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## **REPORT OF THE REFERRALS COMMITTEE**

July 27, 2009

Committee Chairman Jack Halpert called the Monday, July 27, 2009 Referrals Committee meeting to order at 2:00 p.m. Also in attendance were Committee members, Mr. Paul Settlemeyer (via teleconference), Mr. Nathan Snyder, Mr. Michael Stashower and Dr. 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 2:55 p.m.:

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### **Referral No. 09-32 – Text Amendment, Zoning Regulations, Darien**

**Referrer:** Darien Planning & Zoning Commission  
**Applicant:** Thomas E. Golden Realty Company

**Received:** June 30, 2009  
**Hearing:** July 28, 2009  
**Contact:** Jeremy Ginsberg  
**Authority:** 8-3b

**Proposal:** Amendments to Sections 905 (Joint Parking) and 907 (Parking Structures) and an amendment to create a new zoning district classification, the Noroton Heights Mixed Use (NHMU), to the Darien Zoning Regulations:

**Description:** The amendments are proposed to establish a new zoning district classification, the Noroton Heights Mixed Use (NHMU), to promote a mixed use redevelopment, maintain the historical retail center serving the Noroton Heights neighborhood and encourage the development of apartments (including affordable units) and offices. The NHMU zone provides flexibility in design requirements such as building height, setbacks and parking. The new regulations would permit shared parking and the construction of a parking structure such as a garage and/or underground facilities.

The proposed amendments include the following changes with text to be added underlined and text to be removed stricken-through:

#### 905 – Joint Parking

Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the

Commission may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space shall be less than the sum of the spaces required for each, and may waive up to fifty-percent (50%) of the required parking provided:

- a. The Commission finds that the proposed capacity shall meet the intent of the requirements;
- b. Approval of such joint use shall be automatically terminated upon the termination of the operation of any of such establishments;
- c. Legal documentation shall be furnished establishing such rights for the duration of such joint use.

Such shared parking arrangements shall be limited to use and shall not include shared parking by time. Shared parking shall be subject to approval of a Special Permit per Section 1000 et seq.

#### 907 – Parking Structures

~~Parking structures (whether above or below ground or understructure; whether detached or attached) shall not be permitted; however, one level of basement, underground or understructure parking shall be encouraged in appropriate situations as a substitute for surface parking and to allow the area normally occupied by surface parking to remain undisturbed or to provide open space, landscaping and similar amenities. Such subgrade or understructure parking shall be provided in lieu of required surface facilities, and not in addition thereto. The provisions of subgrade or understructure parking shall not be permitted if its use shall result in a larger above ground structure or intensification in use of the site to an above ground floor area exceeding that permitted by these Regulations. Shall be permitted in appropriate situations subject to approval of a Special Permit per Section 1000 et seq. provided it is located below the finished elevation of surface parking or landscaped areas or provided that the Commission makes an affirmative finding that, due to the location and/or design of the proposed use no neighboring property will be adversely impacted by such structure. Any Such parking structure shall be fully enclosed by or attached to a principal structure and shall be limited to one story above the finished elevation of surface parking. In addition, appropriate measures shall be taken to minimize the street level view of such above ground, below ground, subgrade or understructure parking. The Commission ~~may~~ shall require the submission of a sketch plan which shall clearly illustrate the relationship between the alternative proposals for either surface above ground, below ground or understructure parking including landscaping or other screening. Any parking structure approved under this section shall be subject to the setback requirements of the principal structure.~~

#### 000 – Noroton Heights Mixed Use Zone (NHMU)

(full text attached)

The following principal, permitted and Special Permit uses are proposed:

##### Principal:

- Commercial sales and services;
- Business and professional offices on upper floors; and
- Public and semi-public uses.

##### Permitted:

- Signs, as permitted in Section 920;
- Any building or use customarily incidental to a permitted use; and
- Off-street parking and loading facilities in accordance with Section 900.

##### Special Permit:

- Protected Town Landmarks;

- Restaurants;
- The sale of prepared foods whether intended for consumption on or off the premises;
- Business and Professional Offices on the first floor;
- Dwelling units;
- Indoor recreation facilities; and
- Financial services on the first floor.

The following design requirements are proposed:

- Min. Lot Area: 1 acre (43,560 sq. ft.)
- Min. Lot Width: 150 ft.
- Min. Lot Frontage: 150 ft.
- Min. Lot Depth: 150ft.
- Min. Front Yard: 6 ft. (see Note a)
- Min. Side Yard: None (see Note b)
- Min. Rear Yard: 25 ft.
- Max. Height in Stories: 2 (see Note c)
- Max. Height in Feet: 30 (see Note c)
- Max. Building Coverage: 35%
- Min. Front Landscape Depth: 6 ft. unless structure located on street line
- Max. Developed Site Area: 80%
- Max. Residential Density: 12 du./ac.
- Max. Floor Area of Each du: 1,200 sq. ft.

