

FAIRFIELD TAXPAYER PRIMER ON HIGH-DENSITY (HD) HOUSING

“Fairfield definitely has an 8-30g problem; but without a strategic plan, we don’t know if we have an affordable housing problem.”

Summary

- The important issue of High-Density (HD) Housing can be very complicated, but ultimately it is about what happens to the **character of our Town and your neighborhood**, to our **quality of life**, and to our **property values**. We urge you to become informed and participate in the process of deciding what we can and should do about HD Housing and related issues. We can’t control everything, but we and our elected officials should exercise as much control over the future of our Town and our quality of life as we can.
- “High Density” can mean anything from a relatively small two-to-four-unit building in a neighborhood of single-family homes, to a large, multi-story building, like the 197 apartments proposed for the Metro Center.
- Zoning regulations are designed to prevent overdevelopment and preserve the character of our Town and our property values, but all our neighborhoods are subject to HD housing developments because of a state law called “8-30g” that was enacted in 1989 to encourage the creation of more housing for people whose incomes are 80% or less of the area median income. Under this law, because less than 10% of Fairfield’s housing units meet the State’s definition of “affordable,” developers are currently allowed to ignore our local zoning regulations if at least 30% of the housing units they propose to build are “set aside” as affordable under state guidelines .
- Under 8-30g, the only housing units that may be counted toward a town’s 10% threshold are those which are built, acquired or rented with government assistance specifically for lower-income people, plus units with formal deed restrictions that require them to be sold or rented at prices that are affordable to lower-income people. Thus, perversely, **even if more than 10% of a town’s housing units meet the law’s definition of “affordable” based on the incomes of the people who live there and how much they spend on housing [*de facto*], that town is still vulnerable to 8-30g “coercion” if it does not have enough “statutory” [*de jure*] affordable housing.**
- HD Housing is not an issue we can address narrowly on its own; we can do so properly only within the broader context of a long-term **Strategic Plan** – a thoughtful and comprehensive plan created with inputs from all interested citizens that looks at our challenges, opportunities and resources, and explains how Fairfield should change and, equally important, how it should not change in the future. Once we have a Strategic Plan, the Town Plan and Zoning Commission can update the Town’s **Plan of Conservation and Development**, sometimes referred to as the “**Master Plan**,” the purpose of which is to guide public and private development and conservation, including housing, infrastructure, land use, recreation, open space, and commercial and industrial facilities.

- With municipal elections coming up in 2015, including the critical leadership role of First Selectman, we urge you to ask all candidates for public office to explain their long-term vision for the Town and how they think their vision can best be achieved.
- We urge you to read the new Affordable Housing Plan (AHP),¹ upon which much of the content of this primer is based. The AHP is full of useful information and we support its key policy recommendation to “create at least 100 newly affordable housing units in Fairfield by 2024,” which would qualify us for a four-year moratorium from 8-30g applications. We also support its emphasis on creating more “affordable-but-not-high-density” housing, and more homeownership assistance (e.g., senior tax relief), to allow lower-income residents to stay in their homes and to “age in place” if they choose to do so. Other policy recommendations require more analysis of the cost-benefit tradeoffs of proposed changes in our zoning regulations that would lead to higher density and reduce the discretion of our local elected officials over what happens in our Town.
- However, we believe the analysis upon which the AHP’s recommendations is based – which could provide a basis for more dramatic changes than adding 100 new AH units over the next ten years – is flawed because it does not address such basic questions as:
 - Is there really a need for more affordable housing in Fairfield despite what appears to be an ample supply of housing that is in fact affordable, even though most of it does not get counted by the State as affordable under 8-30g?
 - Why should Fairfield feel compelled to provide within its borders any housing need that the AHC and its consultant can identify without considering other housing resources and options in our region?
 - Why does the AHC think that Fairfield will be less successful unless everyone who wants to live here is able to do so?
 - If Fairfield repositioned itself from being a “moderate- to upper-income” community to being more of a “moderate- to lower-income” community, what would happen to our population and demographics, and with what effects on: traffic congestion and public safety; physical infrastructure like sewers, water, roads and bridges; our schools; town character; taxes; and property values?
 - To what extent can the increasing affordability problem in Fairfield be addressed simply by restraining growth in our spending and taxes, which have increased at 2.5x-3.0x the rate of inflation over the last 17 years?
- ***Finally, we encourage everyone to participate in the public meeting that will be held in connection with the updated Affordable Housing Plan on Wednesday, September 10th at 7:00 pm at our Board of Education headquarters (501 Kings Highway East).***

