sup>131</sup> fire control,<sup>132</sup> or building regulation.<sup>133</sup> In addition, where public nuisance action was impossible, private nuisance law could be a source of relief for aggrieved property owners. In his Note, *A Walk Along Willow: Patterns of Land Use Coordination in Pre-Zoning New Haven (1870-1926)*, Andrew Cappel provides examples of how “Connecticut law was unusually favorable to local residents in [private nuisance] actions against nearby industrial concerns.”<sup>134</sup>

## IV. Land Use Patterns

The 1923 Sanborn Company maps and their 1931 updates, along with a series of building permit records, were used to create a picture of the land use in the Whitney Avenue study area in 1923 and 1931, and to illustrate the changes in land use which occurred between these years. Measurements for this Study were taken from the Sanborn maps, which are drawn to scale, and used to determine a number of the land use characteristics for each lot and building in the Whitney Avenue area.<sup>135</sup>

---

lots less than two stories high”). The specification of a minimum building height, like other deed restrictions, was most likely intended to help ensure that Whitney Avenue continued to be a high-class neighborhood.

131. NEW HAVEN, CONN., CITY CHARTER § 2 (1870) (good order and decency). For an examination of nuisance law as a form of land use control, see Robert C. Ellickson, *Alternatives to Zoning: Covenants, Nuisance Rules, and Fines as Land Use Controls*, 40 U. CHI. L. REV. 681, 719-22 (1973).

132. NEW HAVEN, CONN., NUISANCE CODE § 35 (1870) (specifying that buildings in violation of the Fire Code are common nuisances).

133. *Id.* § 1 (stating that encroachment on street is a nuisance).

134. See Cappel, *supra* note 6, at 629 (discussing Connecticut private nuisance law). But see Clowney, *supra* note 14, at 133 (stating that “New Haven residents may have had greater difficulty finding judicial redress for nuisance complaints than Cappel acknowledged”); Forbush, *supra* note 7, at 13 (stating that “New Haven residents would have had difficulty . . . finding recourse for nuisance concerns in the courts”).

135. See *infra* note 380, for buildings in the Whitney Avenue area that were not included in this Study. The total area of each lot was calculated and is reported as *lot size*. The area of the footprint of each building or structure was calculated and coupled with

The building uses were also determined from the maps.<sup>136</sup>

A. 1923

In 1923, with the exception of the New Haven Lawn Club Association, the Church of Redeemer, and the Worthington Hooker Public School,<sup>137</sup> the Whitney Avenue area was occupied entirely by dwellings and their accompanying auto and storehouses. The vast majority of these dwellings, although of varying sizes, were single-family residences. Apartment houses were the most notable intrusion into the expanse of single-family dwellings in this area. The Ratner Construction Company appears to have built the first apartments in this area, two, twenty-unit buildings on Whitney Avenue, in 1920.<sup>138</sup>

the lot area used to determine the percentage of lot area covered by structures. There are two different building coverage determinations reported herein: the first includes only the primary structures on a given lot, while the second also includes auto and storehouses. In addition, the setback of each building or structure from the street line was calculated, as was the distance between the rear of each building and the rear lot line. These calculations are reported as *setbacks* and *rear yards* respectively. In order to get a sense of the size of the side yards of the buildings in the Whitney Avenue area, the distance between the side of each building and the nearest adjacent lot line, or in the situation where there were multiple buildings on a given lot, the midpoint between adjacent buildings was calculated. In addition, the separation between each building and its neighbors on either side irrespective of lot boundaries was determined.

136. Beginning in 1923, in addition to showing lot boundaries and building footprints, the maps labeled each building according to type—dwelling, apartment, auto/storehouse, office, or store—and in the case of public and semipublic buildings, by name. In other areas of the city the Sanborn Company maps describe some residential buildings as “flats,” but as the Whitney Avenue maps do not employ this term, it is not discussed herein.

137. See *infra* Appendix F (Whitney Avenue area in 1923); see also 2 SANBORN 1923, *supra* note 9, Nos. 272, 273, 287 (depicting the Church of Redeemer, the Worthington Hooker Public School, and the New Haven Lawn Club Association).

138. Building Permit Records for Permit No. 16,281-2 (Feb. 26, 1920) (on file with the New Haven Building Office). The addresses in the records are listed as 482-88, 492, and 492-498 Whitney Avenue. See also ASSESSOR’S ONLINE DATABASE FOR NEW HAVEN, CT <http://data.visionappraisal.com/newhavenct/search.asp> (search 482 and 492 Whitney Avenue) (last visited June 26, 2013) (indicating that the structures at 484 and 492 Whitney Avenue were built in 1920); see also *infra* Appendix B (summarizing information from building permits for Whitney Avenue area apartments). Although it is more difficult to discern the building type from the 1911 Sanborn maps, which labeled buildings according to owner, than the 1923 Sanborn maps, which labeled buildings according to type, there is, upon primary examination, only one building labeled as an apartment building on the 1923 map that appears to have been on the 1911 map, as the building in each depiction has a very similar footprint and positioning. Further investigation revealed a 1922 building permit, as well as a listing on the Assessor’s online database, indicating that this building had been added to and remodeled after 1911. See

Despite the uniformity of the type of buildings in this area, namely residences, the diversity in the existing land use patterns, as well as the location and characteristics of the area itself—including the presence of a trolley line<sup>139</sup>—made it a prime area for the introduction of high-grade apartments. First, the wide variations in lot sizes in this area meant that there were a number of large lots on which apartments could be built while maintaining sufficient open space for light and air.<sup>140</sup> This was important for the protection of the property values of the apartment owners, the protection of the character of the area, as well as the attraction and maintenance of middle and upper income tenants who would produce higher rents than their lower income counterparts. This also allowed potential builders to acquire sufficient land for the construction of an apartment house, or multiple apartment houses, while only having to deal with a single landowner, thus eliminating the costs of having to deal with multiple landowners to acquire land. Second, the presence of large lots, coupled with the presence of vacant lots, and perhaps more importantly the low percentage of building coverage on many lots, allowed for the construction of apartments without the need for large-scale land clearance.<sup>141</sup> Finally, the limited number of suitable lots in the area upon which apartments could be built without the additional expense of multiple land acquisitions and clearances helped protect the investments of the Whitney Avenue area apartment owners by limiting construction of competing apartments in the area.

---

Building Permit Records for 400 Whitney Avenue, No. 20,157 Add. (July 26, 1922) (on file with the New Haven Building Office) (stating that the addition was “to be added to a present [building] which together are remodeled into 8 family [apartment] house”); *cf.* ASSESSOR’S ONLINE DATABASE FOR NEW HAVEN, CT, <http://data.visionappraisal.com/newhavenct/search.asp> (last visited June 26, 2013) (search 400 Whitney Avenue) (indicating that the 400 Whitney Avenue building was built in 1925).

139. See discussion *supra* Part II.A.

140. See *infra* Appendix C, Table 1. The presence of these large lots is probably attributable, at least in part, to the process by which the area developed; the large tracts of land originally owned by Hillhouse and Whitney were divided into large estates and then progressively smaller lots over time. Compare *infra* Appendix E (Whitney Avenue area in 1911), with *infra* Appendix F (Whitney Avenue area in 1923) and *infra* Appendix G (Whitney Avenue area in 1931). This process appears to have continued in recent times. See *infra* Appendix H (Whitney Avenue area in 1997).

141. Between 1911 and 1931, twenty-eight apartment buildings were built in the Whitney Avenue area, yet less than a dozen buildings were cleared to make room for them. Compare *infra* Appendix E (Whitney Avenue area in 1911), with *infra* Appendix F (Whitney Avenue area in 1923) and *infra* Appendix G (Whitney Avenue area in 1931).

In addition, a number of other factors not directly related to the land use patterns in the Whitney Avenue area helped make this area attractive for the construction of apartment buildings. As New Haven's real estate developers argued and the Zoning Commission appears to have accepted, Whitney Avenue would bring a higher value for apartments than any other district in New Haven.<sup>142</sup> Whitney Avenue was convenient to downtown New Haven and its commercial and governmental centers, as well as to Yale University. In addition, residents of the Whitney Avenue area would have had easy access to the trolley, and for those with automobiles, the Avenue was a major thoroughfare.<sup>143</sup>

### 1. Use: Single- Versus Multifamily Dwellings

In 1923, single-family dwellings predominated in the Whitney Avenue area.<sup>144</sup> Of the almost four hundred dwellings in the area of study, all but sixteen—four two-family dwellings, two four-family dwellings and ten apartment buildings—were single-family residences.<sup>145</sup> The multifamily dwellings were primarily located along Whitney Avenue and in the southern section of the Whitney Avenue area, closer to downtown New Haven.<sup>146</sup> Nine of the apartment houses and three of the two-family dwellings were located along Whitney Avenue.<sup>147</sup> The two four-family dwellings shared a lot on Humphrey, which bordered a lot occupied by apartments, and thus while not bordering Whitney Avenue, it was just around the corner and thus in extremely close proximity to the Avenue.<sup>148</sup> The remaining apartment house was located on Everit Street, between Cold Spring Street and East Rock Road, and the remaining two-family dwelling was located on Canner Street, between Whitney Avenue and Livingston Street.<sup>149</sup> Only two of the

---

142. Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 133-34.

143. In fact, the trolley was cited as destroying the residential character of the neighborhood. *See id.* at 134.

144. *See infra* Appendix F.

145. *See id.*

146. *See id.*

147. *See id.*

148. *See* 2 SANBORN 1923, *supra* note 9, No. 287.

149. *Id.* Nos. 272-273.

sixteen multifamily dwellings were located at any distance from Whitney Avenue. As a result, there was only one apartment house that encroached into the single-family residential blocks to the east of Whitney Avenue<sup>150</sup> and there was no encroachment into the blocks to the west.

## 2. Lot Size

There was a tremendous variation in lot size in 1923 in the Whitney Avenue area. The smallest occupied lot was under four thousand square feet, while the largest occupied lot was almost four hundred thousand square feet.<sup>151</sup> The blocks to the west of Whitney Avenue, which exhibited the most uniformity in dwelling type, also exhibited the most uniformity in lot size. The lots bordering Whitney Avenue exhibited the greatest diversity in lot sizes, although in contrast to some of the surrounding streets, none were less than five thousand square feet. The lots to the east of Whitney Avenue also varied in size, but to a somewhat lesser extent than those on Whitney Avenue.

Despite the large range of lot sizes, about eighty percent of the 355 lots within the area of study—whose size could be determined from the Sanborn maps—were less than twenty thousand square feet.<sup>152</sup> Single-family dwellings occupied the full range of lot sizes—from 3534 to 381,486 square feet—although about eighty-five percent of the single-family dwellings occupied lots with areas less than twenty thousand square feet.<sup>153</sup> By contrast, all six of the lots occupied by apartment houses were over twenty thousand square feet and four of these occupied lots were over forty thousand square feet.<sup>154</sup>

## 3. Building Coverage

There was little variation in building coverage—the percentage of a lot covered by structures—by block in 1923. Of the 355 lots whose

---

150. Cf. Cappel, *supra* note 6, at 624 (finding “no sign of significant encroachment by apartments into the central portion of the residential district” centered around the Willow-Canner strip).

151. See 2 SANBORN 1923, *supra* note 9, Nos. 271, 277; see also *infra* Appendix C, Table 1.

152. See *infra* Appendix C, Table 1.

153. See *id.*

154. See *id.*

building coverage could be determined, over ninety-five percent contained buildings that covered less than a third of the lot excluding auto and storehouses.<sup>155</sup> There were thirteen lots that had a building coverage of over thirty percent.<sup>156</sup> Seven of these lots were occupied either by multifamily dwellings or by multiple single-family dwellings.<sup>157</sup> Overall, no buildings covered more than forty percent of their lots when auto and storehouses were excluded from the building coverage determination.<sup>158</sup>

The inclusion of auto and storehouses increased the number of lots with a building coverage greater than thirty percent to twenty-eight.<sup>159</sup> With the inclusion of these secondary structures, about ninety-two percent of the lots had buildings that covered less than thirty-three percent of the lot.<sup>160</sup> Two lots had coverage over forty percent: an apartment house on Whitney Avenue and a single-family dwelling on Huntington Street.<sup>161</sup>

#### 4. Building Height

There were only six structures in the Whitney Avenue area in 1923 that exceeded two and a half stories: three apartment houses, with two being on Whitney Avenue and one on Humphrey Street, and three single-family houses on Bishop, Everit, and Lawrence Streets.<sup>162</sup> None of the apartments in the area had elevators.<sup>163</sup> Unfortunately, it is not possible to determine the heights of the buildings in this area from the information recorded on the Sanborn Maps.

#### 5. Setbacks

---

155. *See infra* Appendix C, Table 2B.

156. *See id.*

157. *See id.*

158. *See id.*

159. *See infra* Appendix C, Table 2A.

160. *See id.*

161. *See id.*

162. These buildings were located at 472A Whitney Avenue, 245 Whitney Avenue, 460 Humphrey Street, 215 Bishop Street, 24 Everit Street and 251 Lawrence Street. *See* 2 SANBORN MAP 1923, *supra* note 9, Nos. 267, 273, 283, 287.

163. *But cf.* Forbush, *supra* note 7, at 59 (“High quality apartments were in vogue at the time . . . in large part because of the modern elevator.”).

Overall, there was little variation in setbacks—the distance from the street to the building line—on a single block; however, there was a great deal of variation between blocks and along the length of a given street.<sup>164</sup> Of the 393 setbacks that were measurable on the Sanborn Company maps for the area, about fifty-three percent were less than thirty feet and forty-seven percent were more than thirty feet.<sup>165</sup> The buildings along Whitney Avenue, particularly those to the East of the Avenue, exhibited substantial variation. On the other hand, the area to the west of Avenue as a whole exhibited less variation. Single-family dwellings exhibited the greatest variation in setbacks, with setbacks ranging from less than five feet to over forty.<sup>166</sup> All ten apartment buildings had setbacks over thirty feet.<sup>167</sup>

## 6. Rear Yards

In the Whitney Avenue area, rear yards—the distance from the rear of the building to the rear lot line—tended to be deep. Accordingly, ninety-seven percent of the rear yards were greater than thirty feet in depth.<sup>168</sup> Seventy-two percent of the rear yards in the Whitney Avenue area were deeper than fifty feet.<sup>169</sup> Single-family houses exhibited the greatest variation in rear yard depth, ranging from less than thirty to more than a hundred feet in depth.<sup>170</sup> All of the two-family dwellings had rear yards of over fifty feet; all of the four-family dwellings had rear yards of over one hundred feet; and all of the apartments had rear yards over sixty feet.<sup>171</sup> Thus, the rear yards tended to be larger for multifamily dwellings.

## 7. Side Yards

---

164. Cf. Cappel, *supra* note 6, at 624 (finding “a notable degree of uniformity” in the setbacks for structures on Willow and Canner Streets).

165. See *infra* Appendix C, Table 3.

166. See *id.*

167. See *id.*

168. See *infra* Appendix C, Table 4.

169. See *id.*

170. See *id.*

171. See *id.*

In general, the side yards in the Whitney Avenue area were small.<sup>172</sup> A little over half of the side yards in the Whitney Avenue area were less than eleven feet, with just over forty percent of these having side yards of less than six feet. The distance between buildings, however, tended to be more generous with only two buildings located less than five feet apart.<sup>173</sup>

There does not appear to have been much coordination in distance between dwellings among dwelling types. Both single-family dwellings and apartments exhibited a range of spacing.<sup>174</sup> No apartment was closer than five feet to its nearest neighbor and only two single-family dwellings were located less than five feet apart.<sup>175</sup>

Overall, the Whitney Avenue area exhibited a diversity of pre-zoning land use patterns.<sup>176</sup> While the early apartments in this area differed in kind from the surrounding single-family dwellings, the large lot sizes and substantial front and rear yards of the apartments probably provided somewhat of a buffer between the apartments and the neighboring single-family dwellings. However, this buffer would decrease with the construction of new larger apartment houses in the area.

#### B. 1931

Between 1923 and 1931, the Whitney Avenue area underwent growth and change.<sup>177</sup> Among the newly constructed buildings were a Masonic Temple,<sup>178</sup> single-family dwellings on a newly subdivided lot on Livingston,<sup>179</sup> and the addition of many auto houses and garages behind residences.<sup>180</sup> Other changes in the neighborhood included the conversion of a dwelling into a private school, the expansion of a

---

172. See *infra* Appendix C, Table 5A; cf. Cappel, *supra* note 6, at 625 (finding that the distance between buildings were “more ample” than the size of the side yard).

173. See *infra* Appendix C, Table 5B.

174. See *id.*

175. See *id.*

176. But cf. Cappel, *supra* note 6 (finding substantial land use coordination in the area to the east of the present area of study, along the Willow-Canner strip).

