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## **REPORT OF THE REFERRALS COMMITTEE**

December 22, 2008

Committee Chairman Jack Halpert called the meeting to order at 2:00 p.m. Also in attendance were Committee members Mrs. Amy Harris, Mr. Paul Settlemeyer, Mr. Nathan Snyder, Mr. Michael Stashower, Dr. Margaret Wirtenberg and Mr. Robery Young. 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 3:00 p.m.:

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### **Referral No. 08-65 – Text Amendment, Zoning Regulations, Stamford**

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

**Applicant:** Richard Redniss

**Received:** December 8, 2008

**Hearing:** January 12, 2009

**Contact:** Norman Cole

**Authority:** 8-3b

**Proposal:** Amendments to Article III, Section 7-R of the Stamford Zoning Regulations which amend subsections a, e, g & h and add a new subsection j.

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

**R** – Property within the R-5 and/or RM-F districts to be developed, Redeveloped or rehabilitated, in whole or in part, with the use of mortgage assistance or financing, insured, procured or guaranteed through local, state, or federal housing assistance programs may utilize the following special standards, permitted uses and review procedures, subject to issuance of a Special Exception from the Zoning Board:

**a)** The minimum land area is three (3) acres, inclusive of public and private rights-of-way, where applicant ownership exists on both sides of said rights-of-way. Proposed lots where homeownership is available shall not be less than 2,000 square feet. Residential density shall be governed by the standards of the R-5 and/or R-MF Districts, including applicable Below Market Rate and bonus density requirements, provided that density may be increased to ~~25 dwelling units per acre~~ the limits of the underlying Master Plan Category;

e) Usable open space shall be provided on site, in an amount consistent with the requirements of Section 7-Q, provided that the design, location, and dimensions of open space shall be subject to determination by the Zoning Board. Where the proposed development is within one hundred (100) feet of a public park, the Zoning Board may reduce or waive the open space requirement;

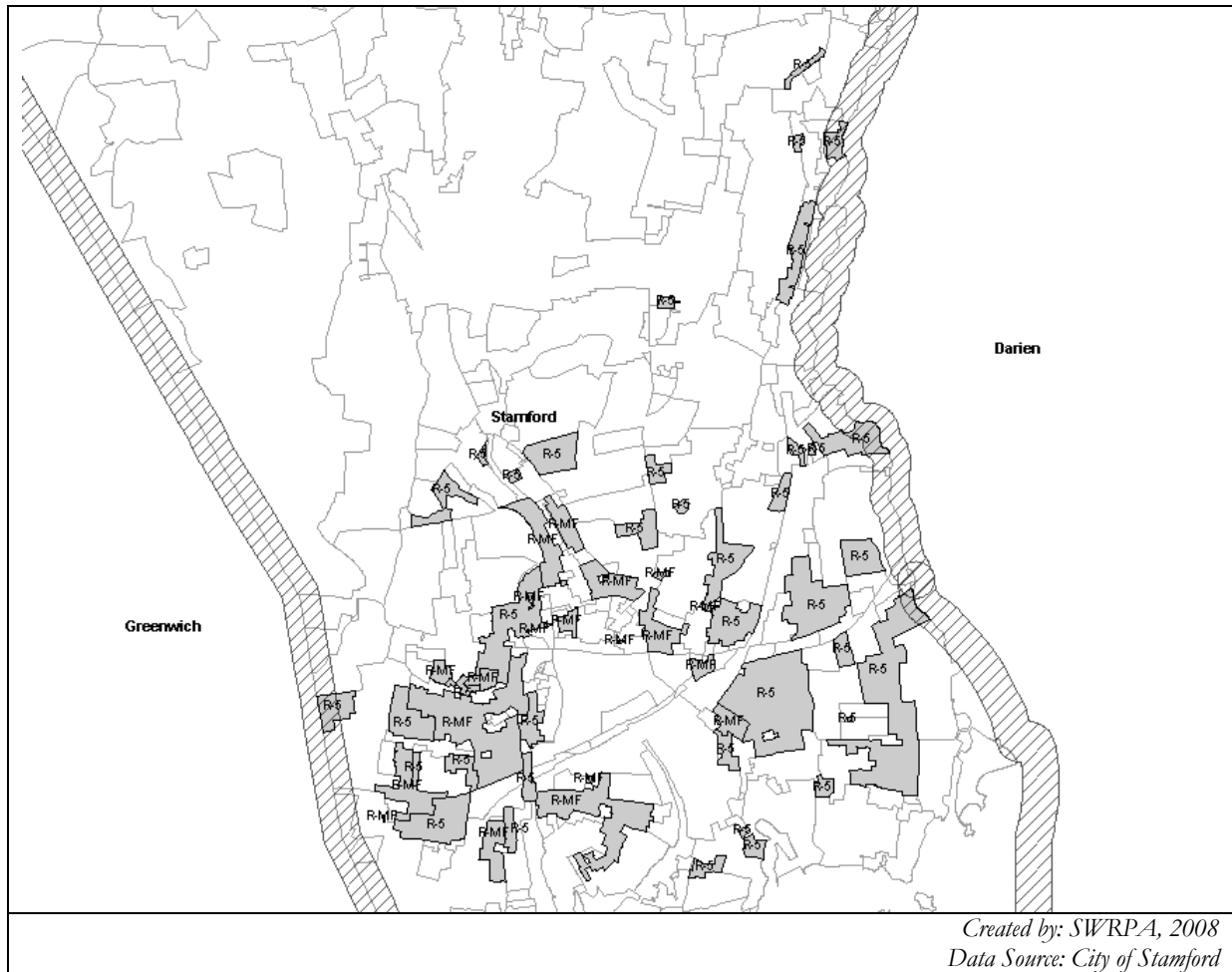
g) Building height shall be limited to four (4) stories except the Zoning Board may allow height up to five (5) stories for building located at the corner of intersecting streets, provided that building within 75 feet of a more restrict residential district shall be limited to three (3)stories;