¹ http://www.fairfieldct.org/filestorage/10726/11008/13302/18266/20316/Report_For_PIF_080614.pdf

Why HD Housing Has Become an Issue in Fairfield

- Connecticut is a “home rule” state whose constitution grants its cities and towns the authority to pass laws to govern themselves as they see fit (so long as they obey the state and federal constitutions).
- The zoning regulations created by the seven commissioners we elect to the Town Plan and Zoning Commission (TPZ) are designed to protect the character of our neighborhoods by restricting what can and cannot be built, including minimum lot sizes, maximum building heights, mandatory property-line setbacks, maximum lot coverages, open space set-aside and parking requirements, and many other such rules.
- However, 25 years ago in 1989, the State of Connecticut, compromising its own principle of home rule, passed a law known as the “**Affordable Housing Appeals Procedure**” (a.k.a., Section 8-30g of the CT General Statutes). This law basically says that if **less than 10%** of a town’s total housing units are considered “affordable” **as defined by the statute** (in the latest assessment, only 2.64% [572] of Fairfield’s **21,648** housing units were considered affordable), then multi-unit housing developments that “set aside” at least 30% of their units as affordable are exempt from local zoning regulations and such applications can be denied only on the basis of “*substantial public interests in health, safety or other matters which the commission may legally consider . . . that clearly outweigh the need for affordable housing . . . and [which] cannot be protected by reasonable changes to the [proposed] affordable housing development.*”
- In plain English, this means that an 8-30g development cannot be denied simply because the neighbors don’t like it or because it would adversely impact property values, neighborhood character, aesthetics, traffic, and/or schools. This opens the door for developers to build HD Housing anywhere they think they can make a profit unless the town can prove that it poses a clear threat to public health and/or safety. If a denial of an 8-30g application is appealed, the burden of proof regarding the validity of the public health and/or safety concerns is on the town, which basically means an expensive lawsuit that can be difficult to win.
 - According to a January 11, 2013 report from the Office of Legislative Research,² towns and/or private citizens who challenge 8-30g developments win only about one-third of the cases.
 - A related problem is that effective opposition to 8-30g applications in the recent past has required local neighborhood groups to form and fund the substantial cost of competent legal counsel and of credible experts on issues of public health and safety.
- The statutory definition of “affordable” is housing that costs no more than 30% of the income of people who earn 80% or less than the area median income (AMI) or the State median income (SMI), whichever is lower (for 2014, this means 30% of 80% of \$83,700, or ~\$1,700 per month for a one-person household).³

² <http://www.cga.ct.gov/2013/rpt/pdf/2013-R-0033.pdf>

³ See page 18 of the Affordable Housing Plan.

- Under 8-30g, the only housing units that may be counted toward a town's 10% threshold are those which are built, acquired or rented with government assistance specifically for low- and moderate-income people, plus units with formal deed restrictions that require the owners to sell or rent them at prices that are affordable to low- and moderate-income people. Thus, perversely, **even if more than 10% of a town's housing units meet the law's definition of "affordable" based on the incomes of the people who live there and how much they spend on housing [*de facto*], that town is still vulnerable to 8-30g "coercion" if it does not have enough "statutory" [*de jure*] affordable housing.**

- Why would the State count only some AH units and refuse to count others? The answer is provided below by the co-chairman of the commission that drafted the law in 1989.