177. Compare *infra* Appendix G (Whitney Avenue area in 1931), with *infra* Appendix F (Whitney Avenue area in 1923).

178. 2 SANBORN 1931, *supra* note 45, No. 287 (285 Whitney Avenue).

179. *Id.* No. 272 (340-92 Livingston Street and 201-07 Everit Street).

180. See, e.g., *id.* No. 283.



dwelling on Whitney Avenue,<sup>181</sup> and the conversion of a dwelling into stores.<sup>182</sup> Perhaps the most substantial change to the area, however, was the construction of new apartment buildings. Because many of the physical structures in the area did not change between 1923 and 1931, only the land use patterns for apartment buildings have been calculated for 1931. The land use patterns for apartment buildings which appeared on the 1923 Sanborn Company maps have been recalculated from the 1931 maps in order to more accurately capture the changing land use patterns; many of the apartment houses built between 1923 and 1931 shared lots with dwellings, which are shown on the 1923 maps.

### 1. Use: Multifamily Dwellings

In eight years, the number of apartment buildings increased from ten to twenty-eight.<sup>183</sup> The majority of the apartment buildings were built along Whitney Avenue, but apartments were also constructed to the east of Whitney Avenue on Bishop, Cold Spring, Everit, and Livingston Streets.<sup>184</sup> The majority of the apartments in this area were built before New Haven enacted zoning in 1926. All of the apartments in this area that were built after the enactment of zoning were built to the east of Whitney Avenue, in the area that was zoned Residence “B.”<sup>185</sup> Only four of the apartment houses occupied their own lot; all of the other buildings shared lots with other apartments or single-family dwellings.

### 2. Lot Size

---

181. *Id.* (389 Whitney Avenue).

182. *Id.* No. 267 (374-80 Whitney Avenue).

183. *See infra* Appendix B.

184. *See infra* Appendix G.

185. These apartments were built on a lot that occupied the entire block bordered by Whitney Avenue, Cottage Street, Lawrence Street, and Edwards Street. Although this lot bordered Whitney, the ordinance specified that the

district boundary lines are intended to follow lot lines as they existed at the time of passage of this Ordinance, but where such a boundary line obviously does not follow lot lines, it shall be deemed to be 100 feet back from the nearest street line to which it is drawn parallel.

NEW HAVEN, CONN., BUILDING ZONE ORDINANCE § 201 (1926). Thus, the lot was zoned Residence “AA” on the side bordering Whitney and the rest was zoned Residence “B”—a designation that also allowed for Residence “AA” and “A” uses.

The majority of the apartments that were constructed in the Whitney Avenue area between 1923 and 1931 were constructed on lots that were larger than twenty thousand square feet; however, two apartments were constructed on lots less than twenty thousand square feet.<sup>186</sup> Half of the lots were over forty thousand feet.<sup>187</sup> All of the apartments that were constructed after 1926 were built on a single lot—the largest remaining lot in the area at the time and the former site of the Stephen Whitney Estate.

### 3. Building Coverage

The building coverage for apartments ranged from twenty-two to forty-two percent of the lot.<sup>188</sup> In 1931, with the inclusion of garages, only two lots had a building coverage greater than forty percent of the lot area, as was the case in 1923.<sup>189</sup> In general, apartments covered a greater percentage of their lots than single-family dwellings. As expected, the garages and auto houses for apartment buildings on average were much larger than those for their single-family neighbors.

### 4. Building Height

The apartments built after 1923 tended to be higher than both the neighboring single-family dwellings and the earlier apartments. In 1923, there were only six dwellings, four of which were apartments that exceeded two and a half stories. By 1931, there were ten apartment buildings that were over two and a half stories. The majority of these buildings were three stories; however, one building, the Sachem Apartments on the corner of Whitney Avenue and Humphrey Street, was five stories.<sup>190</sup> The Sachem Apartments, in addition to being the highest

---

186. See *infra* Appendix D, Table 1.

187. See *id.* (these lots were 49,445; 50,979; 104,764; 163,153; and 381,486 feet respectively).

188. See *infra* Appendix D, Table 2A.

189. See *id.* (building coverage of Whitney Avenue area in 1931); *infra* Appendix C, Table 2A (building coverage of Whitney Avenue area in 1923).

190. See 2 SANBORN 1931, *supra* note 45, No. 287 (showing the Sachem Apartments); Building Permit No. 1945 (Apr. 7, 1926) (on file with the New Haven Building Office).

building in the area, was one of two residential buildings in the area to have an elevator.<sup>191</sup>

### 5. Setbacks

A second notable difference between the apartments built before 1923 and those built after 1923 is the setbacks. While all of the earlier apartments had setbacks of at least thirty feet, four of the later apartments had setbacks of less than thirty feet, two of which were less than fifteen feet.<sup>192</sup> While this is a significant difference between the earlier and later apartments, apartments in general still had greater setbacks than other dwelling types in the area. The setbacks of these other dwelling types were fairly evenly divided between setbacks greater than thirty feet and setbacks less than thirty feet. Neither of the apartments with setbacks less than fifteen feet were located on Whitney Avenue—one was on Livingston Street and the other on Cold Spring Street<sup>193</sup>—which suggests that some of the variation in setbacks that is observed in this later period may be the result of apartments being located on streets which had previously been apartment free and which may have had smaller “standard” setbacks than Whitney Avenue.

### 6. Rear Yards

A third notable difference between the 1923 and 1931 land use patterns in the Whitney Avenue area is the size of the rear yards.<sup>194</sup> There was much more variation in the size of the rear yards of apartments in 1931, in part due to the building of multiple apartments on a single lot.<sup>195</sup> By 1931, the construction of large auto houses behind many of the apartment buildings had further decreased the actual size of the rear yards.

### 7. Side Yards

---

191. See 2 SANBORN 1931, *supra* note 45, No. 287.

192. See *infra* Appendix D, Table 3.

193. See *id.*

194. Compare *infra* Appendix D, Table 4 (rear yard size in Whitney Avenue in 1931), with *infra* Appendix C, Table 4 (rear yard size in Whitney Avenue in 1923).

195. See *infra* Appendix D, Table 4.

There was little noticeable change in the size of the side yards for apartment buildings in the Whitney Avenue area between 1923 and 1931.<sup>196</sup> As before, the distances between adjacent buildings varied greatly.<sup>197</sup> There were only two adjacent apartment houses that were ten feet or less apart.<sup>198</sup> The majority of the apartment houses were located sixteen feet or more from the nearest neighbor.

## V. Zoning and Apartments

### A. *The First Ordinance (1923)*

#### 1. Creation

As national interest in zoning increased following New York City's passage of the first comprehensive zoning ordinance in 1916,<sup>199</sup> New Haven began to explore the possibility of creating its own zoning ordinance.<sup>200</sup> New Haven's initial interest in zoning appears to have resulted from a study of possible zoning legislation by the City Improvement Committee of the Greater New Haven Chamber of Commerce.<sup>201</sup> Following this study, the Chamber of Commerce approved a proposed enabling act on December 29, 1920.<sup>202</sup> Despite concerns that the Connecticut State General Assembly would not support zoning,<sup>203</sup> on

---

196. Compare *infra* Appendix D, Table 5A, with *infra* Appendix C, Table 5A.

197. See *infra* Appendix D, Table 5B.

198. See *id.*

199. See NEW YORK CITY, N.Y., BUILDING ZONE RESOLUTION (1916); Forbush, *supra* note 7, at 3.

200. See Forbush, *supra* note 7, for an examination of New Haven's zoning story. Compare Clowney, *supra* note 14, at 128-36, with Cappel, *supra* note 6, at 634-36 (competing accounts of New Haven's motivations to zone).

201. Letter from Murray Sargent, Chairman, Special Comm. on Zoning Ordinances, to the Board of Directors the Greater New Haven Chamber of Commerce (Sept. 8, 1923) (on file with Yale University Manuscripts and Archives, MS847, Series I, Box 3, Folder 36) [hereinafter Murray Sargent letter] (stating that the New Haven Chamber of Commerce was largely responsible for the initiation of zoning); MINUTES OF THE EXECUTIVE COMMITTEE, GREATER NEW HAVEN CHAMBER OF COMMERCE (Sept. 16, 1920) (on file with the New Haven Museum) (proposing a study of and enactment of zoning).

202. MINUTES OF THE GREATER NEW HAVEN CHAMBER OF COMMERCE (Dec. 29, 1920) (on file with the New Haven Museum).

203. The Chamber of Commerce noted that as "the cause of zoning goes through its first test at Hartford. . . . [They] are somewhat chastened by [their] experience with the mosquito at Hartford but are frankly hopeful in regard to zoning." GREATER NEW HAVEN

June 24, 1921, the General Assembly passed An Act Creating Zoning Districts in the City of New Haven, effectively opening the door for the implementation of zoning in New Haven.<sup>204</sup>

From the very beginning of New Haven's exploration of zoning, both those indirectly and directly involved in the creation of New Haven's zoning ordinance were concerned with the protection and promotion of single- and double-family houses, and the relationship between those houses and apartment houses. In fact, while the New Haven Chamber of Commerce City Improvement Committee studied possible zoning legislation, the Housing Committee studied housing conditions in New Haven.<sup>205</sup> After consultation with the Real Estate Committee, the Housing Committee determined that "the need for artificial stimulation of the building of houses was very apparent" and suggested the creation of a housing corporation to build one hundred

---

CHAMBER OF COMMERCE, YEAR BOOK 9 (1921).

204. 1921 Conn. Spec. Acts 1045. The Act gave New Haven

authoriz[ation] to regulate and limit the height and bulk of structures to be erected; to regulate and limit the use of lot areas, the minimum areas or dimensions of rear, side and front yards or outer and inner courts and other open spaces within and surrounding any such structure; to classify, regulate and restrict the location of trades and industries and the location of structures designed for specified uses; to divide the city of New Haven into districts of such number, shape and area as may be deemed best suited to carry out the provisions of this act.

*Id.* The Connecticut General Assembly gave New Haven the authority to zone much earlier than it did many other Connecticut cities. The General Assembly did not pass a general state zoning enabling act until its January 1925 session. 1925 Conn. Pub. Acts 4037. This general enabling act specifically excluded New Haven, which had been already been granted the authority to zone. *Id.*; 1921 Conn. Spec. Acts 1045. New Haven's enabling act—An Act Creating Zoning Districts—was amended in July of 1925. 1925 Conn. Spec. Acts 1006. Despite its relatively early start, New Haven was not the first city to enact a zoning ordinance in Connecticut. West Hartford passed a zoning ordinance in Connecticut in 1924, followed by Darien, Enfield, Fairfield, Hartford, New Britain, and Norwich in 1925, and Greenwich, New Haven, and Stamford in 1926. The United States Department of Commerce did not issue a standard state zoning enabling act until August of 1922. *See* U.S. DEP'T OF COMMERCE, A STANDARD STATE ZONING ENABLING ACT (rev. ed. 1926). Despite the fact that New Haven's enabling act predated the issuance of a standard act by the U.S. Department of Commerce, both acts grant similar powers. The standard act, however, pays particular attention to the purposes of zoning as well as the possibility of a conflict of laws. *See id.*

205. MINUTES OF THE EXECUTIVE COMMITTEE, GREATER NEW HAVEN CHAMBER OF COMMERCE, *supra* note 201.

two-family and fifty one-family houses in New Haven by January 1, 1922.<sup>206</sup> The Committee stated, “a housing corporation would interest itself only in the single[-] and two-family houses.”<sup>207</sup> This statement demonstrates both a concern with the future growth of New Haven and a bias against apartments. As the Committee itself recognized, the current building trends would have suggested the construction of a combination of single- and two-family houses, as well as apartments and tenements.<sup>208</sup>

The members of New Haven’s first Zoning Commission were appointed by Mayor David Fitzgerald<sup>209</sup> and approved by the Board of Aldermen,<sup>210</sup> as authorized in the enabling act.<sup>211</sup> The enabling act for New Haven required that the Zoning Commission include, as existed in New Haven:

[t]he city engineer, the building inspector, a member of the board of assessors, two members of the city plan commission, one member of the municipal art commission, one member of the park commission, a realtor, an architect[,] and [a] lawyer.<sup>212</sup>

New Haven’s Zoning Commission, which originally consisted of George Dudley Seymour, Harry W. Hitchcock, Joseph T. Mulvey,

---

206. *Id.* at 2.

207. *Id.*

208. *Id.*

209. The Mayor, in a letter to the New Haven Board of Aldermen, discussed *An Act Creating Zoning Districts in the City of New Haven* and submitted for their consideration the names of the following to act as members of the Zoning Commission, for a period ending December 31, 1922: George Dudley Seymour, Harry W. Hitchcock, Joseph T. Mulvey, Edward S. Nettleton, Joseph E. Austin, George W. Crawford, David J. McCoy, Jacob B. Goodhart, Edward G. Fredericks, Major George Herbert Gray, and Michael Sola. Letter from David E. Fitzgerald, New Haven Mayor, to the New Haven Bd. of Aldermen (Oct. 31, 1921), *reprinted in* ZONING COMMISSION MINUTES, *supra* note 1, at 1-2. The Mayor appointed Matthew A. Reynolds, George E. Hall, Louis M. Rosenbluth, Ridgley Larkin, and Patrick F. O’Meara, Sr. to the Board of Zoning Appeals. *Id.* In an additional letter, the Mayor asked that M.A. Daly and William H. Allen be added to the nominations. Letter from David E. Fitzgerald, New Haven Mayor, to the New Haven Bd. of Aldermen (Dec. 20, 1921), *reprinted in* ZONING COMMISSION MINUTES, *supra* note 1, at 2.

210. See Order of the Board of Alderman (Apr. 23, 1922), *in* ZONING COMMISSION MINUTES, *supra* note 1, at 2 (noting that the Board of Aldermen approved the appointment of the Zoning Commission and Zoning Appeals Board members).

211. 1921 Conn. Spec. Acts 1045.

212. *Id.*

Edward S. Nettleton, Joseph T. Austin, George W. Crawford, Jacob B. Goodhart, Edward K. Frederick, George Herbert Gray, David J. McCoy, Michael Sola, M.A. Daly, and William H. Allen,<sup>213</sup> however, lacked both a member of the Park Commission and a realtor.

The Commission met for the first time on March 22, 1922; Major George Herbert Gray of the City Art Commission was elected chairman and City Engineer Edward S. Nettleton was elected secretary.<sup>214</sup> Gray estimated that it would take a year to craft a zoning ordinance for New Haven,<sup>215</sup> an estimate that greatly underestimated the amount of time that it would take to zone New Haven. After debate among the Zoning Commission members regarding the cost of zoning New Haven, the Commission reached a consensus on an estimated cost of \$25,000.<sup>216</sup>

While the appropriation for zoning was being debated, the Zoning Commission held its first public meeting to explain the idea of zoning.<sup>217</sup> At this meeting, the city planning consultant, George B. Ford, promoted zoning as a way of “keeping everything in its place” and spoke of “the erection of apartment houses next to private dwellings,” leading to substantial depreciation of the latter.<sup>218</sup> Ford argued that private houses were preferable to apartments given the protection of zoning, and stated that in East Orange and Montclair, New Jersey, where zoning was in effect, “people [were] flocking from apartments to houses.”<sup>219</sup>

In a letter to Mayor Fitzgerald asking for an appropriation for a

---

213. Forbush, *supra* note 7, at 20.

214. *New City Zoning Commission Has First Meeting*, NEW HAVEN J.-COURIER, Mar. 23, 1922, at 2.

215. George Herbert Gray, Comment at a Meeting of a Subcommittee of the Zoning Commission (Mar. 27, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 7.

216. Major Gray first estimated that the whole cost of zoning New Haven would be less than \$50,000. *Id.* The \$25,000 appears to have been first mentioned by George B. Ford as the estimated cost of Zoning New Haven at a subsequent public meeting held by the Zoning Commission. George B. Ford, Comment at a Public Meeting of the Zoning Commission (Apr. 7, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 11. Ford’s estimate was similar to the later estimates of others. Zoning Commission Meeting (June 2, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 21 (reporting on estimates for zoning: Whitten \$24,000, Knowland \$10,000 (excluding traffic), and Ford \$24,500).

