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REPORT OF THE REFERRALS COMMITTEE

May 28, 2008

Committee Chairman Jack Halpert called the meeting to order at 2:00 p.m. Also in attendance were Committee members Bob Byrnes, Amy Harris, Leigh Grant, Nathan Snyder, Michael Stashower, and Rob Young. Paul Settelmeyer, Chair, Floyd Lapp, Executive Director, and Benjamin Henson, Regional Planner of SWRPA were also present. The Committee recommends the following actions related to the referrals reviewed at the meeting which was adjourned at 3:30 p.m.:

Referral No. 08-35 – Text Amendment, Zoning Regulations, Stamford

Referrer: Stamford Zoning Board, Land Use Bureau
Applicant: Richard Redniss

Received: April 25, 2008
Hearing: June 2, 2008
Contact: Norman Cole
Authority: 8-3b

Proposal: The applicant is requesting multiple amendments to Article II, Section 4-AA, subsection 9 C-B Community Business District of the Stamford Zoning Regulations and also to amend Appendix B, footnote 4.

Description: The amendments affect the regulations which pertain to the Community Business District (C-B) zoning classification. The underlined text represents new language to be added to the regulations and text that is stricken through represents language to be deleted from the regulations.

9.2 Permitted Uses

9.2.a. In any C-B district a building or other structure may be erected, altered, arranged, designed or used, and a lot or structure may be used for the same purposes and in the same manner, as uses are permitted in the C-N district. Ground floor uses shall be limited to retail or service operations dealing directly with the general public, unless said requirement is waived by the Zoning Board to allow residential uses pursuant to a Special Exception application.

This amendment allows for the location of residential uses on the ground floor where such uses are currently prohibited.

9.3 Building Regulations

9.3.e Minimum Yards: Front – 10 feet, Rear – 20 feet, Side – one side 6 feet, both sides 18 feet, Street Center – 35 feet

It is unclear whether this amendment would cause 9.3.e to conflict with itself. The current front yard requirement is 10 feet and this amendment adds a “Street Center yard” of 35 feet. There is no indication which requirement takes precedent when determining the minimum required front yard setback.

9.4 Sign Regulations

9.4.a The regulations of Section 13e f regarding signs in the C-N district shall apply.

This amendment correctly cites Section 13.f which authorizes signs within the C-N district. Section 13.c deals with sign permits.

9.6 Below Market Rate Requirements – For residential developments, including projects of less than 10 units, that conform to the affordability standards of Appendix B, Footnote 4, the Zoning Board may approve the following modifications of standards provided that all BMR units are located on site:

- a. front setback from street center may be reduced or waived
- b. useable open space shall be subject to determination and approval of the Zoning Board
- c. The requirements of Article III, Section 7-K may be reduced or waived

This amendment grants the Zoning Board the ability to: reduce or waive front setbacks; arbitrarily determine useable open space requirements; and reduce or waive the requirements of Section 7.k that states: “When a lot adjoins a lot in a more restricted district, any adjoining side yard of such lot shall have minimum width equal to the required side yard in the more restricted district, and any adjoining front yard shall have a minimum depth equal to the required depth of the front yard in the more restricted district.”

Appendix B, Footnote 4

Residential buildings erected in the C-G General Commercial District and used for purposes permitted in R-MF Multiple Family Residence Districts may have a minimum of five hundred (500) square feet of land area per family. Mixed-use projects within the C-G or CC-N District, within or adjacent to ~~the Central Business District~~ a Downtown Master Plan Category and subject to Special Exception approval by the Zoning Board pursuant to Section 7-S of these regulations may have a minimum of 400 square feet of land area per family. Where proposed development includes ten (10) or more dwelling units, not less than ten percent (10%) of the total number of dwelling units shall be offered for rent or sale as Below Market Rate (BMR) units. Required Below Market Rate units shall be affordable to households earning not more than fifty percent (50%) of the Stamford SMSA Median income and shall be provided in accordance with the standards, definitions and procedures contained within Article III, Section 7.4 of these Regulations. For every BMR unit provided, a bonus of two additional dwelling units exempt from any BMR requirement shall be permitted, provided that as-of-right density shall not be increased by more than forty percent (40%). Proposed developments of less than ten (10) units that elect to provide BMR units may receive the bonus density as stipulated above. ~~Where more than fifty percent (50%) of the BMR requirement is satisfied by a cash contribution, the required cash contribution shall be increased as deemed appropriate by the Zoning Board, not to exceed a fifty percent (50%) increase in the amounts specified in Section 7.4.~~

