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REPORT OF THE REFERRALS COMMITTEE

July 1, 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, Nathan Snyder, Michael Stashower and Margaret Wirtenberg. 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. 08-40 – Text Amendment, Zoning Regulations, Ridgefield

Referrer: Ridgefield Planning & Zoning Commission
Applicant: Ridgefield Planning & Zoning Commission

Received: May 22, 2008
Hearing: July 1, 2008
Contact: Betty Brosious
Authority: 8-3b

Proposal: The proposed amendments add a new *Section 8.6-Prohibited Uses* and add the definition of the term “Outdoor Woodburning Furnaces” to *Section 2.2 – Defined Terms* of the Ridgefield Zoning Regulations.

Description: The amendments apply to all zoning districts in the Town of Ridgefield. The underlined text below represents the language of the new *Section 8.6 – Prohibited Uses* and the new definition of “Outdoor Woodburning Furnaces”:

8.6 Prohibited Uses

A. Intent and Purpose

Section 1.4.A of these regulations establishes that uses not listed as permitted in are prohibited. Nevertheless, the Commission recognizes the need to specifically identify certain uses which have the potential to impair the health, safety and welfare of its citizens, to clarify and firmly establish that these uses are not permitted, especially where these uses may be incorrectly assumed by citizens to be customarily permitted as-of-right.

B. Identified Prohibited Uses

1. Outdoor woodburning furnaces (OWFs) as defined in Subsection 2.2 of these regulations are not permitted in any zone.

(under *Section 2.2 – Defined Terms*)

Outdoor Woodburning Furnaces (OWFs) – As defined in Public Act 05-227, an accessory structure or appliance designed to be located outside living space ordinarily used for human habitation and designed to transfer or provide heat, via liquid or other means, through the burning of wood or solid waste, for heating spaces other than where such structure is located and any other structure or appliance on the premises, or for heating domestic, swimming pool, hot tub or Jacuzzi water. Does not include a fire pot, wood-fired barbecue or chiminea.

Staff Comments & Recommendation: These amendments would prohibit a specific use determined by the Town of Ridgefield to be noxious to its residents. This is an effort to protect the health, safety and welfare of Ridgefield residents and neighbors alike. The changes sought by these amendments do not pose adverse inter-municipal impacts.

Referral No. 08-41 – Text Amendment, Zoning Regulations, Ridgefield

Referrer: Ridgefield Planning & Zoning Commission

Applicant: Ridgefield Planning & Zoning Commission

Received: May 22, 2008

Hearing: July 1, 2008

Contact: Betty Brosious

Authority: 8-3b

Proposal: Amendment to *subsection 7.9.B.2 of Section 7.9 - Driveways* of the Ridgefield Zoning Regulations.

Description: The amendments apply to all zoning districts in the Town of Ridgefield. The underlined text below represents the language to be added and the stricken text represents language to be deleted:

7.9.B.

2. No driveway shall have a grade in excess of twelve (12) percent ~~although the Commission or its agent may authorize a driveway with a grade up to fourteen (14) percent where warranted, to avoid excessive cuts and fills, except as provided below:~~

a. Where warranted to avoid excessive cuts and fills, the Commission or its agent may authorize a driveway with a grade over twelve (12) percent and up to fourteen (14) percent;

b. A Special Permit shall be required for any driveway in excess of fourteen (14) percent.

Staff Comments & Recommendation: These amendments would require any driveway constructed at a grade greater than 14% to be reviewed by the Commission and permitted via a Special Permit. Currently, such driveways require a variance. The changes sought by these amendments do not pose adverse inter-municipal impacts.

Referral No. 08-42 – Rezoning, Greenwich

Referrer: Greenwich Planning & Zoning – Land Use Department

Applicant: Gilbride, Tusa, Last & Spellane, LLC

Received: May 28, 2008
Hearing: July 15, 2008
Contact: Marek Kozikowski
Authority: 8-3b

Proposal: The applicants are proposing to apply the Historic Overlay (HO) to a 0.09 acre (3,914 sq ft) property at 41 Sherwood Pl. The parcel is currently zoned Central Greenwich Business (CGB).

