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## **REPORT OF THE REFERRALS COMMITTEE**

November 24, 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, Paul Settlemeyer, Nathan Snyder, Michael Stashower and Margaret Wirtenberg. 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 3:15 p.m.:

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### **Referral No. 08-60 – Text Amendment, Zoning Regulations, Weston**

**Referrer:** Weston Office of Land Use

**Applicant:** Daniel & Ellen Crown

**Received:** October 28, 2008

**Hearing:** December 1, 2008

**Contact:** Tracy Kulikowski

**Authority:** 8-3b

**Proposal:** Resident petition to add a new subsection to 321.2 of the Weston Zoning Regulations.

**Description:** The text to be added is underlined:

An outbuilding or auxiliary structure not attached to the main dwelling (“outbuilding”) may be used in whole or in part as a residence if the following conditions are met:

- 1) The outbuilding is on the same lot as the main dwelling and the lot contains four acres or more.
- 2) The residential portion of the outbuilding shall not be greater than 800 square feet.
- 3) The residential portion of the outbuilding shall be occupied by blood relatives of the owner (someone who owns not less than one-quarter [1/4] interest in the lot) of the main dwelling or by caretakers of the lot and the main dwelling.
- 4) No more than two (2) persons shall live in the residential portion of the outbuilding at any one time.
- 5) The persons residing in the residential portion of the outbuilding cannot be charged rent.
- 6) The owner (someone who owns not less than one-quarter [1/4] of the main dwelling) shall occupy the main dwelling except for bonafide temporary absences.
- 7) Subsection (3), (5), (7) and (8) shall apply to the residential portion of the outbuilding.

- 8) When the property which contains the main dwelling and an outbuilding used in whole or in part as a residence, the Special Permit allowing the residential use of the outbuilding shall be reconfirmed between 180 days prior to the sale and 60 days after the sale. The reconfirmation of the Special Permit shall determine that the residential use of the outbuilding conforms to the area specifications of the original approval and that the currently prevailing health and safety requirements for the residential use are being met. In the absence of such reconfirmation, the Special Permit shall become void.

The proposed amendment would permit, on lots greater than 4 acres, the construction and use of detached accessory structures as residences for relatives or caretakers of the primary structure's resident(s).

**Staff Comments & Recommendation:** Although the proposed amendment contains restrictions aimed at limiting its impact; however, its intent is to allow two separate, detached residential structures to occupy the same lot. The amendment restricts applicable lands to lots 4 acres or larger. The Weston Zoning Regulations contain one residential zoning district classification, *Two Acre Residential and Farming District*, which permit residences on lots of at least 2 acres. Considering this, the applicants are already permitted, as of right, to construct a second residence for relatives/caretakers via a lot split (subdivision) of the existing parcel. Allowing a detached accessory residential structure to be constructed that doesn't conform to the same requirements of a true-to-form primary residence gives rise to multiple issues related to: construction, placement, orientation, access, utilities, etc. which are typically addressed when conforming to existing zoning. A majority of the land in the Town of Weston is designated *Two Acre Residential and Farming District*, including many parcels within 500 ft of the Towns of Wilton and Westport within the South Western Region and others outside the Region. Considering this, the changes sought by the proposed amendment may pose inter-municipal impacts.

**Referral No. 08-61 – Text Amendment, Zoning Regulations, Stamford**

**Referrer:** Stamford Zoning Board – Land Use Department

**Applicant:** Garden Homes Office Investors

**Received:** October 30, 2008

**Hearing:** TBD/Late December

**Contact:** Norman Cole

**Authority:** 8-3b

**Proposal:** Amendment to Article IV, Section 10(h) of the Stamford Zoning Regulations.

**Description:** The amendment adds a new subsection and does not remove any existing language. The text to be added is underlined:

(5) Notwithstanding paragraph 3 above, expansion of a commercial building to be converted to residential use shall be permitted under the following conditions:

(a) A vacant parcel is contiguous to, under common ownership with, and in the same zoning district as the commercial building to be converted.

(b) The residential density and building coverage of the expansion not exceed that allowed as-of-right for the vacant parcel.

(c) The height of the expansion does not exceed that allowed in Appendix B or, if the height of the commercial building to be converted exceeds the height limitation in Appendix B by not more than ten (10) feet, the height of the expansion not exceed the height of the converted building where the minimum setbacks of said expansion from all side and rear lot lines are increased by an additional one-half foot (.5') for each one foot (1') of height over the limitation in Appendix B.

(d) The vacant parcel be merged with the lot of the converted commercial building prior to the issuance of a certificate of occupancy.