This amendment changes the geographic reference to locations of mixed-use projects within or adjacent to the Central Business District, as defined by the Zoning Regulations, to a reference to locations of mixed-use projects within or adjacent to a Downtown Master Plan Category, as defined by the Stamford 2002 Master Plan. It also allows developments of less than ten units that *elect to* include BMR units to receive the same density bonus allowed to similar developments of ten or more units which are *required* to include 10% BMR units. The language pertaining to increasing required cash payments in lieu of creating BMR units is removed. It is not clear if this would actually prevent the Board from increasing the amount it requires.

Staff Comments & Recommendation: These amendments are intended to facilitate the development of a new mixed-income housing community at the corner of West Main St. and Spruce St. being constructed by Habitat for Humanity of Coastal Fairfield County. The site is surrounded by R-MF multifamily zoning. The plan was originally for six units. They are seeking to add two additional units. All eight of the units will be made available as BMR units. The project was previously granted variances to allow non-retail uses on the ground floor within the C-B district and to construct the units within 25 ft of the street centerline. No parcels zoned C-B are located at Stamford's boundary with Greenwich, Darien or New Canaan. As such, no inter-municipal impacts are anticipated upon adoption of these amendments and construction of the proposed housing units.

Referral No. 08-36 – Text Amendment, Zoning Regulations, Stamford

Referrer: Stamford Zoning Board, Land Use Bureau

Applicant: William Hennessey, Jr.

Received: April 30, 2008

Hearing: June 2, 2008

Contact: Norman Cole

Authority: 8-3b

Proposal: Amendment to Section 7-Q of the Stamford Zoning Regulations regarding open space requirements for residential developments creating more than ten dwelling units within the R-5 Multiple Family Residence District.

Description: The underlined text represents new language to be added.

There shall be provided on every lot developed in whole or in part for residential use in the case of any building in the R-5 Multiple Family Residence District providing for more than ten (10) dwelling units therein, the following required areas of usable open space for each dwelling in said Districts: Required minimum usable open space - two hundred (200) square feet per dwelling unit; no such space shall have a smaller linear dimension than twenty-five feet (25'). There shall be provided on every lot developed in whole or in part for residential use in the case of any building in the R-MF Multiple Family Residence District, Commercial or Industrial Districts providing for more than twenty (20) dwelling units therein, the following required areas of usable open space for each dwelling in said Districts: Required minimum usable open space - seventy-five (75) square feet per dwelling unit; no such space shall have a smaller linear dimension than fifteen feet (15').

Flat roof and balcony space may qualify for required usable open space, except that child play areas on roof top or balconies shall not be computed in required space for play areas for pre-school children, unless otherwise permitted in a commercial, industrial or mixed use district by Special Exception granted by the Zoning Board. Such Special Exception may be granted upon a finding by the Zoning Board that the design, site or location of the development render child play areas at grade undesirable or unsafe and the child play areas can be provided at an alternative location within the development or off-site within a reasonable distance of the development, or be satisfied by a payment in lieu of providing the child play area onsite. In the event the child play area is located off-site, the location as proposed shall be subject to Zoning Board approval. Any payment in lieu shall be subject to Zoning Board approval, but shall not be less than the cost of providing the child play area on site. Further, where a development is to be constructed in phases, the Zoning Board, by special exception, may permit the total open space requirements for the entire phased development to be met on one or more lots therein for the remaining lots, provided that: (a) each building within the phased development is located not more than fifty (50') feet from some portion of the open space being used to meet its open space requirements; (b) during all stages of the phased development, the open space requirements of this Section 7Q are met; and (c) necessary easements or covenants are recorded on the Stamford Land Records to insure perpetual access, use and maintenance of any shared open space improvements. The minimum dimensions of any balcony to be included in and qualify for required usable open space shall be four feet (4'), six inches (6"), and any open space as provided on roofs and balconies must meet municipal safety regulations to qualify. (205-33)