h) All buildings shall provide a front yard setback of not less than ten feet (10') excluding covered porch and steps, except where adjacent to and across from non-residential districts where, the minimum front yard shall be not less than five (5) feet. There shall be no minimum side or rear yard requirements provided there is an appropriated relationship of yards and separation of structures on the sire to each other and to existing off site structures with the objective of assuring adequate light, open space, screening, landscape safety, privacy, and overall urban design considerations. The requirements of Article III, Section 7-K of the Regulations shall not apply;

j) The Zoning Board may allow internal property lines to be established that subdivide a conforming comprehensive site plan into lots that individually do not conform to the Zoning Regulations for reasons shown for financing, construction, operating or conveyance purposes; provided that conditions applicable to all lots are filed on the Stamford Land Records, and any changes thereto shall require Zoning Board approval.

**Staff Comments & Recommendation:** The proposed amendments affect property within the R-5 and RM-F zoning districts in the City of Stamford. The map below shows the zoning districts with the R-5 and RM-F zones in dark gray. The hatched buffer represents the statutory 500 ft. demarcation.

**Figure 1: Stamford R-5 and RM-F Zoning Districts**



There is land zoned R-5 that is within 500 ft. of Greenwich and Darien. The proposed amendments create flexibility with regard to density, open space, building height and building front yard setback requirements and allow subdivision of a conforming lot into separate non-conforming lots. The Agency expressed its concern that reductions in open space stand to increase densities. Considering this, the changes sought by the proposed amendment do appear to pose inter-municipal impacts. SWRPA recommends notification to Greenwich and Darien of the proposed changes since a park in those towns could be counted as open space under this regulation.

**Referral No. 08-66 – Text Amendment, Zoning Regulations, Stamford**

**Referrer:** Stamford Zoning Board – Land Use Bureau  
**Applicant:** Richard Redniss

**Received:** November 25, 2008  
**Hearing:** January 12, 2009  
**Contact:** Norman Cole  
**Authority:** 8-3b

**Proposal:** Amendments to Article IV, Section 10-J(1) of the Stamford Zoning Regulations.

**Description:** The amendment adds reference to Appendix A. The text to be added is underlined; no text is removed:

**J** – Subject to Special Exception Approval by the Zoning Board, sites located in the C-N zoning district, that as of November 28, 2005 have a minimum of two acres containing an existing non-conforming building or buildings(s), may be adaptively reused or redeveloped in whole or in part, provided the following special standards are satisfied:

- 1) All non-conforming uses with respect to Appendix A shall be eliminated and office use shall not exceed 0.1 FAR for the entire property.