Description: Applying the overlay would result in the property being zoned Central Greenwich Business Historic Overlay (CGBHO). The applicants are seeking the overlay designation in order to apply for a Special Permit to allow them to add to the existing dwelling unit and convert the expanded dwelling to a two-family use. The existing dwelling has 1,025 sq ft of floor area. On the 3,914 sq ft parcel, the Floor Area Ratio (FAR) is currently 0.26. The maximum allowable FAR in the CGB zone district is 0.30. As a result of the expansion being sought, the floor area would increase to 2,523 sq ft. The FAR would consequently increase from 0.26 to 0.64, well over the maximum allowable FAR. The applicants site Note (a) of §6-205(b) of the Zoning Regulations as permitting a maximum allowable FAR of 0.90 for structures having historical, cultural or architectural merit. The note also allows, via Special Permit, modification of coverage, setbacks, parking or access requirements.

The applicants are proposing four parking spaces to serve the two-family dwelling. The Zoning Regulations simply state:

“On lots used for single-family or two (2) family residence purposes or for boarding or rooming houses sufficient garage space or outdoor parking space shall be provided to accommodate the passenger cars used by the residents of such premises.”

Staff Comments & Recommendation: Pending approval of the Special Permit by the Planning & Zoning Commission, the proposed application of the Historic Overlay, expansion and conversion of use appear to comply with the Zoning Regulations. SWRPA does not anticipate any inter-municipal impacts as a result of the proposed actions.

Referral No. 08-43 – Rezoning, Greenwich

Referrer: Greenwich Planning & Zoning – Land Use Department
Applicant: Gilbride, Tusa, Last & Spellane, LLC

Received: May 28, 2008
Hearing: July 15, 2008
Contact: Marek Kozikowski
Authority: 8-3b

Proposal: The applicants are proposing to apply the Historic Overlay (HO) to a 0.12 acre (5,287 sq ft) property at 301 Valley Rd. The parcel is currently zoned Local Business Retail (LBR).

Description: Applying the overlay would result in the property being zoned Local Business Retail Historic Overlay (LBRHO). The applicants are seeking the overlay designation in order to apply for

a Special Permit to allow them to use the building for office or a combination of office and retail uses. Retail, but not office, uses are permitted in the LBR zone. No improvements, expansion or alteration is proposed for the building. There are currently three parking spaces serving the building. The applicants are proposing the addition of two employee only tandem spaces, bringing the total to five. Seven spaces are required for office and retail uses of this size. The additional spaces move the use toward compliance.

Staff Comments & Recommendation: Pending approval of the Special Permit by the Planning & Zoning Commission, the proposed application of the Historic Overlay, conversion of use and additional parking appear to comply with the Zoning Regulations. SWRPA does not anticipate any inter-municipal impacts as a result of the proposed actions.

Referral No. 08-44 – Text Amendment, Zoning Regulations, Norwalk

Referrer: Norwalk Planning Commission
Applicant: Norwalk Zoning Commission

Received: June 9, 2008
Hearing: July 16, 2008
Contact: Dori Wilson
Authority: 8-3b

Proposal: Amendments to *Article 10, Definitions* and *Article 100, Section 118-1020 Liquor outlets in business and industrial zones, subsections B and C* of the Norwalk Building Zone Regulations.

Description: The amendments to *Article 10, Definitions* apply to the definitions of the terms “Alcoholic Liquor” and “Package Store Permit”. The underlined text below represents the language to be added and the stricken text represents language to be deleted:

ALCOHOLIC LIQUOR – Defined as the term defined in The Connecticut General Statutes Title 30, Intoxicating Liquors, Chapter 545 Liquor Control Act Section 1627e(5) of the 1953 Supplement to the General Statutes of the State of Connecticut, Revision of 1949.

PACKAGE STORE PERMIT – As the term is used in these regulations shall be construed as defined in the Connecticut General Statutes Title 30, Intoxicating Liquors, Chapter 545 Liquor Control Act Section 1634e(a) of Part IV of Chapter 204 of the General Statutes of the State of Connecticut, Revision of 1949.