This change allows the developer to locate child play area(s) off-site or submit a payment in lieu of constructing them at all. Both actions are subject to Zoning Board approval. Section 2.3.A.70 – Open Space, Usable states: "...not less than one-half (1/2) of required usable open space shall be provided for play areas suitable for pre-school children in the R-5 Multiple Family Residence Districts, and not less than one-third (1/3) of required usable open space shall be provided for play areas suitable for pre-school children in any R-MF Multiple Family Residence District, Commercial District or Industrial District wherein residential use is permitted..." Thus, upon adoption of proposed changes, the open space requirement in the R-5 District may be reduced by up to 50% via a payment in lieu.

Staff Comments & Recommendation: This proposal is identical to referral #08-32 which was reviewed last month. It is not clear why it is being referred again. Citing the previous staff comments and recommendation: "*The proposed changes significantly reduce the amount of usable open space required in the R-5 Districts which could lead to increased densities within the district. Giving developers the option to submit a payment in lieu of creating child play areas reduces the likelihood that new child play areas will be created in Stamford. Limiting children's access to play areas or any type of recreational facilities has a direct negative impact on the community's general health, safety and welfare. Numerous R-5 Districts about the Towns of Greenwich to the west and Darien to the east. Considering this, the proposed amendment does pose inter-municipal impacts. SWRPA staff does not recommend Approval of Referral No. 08-32 to the Stamford Zoning Board – Land Use Bureau.*" The proposed amendment does pose inter-municipal impacts.

Referral No. 08-37 –Amendment, Master Plan, Stamford

Referrer: Stamford Zoning Board, Land Use Bureau

Applicant: Richard Redniss

Received: May 6, 2008
Hearing: June 24, 2008
Contact: Norman Cole
Authority: 8-23

Proposal: Amendment to the 2002 Stamford Master Plan Map.

Description: The applicant is proposing to change the current Master Plan use categories (4 & 16) to category 9 for parcels located on the site bounded by the ConnDOT commuter rail right-of-way to the north, Washington Blvd. to the east, Pulaski St. to the south and the Rippowam River to the west. The entire site would be category 9. Category 4 is Residential – Medium Density Multifamily. Category 16 is Open Space – Public Parks. The requested Category 9 is Downtown Collar, Mixed Use. This categorical change is being requested to make way for the Gateway Class A Office development, an Antares project.

Earth Tech, Inc. prepared a Traffic Impact and Access Study for the proposed development which concludes in summary: “the local roadway network in the vicinity of the project site is expected to be able to accommodate the proposed development project after the background transportation improvements, and the proposed transportation improvements associated with this development project are in place.”

The improvements include:

Greenwich Ave./I-95 NB Off-ramp/South State St.

- Signal phasing improvements (provide a southbound left-turn protected phase)
- Optimize traffic signal timing

Washington Blvd.

- Widen Washington Blvd. to provide a five-lane cross-section, with two through travel lanes in each direction (between Station Pl. and Pulaski St.) and a southbound left-turn lane from Washington Blvd. onto Henry St.
- Traffic signal heads to allow for the safe egress of service vehicles onto Washington Blvd.
- Traffic signal phasing and timing at the Henry St./Washington Blvd. intersection

Atlantic St./Henry St.

- Traffic signal phasing and timing at the Henry St./Atlantic St. intersection

The Traffic Impact and Access Study (TIAS) takes into account the development of the RBS site located just north of this site on the other side of the ConnDOT rail lines/I-95 corridor as well as development of the Stamford Urban Transitway and the MetroGreen projects taking place on the east side of Washington Blvd. Project generated vehicle trips during the weekday morning and afternoon peak hours were calculated based on Census 2000 journey-to-work data for people working in Stamford. This data took into account the top ten residence locations for Stamford workers. This data indicates that, of the top ten residence locations for Stamford workers, 31,210 of 58,240 (54%) workers live in Stamford and that the remaining 46% of workers live outside of Stamford. The TIAS assumes that these percentages will remain constant and that at least 54% of the workers at the new Gateway site will live in Stamford and not utilize I-95 to get to work. Considering Stamford’s extremely high housing market, this may not be an accurate assumption.