Appendix A indicates, for each zoning district, which uses are permitted (conforming) and which aren't (non-conforming).

**Staff Comments & Recommendation:** The changes sought by the proposed amendments are clerical in nature and do not affect land use. As such, no inter-municipal impacts are anticipated.

**Referral No. 08-67 – Text Amendment, Zoning & Subdivision Regulations, Fairfield**

**Referrer:** Fairfield Town Plan and Zoning Commission

**Applicant:** Fairfield Town Plan and Zoning Commission

**Received:** November 26, 2008

**Hearing:** To be determined

**Contact:** James Wendt

**Authority:** 8-3b

**Proposal:** Amendments to the following sections of the Fairfield Subdivision and Zoning Regulations:

Subdivision Opening Paragraph

Subdivision Section 1.1.14 Historic Preservation

Subdivision Section 1.1.15 Other Evidence

Subdivision Section 2.1.4.4 Sight Line

Subdivision Section 2.1.1.5 Zoning Section 31.2.28 Rear Lot

Subdivision Section 2.1.6 Cul-de-Sacs

Zoning Section 2.7 Access and Rear Lots

Zoning Section 5.2.1 Access

Zoning Section 31.2.21 Lot Area and Shape

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

**Subdivision Opening Paragraph**

These regulations shall be known as and may be cited as the Subdivision Regulations of the Town of Fairfield, Connecticut, hereinafter called the "Town". There shall be no subdivision of land except in accordance with these Subdivision Regulations, which are under the jurisdiction of the Town Plan and Zoning Commission, hereinafter called the "Commission". The purpose of the Subdivision

Regulations is to further the orderly development of the Town in accordance with the Plan of Conservation and Development.

#### **Subdivision Section 1.1.14 (new)**

**1.1.14 Historic Preservation:** The integrity of the Town's historical resources shall be maintained through careful design of subdivision layouts and related improvements such that impacts to historic resources are minimized or eliminated. Any subdivision of land within a Historic District or including or abutting historic property within the jurisdiction of the Historic District Commission shall include an evaluation by the Historic District Commission of the impact to historic resources and the appropriateness of the proposed subdivision design. This requirement shall also extend to any property identified in the Town's Architectural and Historical resource survey most recently completed. Failure of the Historic District Commission to report within 45 days of referral shall be taken as a favorable recommendation.

#### **Subdivision Section 1.1.15**

**1.1.15 Other Evidence:** Other evidence shall be submitted establishing that the property to be subdivided is of such character that it can be used for building purposes without danger to health or the public safety, that proper provision will be made for water, drainage and sewerage and, in areas contiguous to brooks, rivers or other bodies of water subject to flooding, including tidal flooding, that proper provision will be made for protective flood control measures, that in places deemed proper by the Commission open spaces for parks and playgrounds will be established, and, if the Commission shall have adopted a Master Plan affecting the area of the proposed subdivision, that any proposed street shown on the subdivision plan is in harmony with existing or proposed principal thoroughfares shown on the Master Plan, especially in regard to safe intersections with such thoroughfares and that adequate sight lines for individual driveways have been provided.

#### **Subdivision Section 2.1.4.4**

~~2.1.4.4 Sight distances providing clear visibility shall be provided for a minimum distance of two hundred twenty five (225) feet as measured along the center of the street. Safe and adequate sight lines for the particular conditions as determined by the Town Engineer shall be provided.~~

#### **Subdivision Section 2.1.1.5 and Zoning Section 31.2.28**

Rear Lot: A lot which does not have frontage on an improved public street or which, if it does have such frontage, is not of such shape that some portion of the required square on the lot is located within the required setback from such street.

#### **Subdivision Section 2.1.6**

**2.1.6 Cul-de-sacs:** Cul-de-sacs are streets closed at one end which will not be extended in the future. No such street shall provide sole ~~access~~ frontage to more than ten (10) building lots nor shall such street provide sole ~~access~~ **frontage** to less than three (3) building lots.