217. Public Meeting of the Zoning Commission (Apr. 7, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 9.

218. *Id.*

219. *Id.* at 11.

study of zoning New Haven, Zoning Commission Chairman Major Gray echoed sentiments similar to those presented by Ford. While recognizing the general benefits of zoning for all citizens and property owners, Gray emphasized that zoning was a means of protecting and encouraging individual investment in small homes.<sup>220</sup> Speaking before the Board of Finance on the issue of an appropriation for zoning, Gray expressed concern that a delay in granting an appropriation would lead to the type of speculation by apartment builders that was then taking place along Whitney Avenue.<sup>221</sup> While it is clear from Gray's statements that he viewed such speculation as undesirable, at this point in the zoning process, it appears that the Commission had not given much thought to the proper place of apartments in New Haven's future. When asked whether zoning would allow apartments along Whitney Avenue, Gray's answer was vague: zoning along Whitney Avenue with respect to apartments might go block by block, might not allow for more than one apartment in a block, and might make those blocks not yet entered by apartments immune from them.<sup>222</sup>

On June 5, 1922, the Board of Aldermen approved a \$10,000 appropriation for zoning and recommended that the Board of Finance include an additional \$15,000 in the budget for the following year.<sup>223</sup> The Board of Finance delayed the zoning process for a month while it considered the passage of the appropriation.<sup>224</sup> After sending a committee of the Board to Worcester, Massachusetts to undertake an investigation of zoning as a means of regulating growth,<sup>225</sup> the Board of Finance finally approved the grant of funds on July 6, 1922.<sup>226</sup>

From the beginning, it appears that New Haven's realtors and other real estate interests were closely involved in the zoning process. The Zoning Commission worked to keep New Haven's real estate interests

---

220. Letter from George H. Gray, Chairman of the Zoning Commission, to David E. Fitzgerald, New Haven Mayor (Apr. 17, 1922), *reprinted in* ZONING COMMISSION MINUTES, *supra* note 1, at 9.

221. Extract from Minutes of Meeting of Board of Finance (July 6, 1922), *reprinted in* ZONING COMMISSION MINUTES, *supra* note 1, at 25A.

222. *Id.*

223. Order of the Board of Aldermen (June 5, 1922), *reprinted in* ZONING COMMISSION MINUTES, *supra* note 1, at 22; Forbush, *supra* note 7, at 22-23.

224. Forbush, *supra* note 7, at 23.

225. *Finance Board to Make Own Inquiry Into Zoning Plan*, NEW HAVEN J.-COURIER, June 16, 1922, at 1.

226. *See generally* Extract from Minutes of Meeting of Board of Finance (July 6, 1922) *reprinted in* ZONING COMMISSION MINUTES, *supra* note 1, at 25A-G.



informed about the zoning process and in return seemed to have largely garnered support for zoning from the real estate developers who viewed zoning as a means of protecting and encouraging investment in real estate.<sup>227</sup> The fact that the real estate developers supported zoning New Haven, however, did not mean that they agreed with the specific zoning provisions or approach proposed by the Commission;<sup>228</sup> to the contrary, these provisions, as would become evident in later debates, were often hotly contested.<sup>229</sup> The preserved zoning materials present no indication that there were divisions between home and apartment builders at this time, or even whether these two groups were mutually exclusive.<sup>230</sup>

On July 14, 1922, the New Haven Zoning Commission announced that it had awarded the contract for the zoning work to the Technical Advisory Corporation of New York ("TAC"), which was headed by Ford, and included as chief assistant, Tompkins, and as traffic engineer, Edward P. Goodrich.<sup>231</sup> In addition, the Commission brought in landscape architect Frederick Law Olmstead to serve as an advisor.<sup>232</sup> Major Gray announced that work on the zoning ordinance would begin

---

227. Zoning Commission Meeting (Apr. 27, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 13-17 (noting that the Commission discussed inviting the real estate interests to a meeting on zoning); George Herbert Gray, Comment at a Zoning Commission Meeting (Apr. 27, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 13 (stating that the Mayor had received a letter in support of zoning from the realtors); Zoning Commission Meeting (June 2, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 21 (stating that the realtors had indicated that they were willing to assist with zoning in any way possible); see also Zoning Commission Meeting (Mar. 22, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 4 (discussing the national support of zoning by realtors).

228. See, e.g., *Zoning Plans Approved at Costs Hearing*, NEW HAVEN J.-COURIER, May 5, 1922, at 8 (quoting Frederick C. Bishop, a local real estate dealer, as saying that while he approved of the zoning project in general, "he objected to the appropriation on account of the 'way it is put'").

229. See *infra* notes 322-27 and accompanying text.

230. Although beyond the scope of this Study, an examination of the New Haven's building permits for the relevant period and a tabulation of the number and type of projects—i.e., private homes, apartment houses, business properties or education facilities—each contractor and owner completed would give further insight into this area. See *infra* Appendix B, for a table showing the owner and owner's business for each apartment building in the Whitney Avenue area.

231. *Engineer Ford and Olmstead to Work on Zoning*, NEW HAVEN J.-COURIER, July 15, 1922, at 1; see also Agreement Between the City of New Haven and the Technical Advisory Corp. N.Y. (July 18, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 29-31.

232. *Engineer Ford and Olmstead to Work on Zoning*, NEW HAVEN J.-COURIER, July 15, 1922, at 1.

around July 20, 1922, the date set by the contract.<sup>233</sup> Work actually began on July 31, 1922, and in addition to the men noted above, four additional men were employed almost constantly in the zoning of New Haven, a number that increased to fifteen or more when the traffic census was being taken.<sup>234</sup>

On December 1, 1922, Ford presented a progress report on zoning New Haven to the Zoning Commission.<sup>235</sup> The TAC's work on zoning up to this point was largely focused on a survey of New Haven.<sup>236</sup> Shortly after this meeting, a second Zoning Commission was appointed for a term ending on December 31, 1923,<sup>237</sup> and a new agreement was signed between the City of New Haven and the TAC.<sup>238</sup> It appeared that the initial timetable for the zoning of New Haven would be largely correct.<sup>239</sup> On May 14, 1923, the Commission met to discuss the draft-zoning ordinance, a forty-five page document that provided for the creation of residential, business, and industrial districts.<sup>240</sup>

Although the first draft of the zoning ordinance presented by Ford to the Zoning Commission was subject to substantial debate and revision by the Commission in a series of meetings held in May 1923, very little of this discussion appears to have focused specifically on the restriction

---

233. *Id.*

234. Note (July 18, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 32.

235. Technical Advisory Corp. of N.Y., Progress Report Aug. 1, 1922 to Dec. 1, 1922 (Nov. 30, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 35-38.

236. *Id.* at 35. This survey was ninety percent complete when Ford presented the progress report. The study, which culminated in 214 maps of information, examined the natural features, social conditions, railroad and waterfront accessibility, traffic and pedestrian circulation, use of property, educational facilities, recreational facilities, parks, semi-public property, property used for public services, and social life and welfare in New Haven.

237. Note (Jan. 1923), in ZONING COMMISSION MINUTES, *supra* note 1, at 41. The membership of the second Zoning Commission differed slightly from the first. Alderman George E. Thompson, David J. McCoy, Augustine F. Linahan, and P. Pietro Diana replaced Harry W. Hitchcock, Joseph T. Mulvey, David J. McCoy, and Michael Sola on the Commission. *Id.*

238. Agreement between the City of New Haven and the Technical Advisory Corp. N.Y. (Jan. 15, 1923), in ZONING COMMISSION MINUTES, *supra* note 1, at 39-40.

239. Zoning Commission Meeting (Apr. 27, 1923), in ZONING COMMISSION MINUTES, *supra* note 1, at 45. At this meeting the Zoning Commission set the date to go over the draft-zoning ordinance for early May. *Id.*

240. The districts were: Residence Districts "A," "B," and "C"; Business Districts "A" and "B"; and Industrial Districts "A," "B," and "C." Zoning Commission Meeting (May 14, 1923), in ZONING COMMISSION MINUTES, *supra* note 1, at 46.

of apartment buildings.<sup>241</sup> While the Zoning Commission did not explicitly discuss apartment buildings in many of these meetings, the modifications to the ordinance that were discussed—such as heights, setbacks, and district lines—would have impacted the construction of apartment buildings.<sup>242</sup> On June 18, 1923, the Zoning Commission voted to publish the proposed zoning ordinance and maps and to send copies of the proposed ordinance to the Mayor and the Board of Aldermen.<sup>243</sup>

There is little indication of the views of New Haven's citizens on the proper relationship between single-family houses and apartment buildings at this point in the zoning process. This lack of comment by citizens is most likely attributable to the Commission's failure to solicit the public's reactions and its conscious decision to avoid "stirring up the public,"<sup>244</sup> rather than a result of a lack of preservation of public discourse on, or interest in, zoning. In fact, the lack of opportunity for public comment on the proposed zoning regulations would lead to the eventual undoing of the first proposed zoning ordinance.

Despite the importance of apartment houses in the initial phase of the zoning of New Haven, it is important not to overstate the role of concerns regarding the impact of apartment houses on single-family homes in these early discussions. Apartments and their regulation entered into zoning discussions on a general level during this phase, largely through discussions about appropriations for zoning. Some specific attention to the details of zoning to control apartments is evident, however, in the revision of the first proposed zoning ordinance by the Zoning Commission before its publication. The coverage of New Haven's zoning efforts in *The New Haven Journal-Courier* supports the conclusion that the control of apartment buildings was secondary to

---

241. See Meeting of the Sub-Committee of the Zoning Commission on Height and Set-backs (May 17, 1923), in ZONING COMMISSION MINUTES, *supra* note 1, at 50 (discussing a revision of provision relating to the depth of lots and height of buildings as a means of "controlling erection of tenement houses and other buildings erected for over two families"); *id.* at 54 (discussing the tenement and residence district boundaries).

242. See Zoning Commission Meeting, (May 25, 1923), in ZONING COMMISSION MINUTES, *supra* note 1, at 55 (discussing district boundaries); Zoning Commission Meeting, (May 14, 1923), in ZONING COMMISSION MINUTES, *supra* note 1, at 47 (discussing setbacks and regulations designed to keep business and the appearance of business away from residential districts).

243. Zoning Commission Meeting (June 18, 1923), in ZONING COMMISSION MINUTES, *supra* note 1, at 58.

244. Zoning Commission Meeting (Apr. 27, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 13.

larger discussions about appropriations for zoning,<sup>245</sup> and that even once the appropriations were secured, apartment buildings did not move to the forefront of the zoning debate at this point in the process.<sup>246</sup>

## 2. Provisions

The 1923 proposed zoning ordinance devoted thirty-five pages to the regulation of the uses, heights, and yards of New Haven's buildings.<sup>247</sup> This proposed ordinance differed from later ordinances not only in its high level of detail and complexity,<sup>248</sup> but also in its treatment of multifamily dwellings. Albeit subject to certain restraints due to height and yard specifications, the proposed ordinance would have allowed multifamily dwellings in all three of the residential districts it set forth.<sup>249</sup>

---

245. See *Money for Zoning Finally Voted by Board of Finance*, NEW HAVEN J.-COURIER, July 7, 1922, at 1; *Appropriation for Zoning Is Not Approved*, NEW HAVEN J.-COURIER, June 30, 1922; *Finance Board to Make Own Inquiry into Zoning Plan*, NEW HAVEN J.-COURIER, June 16, 1922, at 1; *Zoning Plans Approved at Cost Hearing*, NEW HAVEN J.-COURIER, May 4, 1922, at 8.

246. The debate at this stage in the zoning process largely focused on the concerns of industry. See Forbush, *supra* note 7, at 50-53.

247. New Haven, Conn., Building Zone Ordinance (proposed 1923).

248. The meaning of this proposed ordinance is by no means clear, as multiple people who have studied its terms have recognized. An unidentified alderman was reported as remarking, "I have spent two hours studying the damn thing and all I can understand of it is the penalty clause." *Error in Submitting Zoning Law Disclosed*, NEW HAVEN J.-COURIER, Aug. 29, 1923, at 1. Matthew A. Reynolds an attorney for the manufacturing interests stated,

[t]he document is like a work in higher mathematics written some years ago by a Yale professor. No one understood the book except the author and one other man. This ordinance is not understood even by the author or authors. . . . [The ordinance] would probably require years and many decisions of our supreme court to discover the complete and exact meaning.

*Id.* at 2.

249. In this respect the 1923 proposed ordinance was unique. The standard outline of a zoning ordinance during this period provided for the separation of single-family dwellings from apartment houses through different classes of residential districts. Charles H. Cheney, *Zoning in Practice*, in PROCEEDINGS OF THE 11TH NATIONAL CONVENTION ON CITY PLANNING 162, 167-85 (1919) (describing the form of the zoning ordinances being adopted). As one city planner noted, "the job of the city planning commission was to protect these great numbers of blocks of [single-family] home owners from the invasion of flats and apartments, with their renter and floater population, as well as from business and industrial buildings." *Id.* at 171. Others shared this sentiment: "Residence districts

The proposed ordinance defined each district in terms of its permitted uses and was cumulative in effect, meaning that each district permitted the uses allowed in the districts that preceded it. The ordinance contained provisions providing for non-conforming uses and uses for which plans had been submitted or a building permit granted prior to the enactment of the ordinance.<sup>250</sup>

The description of the Residence “A” district in this ordinance begins by stating that “[a] dwelling for any number of families” is permitted.<sup>251</sup> In a later section, however, this statement is qualified: Apartment houses were permitted “provided that five feet should be *added* to the sum of every other requirement of this Ordinance for side and rear yards for each family housed over one, in one house.”<sup>252</sup> Private buildings in Residence “A” districts were permitted so long as they did not exceed three stories or forty feet in height.<sup>253</sup> The basic requirements for yards were as follows:<sup>254</sup> Front yards were to be governed by the setbacks of corresponding buildings within the district or be thirty feet from the street lot line.<sup>255</sup> Rear yards were to be at least twenty-five feet with ten and five feet to be added to the requirements for the addition of a second and third story respectively.<sup>256</sup> The sum of the side yards for one-story buildings was to be at least twenty feet, twenty-five feet for

---

must not only be protected against invasion by trade and industry but they must be protected against mutually antagonistic types of residential development . . . .” Whitten, *supra* note 4, at 35. “Usually the first demand for a zone plan is prompted by the invasion or spoliation of a good residential district by a factory, apartment house or other inappropriate structure.” Harland Bartholomew, *Comment at the National Conference on City Planning*, in PROCEEDINGS OF THE 11TH NATIONAL CONVENTION ON CITY PLANNING 185 (1919). The most probable explanation for this result is that the TAC was concerned about the constitutionality of separate residential districts for single-family and multifamily dwellings, although the influence of the real estate developers could also account for this result.

250. New Haven, Conn., Building Zone Ordinance §§ 17, 20 (proposed 1923).

251. *Id.* § 3(a)(1).

252. *Id.* § 3(a)(12) (emphasis added).

253. *Id.* § 11(a).

254. It is unclear how the drafters of the ordinance intended the provision imposing additional space requirements for each family housed over one to interact with the other provisions. If, as the language of the ordinance suggests, the drafters intended the provisions to be additive, the ordinance would have severely restricted the construction of multifamily dwellings.

255. New Haven, Conn., Building Zone Ordinance §§ 12(a)-(b), 13 (proposed 1923).

256. *Id.*

two-story buildings, and thirty feet for three-story buildings.<sup>257</sup> The least width of the yard on either side was to be eight feet for a one-story building and increased to ten and then twelve feet as the number of stories increased.<sup>258</sup> Storehouses and garages were also limited in Residence “A” districts.<sup>259</sup> Additional provisions within the ordinance provided for increased yard requirements linked to the building size and type, as well as the lot location.<sup>260</sup> Furthermore, the ordinance permitted “[r]eal estate signs advertising the . . . rental or lease of only the premise on which they are maintained, [so long as the signs were] not over eight square feet in area.”<sup>261</sup>

Residence “B” districts permitted apartments for any number of families, provided the building was separated from all lot lines by yards of the required size.<sup>262</sup> Heights were limited to three stories or forty-five feet, unless the building was of fireproof construction and met certain other requirements, in which case the height was limited to six stories or seventy-five feet.<sup>263</sup> The basic provisions for the yard sizes were as follows: Front yards were to be governed by the setbacks of corresponding buildings within the district or be twenty feet from the street lot line.<sup>264</sup> Rear yards were to be at least twenty feet, and furthermore, ten and five feet were to be added to this provision for the addition of a second and third story respectively.<sup>265</sup> The sum of the widths of both side yards was to be at least ten feet for a one-story building, sixteen feet for a two-story building, and twenty-four feet for a three-story building.<sup>266</sup> The least width of a side yard was four feet for a two-story building and six feet for a three-story building.<sup>267</sup> Like in the Residence “A” districts, the ordinance provided for greater yard sizes with increasing building height, size, and type, and garages were limited.<sup>268</sup> Finally, Residence “C” did not contain any additional

---

257. *Id.* § 14.

258. *Id.*

259. *Id.* § 3.

260. *Id.* §§ 12-14.

261. *Id.* § 3(a)(10).