The amendments to *Sections 118-1020.B and .C* apply to all business and industrial zone districts in the City of Norwalk. The underlined text below represents the language to be added and the stricken text represents language to be deleted:

B. In any business or industrial zone, no building or premises shall be used, and no building shall be erected or altered except as herein mentioned, which is arranged, intended or designed to be used, either in whole or in part, for the sale of alcoholic liquor at retail under a package store permit as the terms “alcoholic liquor” and “package store permit” are defined in this ordinance, if the entrance to such building or premises shall be within a distance of one thousand (1,000) ~~five hundred (1,500)~~

feet from the entrance to any other building or premises which shall be used for the sale of alcoholic liquor at retail under a package store permit.

C. The distance of one thousand ~~(1,000)~~ ~~five hundred (1,500)~~ feet mentioned in Subsection B hereof shall be measured in a straight airline distance from entrance to entrance without regard to intervening terrain or the actual means or ways of foot or vehicle travel between the two (2) points, such minimum airline distance to be determined to the satisfaction of the Planning and Zoning Commission, or its Inspector, by a licensed professional engineer.

Staff Comments & Recommendation: These amendments update the definition of “Alcoholic Liquor” and “Package Store Permit” and reduce the required distance between liquor outlets located in any business or industrial zone from 1,500 ft to 1,000 ft. There are business or industrial zones adjacent to or within 500 ft of the Towns of Darien, Wilton and Westport. Considering this, the changes sought by these amendments may pose inter-municipal impacts. In a letter to the Norwalk Planning Commission, Westport Planning & Zoning states, with regard to the subject amendments: “*The amendment, if adopted, will pose no inter-municipal concerns; therefore the Town of Westport has no comments*”.

Referral No. 08-45 – Text Amendment, Zoning Regulations, Ridgefield

Referrer: Ridgefield Planning & Zoning Commission

Applicant: Ridgefield Planning & Zoning Commission

Received: May 22, 2008

Hearing: July 15, 2008

Contact: Betty Brosious

Authority: 8-3b

Proposal: Amendments to *subsections B.2 and D.1 of Section 3.4 – Accessory Structures* of the Ridgefield Zoning Regulations.

Description: The amendments apply to residential zoning districts in the Town of Ridgefield. The underlined text below represents the language to be added and the stricken text represents language to be deleted:

B.2

Outdoor Recreation Facility – A Ppool, tennis court, paddle tennis court, basketball court, sport court, or other similar ~~non-illuminated~~ outdoor recreation facility provided it:

- a. is not illuminated, and
- b. shall not be located in the front yard.

D.1

Outdoor Recreation Facility – A pool, tennis court, paddle court, basketball court, sport court, or other ~~illuminated~~ similar outdoor recreation facility ~~which does not comply with Subsection 3.4.B.2 of these Regulations~~ that is:

- a. illuminated, and/or
- b. is located in the front yard.

Staff Comments & Recommendation: These amendments clarify that pools are included in the list of outdoor recreation facilities and further that outdoor recreation facilities that are not illuminated and not located in the front yard are permitted as-of-right. Such accessory uses that are illuminated and/or located in the front yard are permitted only via a Special Permit. The changes sought by these amendments are administrative and do not pose adverse inter-municipal impacts.

Referral No. 08-46 – Text Amendment, Zoning Regulations, Ridgefield

Referrer: Ridgefield Planning & Zoning Commission
Applicant: Ridgefield Planning & Zoning Commission

Received: May 22, 2008
Hearing: July 15, 2008
Contact: Betty Brosious
Authority: 8-3b

Proposal: Amendments to *Sections 3.2.C.4, 5.1.D.14, 5.2.D.21, 5.3.D.22, 5.4.D.8 and 5.5.D.8* of the Ridgefield Zoning Regulations.

Description: The amendments affect sections which pertain to U-Verse Service Boxes (V-RAD boxes). The underlined text below represents the language to be added and the stricken text represents language to be deleted:

3.2.C (uses permitted by Special Permit in residential zones)

4. Public Utility Uses – Public utility substations and U-Verse (V-RAD) service boxes.

5.1.D (uses permitted by Special Permit in the Central Business District (CBD) zone)

14. Public utility substations and U-Verse (V-RAD) service boxes.

5.2.D (uses permitted by Special Permit in the Business B-1 zone)

21. Public utility substations and U-Verse (V-RAD) service boxes.

5.3.D (uses permitted by Special Permit in the Business B-2 zone)

22. Public utility substations and U-Verse (V-RAD) service boxes.

5.4.D (uses permitted by Special Permit in the Business B-3 zone)

8. Public utility substations and U-Verse (V-RAD) service boxes.

5.5.D (uses permitted by Special Permit in the Corporate Development District (CDD) zone)

8. Public utility substations and U-Verse (V-RAD) service boxes.

Staff Comments & Recommendation: These amendments clarify that U-Verse (V-RAD) service boxes require a Special Permit in CBD, CDD, B-1, B-2, B-3 and all residential zones. The changes sought by these amendments are administrative and do not pose adverse inter-municipal impacts.