*"In keeping with this desire to minimize administrative demands under the new procedure, affordable housing was defined to include only subsidized housing, or housing with deed restrictions limiting its use to low- and moderate-income persons. **We recognized that there is a lot of affordable housing in towns that would not qualify as affordable under this somewhat artificial definition, but the alternatives seemed administratively cumbersome or even impossible.** For example, a housing unit that is available at an appropriately low rent level today, or this year, might not be next year. If such units counted as affordable housing for the purposes of meeting the 10% exemption from burden shifting, a new survey of available housing and prices would have to be undertaken each year by each of Connecticut's 169 towns or by an agency of the state."⁴*

- In short, Connecticut's legislators decided to ignore any affordable housing in a town like Fairfield that was not subsidized or deed restricted because they thought it would be too much trouble to count the additional units. They apparently thought it was less trouble and less cumbersome to require a town that may already have enough actual AH (but not enough statutory AH), to build even more.
- Again in plain English, this means that unless there are grounds for denial based on public health and safety that will hold up in court, under 8-30g, developers are able to dictate what happens to the character of our neighborhoods by building multi-unit housing anywhere they can acquire a suitable piece of land at a price that works for their project.
- All Connecticut towns are subject to 8-30g.⁵ However, some towns below the 10% AH threshold are less vulnerable to 8-30g applications because their land values are high enough to prevent

⁴ Terry J. Tondro, CONNECTICUT'S AFFORDABLE HOUSING APPEALS STATUTE: AFTER TEN YEARS OF HOPE, WHY ONLY MIDDLING RESULTS?, 23 w. New Eng. L. Rev. 115 (2001),

<http://digitalcommons.law.wne.edu/cgi/viewcontent.cgi?article=1161&context=lawreview>

⁵ Only 31 (18%) of CT's 169 municipalities are exempt from 8-30g applications because at least 10% of their housing units are affordable by the State's definition. Relative to Fairfield's 2.64%, AH as a percent of total housing units for some other towns in the region are as follows: Darien 2.62%; Easton 0.41%; Greenwich 5.13%; Milford 6.18%; Monroe 0.85%; New Canaan 2.71%; Newtown 1.85%; Redding 0.00%; Ridgefield 2.44%; Shelton 2.75%; Stratford 5.74%; Trumbull 5.15%; Weston 0.03%; Westport 2.75%; Wilton 3.81%.

developers from making an adequate return on their investment. Still other towns are less vulnerable because their populations are declining, because they have poor public services, and/or because they are so remote or rural that there is insufficient demand for new housing of any kind. Fairfield, in the populous I-95 corridor within commuting distance to New York City, is in an 8-30g “sweet spot” with parcels of cheap land (e.g., plots that are near I-95 and/or the Metro North tracks), a growing population, great recreational resources, two universities, and fine schools and other public services.

- Demand for AH is so strong in Fairfield that the Fairfield Housing Authority, which administers a number of AH units for participants in the Section 8 and Senior/Disabled Housing Programs, has reportedly closed its waiting list.
- In recent years, several projects have been proposed by developers under 8-30g.
 - **Fairchild Avenue** – In 2012, **Garden Homes Management** proposed a 54-unit residential development at 130 Fairchild Avenue. Forty-two units were identified as studio apartments, and the remainder were modest one-bedroom units of approximately 550 square feet. Twenty-seven (i.e., 50%) of the units would be affordable to persons of low/moderate income with projected monthly rents ranging as low as \$381/month. After the AHC voted to endorse the application, the developer submitted his application to the TPZ as a set-aside development under 8-30g. The Commission initially denied the application, but later approved the proposed development after settlement discussions upon appeal. This project is now nearing completion.
 - **Fairchild-Berwick** – In 2013, **Garden Homes Management** proposed a 33-unit residential development under 8-30g, on less than one-half acre close to I-95 on a flood-prone, dead-end street. TPZ rejected this application in August 2014, on the basis of safety concerns related primarily to traffic and emergency vehicle access. The developer is expected to appeal.
 - **Bronson Road** – **Garden Homes Management** has proposed a 95-unit residential development under 8-30g at 92-140 Bronson Road. TPZ rejected this application in July 2014 on the basis of safety concerns related primarily to traffic and emergency vehicle access. The developer is expected to appeal.
 - **Homeland Street** – In 2012, a developer purchased a home in the Stratfield section on .22 acres and proposed to subdivide the property into two separate .11-acre lots, keeping the existing home and constructing a new single-family home on the other lot. After TPZ denied this subdivision application, the developer invoked 8-30g by making the new home a two-family unit and designating one of the two new units as affordable housing. After the TPZ denied his second proposal, the developer proposed to build three new, three-story townhouse-style homes on half the property. After another denial and litigation, the developer received approval from the Zoning Board of Appeal (ZBA) to build one new market rate home.
 - **Metro Center** – The Metro Center project centered around Fairfield’s new train station in the Commerce Drive area has had a long history of delays, cost overruns, audits, concessions and accommodations. Most recently, the private developer, Kurt Wittek of