262. *Id.* § 4(10).

263. *Id.* § 11(b).

264. *Id.* §§ 12(a), (c).

265. *Id.* § 13.

266. *Id.* § 14(a).

267. *Id.*

268. *See id.*

provisions applicable to apartments specifically; however, the yard requirements in Residence “C” were minimal compared to those of the Residence “A” and “B” districts.<sup>269</sup>

The 1923 map for the proposed zoning ordinance shows that the Whitney Avenue area would have been zoned Residence “A” and “B.”<sup>270</sup> In what appears to have been an attempt to keep both the Avenue itself and the surrounding blocks high-grade, the majority of the Whitney Avenue area was to be zoned Residence “A.” With the exception of the lots bordering Edwards and Cold Spring Streets, and the blocks between these two streets, which were to be zoned Residence “B,” the Whitney Avenue area was to be zoned Residence “A.”

### 3. Analysis

In 1923, when the Zoning Commission voted to present the ordinance to the Board of Aldermen, less than half of the apartment houses that would be built in the Whitney Avenue area between 1923 and 1931 had been built. In 1923, there were ten apartment houses in the Whitney Avenue area—one on Everit Street, one on Humphrey Street, and eight on Whitney Avenue.<sup>271</sup> Although the data on the number of units in apartment houses built in the Whitney Avenue area are incomplete, surviving building permits suggest that the apartment houses built from 1920 to 1931 ranged from four to forty units and were two and a half to five stories in height.<sup>272</sup>

Given the fact that the yard size requirements were tied not only to building height and size, but also, in the case of Residence “A” districts, to the number of units, if the ordinance had passed it probably would have restricted the construction of new apartments in the area. Interpreted literally, the additional rear and side yard requirements for each family housed over one would have effectively prohibited the construction of apartment buildings on all but the largest lots. Even then the number of units that could be constructed would have been

---

269. *See id.* It appears that the Zoning Commission never contemplated zoning any portion of the Whitney Avenue area Residence “C” at this stage in the zoning process. As a result, this Study does not go into the details of the Residence “C” district.

270. New Haven, Conn., Building Zone Ordinance Map (proposed 1923); *see infra* Appendix I.

271. *See infra* Appendix F.

272. *See infra* Appendix B.

restricted.<sup>273</sup> While the requirements in Residence “B” areas were less onerous for the construction of apartments than those in Residence “A” areas, the very fact that the proposed zoning ordinance would have regulated previously unregulated—or loosely regulated—land uses would have made the construction of apartment buildings in the Whitney Avenue area more difficult had the proposed ordinance been enacted.<sup>274</sup>

The terms of the first proposed ordinance never became an issue for apartment builders, as the manufacturers whose plants would have been designated as non-conforming vigorously attacked the ordinance.<sup>275</sup> The resulting delay gave both manufacturing and real estate interests additional opportunities to voice their criticisms of the terms of the proposed ordinance and additional time to develop land before the implementation of zoning.

## B. *The Second Ordinance (1925)*

### 1. Creation and Provisions

The 1923 proposed ordinance was attacked by the manufacturers who charged that the Zoning Commission had failed to follow the procedural requirements of § 3 of the State Enabling Act of 1921, which required public hearings on tentative reports of proposed regulations and restrictions.<sup>276</sup> In addition, the manufacturers attacked the terms of the

---

273. The proposed ordinance may have particularly impacted new construction along Whitney Avenue where many of the apartments built after 1923 were constructed.

274. For example, on the lot bound by Whitney Avenue and Livingston, Cottage, and Linden Streets, the apartment designers and builders would have had to give additional attention to the spacing of the buildings to ensure that the minimum yard requirements were met.

275. See Forbush, *supra* note 7, at 50-51.

276. At a banquet given by the Real Estate Board to the Board of Aldermen, Matthew A. Reynolds, an attorney representing manufacturing interests, “charged that . . . in failing to hold public hearings on the zoning law before presenting it to the Board of Aldermen, [the Zoning Commission] had rendered its action illegal.” *Error in Submitting Zoning Law Disclosed*, NEW HAVEN J.-COURIER, Aug. 29, 1923, at 1. While this error was made public at a banquet given by the New Haven Real Estate Board to the Board of Aldermen to discuss zoning, the real estate interests do not appear to have actively participated in the procedural attacks on the 1923 proposed ordinance. *Id.* The manufacturers had a particularly strong interest in opposing this ordinance, because under its terms about one hundred manufacturers would have been designated “non-conforming.” Unsigned Memorandum, A Brief Analysis of the Proposed Zoning Ordinance for the City of New Haven and the Special Act Under Which the Same Is



Enabling Act and the proposed ordinance.<sup>277</sup> In November 1923, Zoning Commission Chairman Major Gray resigned from the Commission.<sup>278</sup> In his resignation letter, he outlined the remaining phases of the zoning process, namely the conduct of public hearings and the study of major traffic thoroughfare plans, and cited time constraints as the reason for his resignation.<sup>279</sup> The President of the Board of Aldermen John W. Murphy determined that the 1923 ordinance was never officially before the board as it was illegally presented.<sup>280</sup> The third Zoning Commission, headed by Leonard S. Tyler,<sup>281</sup> set out in early 1924 to remedy the mistakes made by the prior Commission and to promote the idea of zoning to the people.<sup>282</sup> The Commission also tried to address concerns regarding the 1923 proposed ordinance's treatment of industry and high-grade development. Real estate interests took on greater importance in the second phase of zoning. The debate over apartments in the Whitney Avenue area became more intense.

A comprehensive picture of the changed treatment of apartments in the Whitney Avenue area emerges from an examination of the comments the TAC submitted to the Zoning Commission in response to the 1923

---

Proposed (1923) (on file with Yale Manuscripts and Archives, MS847, Series I, Box 3, Folder 36) [hereinafter Unsigned Memorandum]. As such, the ability of these manufacturers to grow or change their plants had the proposed ordinance been enacted would have been severely restricted. *See also* Murray Sargent Letter, *supra* note 201 (explaining the defects in the proposed zoning ordinance and enabling act); Forbush, *supra* note 7, at 27-29, 50-54 (discussing the "undoing" of the first ordinance).

277. Forbush, *supra* note 7, at 28-29, 51-54.

278. *Gray Resigns from Head of Zoning Group*, NEW HAVEN UNION, Nov. 20, 1923, at 2 [hereinafter *Gray Resigns*] (Gray's resignation letter). Although the official reason put forth for Gray's resignation was time constraints, materials from as early as September 1923 suggest that some members of the Zoning Commission wanted to Gray to retire before the zoning project and his reputation suffered harm. Letter from Lewis S. Welch to George D. Seymour (Sept 13, 1923) (on file with Yale University Manuscripts and Archives, MS442, Series IV, Box 82G, vol. 13, at 20) (expressing the opinion that Major Gray needed to resign).

279. *Gray Resigns*, *supra* note 278.

280. *Leonard S. Tyler is Elected Head of Zoning Board*, NEW HAVEN J.-COURIER, Feb. 12, 1924, at 3 [hereinafter *Leo S. Tyler is Elected*]; Forbush, *supra* note 7, at 30.

281. At this point in the zoning process there had been turnover of roughly half of the initial Zoning Commission membership. Zoning Commission Meeting (Feb. 11, 1924), in ZONING COMMISSION MINUTES, *supra* note 1, at 61; *see also* *Leonard S. Tyler Is Elected*, *supra* note 280.

282. Zoning Commission Meeting (Feb. 11, 1924), in ZONING COMMISSION MINUTES, *supra* note 1, at 65; Forbush, *supra* note 7, at 32.

proposed ordinance, an intermediate draft ordinance dated May 5, 1924, and the Zoning Commission Minutes. The focus of the debates in this second phase shifted to include discussions of the exclusion of apartment buildings from single-family neighborhoods.

On March 24, 1924, the TAC submitted forty-four pages of proposed revisions to New Haven's proposed zoning ordinance.<sup>283</sup> Many of these revisions concerned the treatment of apartments.<sup>284</sup> The TAC advised that despite being of questionable constitutional validity, New Haven should consider acceding to prevailing public opinion and the demands of the real estate developers by creating Residence "A" districts strictly reserved for single-family detached houses.<sup>285</sup> The TAC noted, "fully nine-tenths of the 250 zoning or-dinances in the country have created one family house districts somewhere within the community."<sup>286</sup> It did not go as far as recommending this change, however, because of court decisions declaring single-family house districts unconstitutional.<sup>287</sup> Similarly, the TAC noted that "three-fourths of the 250 zoning ordinances now in effect [in] the districts which correspond to New Haven's Residence 'B' Districts are used exclusively for one[-] or two[-]family houses and apartment houses and apartment hotels are prohibited."<sup>288</sup> The TAC noted, however, that New Haven was unique in that there appeared to be a demand for apartments even in outlying sections of the city. The TAC recommended that New Haven adopt restrictions which, rather than prohibiting apartment buildings outright, would limit the gross floor area of buildings in Residence "B" as a way of controlling population density and preserving "light, sunlight, air[.]"

---

283. Report of the Technical Advisory Corporation to Zoning Commission, Revisions for New Haven Zoning Ordinance (Mar. 24, 1924), at 3 (on file with Yale University Manuscripts and Archives, MS442, Series II, Box 97, Folder 1409).

284. *See id.*

285. *Id.*

286. *Id.*

287. This opinion was primarily based on the case *Vernon v. Westfield*, which held that the provision of the town's zoning ordinance that permits "occupancy and use of a residence by a single family, no matter how large, but prohibits occupation by two families . . . without any pretence that such restriction is reasonably necessary for the public health and safety" is "null and void." *Vernon v. Town of Westfield*, 124 A. 248, 249 (N.J. 1923).

288. Report of the Technical Advisory Corporation to Zoning Commission, Revisions for New Haven Zoning Ordinance (Mar. 24, 1924), at 9 (on file with Yale University Manuscripts and Archives, MS442, Series II, Box 97, Folder 1409).

and privacy.”<sup>289</sup> The TAC recommended controlling the maximum population density in Residence “C” districts by limiting the gross floor area of a building to two and a half times the lot area.<sup>290</sup> In a recommendation that would become the subject of much debate, the TAC recommended that Whitney Avenue, which had been zoned Residence “A” in the 1923 proposed ordinance, be changed to Residence “C” between Trumbull and Huntington Streets.<sup>291</sup> The Zoning Commission Minutes contain few details on the discussion of these proposed changes; however, concern was expressed over whether one-family house restrictions would stand in court or be found contrary to law.<sup>292</sup> Many of the changes that the TAC suggested in its March 24, 1924 report to the Zoning Commission were incorporated into the May 5, 1924 draft of the Building Zone Ordinance.<sup>293</sup>

The 1924 draft ordinance, like the 1923 proposed ordinance, contained three residential districts. In a major departure from the 1923 proposed ordinance, however, the 1924 draft ordinance explicitly created single-family Residence “A” districts.<sup>294</sup> The draft ordinance permitted apartment houses for any number of families in Residence “B” districts, but limited the aggregate gross floor area to the total area of the lot.<sup>295</sup> This represented a change from the proposed ordinance which had sought to control the intensity of the land use and population density through minimum yard requirements rather than maximum building areas linked to lot area. The maximum height in Residence “B” districts was increased slightly, from the proposed ordinance, to eighty feet.<sup>296</sup> Setbacks were governed by the existing building lines, or if no such line

---

289. *Id.*

290. *Id.* at 11.

291. *Id.* at 44. This change demonstrates increased sensitivity to the existing land use patterns since all of the apartment buildings on Whitney Avenue at this time had been built south of Huntington. *See infra* Appendix F.

292. Zoning Commission Meeting (Mar. 24, 1924), in ZONING COMMISSION MINUTES, *supra* note 1, at 72.

293. New Haven, Conn., Building Zone Ordinance (draft May 5, 1924) (on file with Yale University Manuscripts and Archives MS847, Series I, Box 3, Folder 35).

294. *Compare id.* § 3, with New Haven, Conn., Building Zone Ordinance § 3 (proposed 1923). The draft ordinance limited buildings in Residence “A” districts to “dwelling[s] for one family or housekeeping unit.” New Haven, Conn., Building Zone Ordinance § 3 (draft May 5, 1924) (on file with Yale University Manuscripts and Archives MS847, Series I, Box 3, Folder 35).

295. New Haven, Conn., Building Zone Ordinance § 4 (draft May 5, 1924) (on file with Yale University Manuscripts and Archives MS847, Series I, Box 3, Folder 35).

296. *Id.* § 11(b).

had been established, setbacks for buildings in Residence "B" districts were to range from twelve to forty feet depending on the building height. Rear yards and side yards, which also varied according to building height, ranged from twenty to forty feet,<sup>297</sup> and four to twenty-five feet, with a combined width of eight to sixty feet, respectively.<sup>298</sup>

The provisions for Residence "C" districts took on increased importance in the debate over the zoning of Whitney Avenue due to the change in its proposed classification from Residence "A" to Residence "C." Compared to the 1923 proposed ordinance, the draft ordinance imposed additional restrictions on apartment buildings in Residence "C." In this regard, apartments and tenements under the draft ordinance were limited to an aggregate gross floor area of two and a half times the area of the lot.<sup>299</sup> Heights were limited to eight stories or one hundred feet.<sup>300</sup> Furthermore, yard requirements for Residence "C" districts were as follows: Minimum front yards ranged from ten to thirty-five feet; minimum rear yards ranged from fifteen to forty feet; and side yards ranged from eight to forty-four feet combined width, with a minimum width of three to twenty-two feet on either side.

Whereas in the initial phase of zoning the Zoning Commission had purposely avoided "stirring up the public,"<sup>301</sup> in the second phase of zoning, the Commission reached out to other city commissions and committees, manufacturing and business interests, and the public. Between April and November 1924, the Zoning Commission held thirty-two private and public meetings on zoning. Among those with whom the Zoning Commission met were: F.M. Ward of the New Haven Real Estate Board; Abraham Podoloff, the President of the New Haven Real Estate Board; William F. Hotchkiss, a real estate agent; and William Hennig, a realtor. While information from the majority of these meetings has not been preserved, the Zoning Commission Minutes reveal that the relationship between single-family houses and apartment houses was discussed during at least some of these meetings.<sup>302</sup>

---

297. *Id.* § 13(a).

298. *Id.* § 14(a).

299. *Id.* § 5.

300. *Id.* § 11(b).

301. Zoning Commission Meeting (Apr. 27, 1922), in ZONING COMMISSION MINUTES, *supra* note 1, at 13.

302. See Public Hearing on Zoning (Apr. 28, 1924), in ZONING COMMISSION MINUTES, *supra* note 1, at 83-84 (discussing the exclusion of apartment buildings from Residence "A").

In a continued effort to avoid the mistakes of the first Commission, the final Zoning Commission<sup>303</sup> conducted hearings in each Ward over the course of a three-month period. The question of the treatment of apartment buildings on Whitney Avenue appeared to loom large on many citizens' minds, even among those who did not live in the area.<sup>304</sup> At this time, the Whitney Avenue area encompassed parts of the 13th, 15th, and 18th Wards.<sup>305</sup> Only twelve people attended the first hearing for the 15th and 18th Wards.<sup>306</sup> However, as a result of claims that insufficient notice was given for the hearing, a second hearing was held.<sup>307</sup> Prior to the second hearing, Zoning Commissioner Augustine Linahan encouraged opposition to the zoning of Whitney Avenue as Residence "C" by sending a letter to "Whitney Avenue Property Owners" stating:

You no doubt are aware that New Haven is being zoned for residences, stores, factories, etc. Residential sections have three zones, and you will be surprised to learn that it is planned to put Whitney Avenue in Zone C, or the lowest of the three.<sup>308</sup>

Linahan believed that Whitney Avenue should be a Residence "A" zone.<sup>309</sup> At the second hearing, held on April 2, 1925, ninety-eight citizens were present. Residents expressed dismay with the proposal to zone Whitney Avenue as Residence "C" and urged the Zoning Commission to "save" the area.<sup>310</sup> Residents, in addition to opposing a

---

303. Note (Jan. 5, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 99.

304. Zoning Hearing for Ward 21 (Mar. 17, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 129 (stating that "Apartment Houses on Whitney Avenue have knocked prices on \$50,000 houses to \$26,000"); Hearing for Ward 28 (Mar. 31, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 129 (quoting a resident as saying, "[y]ou say this is a much thought out plan . . . [it] is for Whitney Avenue and for Westville," as a criticism of zoning).

305. NEW HAVEN, CONN., CITY DIRECTORY 232-33 (1924).

306. First Zoning Hearing for Wards 15 and 18 (Mar. 4, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 109.

307. *Objection to Whitney Ave. Zone Class*, NEW HAVEN J.-COURIER, Mar. 31, 1925, at 1 (quoting letter from Zoning Commission member Augustine Linahan to Whitney Avenue property owners).