Referral No. 08-47 – Text Amendment, Zoning Regulations, Norwalk

Referrer: Norwalk Planning Commission

Applicant: Norwalk Zoning Commission

Received: June 11, 2008

Hearing: July 16, 2008

Contact: Dori Wilson

Authority: 8-3b

Proposal: Amendments to Paragraph 5 of and addition of Paragraph 7 and Paragraph 8 to *Article 50, Section 118-530 Rowayton Avenue Village District, Subsection C – Lot and building requirements* of the Norwalk Building Zone Regulations.

Description: The amendment to Paragraph 5 and the addition of Paragraphs 7 & 8 are additions to the Building Zone Regulations. No language is to be removed. The underlined text below represents the language to be added:

5. Properties located on the waterfront shall provide public access adjacent to the water, which shall be a minimum of fifteen (15) feet in width, and Access from the street to the water, subject to Commission approval. Such public accessways shall be in the form of landscaped walks, esplanades, boardwalks or piers, of suitable design to encourage active use by the public, and shall be dedicated as such in the deed to the property. Reasonable time of day restrictions may be established regarding such accessways, where justified for reason of security or public safety. Where the principal use of the property is a single or two-family dwelling, the public access requirement shall not apply. An infringement on the 15 foot wide access may be granted where the Commission finds that: 1) The integrity of the access is maintained; 2) A fee in the amount of one hundred and fifty dollars (\$150) for each square foot of encroachment is paid to be utilized for designated public recreational facilities in the district; and 3) Where an improved five (5) foot wide walkway from the street to the waterfront is provided; subject to approval by the Commission.

7. Multifamily residential buildings on waterfront lots shall be permitted to increase the allowable floor area ratio (FAR) by ten percent (10%) provided that all of the required parking is concealed within the building, a minimum of fifteen percent (15%) of the total site area is dedicated to public waterfront access and a twenty five (25) foot wide unobstructed public view corridor from the street to the water is provided; subject to approval by the Commission.

8. For structures located in a flood zone, an additional story of a multifamily building devoted entirely to parking shall be permitted and shall not constitute a full story where the ceiling is more than three (3) feet above the average elevation of the finished grade of the street façade, provided that the building does not exceed thirty five (35) feet in height.

The Schedule Limiting Height and Bulk of Buildings and Size of Lot, Commercial and Industrial, City of Norwalk, Part 2 as it pertains to the Rowayton Avenue Village District is also amended to reflect these changes.

Staff Comments & Recommendation: These amendments relate to a Glazer Construction development. The company is seeking these changes to locate all required parking entirely within the structure. The company will provide public access to the waterfront and make improvements to the adjacent Community Beach property. The Rowayton Avenue Village District is located along Rowayton Ave. on the eastern shore of the Five Mile River. A residential neighborhood within the

Town of Darien lies across the river. Considering this, the changes sought by these amendments may pose inter-municipal impacts. SWRPA recommends notifying the Town of Darien of the proposed changes.

Referral No. 08-48 – Text Amendment, Zoning Regulations, Westport

Referrer: Westport Planning & Zoning Commission

Applicant: Barr Associates, LLC

Received: June 19, 2008

Hearing: July 17, 2008

Contact: Michelle Frye

Authority: 8-3b

Proposal: Amendments to *Section 32 – Supplementary Use Regulations, Subsection 32-18 Historic Residential Structure* of the Westport Zoning Regulations.