#### **Zoning Section 2.7 Access and Rear Lots**

2.7 No rear lots as defined in Section 31.2.28 shall be used or occupied in Zones R-3, R-2, A, B, C, Flood Plain or Beach District, for anything other than a farm building not used for human occupancy. No lot in any residential district shall be used for or occupied by a building or other structure except for a farm building not used for human occupancy unless such lot has ~~access~~ frontage of twenty (20) feet or more in width on an improved public street, or such lot has an unobstructed easement of access or private right-of-way which is everywhere 20 feet or more in width to an improved public street. Not more than one (1) dwelling shall be served from such

easement of access or private right-of-way except as otherwise provided in the Subdivision Regulations. The required 20-foot frontage or easement or private right-of-way shall be of such character and location so as to provide a safe and practical means of access to the lot, to permit a convenient driveway across said frontage, or easement or private right-of-way into the lot and to allow the physical construction of a driveway at least 10 feet in width. If the location or character of such frontage, easement or private right-of-way is such that and Inland Wetlands and Watercourses permit or Special Permit for excavation and fill will be required to make use of it for driveway purposes, the Commission may require that such permit be obtained before the requirements of the section are deemed satisfied.

### **Zoning Section 5.2.1**

5.2.1 Access: Subject to the provision of Section 2.7 of the Zoning Regulations, each lot shall have a frontage of twenty (20) feet or more on a public street or shall have an unobstructed easement of access or private right of way which is everywhere twenty (20) feet or more in width to a public street. However, no walk or driveway shall be permitted giving access to any business or industrial use or district. The required 20-foot frontage or easement or private right-of-way shall be of such character and location so as to provide a safe and practical means of access to the lot, to permit a convenient driveway across said frontage, or easement or private right-of-way into the lot and to allow the physical construction of a driveway at least 10 feet in width. If the location or character of such frontage, easement or private right-of-way is such that and Inland Wetlands and Watercourses permit or Special Permit for excavation and fill will be required to make use of it for driveway purposes, the Commission may require that such permit be obtained before the requirements of the section are deemed satisfied.

### **Zoning Section 31.2.21 Lot Area and Shape**

Lot Area and Shape: In determining compliance with the minimum lot area and shape requirements of the Zoning Regulations, land subject to underground easements may be included, but no street or highway, easement for vehicles or easement for above ground public utilities (other than utility easements serving a private residence) may be included. The area of any portion of a lot which has a width of less than 50 percent of the minimum lot square width in the District in which it is located shall not be included in the lot area calculation. This provision is not intended to exclude the area between two intersecting property lines that meet at an angle equal to or greater than sixty (60) degrees. All contributing portions of a lot for purposes of minimum lot area shall be contiguous, meaning that no contributing area of a lot shall be separated by non-contributing areas of the lot. The area of the minimum square required on each lot shall be exclusive of wetlands, watercourses, conservation easements, or any other restriction other than setbacks which would prevent actual house construction within the square.

Areas consisting of rivers, ponds, lakes or marsh shall not be used for compliance with more than 25 percent of the minimum lot area requirement and shall not be included in the calculation for lot coverage and bulk. Land in a Zoning District having a higher lot area requirement shall not be used to satisfy a lot area requirement in a Zoning District having a lesser lot area requirement; land in a Residence, Designed Residence, Beach or Flood Plain Districts shall not be used to satisfy a lot area requirement in any other District.

**Staff Comments & Recommendation:** The changes sought by the proposed amendments are primarily clerical in nature and minimally affect land use. No inter-municipal impacts are anticipated. In a letter to Mr. Wendt dated December 8, 2008, Westport expressed its opinion that “the

amendment, if adopted, will pose no inter-municipal concerns; therefore the Town of Westport has no comments”. SWRPA recommends notification to Weston, if necessary.