308. *Id.*

309. *Id.*

310. Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), in ZONING

Residence "C" designation for the area, opposed allowing high-grade apartment houses in the area. Zoning Commissioner Leonard S. Tyler told the hearing attendees that the "real estate men have stated that property on Whitney Avenue brings higher value for apartments than for any other district" and that the "real estate men declared that further property development along Whitney Avenue [would] be of the apartment house type," the trolley having killed the street for single-family residences.<sup>311</sup> Major Ullman noted that "the Zoning Commission had been created to save the value of property in Whitney [A]venue and not to increase the value of Whitney [A]venue land so that apartment house constructors would not be able to use land in Whitney [A]venue for apartment houses."<sup>312</sup> City Plan Commission member Henry F. Parmelee suggested an additional district for Whitney Avenue, which would allow high-grade apartments and exclude low-grade ones and be known as Residence "AA."<sup>313</sup> The opposition to apartments on Whitney Avenue was clear: At the conclusion of the hearing, a series of votes were taken on the question of zoning Whitney Avenue. No one was in favor of apartments along Whitney Avenue, one person was against zoning the area Residence "A," and one person was in favor of zoning the area Residence "AA."<sup>314</sup>

The Zoning Commission met to make additional revisions to the zoning ordinance after the ward hearings had concluded. On June 26, 1925, the Zoning Commission voted to create a new type of residence district that would include all the restrictions of Residence "A" districts,

---

COMMISSION MINUTES, *supra* note 1, at 133, 136.

311. *Id.* at 133-34. Indeed as would be suggested later, apartment buildings could serve as buffers between trolley car streets and single-family residences as well as residential and business areas. Public Meeting of the City Plan Commission on Zoning (Sept. 21, 1926), in MINUTES OF THE NEW HAVEN CITY PLAN COMMISSION 115 (1926) [hereinafter CITY PLAN COMMISSION MINUTES 1926] (on file at the New Haven City Plan Department).

312. *Doubts Zoning Law's Validity, Parmelee Says*, NEW HAVEN J.-COURIER, Apr. 3, 1925, at 1.

313. Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 134. This proposal appears to reflect concerns both about the apartment residents and the density of land use. A newspaper article describing the proposal describes the apartments that would be permitted in the "AA" district as "exclusive." *Doubts Zoning Law's Validity, Parmelee Says*, NEW HAVEN J.-COURIER, Apr. 3, 1925, at 1.

314. Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), in ZONING COMMISSION MINUTES, *supra* note 1, at 136.

but would permit large residential apartments, Residence “AA.”<sup>315</sup> Revisions to the ordinance were completed on July 30, 1925, and the Zoning Commission created a second proposed ordinance in late 1925.<sup>316</sup>

## 2. Analysis

During the two-year delay in zoning, which was caused in large part by the procedural problems that plagued the first proposed ordinance, a number of new apartment buildings were built in the Whitney Avenue area. By 1925, about three-fourths of the apartment buildings that would be constructed in the area between 1920 and 1931, when the construction of new apartments in New Haven as a whole would plummet, had been built. As a result, the second proposed ordinance was more favorable than its 1923 predecessor in its timing. Discussion during the second hearing for the 15th and 18th Wards suggests that there were only two empty lots available along Whitney Avenue in 1925.<sup>317</sup>

While existing apartment buildings would have been tolerated as nonconforming uses under the first and second proposed ordinances, the revisions of the zoning ordinance during this stage of the process show an increased sensitivity and responsiveness to existing land uses, especially apartments. In its creation of a special zone class for the lots along Whitney Avenue, Residence “AA,” the Zoning Commission acknowledged that the character of the Avenue differed from that of the surrounding neighborhoods. Although the exact zoning of the neighborhoods around Whitney Avenue under this proposed ordinance is not known, it was presumably for the most part some combination of

---

315. Zoning Commission Meeting (June 26, 1925), in *ZONING COMMISSION MINUTES*, *supra* note 1, at 143.

316. Zoning Commission Meeting (July 30, 1925), in *ZONING COMMISSION MINUTES*, *supra* note 1, at 148; *see also* Forbush, *supra* note 7, at 35. No copies of the second proposed ordinance from the Zoning Commission appear to have been preserved. There is a copy of a proposed ordinance that has been cataloged as being from 1925. This proposal, however, indicates that it is from the City Plan Commission. *See* City Plan Commission, Zoning Ordinance for the City of New Haven (proposed) (noting in the introduction that the duties of the Zoning Commission have “devolved upon the City Plan Commission” and reprinting portions of the July 22, 1925 Zoning Act for New Haven, 1925 Conn. Spec. Acts 1006). Pursuant to provisions of that act, the Zoning Commission was to cease to exist and its powers transferred to the City Plan Commission on January 1, 1926, suggesting that this is in fact a later version. 1925 Conn. Spec. Acts 10,006.

317. Second Zoning Hearing for Wards 15 and 18 (Apr. 2, 1925), in *ZONING COMMISSION MINUTES*, *supra* note 1, at 135.

Residence “A” and Residence “B” districts. Residence “AA” differed from Residence “A” in that it allowed apartments. Residence “AA” differed from Residence “B” in that it did not permit some of the uses that the lower district allowed. Since the ordinance was cumulative, however, Residence “B” allowed the Residence “AA” uses.

Based on the surviving documents, the potential impact of the 1925 proposed ordinance on apartments was mixed. The provisions governing minimum yard requirements were relaxed, but additional restrictions on apartments were added in the form of building coverage limitations. It was these limitations and the question of the constitutionality of separating residential uses that became the focus of debate in the final stage of the zoning process.

### C. *The Final Ordinance (1926)*

#### 1. Creation

The 1925 proposed ordinance might have been New Haven’s final ordinance, if the Connecticut General Assembly had not amended New Haven’s enabling act in July 1925.<sup>318</sup> The amended act, among other things, dissolved the Zoning Commission and vested the power of zoning in the City Plan Commission on January 1, 1926.<sup>319</sup> Upon receipt of the 1925 proposed ordinance, the City Plan Commission expressed a number of concerns regarding the constitutionality, length, and complexity of the ordinance and the proper place of apartment buildings.<sup>320</sup>

The City Plan Commission expressed concern regarding the constitutionality of the separate Residence “A” and Residence “AA”

---

318. Forbush, *supra* note 7, at 36; *see also* An Act Amending an Act Creating Zoning Districts in the City of New Haven, 1925 Conn. Spec. Acts. 1006. The Greater New Haven Chamber of Commerce examined the 1923 proposed zoning ordinance and the zoning enabling act following the manufacturers’ attacks on those documents. The Board of Directors decided that at the “time it was not advisable to consider the Enabling Act, since that must remain law until 1925,” but that while a new zoning ordinance was being created “a study of the Enabling Act would also be undertaken, with the intention of amending it at the earliest opportunity.” Letter from George J. Bassett to L.J. Carmalt (Sept. 10, 1923) (on file with Yale University Manuscripts and Archives, MS847, Series I, Box 3, Folder 36).

319. 1925 Conn. Spec. Acts 1006, 1010; Forbush, *supra* note 7, at 36.

320. *See* City Plan Commission Meeting (Jan. 25, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 63.



districts.<sup>321</sup> As the City Plan Commission grappled with revisions to the ordinance in early 1926, there was substantial debate over whether the fire limits should be extended along Whitney Avenue so as to include Residence “AA.”<sup>322</sup> “It was thought that if the Fire Limits were extended along Whitney Avenue it would prevent to a large degree the possible erection of apartment houses unsuited to the character of the neighborhood,”<sup>323</sup> and thus avoid the issue of the constitutionality of Residence “A” districts.

While the City Plan Commission members differed in their opinions on how to best regulate apartments<sup>324</sup>—specifically those in the Whitney Avenue area—those intimately involved in zoning New Haven appear to have been largely sympathetic to the needs of those with interests in apartments. Ullman expressed the opinion “that we are coming to the apartment house . . . [and] should fight for the high grade apartment house.”<sup>325</sup> Parmelee stated that “[t]here is no market for building lots near the center of the city, except for apartments.”<sup>326</sup> Ford similarly

---

321. *Id.* (stating that Ford did not think that Residence “AA” is valid); City Plan Commission Meeting (Jan. 12, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 61-62 (quoting Parmelee as saying that the ordinance is hopelessly unconstitutional and Ullman agreeing). Early court decisions were divided on the question of whether the police power supports zoning ordinances’ exclusion of business and trade of every sort, including hotels and apartment houses, from residential districts. *Vill. of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 390-91 (1926) (listing both cases taking a narrow view of the constitutionality of the creation and maintenance of residential districts by zoning and those taking a broader view); *see also* *Vernon v. Town of Westfield*, 124 A. 248 (N.J. 1923) (holding that an ordinance which prohibited two-family residences, while permitting single-family residences was void); ADVISORY COMMITTEE ON ZONING, U.S. DEP’T OF COMMERCE, A ZONING PRIMER 4 (1922) (listing cases in which courts upheld zoning ordinances).

322. City Plan Commission Meeting (Feb. 23, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 69; City Plan Commission Meeting (Jan. 25, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 63.

323. City Plan Commission Meeting (Feb. 23, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 69.

324. This was by no means a concern unique to New Haven. As one city planner noted “protecting the residential sections from mutually antagonistic types of residence use” could take a number of possible approaches including limiting the type of dwelling, limiting the percentage of lot that may be covered, regulating the size of courts and yards, and limiting the number of houses or families per acre or requiring a certain minimum land area for each family housed. Whitten, *supra* note 4, at 36.

325. City Plan Commission Meeting (Mar. 22, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 73.

326. *Id.*

believed that apartments would be New Haven's future.<sup>327</sup>

On May 3, 1926, with frustration regarding the revision process growing, the City Plan Commission voted to employ Edward Bassett, a leader in the national zoning movement, to replace Ford and create a simpler zoning ordinance for New Haven.<sup>328</sup> In the meantime, the City Plan Commission decided to simplify the ordinance on their own, concluding that there should "be two residence areas A and B, and one business, and one industrial."<sup>329</sup> Bassett, however, had different plans for the ordinance. While he agreed that it should be simplified, he believed that "it was not the intention to revamp the ordinance so as to make it a hundred percent 'Simon Pure' ordinance."<sup>330</sup> Bassett recommended four classes of residence districts—one for the "best class of private houses" ("A"), one for high quality apartments ("AA"), one for "moderate class homes" ("B"), and one "[f]or people of very modest means" ("C")—although he noted that, if desired, the district for high quality apartments could be combined with either the "A" or "B" district.<sup>331</sup>

Before the process of zoning New Haven concluded, the City Plan Commission held two more meetings: one for the manufacturing interests and one for the public. On September 21, 1926, Bassett, Corporation Counsel Persky, the members of the City Plan Commission, and sixty citizens gathered for the public meeting and hearing.<sup>332</sup> Albert DeBussey, F.C. Kusterer, and Morris Lebedecker,<sup>333</sup> who all owned apartments in the Whitney Avenue area, spoke about the ordinance: DeBussey was of the opinion that the building area restrictions were "almost confiscatory" and would put the apartment interests out of

---

327. *Id.*

328. City Plan Commission Meeting (May 3, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 81; Forbush, *supra* note 7, at 37.

329. City Plan Commission Special Meeting (June 21, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 88.

330. City Plan Commission Special Meeting (Aug. 19, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 90.

331. *Id.* Bassett, in response to concerns about the legality of single-family house restrictions, noted, "the highest court in 5 states, including Massachusetts, New York, Rhode Island and California, holds that one family and two family restrictions stand. One finds less fire hazard and less danger of disaster in such districts." *Id.* at 94.

332. Public Meeting of the City Plan Commission on Zoning (Sept. 21, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 109.

333. DeBussey and Kusterer represented DeBussey-Kusterer Company, a real estate company, at the meeting. Lebedecker represented Lebedecker & Drutman, also a real estate company.

business.<sup>334</sup> Furthermore, he expressed concern that zoning was moving too quickly, a sentiment which Lebedecker and Kusterer echoed.<sup>335</sup> Bassett, in response to these concerns stated: “it is not intended that multi-family houses or apartment houses shall be able to go in every part of New Haven.”<sup>336</sup> Using New York City’s experiences as examples, Bassett argued for zoning as a means of maintaining a city’s health. Bassett described how before the introduction of zoning, apartment buildings were driving small homeowners out of the city, the first step in the creation of blighted districts.<sup>337</sup> Once zoning was introduced, however, “one[-] and two-family houses . . . [became] so popular that they have been increased three fold by petition of property owners that have been wanting to protect themselves by means of zones.”<sup>338</sup> Bassett further argued that New Haven should have well-planned lot coverage restrictions.<sup>339</sup>

The debate over proper building area limits and apartment buildings continued in the final public meeting on zoning held before the Committee on Ordinances of the Board of Aldermen on October 20, 1926.<sup>340</sup> While many people spoke in favor of the zoning ordinance at this meeting—including realtor Abraham Podoloff—three people spoke out against the ordinance.<sup>341</sup> Frank Kenna argued that the building area limitations, as they related to apartment houses, were “a little too drastic.”<sup>342</sup> Attorney George E. Beers, representing real estate dealer Frederick C. Bishop and others, urged the city to go slow in adopting the ordinance because of the chance of illegality.<sup>343</sup> Finally, Kusterer, who had built apartments in the Whitney Avenue area, declared that court action would probably result if the ordinance were to be passed.<sup>344</sup> Despite these objections, the Committee recommended the enactment of

---

334. Public Meeting of the City Plan Commission on Zoning (Sept. 21, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 111.

335. *Id.* at 113, 115.

336. *Id.* at 117.

337. *Id.*

338. *Id.*

339. *Id.* at 118-19.

340. Public Meeting Before the Committee on Ordinances, Board of Aldermen (Oct. 20, 1926), in CITY PLAN COMMISSION MINUTES 1926, *supra* note 311, at 127-29.

341. *Three Oppose New Zone Law at Public Meet*, NEW HAVEN J.-COURIER, Oct. 21, 1926, at 1.

342. *Id.*

343. *Id.*

344. *Id.*

the zoning ordinance to the Board of Aldermen on November 8, 1926.<sup>345</sup> On November 22, 1926, the Supreme Court announced its decision in the landmark case *Village of Euclid v. Ambler Realty Co.*<sup>346</sup> The Court upheld the constitutionality of “the creation and maintenance of residential districts, from which business and trade of every sort, including hotels and apartment houses, are excluded.”<sup>347</sup> Thus, *Euclid* upheld the constitutionality of modern zoning ordinances. Two weeks later, on December 4, 1926, the Board of Aldermen unanimously enacted New Haven’s first Zoning Ordinance.<sup>348</sup>

## 2. Provisions

The final Zoning Ordinance was significantly shorter and simpler than the versions that preceded it. In just thirteen pages, it established nine districts—four residential, two business, and three industrial—and the permitted uses within each.<sup>349</sup> Like the 1923 version of the ordinance, the final ordinance was cumulative.<sup>350</sup> Pending and granted building permit applications were exempt from the ordinance as long as construction began within six months of the passage of the ordinance and was completed within two years.<sup>351</sup>

In the final ordinance, Residence “A” districts permitted single-family houses, but did not allow apartment buildings.<sup>352</sup> Residence “AA,” in addition to permitting Residence “A” uses, allowed “[a] multiple dwelling or a two-family detached dwelling, provided that no such building shall have an aggregate gross area of all floors greater than twice the area of the lot.”<sup>353</sup> The supplemental provisions, greatly

---

345. 1926 J. BOARD OF ALDERMEN OF NEW HAVEN 352 (Nov. 8, 1926); Forbush, *supra* note 7, at 39.

346. 272 U.S. 365 (1926).

347. *Id.* at 390. Justice Sutherland, writing for the Court, recognized that in certain circumstances “apartment houses, which in a different environment would be not only entirely unobjectionable but highly desirable, come very near to being nuisances.” *Id.* at 395.

348. 1926 J. BOARD OF ALDERMEN OF NEW HAVEN 400 (Dec. 4, 1926); Forbush, *supra* note 7, at 40.

349. NEW HAVEN, CONN., BUILDING ZONE ORDINANCE (1926).

350. Compare NEW HAVEN, CONN., BUILDING ZONE ORDINANCE (1926), with New Haven, Conn. Building Zone Ordinance (proposed 1923).

351. NEW HAVEN, CONN., BUILDING ZONE ORDINANCE § 1307 (1926).

352. *Id.* §§ 300-301.