The standards of paragraph one of Section 10-H shall govern the Below Market Rate (BMR) housing requirement of dwelling units created by conversion of commercial floor area. New dwelling units constructed by expansion of the converted commercial buildings shall provide BMR units equal to not less than ten percent (10%) of the number of dwelling units constructed, in accordance with the standards, definitions and procedures of Section 7.4 of these Regulations.

**Staff Comments & Recommendation:** The cited paragraph 3 in Section 10-H prohibits exactly the type of use proposed in the amendment. Section 10-H applies exclusively to lands within the zoning district classifications of Multiple Family Residence Design District (R-MF) and Multiple Family Design District, High Density (R-H). While there may be additional issues to consider, these zoning districts are not within 500 of any of Stamford's neighboring communities, thus these amendments do not appear to pose any inter-municipal impacts

### **Referral No. 08-62 – Text Amendment, Subdivision Regulations, Ridgefield**

**Referrer:** Ridgefield Planning & Zoning Commission

**Applicant:** Ridgefield Planning & Zoning Commission

**Received:** October 30, 2008

**Hearing:** December 2, 2008

**Contact:** Betty Brosious

**Authority:** 8-3b

**Proposal:** Amendment to *Section 4-25(b) - Payments in lieu of open space* of the Ridgefield subdivision Regulations.

**Description:** Text to be added is underlined; text to be removed is stricken through:

Sec. 4-25 (b) *Payments in lieu of open space*. As provided under Section 8-25 of the Statutes, the Commission may, ~~where the~~ in any proposed subdivision plan ~~contains three lots or less,~~ authorize the applicant to pay a fee to the town, or pay a fee to the town and transfer land to the town in lieu of any requirement to provide open spaces. Such payment or combination of payment and the fair market value of the land to be transferred shall be equal to ~~six~~ ten percent of the fair market value of the land to be subdivided prior to the approval of the subdivision. The fair market value shall be determined by an appraiser jointly selected by the Commission and the applicant but the cost of

such appraisal shall be paid by the applicant. A fraction of such payment, the numerator of which is one and the denominator of which is the number of approved lots in the subdivision, shall be ~~made~~ paid to the Town of Ridgefield at the time of sale of each approved lot in the subdivision and ~~shall deposit~~ any such payments shall be deposited in a fund which shall be used solely for the purpose of acquiring additional land for open space or for recreational or agricultural purposes. The provisions of this subsection shall not apply if the transfer of all land in a subdivision of less than five lots is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration, or if the subdivision is to contain affordable housing as defined in Section 8-39a of the Statutes, equal to twenty percent or more the total housing units to be constructed on lots within the subdivision.

**Staff Comments & Recommendation:** The proposed changes apply the current regulations to all proposed subdivisions and not just those of three or fewer lots and increase the payment in lieu of open space from six to ten percent of the fair market value of the land to be subdivided. While subdivision regulations pertain to the entire Town of Ridgefield which borders Wilton, the proposed changes do not affect land use and pose no inter-municipal impacts.

### **Referral No. 08-63 – Text Amendment, Zoning Regulations, Westport**

**Referrer:** Westport Planning & Zoning Commission

**Applicant:** Redniss & Mead, Inc.

**Received:** November 4, 2008

**Hearing:** December 4, 2008

**Contact:** Michelle Frye

**Authority:** 8-3b

**Proposal:** Revised amendments to Section 20 Municipal Housing Zone (MHZ) of the Westport Zoning Regulations.

**Description:** The sought after changes affect subsection 20-3 Lot Size, Location and Frontage, 20-7 Building Setbacks, 20-11 Parking and Circulation and 20-14 Utilities and are explained to be necessary to facilitate the mixed-income Hale’s Court development. The original changes are indicated below with text to be removed shown as stricken-through and text to be added shown as underlined; the revised changes follow the same format, but are shown in bold:

#### 20-3 Lot Size, Location and Frontage

The ~~lot within the~~ MHZ zone shall consist of a minimum of four (4) acres of land **on one or more lots including inclusive of all land area and** public and private rights-of-way that serve land in the MHZ. ~~The lot and~~ shall have a minimum of 100 feet on an arterial street or railroad right-of-way.

#### 20-4.3 Density, Units per Acre

The number of housing units shall not exceed six (6) dwelling units or twelve (12) bedrooms per gross acre **within the MHZ**. Bedrooms shall be consistent with §32-12.2.3 of these regulations. The number of bedrooms in each new dwelling unit shall not exceed three (3), **except not more than five percent (5%) of the total number of units may have four (4) bedrooms.**

#### 20-6 Coverage

The building coverage shall not exceed twenty percent (20%) and the total coverage shall not exceed fifty percent (50%) of the ~~lot~~ **total land** within the MHZ.