**Referral No. 08-68 – Text Amendment, Zoning Regulations, Fairfield**

**Referrer:** Fairfield Town Plan and Zoning Commission

**Applicant:** 85 Pond Mill, LLC

**Received:** November 26, 2008

**Hearing:** To be determined

**Contact:** James Wendt

**Authority:** 8-3b

**Proposal:** Amendment to Section 21.13 Off-Street Parking and Loading of the Fairfield Zoning Regulations.

**Description:** The text to be added is underlined; no text is removed:

**21.13 Off-Street Parking and Loading**

Off-street parking and loading spaces shall be provided in accordance with Section 28.0 of the Zoning Regulations; except that for multiple tenant properties, as permitted in Section 21 of these Regulations, in excess of 100,000 square feet of gross floor area and providing for a minimum of 300 car parking spaces, the total required number of spaces otherwise required in Section 28 may, at the Commission’s discretion be reduced. The applicant must demonstrate the adequacy and viability of a proposed reduction, and such a request shall be subject to a public hearing.

Using the parking space requirement in Section 28.0 for *Other business and professional offices and post offices* uses, for example, development of a 100,000 square feet building would require 400 spaces. The applicant wishes to ease parking space requirements for uses within the Designed Industrial District, but parking space requirements apply to use classifications and not zoning districts. The parking space requirements for *Warehouses, wholesale business, contractors’ business, research laboratories, establishments for the manufacturing, processing or assembling of goods, and offices used in connection with the foregoing uses* utilizes employee figures to determine parking space requirements. Employee figures were not included in the application.

**Staff Comments & Recommendation:** The changes sought by the proposed amendments affect all zoning districts in Fairfield which permit multiple tenant properties. Fairfield shares its border with the Towns of Weston and Westport. As such, inter-municipal impacts are anticipated. In a letter to Mr. Wendt dated December 8, 2008, Westport expressed its opinion that “the amendment, if adopted, will pose no inter-municipal concerns; therefore the Town of Westport has no comments”. SWRPA recommends notification to Weston, if necessary.

**Referral No. 08-69 – Text Amendment, Zoning Regulations, Norwalk**

**Referrer:** Norwalk Planning Commission

**Applicant:** Norwalk Zoning Commission

**Received:** December 16, 2008

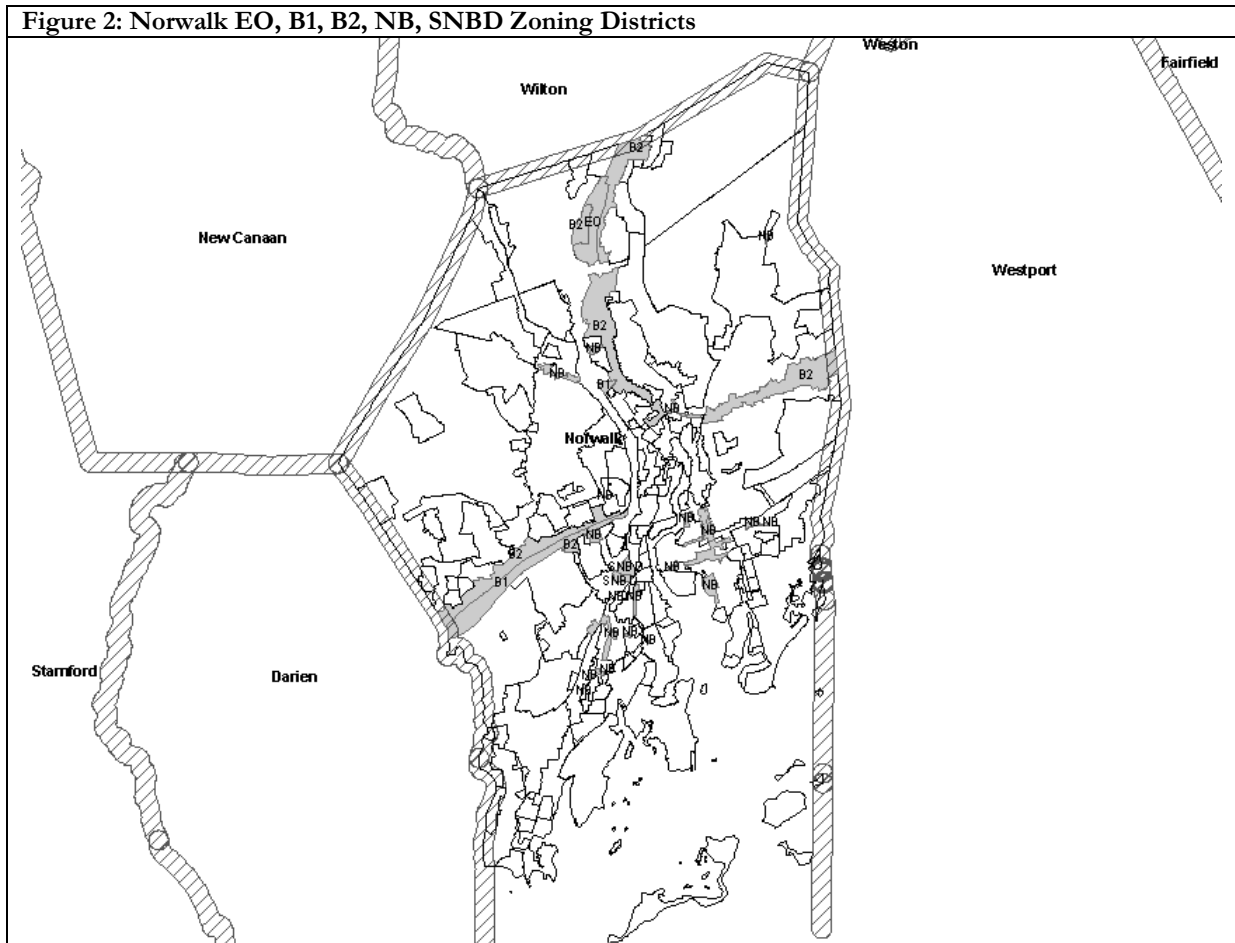
**Hearing:** February 18, 2009  
**Contact:** Dori Wilson  
**Authority:** 8-3b