353. *Id.* §§ 400-401.

simplified from earlier versions, provided that the building area in Residence “A” and “AA” districts was not to exceed thirty percent of the lot area.<sup>354</sup> Minimum front and rear yards were both set at twenty-five feet.<sup>355</sup> The side yards were required to have an aggregate minimum width of twenty feet, and be at least eight feet on either side.<sup>356</sup> The side and rear yard requirements increased for buildings over forty and fifty-five feet, respectively, by five feet for each twelve feet or portion thereof by which the building exceeded the height threshold.<sup>357</sup> Residence “B” contained basically the same provisions with respect to multifamily dwellings as Residence “AA,”<sup>358</sup> but it had slightly less restrictive supplemental requirements, including a thirty-five percent limitation on building area. Residence “C” permitted single-family, two-family, or multifamily dwellings as long as the building footprint did not occupy more than fifty percent of the lot area and various yard requirements were met.<sup>359</sup> The yard requirements in Residence “C,” like those in the other districts, increased with building height, but were significantly smaller than those in other districts.<sup>360</sup> Additional provisions within the zoning ordinance governed accessory buildings in each district. The business districts and industrial districts were defined in terms of prohibited uses and multifamily dwellings were not listed among the enumerated prohibited uses.<sup>361</sup> The building coverage for apartments in the business and industrial districts was limited to seventy percent of the lot area.<sup>362</sup>

In the final 1926 ordinance, a substantial portion of New Haven was zoned to permit apartment buildings.<sup>363</sup> With the exception of a few areas that were zoned Residence “A” and some scattered parkland, all other areas of New Haven were zoned to permit some type of apartment building.<sup>364</sup> In the Whitney Avenue area, the area west of the Avenue between Edwards Street and East Rock Road and the areas east of the

---

354. *Id.* § 1200.

355. *Id.* §§ 1202, 1205.

356. *Id.* §§ 1204-1205.

357. *Id.*

358. *Id.* §§ 500-501.

359. *Id.* §§ 600-601, 1200.

360. *Id.* § 600-601.

361. *Id.* arts. VII, VIII, IX-XI.

362. *Id.* § 1200.

363. *See infra* Appendix J.

364. *See id.*

Avenue between Humphrey and Edwards Streets, and Canner Street and East Rock Road, were zoned Residence "A."<sup>365</sup> The ordinance employed the Residence "AA" zone classification, which allowed high-grade apartments, in only two parts of the city: along the northern section of Whitney Avenue, above Humphrey Street, and along Chapel Street between Beacon Street and Boulevard.<sup>366</sup> Because the zoning ordinance was cumulative, high-grade apartments were also permitted in all districts that followed Residence "AA" in the ordinance: Residence "B," Residence "C," as well as the business and industrial districts. Lower grade apartments were permitted in Residence "C" and in the business and industrial districts. The remaining sections of the Whitney Avenue area were zoned as follows: the southern end of Whitney Avenue, below Humphrey Street, was zoned Business "A," and the remaining areas to the east of Whitney Avenue were zoned Residence "B."<sup>367</sup>

### 3. Analysis

By the time the final zoning ordinance was enacted, the majority of the apartment buildings that would be constructed in the Whitney Avenue area between 1920 and 1931 had already been completed. Of the twenty-eight apartments that would be built in this area, only six were built after the enactment of zoning and none of those apartments were built in a Residence "AA" district. It is unclear from the available sources how many of the apartments built after the enactment of zoning were exempt from the zoning requirements as a result of the exception for pending and granted building applications. The day before the zoning ordinance went into effect was the busiest day in the history of the Building Office, as those interested in constructing new structures rushed to take advantage of this exception.<sup>368</sup> Many apartment builders were among those that rushed to get permits the day before the enactment of zoning.<sup>369</sup>

---

365. *See id.*

366. *See id.*

367. *See id.*

368. *Building Office Has Busiest Day Since Creation*, NEW HAVEN J.-COURIER, Dec. 15, 1926, at 1.

369. These included Rubino & Dainesi for an eighty-four room hotel and apartment building; Frank Rosoff for a three-family apartment house; Harry L. Owens for a four-family apartment house; Richman & White for six three-family apartment houses; and Salvatore Salvletti for two three-family apartments. *Id.* at 1–2. It does not appear that any

The zoning ordinance imposed building area limitations of thirty, thirty-five, or fifty percent of the lot depending on the residential district.<sup>370</sup> While these limitations were fiercely debated by those with apartments along Whitney Avenue, who presumably had future interests in building additional apartments there, none of the apartments in the Whitney Avenue area built before 1931 exceeded thirty-five percent of the lot area. Six of the ten lots on which apartments were built had a building coverage of less than thirty percent. Three of the four apartment buildings whose coverage exceeded thirty percent of the lot area were constructed before the final 1926 zoning ordinance was enacted. The remaining building, which was constructed after 1926, was built in a Resident "B" district and met the building coverage limitations for that district (thirty-five percent). The construction of the three buildings built before 1926 whose coverage exceeded thirty percent would have been prohibited under the terms of the 1926 ordinance had it been in effect when they were built. Two of these apartment buildings were built in areas that in 1926 were zoned for single-family residences only, Residence "A," and thus would have been prohibited even if the building coverage limitations had been higher. The remaining building was built in an area that was zoned to allow apartments, Residence "AA," but would have been prohibited by the thirty percent building coverage limitation. Thus only one apartment building built in the Whitney Avenue area before the enactment of zoning would have been prohibited based on building coverage limitations alone had the final zoning ordinance been in effect when it was constructed.

The zoning ordinance provision limiting the aggregate gross area of all floors to twice the area of the lot for multifamily dwellings in Residence "AA" districts probably would have had little impact on the design of apartment buildings in the Whitney Avenue area. Although it is not possible to accurately calculate the aggregate floor area of the buildings in this area, it is possible to get a sense of the aggregate floor areas relative to lot areas. All of the apartment buildings that were built along Whitney Avenue in the areas that were zoned Residence "AA" under the 1926 final ordinance were under three stories. Furthermore, the

---

permits for Whitney Avenue area apartment buildings were applied for on the day before the enactment of zoning. *See id.*

370. Auto and storehouses were not included in the determination of the percentage of the lot occupied by buildings under the zoning ordinance. NEW HAVEN, CONN., BUILDING ZONE ORDINANCE art. I (1926).

building coverage on each of the lots on which apartments were built in the area zoned Residence “AA” was thirty-five percent or less. Even a building on the upper boundary of these groups would have an aggregate gross floor area significantly less than twice the area of the lot.

Apartment building construction in the Whitney Avenue area and new construction in New Haven generally declined following the introduction of zoning. The extent to which these declines can be attributed to zoning as opposed to other factors—such as saturation of the housing market, the lack of undeveloped land, or the onset of the Great Depression—is unclear. The final zoning ordinance, however, was fairly favorable for apartment builders in the Whitney Avenue area both in its timing and in its terms.

## VI. Conclusion

In the end, it took almost five years from the time that the city’s enabling act was passed to zone New Haven. During this period, the character of the Whitney Avenue area underwent substantial change as apartments were constructed in what previously had been an overwhelmingly single-family residential neighborhood. While apartments were not wholly unregulated in pre-zoning New Haven, the legal controls on apartments before zoning gave high quality apartment builders substantial leeway in the construction of new buildings.

Although procedural concerns raised by manufacturers substantially lengthened New Haven’s zoning process, debates over apartment buildings also contributed to the delay in the enactment of zoning. City planners, real estate developers, and individual residents all expressed concerns about the treatment of apartment buildings in New Haven’s first zoning ordinance. These concerns ranged from broad concerns regarding the constitutionality of single-family residential districts that excluded apartment buildings to more narrow concerns regarding whether apartments should be permitted in particular neighborhoods and the permitted land use characteristics for new apartments.

New Haven’s first zoning ordinance was motivated in part by a desire to control and shape New Haven’s future, but, at least with respect to apartments, the ordinance appears to have largely been shaped by preexisting land use patterns and politics. The success of the apartment



builders was as much in the delay of the process as it was in the terms of the final ordinance.

## VII. Epilogue

The apartments in the Whitney Avenue area and their owners shaped not only the zoning debate and the contours of New Haven's first zoning ordinance, but also the continuing character and physical structure of the Whitney Avenue area. Many of the apartment buildings shown on the 1931 Sanborn Map are still standing and used as apartments more than eighty years after the debate over the future of the Whitney Avenue area occurred.<sup>371</sup>

Although a few apartment buildings have been built in the Whitney Avenue area since 1931,<sup>372</sup> the number of apartments constructed after 1931 pales in comparison to the twenty-eight apartments built between 1920 and 1931. Although there has been very little construction of new apartment buildings since 1931 in the Whitney Avenue area, the number of structures used as apartments—and two-family dwellings—has increased tremendously. Many buildings that served as single-family residences in the early and mid-1920s have been converted into multifamily dwellings.<sup>373</sup> Much of the growth in the number of apartments in the area that has occurred since 1931 has taken place through the conversion of single-family dwellings into apartments. As a result, the apartment houses that were built from 1920 to 1931 have remained highly visible within the area, contributing to its character and vitality of design and style.

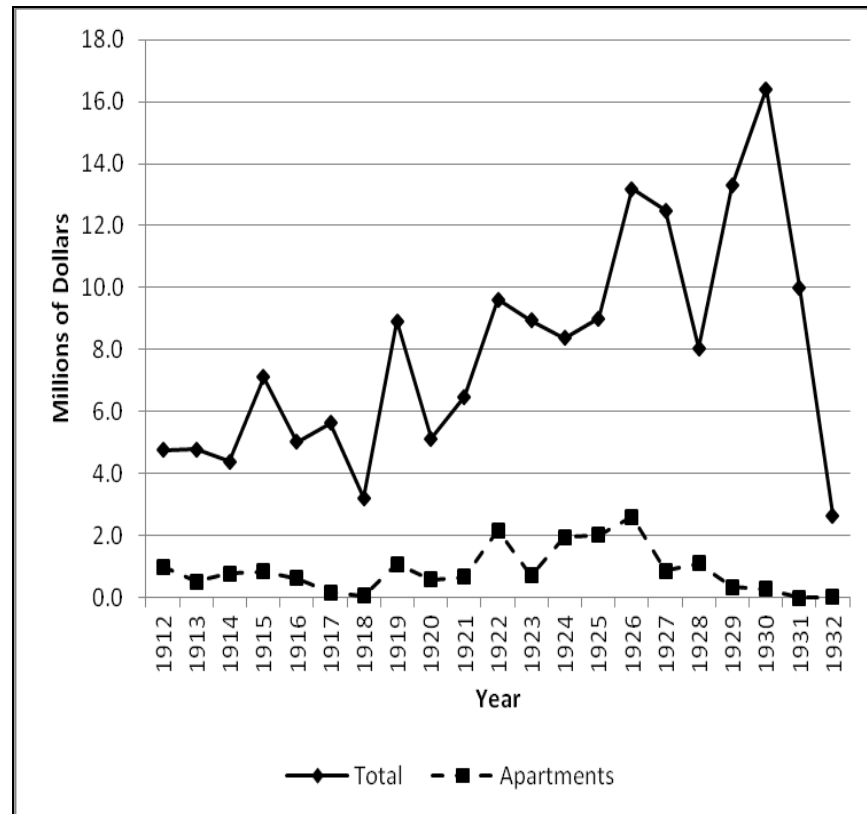
---

371. Compare *infra* Appendix G (Whitney Avenue area in 1931), with *infra* Appendix H (Whitney Avenue area in 1997). Some of the apartment buildings have been converted into condominiums. See ASSESSORS ONLINE DATABASE FOR NEW HAVEN, CT, <http://data.visionappraisal.com/NewhavenCT> (last visited June 26, 2013).

372. For example since 1931, apartments have been built at 70 Livingston Street (built 1959), 570 Whitney Avenue (1955) (since converted to condominiums), and 725 Whitney Avenue (1965). See ASSESSORS ONLINE DATABASE FOR NEW HAVEN, CT, <http://data.visionappraisal.com/NewhavenCT> (last visited June 26, 2013). In addition, a mixed retail and apartment building was constructed at 374 Whitney Avenue (1946). *Id.*

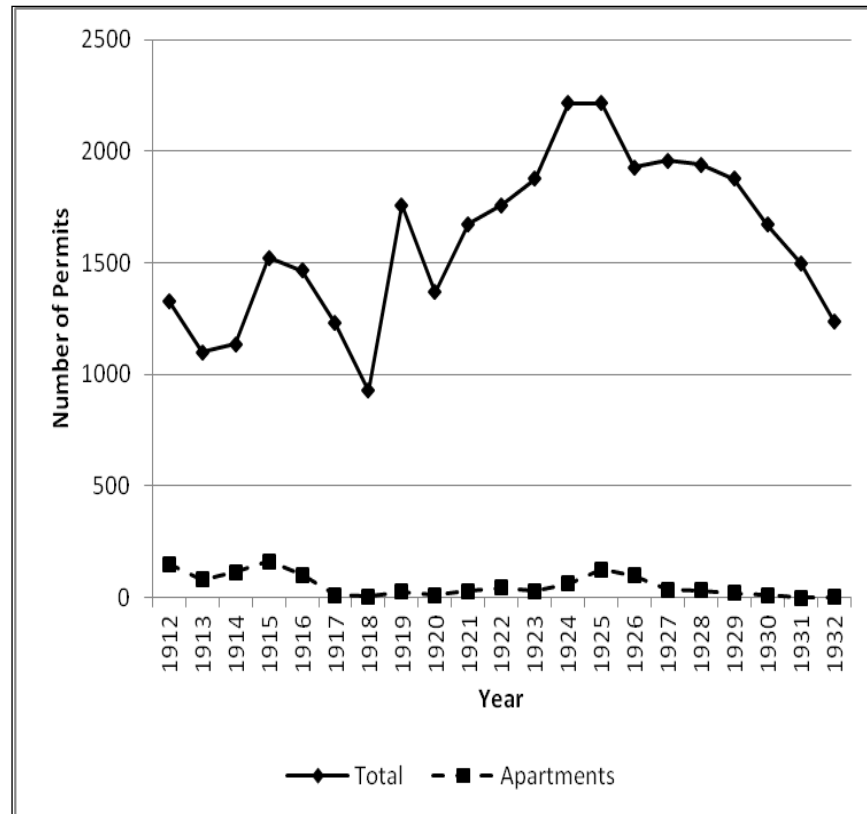
373. For example 645, 659 and 733 Whitney Avenue, which were built between 1918 and 1925, have been converted into multifamily dwellings. *Id.*

## Appendix A: Building Trends, New Haven, Conn.

**Table 1. Estimated Cost of New Construction in New Haven 1912-1932**  
(in millions of dollars)<sup>374</sup>

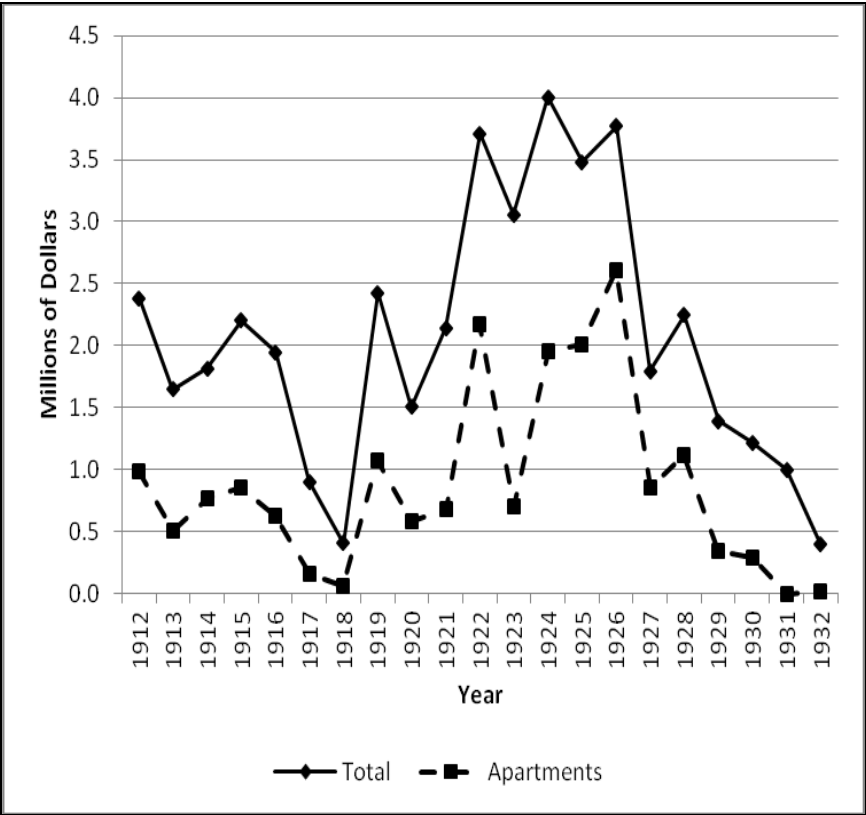
374. See Reports of the Building Inspector, in CITY YEAR BOOK OF THE CITY OF NEW HAVEN (1912-1932) (alternatively titled as the "Annual Report of the Building Department").