Black Rock Realty, has proposed to convert a portion of the commercial/retail development that was approved for the site into a 197-unit apartment building. In this case, the developer cannot invoke 8-30g because the site is zoned for commercial and industrial rather than residential. However, the apartment building would have only 10% AH since it is located in the Commerce Drive overlay district.

- **Pine Tree** – The new plan for this Fairfield Housing Authority Property is an 8-30g application.

Why We Should Care

- Perhaps the most important reason we should care is that HD Housing is likely to lead to further increases in Fairfield’s population, with both positive and negative implications for our quality of life, for our taxes and for our home values (e.g., diversity, vitality and a higher tax base on the positive side, and crowding, more traffic and budget pressures on the negative).
 - For example, if HD Housing attracted a large number of additional families with school-age children, enrollment in our schools would rise, and the lower taxable value per HD dwelling unit would mean, *ceteris paribus*, that our tax rate would have to rise to pay for the resulting increase in the cost of our schools (the total “all-in” cost of our schools per student is currently around \$17,000, and an apartment worth ~\$300,000 would generate only ~\$5,000 in property taxes).
 - Our tax rate is already higher than many southern Fairfield County towns like Greenwich, Darien, Westport and New Canaan, all of which benefit from significantly higher property-value tax bases. If we raise our tax rate faster than towns with comparable services, the demand for homes in Fairfield will decline relative to their supply, and our property values will suffer.
 - On the other hand, if HD Housing attracted a large number of young adults and seniors with no school-age children, the new dwelling units would probably contribute more in taxes than the incremental cost of providing public services for these new residents, and our tax rate would be lower than otherwise.
- There are many reasons to support affordable housing, including the opportunity it provides for those with lower incomes, including young people working in entry-level jobs and retirees on limited fixed incomes, to live in Fairfield and contribute to the Town’s culture, vitality and diversity, and to create and support local businesses.
 - For example, some of the gridlock on our highways represents local employees who have been forced to seek lower-cost housing outside of Fairfield.
- We should also support what is called “Smart Growth,” which means community development under a thoughtful and comprehensive master plan, such as locating HD Housing near public transportation, on streets with adequate traffic capacity and parking facilities, and close to essential services, schools and businesses, as opposed to locating high-density, multi-unit housing anywhere in town that a developer has been able to acquire a cheap piece of land.

- For example, some towns have created what are called Incentive Housing Zones that provide AH opportunities for developers at specific sites. (More on this later.)