The following Special Controls are proposed:

- At-grade parking areas may extend to within 10 ft. of a rear lot line except where it abuts a Residential Zone, in which case the rear yard requirement shall apply;
- Landscaping, screening and buffer areas shall be provided in accordance with Section 940;
- All uses shall be subject to Site Plan approval in accordance with Section 1020;
- Display or storage of materials in accordance with Subsection 373;
- If more than 2 dwelling units, then at least 30% of the total number of units shall be limited to one bedroom; and
- Structured parking per Section 907.

**Staff Comments & Recommendation:** The proposed amendments establish a new zoning district classification in the Darien Zoning Regulations. It is anticipated that an application to amend the Darien Zoning Map will be submitted upon adoption of these amendments. The application narrative indicates the properties to be rezoned are bounded, generally, on the north by West Ave.; the east by Noroton Ave.; the south by Heights Rd.; and the west by Edgerton St. These properties are indicated in *Figure 1* in gray.

**Figure 1 – Potential NHMU Rezoning – Darien, CT**



The proposed NHMU zoning district classification is intended to permit the redevelopment of a mixed-use (retail, commercial and residential) development with shared parking in the Noroton Heights business district adjacent to the Noroton Heights MetroNorth commuter rail station. SWRPA promotes such mixed-use transit oriented design (TOD) development in both the *Regional Plan of Conservation and Development, 2006-2015* and the *Regional Housing Needs and Supply Assessment, 2007*. Considering the proposed amendments refer only to the *anticipated* geographic location of the zone, SWRPA is not able, at this time, to determine if any inter-municipal impacts are anticipated as a result of their adoption.

**Referral No. 09-33 – Subdivision, Greenwich**

**Referrer:** Greenwich Planning & Zoning – Land Use Department

**Applicant:** Fogarty, Cohen, Selby & Nemiroff, LLC

**Received:** July 9, 2009

**Hearing:** September 1, 2009

**Contact:** Marek Kozikowski

**Authority:** 8-26b

**Proposal:** Final subdivision approval for subdivision of land at 1081 King St. in Greenwich, CT. The applicant is seeking to subdivide an existing 44.013 acre tract into five oversized lots—four residential lots ranging in area from 2.74 to 3.96 and a 20.65 acre commercial lot to remain in use by the existing nursery.

**Description:** The applicant received preliminary approval subject to 14 conditions to be addressed. The Inland Wetlands and Watercourses Agency (IWWA) issued Permit #2008-08 and Conceptual Approval #2008-04 for this subdivision. The Planning and Zoning Board of Appeals granted a modification (Appeal #9659) of the existing Special Exception (Appeal #4342). The Conservation Commission recommended approval of the subdivision. The 14 conditions placed by the Planning and Zoning Commission on the Preliminary Subdivision approval are:

- The applicant shall be subject to and comply with all conditions of the IWWA conceptual approval. Any revision of the plans shall also be submitted to P&Z simultaneously with a set provided to IWWA.
- The applicant shall incorporate comments from the Conservation Commission Resolution dated 3/18/09.
- The applicant shall address issues raised by Engineering dated 3/18/09.
- The applicant shall address issues raised by the Town Health Department dated 2/25/09.
- The applicant shall make an application to the PZBA for special exception approval to modify the current Nursery site.
- The applicant shall amend the rear yard setback shown for Lot #1 to comply with the definition of "Yard, Rear" per Section 6-5 of the Town's BZR.
- The applicant shall indicate the location of monuments delineating the boundary of the open space area and non-buildable easement areas.
- The applicant shall revise the proposed retaining wall along the proposed roadway so that it is less than six (6) feet in height at any point. Elevation and section details of the retaining wall in the road right-of-way shall be provided.
- The applicant shall provide screening along the western edge of the proposed roadway along the length of the shared property line with St. Paul's Church.
- The proposed "conservation easement" areas shall be renamed "non-buildable easement" areas. Language as to the restrictions and/or limitation for development in these areas shall be provided by the applicant and reviewed by the Law Department.
- A tree removal/protection plan shall be prepared and submitted.
- As requested by the Commission and as agreed to by the applicant, the applicant's Engineer will review the larger drainage issues that exist along the King Street area and provide potential comprehensive solutions that could perhaps improve the drainage in adjacent neighborhoods. This plan would be for illustrative purposes to help the Town of Greenwich in review of future projects within this watershed.
- The applicant should prepared a final subdivision plan to be filed on the Greenwich Land Records with the following notes added:
- The applicant should be aware that prior Building Permit sign-off of the following items will be required:

The applicant has provided responses to each of the 14 conditions (attached).