## Appendix A: Building Trends, New Haven, Conn. (Continued)

**Table 2. Building Permits Issued in New Haven 1912-1932**<sup>375</sup><sup>375</sup>. *See id.*

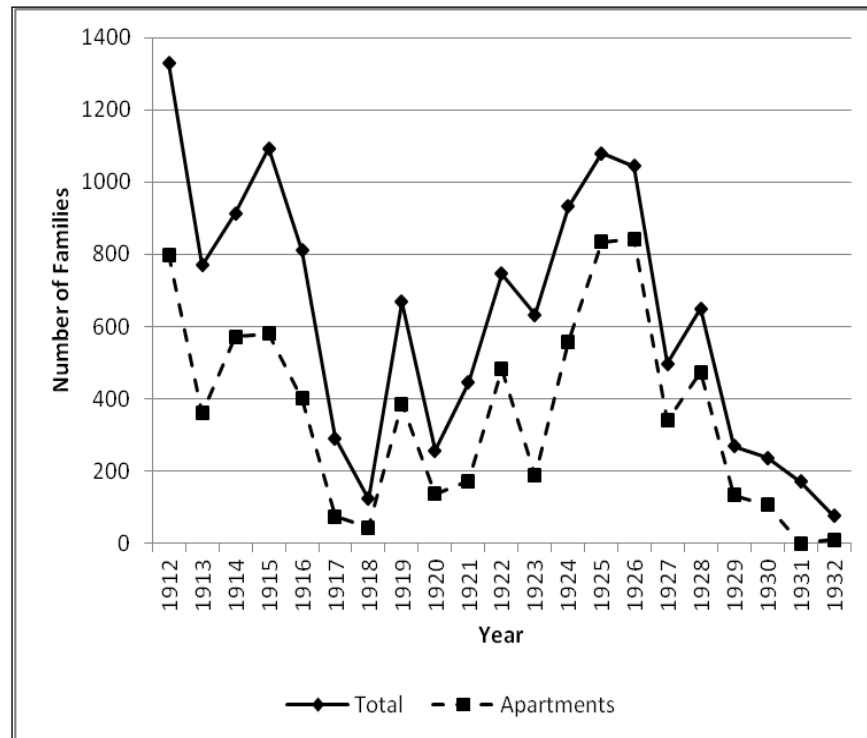
Appendix A: Building Trends, New Haven, Conn. (Continued)

**Table 3. Estimated Cost of New Residential Construction in New Haven 1912-1932 (in millions of dollars)<sup>376</sup>**



376. *See id.*

## Appendix A: Building Trends, New Haven, Conn. (Continued)

**Table 4. Number of Families New Residential Construction Was Intended to Accommodate**<sup>377</sup><sup>377</sup>. See *id.*

Appendix B: Apartments in the Whitney Avenue Area<sup>378</sup>

YEAR	NAME, STREET ADDRESS	DESCRIPTION	FAMILIES	COST	OWNER	OWNER'S EMPLOYMENT
1920	492-498 (482-488) Whitney (2 apts.)	Fire resistant	20 each	125,000 each	George M. Ratner	Ratner Realty Co., real estate
1921	Standysh Apts., 460 Humphrey	Fire resistant	—	35,000	F.C. Kusterer	—
1922	146-150 Everit	Fire resistant	13	80,000	Samuel Alterman	Carpenter
1922	Redcliffe Apts., 245 Whitney	Fire resistant	6	50,000	F.C. Kusterer	President- treasurer Kusterer Property Corp.
1922	400-404 Whitney	—	—	—	S.J. Nathanson	—
1922	484-490 Whitney	Fire resistant	12	75,000	Louis Miller (England)	Contractor
1922	Brighton Court Apts., 663-667 Whitney	Frame	12	80,000	Goldfard, Lebedeker & Rothchild	Goldfard – painter, grocer or electrical contractor; Lebedeker – carpenter
1923	408-414 (416) Whitney	Frame	12	45,000	Vernon & Richmond	Harry Vernoff – general contractor; William Richmond – general contractor

378. See *id.*; Building Permits (on file with the New Haven Building Office); NEW HAVEN, CONN., CITY DIRECTORY (1920-1923); *infra* note 65 (discussing discrepancies in data used to create chart).

1923	420-424 Whitney	—	12	73,000	Vernoff & Richmond Saxon	Harry Vernoff – general contractor; William Richmond – general contractor
------	--------------------	---	----	--------	--------------------------------	--

## Appendix B: Apartments in the Whitney Avenue Area (Continued)

YEAR	NAME, STREET ADDRESS	DESCRIPTION	FAMILIES	COST	OWNER	OWNER'S EMPLOYMENT
1923	Whitney Apts., 482- 484 (472) Whitney	Fire resistant	13	70,000	Louis Miller	Contractor
1923	629-633 (611A) Whitney	Frame	7	40,000	A. Abelson	—
Post 1923	150 Linden	—	—	—	—	—
1924	307-313 St. Ronan	—	—	130,000	I. Alpert	Israel – carpenter or peddler; Isaac – toolmaker, accountant or unlisted; or Irving – civil engineer
1924	Victoria, 394-396 Whitney	—	—	60,000	Sherman Cons. Co.	—
1924	Whitcott, 401-403 (405) Whitney	Frame	—	50,000	Mrs. L Pannone	—
1924	Whitcott, 407-409 Whitney	Frame	6	50,000	Mrs. L Pannone	—
1924	Alden, 421- 425 Whitney	Frame	12	80,000	Nathan Rothchild	Plumber
1924	Whitney Glen Moor, 431-437 Whitney	Fire resistant	—	70,000	Alderman Bros.	—
1925	151-153 Cold Springs	Fire resistant	15	45,000	Lebedeker & Drutman	Morris Lebedeker – carpenter &

	real estate; Nathan Drutman – none
--	---



## Appendix B: Apartments in the Whitney Avenue Area (Continued)

YEAR	NAME, STREET ADDRESS	DESCRIPTION	FAMILIES	COST	OWNER	OWNER'S EMPLOYMENT
1925	453 Whitney	Fire resistant	4	24,000	Nathan Rothchild	Plumber
1925	623-627 (621-625) Whitney	Fire resistant	10	30,000	Abie Abelson	—
1926	216 Bishop	Fire resistant	40	75,000	Vernoff & Richmond	—
1926	255 Whitney	Fire resistant	35	160,000	Daneisi & Rubino	Antonio Daneisi – laborer
1927	New Amsterdam Apts., 141- 147 Cottage	Fire resistant	18	60,000	H.W. Labov	—
1928	New Amsterdam Apts., 131- 137 Cottage	Fire resistant	18	60,000	Amsterdam Rlty. Co. Inc.	—
1928	106-112 Livingston	Fire resistant	26	90,000	Adelman Bros.	L. Adelman – real estate
1928	90-96 Livingston	Fire resistant	26	90,000	Adelman Bros.	—
Pre 1931	227-229 Edwards	—	—	—	—	—

Appendix C: The Whitney Avenue Area 1923<sup>379</sup>  
Land Use By Dwelling Type<sup>380</sup>

Due to variations and imperfections in the data, certain measurements could not be calculated for all sites. As a result, the number of sites in each table varies. All measurements in this section were calculated from the 1923 Sanborn Maps for New Haven, Connecticut and represent approximate values.

**Table 1. Lot Size (in square feet)**

DWELLING TYPE	≤ 5000	5001 - 10,000	10,001 - 15,000	15,001 - 20,000	20,001 - 25,000	25,001 - 30,000	30,001 - 35,000	35,001 - 40,000	40,001 +
1 Family	8	151	93	40	16	14	5	4	13
2 Family	0	1	1	1	1	0	0	0	0
3 Family	0	0	0	0	0	0	0	0	0
4 Family	0	0	0	0	0	0	0	0	1
Apartments	0	0	0	0	1	1	0	0	4
<b>Total</b>	<b>8</b>	<b>152</b>	<b>94</b>	<b>41</b>	<b>18</b>	<b>15</b>	<b>5</b>	<b>4</b>	<b>18</b>

**Table 2A. Building Coverage (by percentage of site covered)**

DWELLING TYPE	≤ 20	21-25	26-30	31-35	36-40	40+
1 Family	191	70	38	21	1	1
2 Family	0	0	1	3	0	0
3 Family	0	0	0	0	0	0
4 Family	1	0	0	0	0	0
Apartments	3	1	0	0	1	1
<b>Total</b>	<b>195</b>	<b>71</b>	<b>39</b>	<b>24</b>	<b>2</b>	<b>2</b>

379. The land use characteristics for this area were determined with respect to both dwelling type and street block, however, only the data organized by dwelling type are reported.

380. This Study examined 355 lots: 22 of which were vacant, and the remaining 333 were occupied by a total of 393 dwellings. At the time the 1923 Sanborn Map was created the dwellings in the Whitney Avenue area were apportioned as follows: 377 single-family dwellings, 4 two-family dwellings, zero three-family dwellings, 2 four-family dwellings and 10 apartment houses. There were also a few non-residential buildings in the area of study during this time, which were not included in this Study: the New Haven Law Club Association, the Church of Redeemer, and the Worthington Hooker Public School.

Appendix C: The Whitney Avenue Area 1923  
Land Use by Dwelling Type (Continued)

**Table 2B. Building Coverage (by percentage of site covered excluding auto and storehouses)**

DWELLING TYPE	≤ 20	21-25	26-30	31-35	36-40	41-45	46+
1 Family	235	52	26	8	2	0	0
2 Family	1	0	1	1	0	0	0
3 Family	0	0	0	0	0	0	0
4 Family	1	0	0	0	0	0	0
Apartments	3	1	0	2	0	0	0
<b>Total</b>	<b>240</b>	<b>53</b>	<b>27</b>	<b>11</b>	<b>2</b>	<b>0</b>	<b>0</b>

**Table 3. Setbacks (in feet)**

DWELLING TYPE	0-5	6-10	11-15	15-20	21-25	26-30	31-35	36-40	40+
1 Family	3	14	27	58	55	48	80	47	45
2 Family	0	0	1	0	0	0	1	2	0
3 Family	0	0	0	0	0	0	0	0	0
4 Family	0	0	0	0	0	0	2	0	0
Apartments	0	0	0	0	0	0	4	4	2
<b>Total</b>	<b>3</b>	<b>14</b>	<b>28</b>	<b>58</b>	<b>55</b>	<b>48</b>	<b>87</b>	<b>53</b>	<b>47</b>

**Table 4. Rear Yards (in feet)**

DWELLING TYPE	≤ 30	31-40	41-50	51-60	61-70	71-80	81-90	91-100	100+
1 Family	12	18	35	41	44	48	42	26	116
2 Family	0	0	0	2	2	0	0	0	0
3 Family	0	0	0	0	0	0	0	0	0
4 Family	0	0	0	0	0	0	0	0	2
Apartments	0	0	0	0	1	1	1	0	7
<b>Total</b>	<b>12</b>	<b>18</b>	<b>35</b>	<b>43</b>	<b>47</b>	<b>49</b>	<b>43</b>	<b>26</b>	<b>125</b>

Appendix C: The Whitney Avenue Area 1923  
Land Use by Dwelling Type (Continued)

**Table 5A. Side Yards (by distance in feet to nearest adjacent lot or midpoint between buildings sharing lot)**

DWELLING TYPE	0-5	6-10	11-15	16-20	21-25	26-30	31-35	36-40	40+
1 Family	163	229	154	98	20	19	16	6	44
2 Family	1	6	0	1	0	0	0	0	0
3 Family	0	0	0	0	0	0	0	0	0
4 Family	0	1	0	0	0	3	0	0	0
Apartments	3	9	2	1	0	0	0	0	5
<b>Total</b>	<b>167</b>	<b>245</b>	<b>156</b>	<b>100</b>	<b>20</b>	<b>22</b>	<b>16</b>	<b>6</b>	<b>49</b>

**Table 5B. Side Yards (by distance in feet to nearest building)**

DWELLING TYPE	0-5	6-10	11-15	16-20	21-25	26-30	31-35	36-40	40+
1 Family	2	47	86	205	105	48	38	16	121
2 Family	0	1	0	2	0	3	0	0	0
3 Family	0	0	0	0	0	0	0	0	0
4 Family	0	0	0	1	0	0	0	0	3
Apartments	0	2	4	5	0	1	0	0	6
<b>Total</b>	<b>2</b>	<b>50</b>	<b>90</b>	<b>213</b>	<b>105</b>	<b>52</b>	<b>38</b>	<b>16</b>	<b>130</b>

Appendix D: The Whitney Avenue Area 1931  
Apartment Land Use<sup>381</sup>

Due to variations and imperfections in the data, certain measurements could not be calculated for all sites. As a result, the number of sites in each table varies. All measurements in this section were calculated from the 1931 updates for the 1923 Sanborn Maps for New Haven, Connecticut and represent approximate values.

**Abbreviations<sup>382</sup>**

Bishop <sup>2</sup>	Whitney to "Lincoln," South Side	Whitney <sup>1</sup>	"Sachem" to Humphrey, East Side
Cold Spring <sup>3</sup>	Everit to Livingston, North Side	Whitney <sup>7</sup>	Lawrence to Canner, West Side
Everit <sup>4</sup>	Cold Spring to East Rock, West Side	Whitney <sup>8</sup>	Cottage to Linden, East Side
Livingston <sup>4</sup>	Edwards to Lawrence, West Side	Whitney <sup>13</sup>	Cold Spring to East Rock, East Side

**Table 1. Lot Size (in square feet)**

STREET	≤ 5000	5001- 10,000	10,001- 15,000	15,001- 20,000	20,001- 25,000	25,001- 30,000	30,001- 35,000	35,001- 40,000	40,000+
Whitney <sup>1</sup>	0	0	0	0	0	0	0	0	1
Whitney <sup>7</sup>	0	0	0	0	0	0	0	0	2
Whitney <sup>8</sup>	0	0	0	0	0	0	0	0	1
Whitney <sup>13</sup>	0	0	0	0	1	0	0	0	1
Everit <sup>4</sup>	0	0	0	0	1	0	0	0	0
Livingston <sup>4</sup>	0	0	0	1	0	0	0	0	0
Bishop <sup>2</sup>	0	0	0	0	0	0	0	1	0
Cold Spring <sup>3</sup>	0	0	0	1	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>5</b>

381. The 1931 Sanborn map shows twenty-eight apartment buildings. The data for Whitney<sup>7</sup> and Whitney<sup>8</sup> include apartments that do not border Whitney Avenue, because the lot on Whitney<sup>7</sup> goes through to St. Ronan Street, and the lot fronting Whitney<sup>8</sup> occupies the entire block.

382. Only the blocks on which there was an apartment building are included in the data. As a result, the numbering of the streets in this section appears non-sequential.