The TIAS assumed a 40% traffic impact credit based on claiming the development as a transit-oriented development. This claim and the justification of a 40% credit has been questioned by the City of Stamford.

A bicycle/pedestrian plan was not included with the application. Considering this project's proximity to the Transit Center and the applicant's designation of this project as a transit-oriented development (TOD), such connections and improvements are essential.

Staff Comments & Recommendation: Mentioned above, the City has asked for a more appropriate TIAS. Staff is monitoring the status of the report. The proposed changes to this site's Master Plan Categorization effectively remove the developer's obligation to maintain the site as Medium Density Multi Family and Open Space. This site lies wholly in the City of Stamford and is not near the City's border with Greenwich, New Canaan or Darien. However, interstate traffic at exit Nos. 7 & 8 is already congested. The Gateway, RBS and MetroGreen projects are all within the immediate vicinity of these exits. Therefore, this project may pose inter-municipal impacts.

Referral No. 08-38 – Text Amendment, Zoning Regulations, Westport

Referrer: Westport Planning & Zoning

Applicant: Westport Building Department

Received: May 9, 2008

Hearing: June 19, 2008

Contact: Michelle Frye

Authority: 8-3b

Proposal: Amendment to Section 5-2 Specific Terms of the Westport Zoning Regulations.

Description: The applicant is proposing to change the definition of Building Height or Height to eliminate height restrictions for solar panels which do not extend above the roof ridge. The proposed changes are shown below. The underlined text represents new language to be added to the regulations and text that is stricken through represents language to be deleted from the regulations.

Building Height or Height: The vertical distance measured in feet from the average existing level of the ground surrounding the building or addition thereto and within ten (10) feet thereof up to the midpoint height of a pitched roof or up to the level of the highest main ridge or peak of any other type of structure, or the total number of stories in a building including basements and/or half-stories. In cases of buildings with more than one pitched roof and/or dormer, all pitched roofs and/or dormers must comply with allowable building height. The number of points necessary for an "average" computation shall be based on appropriate contour intervals or spot elevations as required by the Planning and Zoning Commission. The existing level shall mean the actual or proposed elevations whichever is lower of the property at the time of application. (Also see §32-7 for satellite dishes and antennas prohibition). The provisions with respect to height shall apply to ~~solar panels~~ and roof-top mechanical equipment but shall not apply to the following:

- Solar panels, which do not extend above the roof ridge;
- Roof parapets and turrets 3 feet or less in height; and
- Cupolas and domes not used for human habitation, clock towers, bell towers and roof ventilators; provided that:

- The cumulative square foot area of these structures cannot exceed 5% of the footprint of the roof area of the building on which it is located, or 100 square feet, whichever is less; and
 - The structure shall fit within a 10' x 10' square; and
 - The structure shall not extend more than 5 feet above the ridge of the roof or top of flat roof on which it is located.
- Church spires and belfries, pole type TV antennas and chimneys.

An explanatory statement from the Westport Building Official who submitted the application states: “the existing requirements impede the function of the solar panels where, due to some site constraints, the panels need to be located adjacent to the ridge of the roof.” He also cites the Town Plan of Conservation and Development which promotes the use of present and developing technology to conserve and reduce pollution and employ new sources of renewable energy.

Staff Comments & Recommendation: The proposed changes do not appear to pose inter-municipal impacts.

Referral No. 08-39 – Text Amendment, Zoning Regulations, Westport

Referrer: Westport Planning & Zoning

Applicant: Richard Redniss

Received: May 9, 2008

Hearing: July 10, 2008

Contact: Michelle Frye

Authority: 8-3b

Proposal: Amendment to Section 24A-18 – General Business District/Saugatuck (GBD/S) of the Westport Zoning Regulations.

Description: The applicant is proposing to add a new subsection 24A-18.1 which outlines alternative methods of compliance with the affordability requirement and plan for the General Business District/Saugatuck (GBD/S) zone. The underlined text below represents the new language to be added.