**Proposal:** Amendment to multiple sections of the Norwalk Zoning Regulations establish a two story minimum building height in certain commercial zoning districts.

**Description:** The amendments affect at least ten discernable sections of the Norwalk Zoning regulations. A full copy of the amendments is attached. The effect of the amendments is to establish a two story *minimum* building height requirement in the following zoning districts:

- Executive Office (EO) zone;
- Business No. 1 (B1) zone;
- Business No. 2 (B2) zone;
- Neighborhood Business (NB) zone; and
- South Norwalk Business District (SNBD).

**Staff Comments & Recommendation:** The proposed amendments affect five zoning districts in Norwalk. The map below shows the affected EO, B1, B2, NB and SNBD zones in dark gray. The hatched buffer represents the statutory 500 ft. demarcation.



There is land zoned B-1 and B-2 that is within 500 ft. of Darien, Wilton and Westport. Considering this, the change sought by the proposed amendment (required two story minimum building height) may pose inter-municipal impacts. SWRPA recommends notification to these Towns.

## Follow-Up of Previous Referrals

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

**Staff Comments & Recommendation:** Although the proposed amendment contains restrictions aimed at limiting its impact, the fact remains that 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 do appear to pose inter-municipal impacts.

In a letter to the Weston Planning & Zoning Commission, the Greater Bridgeport Regional Planning Agency states: "It was the consensus of the Executive Committee to support the proposed addition as presented. The Committee felt the proposed amendment would not result in any significant inter-town or regional impact and it is reasonable to allow the Weston Planning and Zoning Commission the authority to decide the appropriateness of the revisions".

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

**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 do not appear to pose any inter-municipal impacts.

In a letter to the Westport Planning and Zoning Commission, the Greater Bridgeport Regional Planning Agency states: "Based on the Agency's review, the proposed amendments are reasonable and would not result in any significant inter-town or regional impacts. While the Executive Committee voiced some concern with allowing the continuation of non-conforming structures and felt it would be better to bring the structures into conformity when redeveloped, it was the consensus of the Executive Committee to support the proposed amendments as presented because of the need to provide affordable housing within the town of Westport. In addition, the Committee felt it was reasonable to rely on the judgment of the Westport Planning and Zoning Commission to

address any potential impacts of the proposed changes and to decide the appropriateness of any Special/Permit/Site Plan applications that come before the Commission under these regulations”.

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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.