Appendix D: The Whitney Avenue Area 1931  
Apartment Land Use (Continued)

**Table 2A. Building Coverage (by percentage of site covered)**

STREET	≤ 20	21-25	26-30	31-35	36-40	40+
Whitney <sup>1</sup>	0	0	1	0	0	0
Whitney <sup>7</sup>	0	0	0	2	0	0
Whitney <sup>8</sup>	0	0	1	0	0	0
Whitney <sup>13</sup>	0	0	1	0	1	0
Everit <sup>4</sup>	0	0	0	0	1	0
Livingston <sup>4</sup>	0	0	0	0	0	1
Bishop <sup>2</sup>	0	1	0	0	0	0
Cold Spring <sup>3</sup>	0	0	0	0	0	1
<b>Total</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>2</b>

**Table 2B. Building Coverage (by percentage of site covered excluding auto and storehouses)**

STREET	≤ 20	21-25	26-30	31-35	36-40	40+
Whitney <sup>1</sup>	0	1	0	0	0	0
Whitney <sup>7</sup>	0	0	2	0	0	0
Whitney <sup>8</sup>	0	1	0	0	0	0
Whitney <sup>13</sup>	0	0	1	1	0	0
Everit <sup>4</sup>	0	0	0	1	0	0
Livingston <sup>4</sup>	0	0	0	1	0	0
Bishop <sup>2</sup>	0	1	0	0	0	0
Cold Spring <sup>3</sup>	0	0	0	1	0	0
<b>Total</b>	<b>0</b>	<b>3</b>	<b>3</b>	<b>4</b>	<b>0</b>	<b>0</b>

Appendix D: The Whitney Avenue Area 1931  
Apartment Land Use (Continued)

**Table 3. Setbacks (in feet)**

STREET	0-5	6-10	11-15	16-20	21-25	26-30	31-35	36-40	40+
Whitney <sup>1</sup>	0	0	0	0	0	0	2	1	0
Whitney <sup>7</sup>	0	0	0	0	0	0	1	3	4
Whitney <sup>8</sup>	0	0	0	0	2	2	1	2	3
Whitney <sup>13</sup>	0	0	0	0	0	1	2	0	0
Everit <sup>4</sup>	0	0	0	0	0	0	1	0	0
Livingston <sup>4</sup>	0	1	0	0	0	0	0	0	0
Bishop <sup>2</sup>	0	0	0	0	0	0	1	0	1
Cold Spring <sup>3</sup>	0	0	1	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>3</b>	<b>8</b>	<b>6</b>	<b>8</b>

**Table 4. Rear Yards (in feet)**

STREET	≤ 30	31-40	41-50	51-60	61-70	71-80	81-90	91-100	100+
Whitney <sup>1</sup>	1	0	0	0	0	0	0	0	2
Whitney <sup>7</sup>	0	0	0	2	1	1	0	1	3
Whitney <sup>8</sup>	2	0	0	0	1	3	0	0	4
Whitney <sup>13</sup>	0	0	1	1	0	1	0	0	0
Everit <sup>4</sup>	0	0	0	0	1	0	0	0	0
Livingston <sup>4</sup>	1	0	0	0	0	0	0	0	0
Bishop <sup>2</sup>	1	0	0	0	0	0	0	0	0
Cold Spring <sup>3</sup>	1	0	0	0	0	0	0	0	0
<b>Total</b>	<b>6</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>5</b>	<b>0</b>	<b>1</b>	<b>9</b>

Appendix D: The Whitney Avenue Area 1931  
Apartment Land Use (Continued)

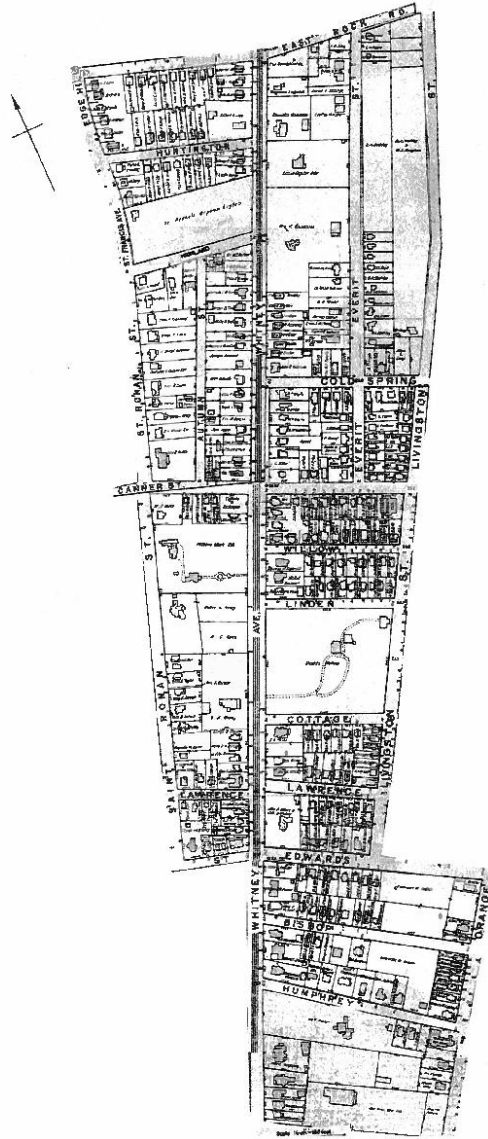
**Table 5A. Side Yards (by distance in feet to nearest adjacent lot or midpoint between buildings sharing lot)**

STREET	0-5	6-10	11-15	16-20	21-25	26-30	31-35	36-40	40+
Whitney <sup>1</sup>	0	4	0	1	0	0	0	1	0
Whitney <sup>7</sup>	0	8	6	1	1	0	0	0	0
Whitney <sup>8</sup>	3	9	1	2	0	0	0	2	3
Whitney <sup>13</sup>	2	2	1	0	0	1	0	0	0
Everit <sup>4</sup>	1	1	0	0	0	0	0	0	0
Livingston <sup>4</sup>	1	1	0	0	0	0	0	0	0
Bishop <sup>2</sup>	1	1	0	0	0	0	0	0	0
Cold Spring <sup>3</sup>	1	1	0	0	0	0	0	0	0
<b>Total</b>	<b>9</b>	<b>27</b>	<b>8</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>3</b>

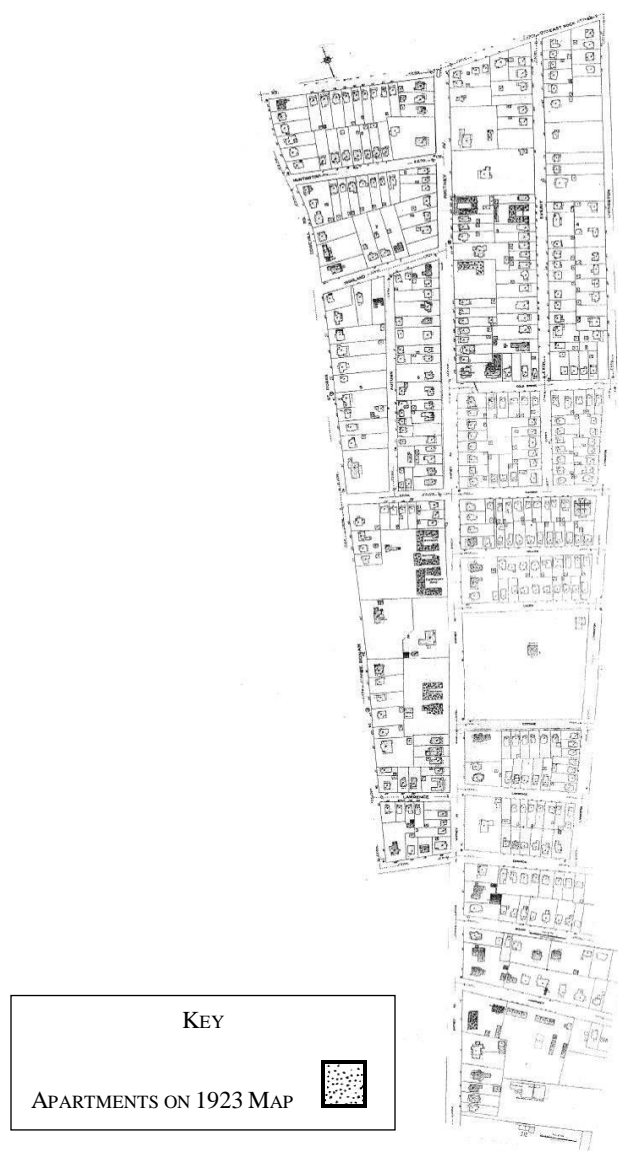
**Table 5B. Side Yards (by distance in feet to nearest building)**

STREET	0-5	6-10	11-15	16-20	21-25	26-30	31-35	36-40	40+
Whitney <sup>1</sup>	0	0	0	4	0	0	0	0	1
Whitney <sup>7</sup>	0	0	4	4	2	2	1	0	3
Whitney <sup>8</sup>	2	1	0	8	2	0	0	1	1
Whitney <sup>13</sup>	0	0	0	3	1	0	1	0	1
Everit <sup>4</sup>	0	1	0	1	0	0	0	0	0
Livingston <sup>4</sup>	0	0	0	1	0	0	0	0	0
Bishop <sup>2</sup>	0	1	0	1	0	0	0	0	0
Cold Spring <sup>3</sup>	0	0	1	0	0	0	0	0	0
<b>Total</b>	<b>2</b>	<b>3</b>	<b>5</b>	<b>22</b>	<b>5</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>6</b>

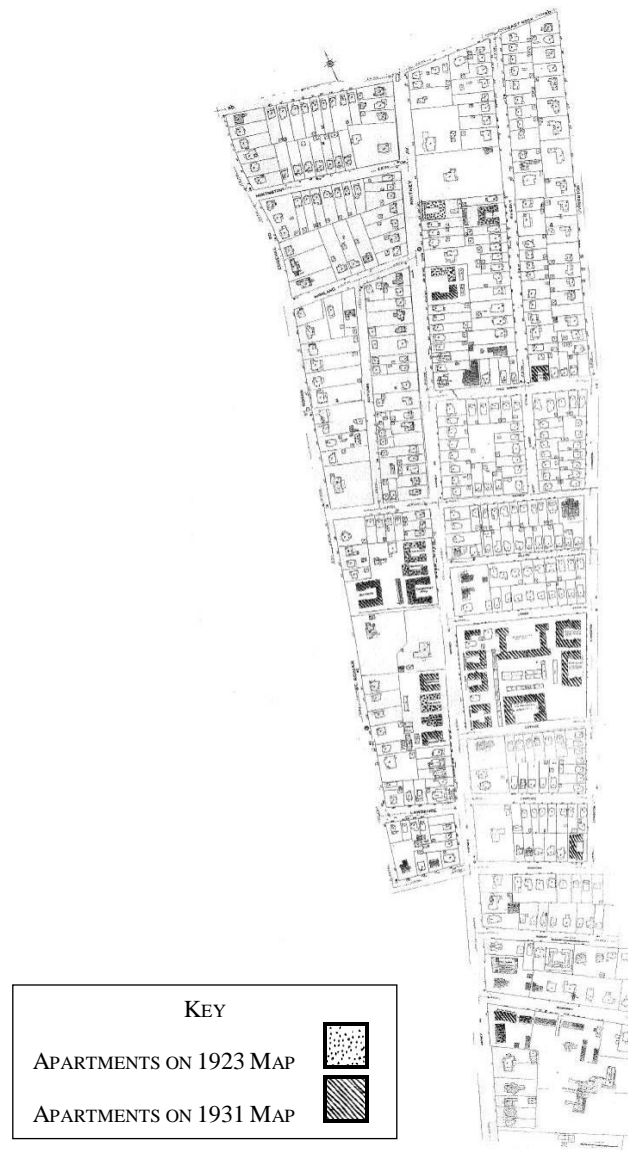


Appendix E: Map of the Whitney Avenue Area 1911<sup>383</sup>

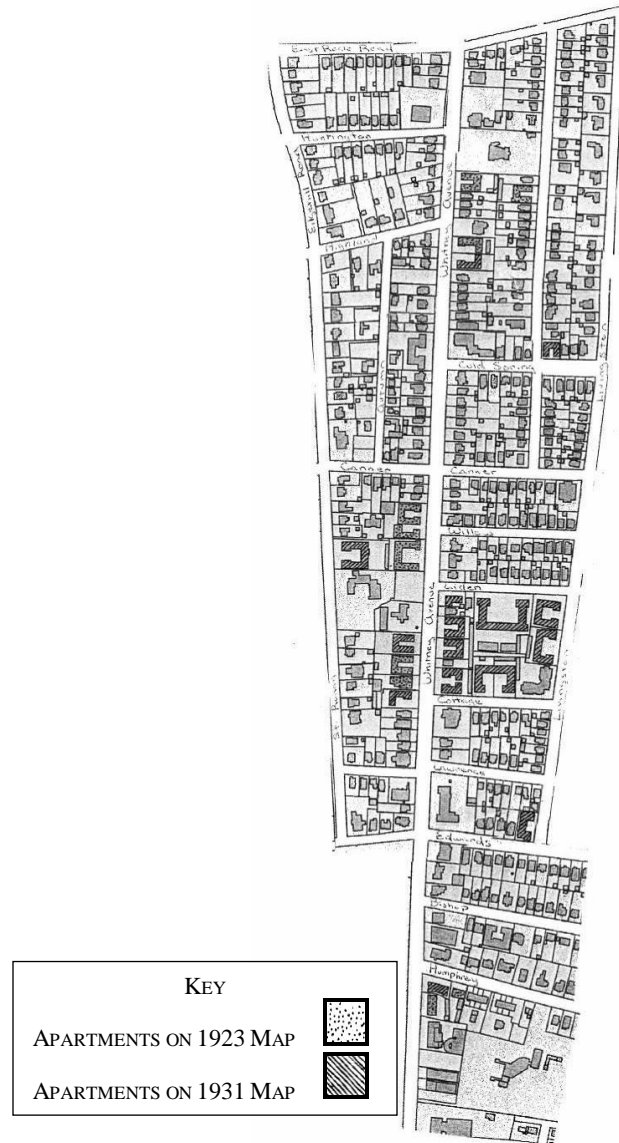
383. Adapted from SANBORN MAP CO., INSURANCE MAPS FOR NEW HAVEN, CONNECTICUT (1911) (Maps New Haven, Whitney Avenue Area 1911, 1923, and 1931 reprinted/used with permission from The Sanborn Library, LLC.).

Appendix F: Map of the Whitney Avenue Area 1923<sup>384</sup>

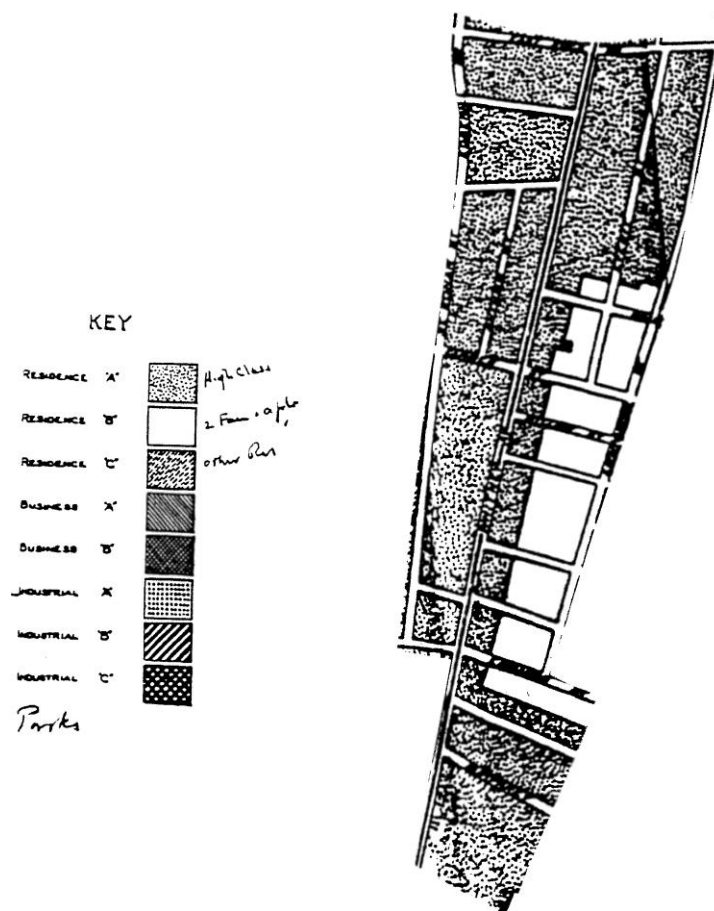
384. Adapted from SANBORN 1923, *supra* note 9 (Maps New Haven, Whitney Avenue Area 1911, 1923, and 1931 reprinted/used with permission from The Sanborn Library, LLC).

Appendix G: Map of the Whitney Avenue Area 1931<sup>385</sup>

385. Adapted from SANBORN 1923, *supra* note 9 (Maps New Haven, Whitney Avenue Area 1911, 1923, and 1931 reprinted/used with permission from The Sanborn Library, LLC); SANBORN 1931, *supra* note 45 (Maps New Haven, Whitney Avenue Area 1911, 1923, and 1931 reprinted/used with permission from The Sanborn Library, LLC).

Appendix H: Map of the Whitney Avenue Area 1997<sup>386</sup>











386. Adapted from ASSESSORS ONLINE DATA FOR NEW HAVEN, CT., <http://data.visionappraisal.com/NewHavenCT/search.asp> (last visited June 26, 2013).

Appendix I: 1923 Draft Zoning Map for the Whitney Avenue Area<sup>387</sup>

387. Adapted from ZONING COMMISSION, BUILDING ZONE MAP, NEW HAVEN, CONN. (1923).

Appendix J: 1926 Final Zoning Map for the Whitney Avenue Area<sup>388</sup>

—LEGEND—

RESIDENCE.....A-A	
RESIDENCE.....A-2	
RESIDENCE.....B	
RESIDENCE.....C	
BUSINESS.....A	
BUSINESS.....B	
INDUSTRY.....A	
INDUSTRY.....B	
INDUSTRY.....C	
PARK.....	



388. Adapted from CITY PLAN COMMISSION, ZONE MAP, NEW HAVEN CONN. (1926).