**Staff Comments & Recommendation:** The Final Subdivision application does not differ significantly from the Preliminary Subdivision application. The proposed residential dwellings and nursery use fit the character of the surrounding uses and do not appear to pose inter-municipal impacts.

**Referral No. 09-34 – Text Amendment, Zoning Regulations, Westport**

**Referrer:** Westport Planning & Zoning

**Applicant:** Land Use Consultants

**Received:** July 22, 2009

**Hearing:** September 10, 2009

**Contact:** Michelle Perillie

**Authority:** 8-3b

**Proposal:** Amendments to Sections 22-2.3.3, 24-2.3.1, 28-2.3.4, 29-2.3.5 and 29A-2.3.5 of the Westport Zoning Regulations:

**Description:** The amendments are proposed to allow erection of a temporary roof over an Outdoor Eating Area and to eliminate the requirement for number of tables and chairs allowed.

The proposed amendments include the following changes with text to be added underlined and text to be removed stricken-through:

Outdoor eating areas for restaurants subject to annual Zoning Permit approval, annual Health Permit and the following conditions:

- (a) The outdoor eating area shall be accessible from the restaurant building only.
- (b) The outdoor eating area shall not exceed 20% of the interior patron floor ~~area or 6 tables and/or chairs, whichever is less.~~
- (c) The outdoor eating area shall be largely open to the elements, but and shall not may be covered enclosed with a temporary roof or awning and walls be they permanent or temporary. The only exceptions are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. The temporary roof shall be of canvas or similar treated fabric. The temporary roof shall be attached to the building, and may also be secured to a frame. The temporary roof and framework may only remain in place during the term of the zoning permit for the outdoor eating area. This type of patio will require no parking. ~~If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.~~
- (d) The outdoor eating area shall be a seasonal operation not to exceed a six month period from May 1 to November 1 of each year.
- (e) Such outdoor eating area shall be exempt from the off-street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).

**Staff Comments & Recommendation:** The proposed amendments affect uses in the following zoning districts, shown in *Figure 2*:

- Restricted Office Retail Districts
- General Business District
- Business Preservation District
- Business Center District
- Business Center District/Historic



**Proposal:** Amendments to Sections 3 (Definitions) and 13 (Sign Regulations) of the Stamford Zoning Regulations:

**Description:** The proposed amendments include the following changes with text to be added underlined and text to be removed stricken-through:

#### 94.1 Sign, Area

The total square footage area of the continuous perimeter enclosing the limits of writing, representation, emblem or other display on a sign, together with any material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, but not including any supporting framework, bracing or structures, provided that there is no written advertising copy on such framework, bracing or structures. When any sign permitted under this section has two (2) sign faces placed back to back against each other, or where the interior angle formed by two sign faces is sixty (60) degrees or less, and the sign faces are visible from opposite directions, the total surface area for such a sign is the surface area of only the largest of the two (2) sign faces. For any three-dimensional ground-mounted sign (i.e. cube) with up to five (5) sign faces, the total surface area for such a sign is twice (2x) the surface area of the largest sign face.