Description: The amendments affect subsections 32-18.1, 32-18.4(c), 32-18.5(a), 32-18.5(c), 32-18.6 (b), 32-18.9.3, 32-18.9.4, 32-18.9.4(a), 32-18.9.4(b), 32-18.9.4(c) and 32-18.10.1. The applicant explains that his proposal is intended “to add more flexibility by providing parking and landscaping incentives that will help to preserve historic sites by permitting shared parking and less impervious surface where appropriate screening is provided”. The underlined text below represents the language to be added and the stricken text represents language to be deleted:

32-18.1 Purpose

The purpose of this regulation is to further the preservation, rehabilitation, restoration, reconstruction and/or adaptive re-use of historic structures containing existing special permit uses, historic residential structures and associated historic accessory structures in Westport residential districts. The Planning and Zoning Commission may, by grant of a Special Permit/HRS, authorize the use, setback, height, parking, landscaping and coverage incentives of this section in those circumstances where applicable zoning regulations have the practical effect of discouraging the preservation or continued use of historic buildings and historic accessory structures.

32.18.4 Considerations

(c) The historic structure or historic accessory structure will require height, setback, coverage, parking, and/or landscaping incentives and, in the case of historic structures containing existing special permit uses and/or historic accessory structures, use incentives to allow for its preservation, retention of its historic scale and/or its location on the property.

32-18.5 Commission Action

(a) Allow an area or dimensional requirement (height, setback, coverage) and/or a parking or landscaping requirement (number, size or dimension) to be reduced or exceeded.

(c) Allow limited office uses in a historic accessory structure containing an existing special permit use under such conditions as set forth in Sections 32-18.8 and 32-18.9 hereof.

32-18.6 Conditions of Approval

(b) Except for properties containing existing special permit uses, Prior to issuance of a Zoning Permit, the applicant shall grant a perpetual preservation easement pursuant to Connecticut General Statutes, Section 47-42 a-c, enforceable by both the Planning and Zoning Commission and the Historic District Commission, which shall provide, among other things, for the right of the holder of the easement to do all things necessary to preserve the historic integrity of the historic structure or historic accessory structure and to charge the expense thereof to the owner upon the owner's failure to keep the exterior of the structure in good repair.

32-18.9.3

Annual Certification: prior to the issuance of a Zoning Permit, a certificate in the form of an affidavit to verify that the principal owner is in residence or in possession of a special permit use. Thereafter, the principal owner shall submit such notarized affidavit to the Planning and Zoning Office by January 31st of each year as a requirement for the continuance of the Special Permit/HRS.

32-18.9.4 Limited Offices:

One historic accessory structure or portion thereof containing an existing special permit use may be converted to limited office space subject to Special Permit and Site Plan Approval in accordance with Secs. 43 & 44 herein, except as modified herein:

- (a) Location: The existing Special Permit site (lot):
 - (1) must have frontage on a collector or arterial street,
 - (2) must adjoin a commercial zoning district, and
 - (3) must be within 500 feet of a municipal (Town-owned) public parking lot.
- (b) Office Uses: The allowable office uses shall be limited to business, professional, healthcare and other offices, exclusive of medical offices, banks, and other administrative offices accessory to and directly associated with the existing Special Permit Use.
- (c) Floor Area: The floor area devoted to limited office uses shall not exceed either 60% of the total existing floor area within the accessory historic structure or 20% of the total existing floor area of the site, whichever is less.

32-18.10.1

The income of the occupant(s) of ~~the~~ any Affordable Accessory structure shall not exceed 80% of the state median adjusted for family size, as determined by the United States Department of Housing and Urban Development for the State of Connecticut, in accordance with CGS 8-30(g). The rental charge for this unit shall not exceed 30% of the renters' income.

Staff Comments & Recommendation: These amendments would achieve multiple objectives. Existing Special Permit uses operating within historic structures or accessory structures would be grandfathered and allowed to continue use as-of-right and would not be required to grant a perpetual preservation easement. Such uses would also be eligible for reductions in requirements and/or incentives necessary for their preservation. Parking and landscaping restrictions could now be relaxed. Limited office use would become a permitted use within an historic accessory structure. These changes apply to all historic structures and historic accessory structures in residential zone districts. The changes sought by these amendments do not appear to pose inter-municipal impacts, but SWRPA recommends notifying the neighboring communities Weston, Wilton and Norwalk of the proposed changes.

* 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.