24A-18.1 – Alternative Methods of Compliance

Notwithstanding the above, the Commission in its sole discretion may approve alternative methods of satisfying an affordability requirement, including but not limited to: (a) the payment of a fee-in-lieu of constructing affordable units on-site; (b) the construction of affordable units on another site; or (c) the acquisition and establishment of rental/sales price restrictions on existing non-affordable dwelling units. Any such proposal shall demonstrate to the satisfaction of the Commission that the alternative method(s) is desirable and will further affordable housing opportunities in the Town to a greater extent than the provision of on-site affordable units, through the production of a greater number of affordable housing units and/or units for families below the C.G.S. §8-30g required targeted income brackets. Any C.G.S. §8-30g application in the General Business District/Saugatuck must provide all affordable units on-site, and may not elect to use any of the alternative methods of compliance.

- a. Fee-in-Lieu: An applicant may elect, or the Commission may require the applicant, to pay a fee-in-lieu of constructing some or all of the required affordable housing units on-site, provided:
- i. that units not provided on-site shall be used to determine the amount of the fee-in-lieu; and
 - ii. that the Planning and Zoning Commission makes a finding that the funds are appropriately linked to the establishment of an equivalent number of off-site units pursuant to C.G.S. §8-30g, with all fractional units rounded up.

Units provided on-site shall be deducted in full from the total required units to determine a fee-in-lieu. Such fee shall take the form of a one-time cash contribution to a housing trust fund, to be administered by the Town of Westport, to be used for the constructing, rehabilitating, or repairing housing in Westport that is affordable to persons and families of low and moderate income who meet the income limits in C.G.S. §8-30g. Said funds shall be paid prior to the issuance of the Zoning Permit. The cash contribution to be provided shall be calculated based up 225% of the most recently published Standard Metropolitan Statistical Area (SMSA) Median Family Income for a Family of Four encompassing Westport, as published by the U.S. Department of Housing and Urban Development (HUD).

Example:

I. On-site:

20% requirement for 27 units = 5.4, or 5 affordable units required
Total Units = 27 on-site

II. Fee-in-Lieu

20% requirement for 27 units = 5.4, or 6 affordable units required
Total Units = 27 + 6 fee-in-lieu units
SMSA income family of four (2008) = \$117,800 x 225% = \$265,050 fee per unit
6 x \$265,050 = \$1,590,300
Fee must yield a minimum of 6 off-site C.G.S. §8-30g compliant units

- b. Off-site Construction of Affordable Units: an affordability requirement may be satisfied through the off-site construction or substantial rehabilitation of affordable dwelling units within the Town, subject to the following standards: (i) the location, architectural design and siting of such units shall be subject to approval by the Commission; (ii) such units shall not serve to displace existing deed restricted affordable housing units; and (iii) the Commission may condition the issuance of certificates of occupancy for the development project with the completion of the off-site affordable units and/or establish other reasonable performance conditions necessary to insure that the off-site affordable will be built in a timely manner. Units need not be constructed by the applicant. The Commission may approve a cooperative agreement where units are built by another developer, provided the Commission approves the location and other details related to the creation of these off-site units.

- c. Dedication of Existing Non-Affordable Units: an affordability requirement may be satisfied by restricting the rental or sale price of existing non-affordable dwelling units within the Town, through covenants, contractual arrangements, or resale restrictions, provided the location of the units and the form and content of the restrictions are acceptable to the Commission.

Staff Comments & Recommendation: These changes affect the in-progress Marsh development as well as similar future developments required to include affordable units. The changes allow greater flexibility in terms of meeting the requirements by providing alternatives to on-site construction of the affordable units. These changes only affect parcels within the GBD/S zone. The GBD/S zone does not include any parcels located adjacent to the communities of Norwalk, Wilton or Weston. As such, the proposed changes do not appear to pose inter-municipal impacts.

* SWRPA comments are advisory in nature and are meant to augment the referring community's own analysis of the application and in no way serve as a substitute. Whereas SWRPA comments evaluate conformity with the Regional Plan of Conservation & Development and may include additional observations, final recommendations of 'recommends Approval' or 'does not recommend Approval' are based exclusively on SWRPA's determination of whether or not inter-municipal impacts are anticipated.