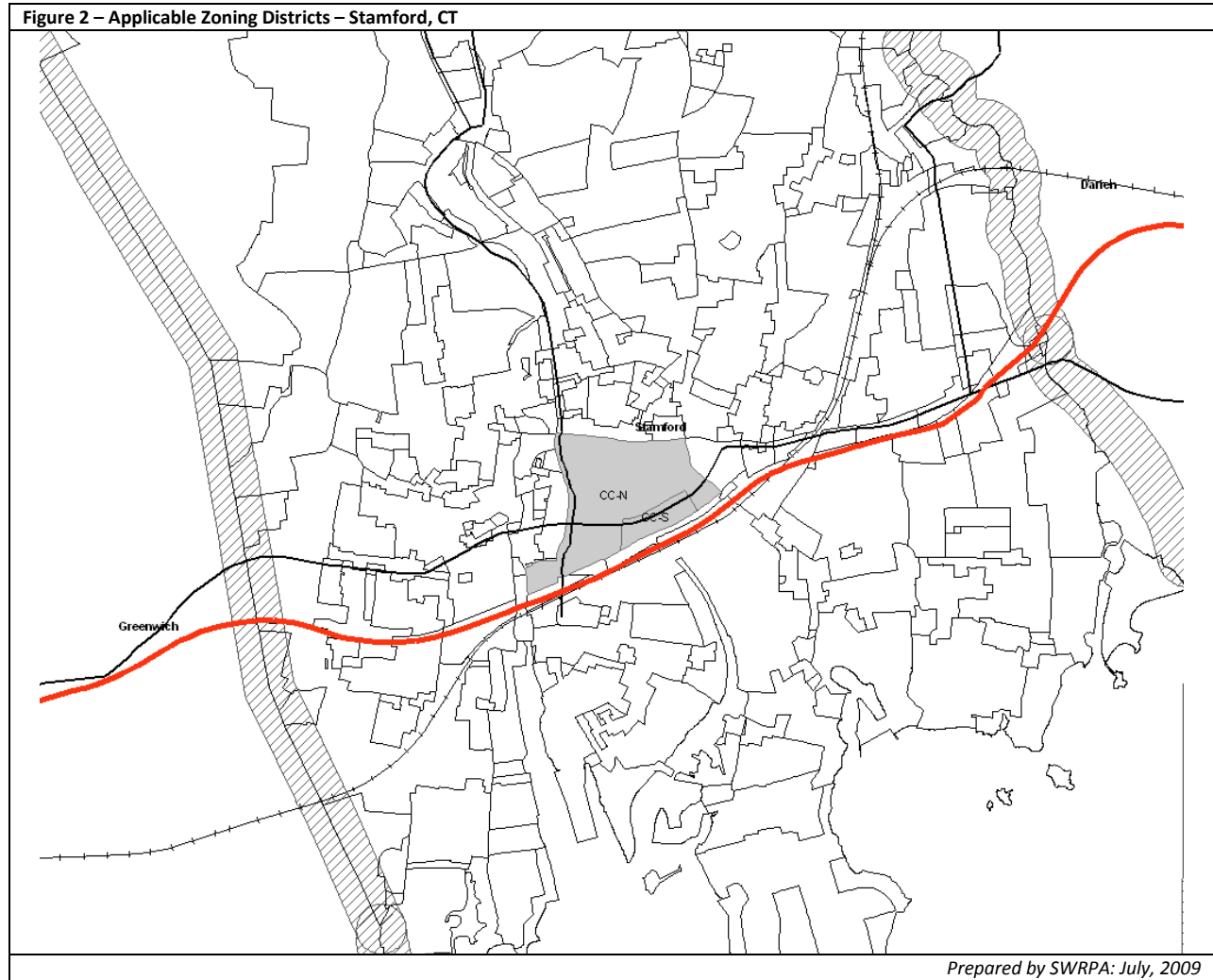
#### 13.H.9

Where a building fronts on more than one street and is on a lot in excess of ~~three~~ two acres, the Zoning Board may permit a transfer of front wall signage rights to another front, side or rear wall of the building or to the wall of an attached garage that fronts on a street upon a finding that such transfer will result in a sign or signs appropriate to the architecture of the building and which promotes identification of the building, and is consistent with the goals and policies of the Master Plan. Any such signage shall contain only the company name or logo of a person or entity having an ownership interest or the name or logo of ~~the a~~ a tenant or tenants occupying ~~the greatest~~ not less than ten thousand (10,000) square feet of leasable floor area within the building, and shall not be used to promote a product line, services or like advertising. In addition, the Zoning Board may authorize, for the purpose of building identification, one ground mounted sign per two hundred (250) linear feet street frontage, each not to exceed eight (8) feet in width or depth, or twenty-one (21) feet in height, with an aggregate area, as described in Definition 94.1, not to exceed one (1.0) square foot per linear foot of frontage on a public street. The Zoning Board may authorize the transfer of said signage rights and/or approval of said signs at such time as the initial approval of the building design or subsequently by issuance of a Special Exception. Once the transfer of such signage rights and/or location of ground signs have been approved, any future changes in number, size, location or display of such signage, within the established square footage limit, shall be subject to review and approval by the Zoning Board staff.

**Staff Comments & Recommendation:** The amendments to Section 3.A.94.1 are proposed to amend the definition of “sign, area” to include three-dimensional signs and their defined area. The amendments to Section 13.H.9 affect the Central City District North (CC-N) and Central City District South (CC-S) zoning districts, shown in *Figure 3*, have the following effects:

- Reducing the minimum applicable lot size from 3 to 2 acres;
- Whereas transfer of signage rights was previously limited to side or rear walls, permit transfer to another front wall;
- Permits multiple signs instead of a single sign to be included in the transfer;
- Permits display of multiple tenants instead of only one;
- Adding a requirement that said tenant(s) must occupy >10,000 sq. ft. within the building;

- Permits 1 ground sign for every 250 linear ft. of street frontage (max sign size 8 ft. x 21 ft. < 1.0 sq. ft. per linear ft. of street frontage on a *public* street);
- Grants transfer *and* approval authority to the Zoning Board; and
- Approval authority of all future changes in subject signage and signage rights to the Zoning Board



The proposed amendments have multiple effects to the signage requirements within the CC-N and CC-S zoning districts; however, these districts are located centrally in Stamford and do not contain land near Greenwich, New Canaan or Darien. No inter-municipal impacts are anticipated as a result of the adoption of the proposed changes.

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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.

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