#### 20-7 Building Setbacks

Setbacks for new buildings and other new structures shall be determined by the onsite and adjacent offsite physical site characteristics, including topography, vegetation, and location of surrounding homes, structures, and uses and shall include a minimum: fifty foot (50') setback from any residential zone property line, except railroad rights-of-way, or front lot line, where a thirty foot (30') setback will apply; thirty feet (30') to any multi-family or non-residentially zoned property; or ten feet (10') to any street line that is internal to the MHZ. **Existing non-conforming structures may be redeveloped with new units provided they do not encroach closer to the adjacent residential lot line except for at grade patios.**

#### 20-11 Parking and Circulations

The number, location, size and orientation of parking spaces, rights-of-way, service drives, aisle widths, roadway alignments and grades, signage and other design characteristics shall be subject to review and approval by the Planning and Zoning Commission. The Commission shall be guided in its review by the multi-family dwelling unit standards in §34-5 that include a 0.5 space per unit reduction in residential parking except in the case of Senior or Supportive housing. Where applicable, the continued use of existing condition, including ~~existing~~ existing or proposed, shall be allowed...

Any internal roads or driveways ~~shall circulate in a counter clockwise direction and~~ shall have sight line distances of at least 150 feet where they intersect a public street outside the MHZ zone. **Driveways and parking spaces may be permitted to back up into a right-of-way. The unobstructed visibility requirements of Section 34-11.2.3 may be reduced to 75 feet provided the speed limit of the internal roadway not exceed 15 miles per hour.** New parking areas to be planted with shade trees in accordance with §35. Parking spaces for new residences must be fifty feet (50') from adjacent single family residential districts, except for railroad and highway rights-of-way. Parking adjacent to town roadways, railroad rights-of-way, and service drives that are within the MHZ District may be allowed. **Parking spaces within the right-of-way internal to an MHZ zone are allowed provided they are located on dead-end portions of the right-of-way. Drive aisle widths for Typical Dead-End Bays, as described in Section 34, may be reduced to not less than 20 feet.** When reviewing the traffic impact per §44-25, the Commission shall use the closest offsite collector, or arterial roads to calculate the ten percent (10%) increase in traffic.

#### 20-13 Landscaping, Screening, Sidewalks and Buffer Areas

Landscaping, screening and buffer areas shall conform with §35 of these regulations **unless specifically waived by the Commission.**

#### 20-14 Utilities

Storm-drainage facilities shall be provided and shall be designed to achieve a zero impact run-off based on a 25 yr. storm flow and mitigate only the net increase in runoff, subject to the approval of the Town Engineer. Street culverts and bridges shall be designed for a 100-yr. storm flow, if required by the Town Engineer.

**Staff Comments & Recommendation:** Although the revised amendments further loosen the requirements of the Municipal Housing Zone (MHZ), there is only one instance of the MHZ zoning

district in Westport. This is the Hale's Court development south of I-95, roughly at the midway point between exits Nos. 17 and 18. The district is not in proximity to any of the neighboring municipalities. As such, the changes sought by these amendments to not appear to pose any inter-municipal impacts.

**Referral No. 08-64 – Text Amendment, Zoning Regulations, Ridgefield**

**Referrer:** Ridgefield Planning & Zoning Commission

**Applicant:** Ridgefield Planning & Zoning Commission

**Received:** November 17, 2008

**Hearing:** January 6, 2008

**Contact:** Betty Brosious

**Authority:** 8-3b

**Proposal:** Amendment to *Section 8.1.C.1 – Nonconforming lots* of the Ridgefield Zoning Regulations.

**Description:** Text to be added is underlined; text to be removed is stricken through:

A lawfully existing parcel of land ~~separately recorded by deed in the office of the town clerk in separate ownership from abutting lots or parcels, as confirmed by deeds or other documents recorded in the land records, or other evidence establishing separate ownership, including a parcel remaining after the conveyance by the grantor of part of a preexisting lot or parcel or the distribution of property where both parcels conformed to the zoning regulations when the conveyance or distribution occurred~~ prior to the effective date of these Regulations or any amendment hereto or any zoning change which fails to meet the area, shape, or frontage or any other applicable requirements of these regulations pertaining to lots, may be used as a lot and a building or other structure may be constructed, reconstructed, enlarged, moved, or structurally altered thereon, provided that the building, structure, or any extension thereof, complies with all applicable requirements of these regulations as of the date of the application for a zoning permit for any such improvement.

**Staff Comments & Recommendation:** The changes sought aim to allow proof of ownership to be determined by recorded land documents, in addition, but not limited to deeds and do not effect land use in any way. Considering this, the changes sought by the proposed amendment do not appear to pose inter-municipal impacts.

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<sup>1</sup> 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.