Strategic Options

- **Do nothing**, which would mean that **every neighborhood** in Fairfield would remain vulnerable to the possible adverse effects of HD Housing projects approved under 8-30g.
 - While it is certainly not appealing to leave ourselves vulnerable to the whims of AH developers, this option does not entail unlimited risk, since we are within ~100 new AH units of achieving the threshold that would give Fairfield a four-year moratorium on any 8-30g applications.⁶
 - After a moratorium expired, we would be vulnerable once again, but it is also possible that 8-30g could have been modified or repealed by that time.
- **Buy properties suitable for HD Housing** that come on the market, and either build lower-density housing that is acceptable to the community or create open space and small parks.
- **Defy 8-30g** and accept the consequences, which could include the loss of state and/or federal grants along with high legal costs to challenge 8-30g in the courts and pay legal damages awarded to developers.
 - Challenging 8-30g in the state and federal courts, perhaps on the grounds that it constitutes a taking of property in violation of our Fifth Amendment rights, would not be the first time that people revolted against an abuse of power by their government.
 - With so many Connecticut towns adversely affected by 8-30g, it is possible that Fairfield could form or join a coalition of towns that shared the cost of a constitutional challenge.
- **Seek a four-year moratorium** on 8-30g applications by increasing the number of AH units in Town by enough to qualify for one.
 - According to the AHP (p. 46), we need **433** “Housing Unit Equivalent Points” (HUEP) to qualify for a four-year moratorium; so far, we have “earned” approximately **144** points, and therefore need another **289** points.
 - The system awards 1.5 points for each new **rental** unit that is restricted to families with incomes of no more than 80% of the Area Median Income (AMI).
 - More points are awarded for rental units restricted to families at 60% (2 points) and 40% (2.5 points) of AMI.
 - New **ownership** (rather than rental) units are awarded 1 point, 1.5 points and 2 points for families at the 80%, 60% and 40% income thresholds, respectively.

⁶ More details below, but essentially another ~100 new AH units, plus credit for two specific projects in progress or under consideration, would give us the ~150 more Housing Unit Equivalent Points we need to qualify for a four-year moratorium.

- Only a half point is awarded for either rental or ownership units restricted to seniors with incomes no more than 80% of the AMI.
 - Market-rate units that are built as part of an AH development are awarded 0.25 points each.
 - The set-aside development nearing completion on Fairchild Avenue will provide an additional **58.25** points.
 - The proposed redevelopment of the Fairfield Housing Authority's Pine Tree Lane complex could provide an additional **106.5** points.
 - Fairfield is also investigating the possibility of getting credit for the homeless shelters, group homes and other supportive housing that exists in Town.
 - Some moratoriums deemed to be "provisional" or "temporary" have been granted through political means (e.g., Trumbull, Milford), rather than by completing the DECD (Department of Economic and Community Development) process described above.
- **Build enough new AH to reach the 10% exemption threshold**, which would require another ~1,600 AH units ($21,648 \times 10\% = 2,165$ minus 572 existing = 1,593). This is not a realistic option unless Fairfield adopts a very different strategic direction.
 - **Modify or repeal 8-30g.**
 - Modification or repeal of 8-30g would require the support of a majority of the members of the State House of Representatives and the Senate and, if vetoed by the Governor, of two-thirds majorities in both the House and Senate.
 - The most beneficial modification would be to give towns credit for *de facto* affordable housing units that meet the affordability standards, but are not counted in the *de jure* totals because they were not created with public funds and/or are not deed restricted.
 - Surely it makes no sense to force towns with adequate AH to build even more simply because the state refuses to count some of the units that meet its own standards of what is AH and what is not.
 - The dual policy objectives of 8-30g are to encourage at least 10% of every town's housing units: (a) to be occupied by people with incomes equal to or less than 80% of the Area Median Income; and (b) for these lower-income (LI) households to have to spend no more than 30% of their income on housing costs.
 - Irrespective of how many housing units are counted by state bureaucrats as AH under the rules of 8-30g (because they were created with government funds or are deed restricted), what should really matter is how many households in any given Connecticut town are in fact LI households that spend no more than 30% of their incomes on housing.
 - According to data based on the 2000 Census from the American Community Survey (ACS), known as the Comprehensive Housing

Affordability Strategy (CHAS) data, **almost one-quarter (23.6%) of Fairfield's households (4,802/20,347) had incomes below 80% of the Mean Family Income (MFI).**

- Over one-third (36.4%) of these LI households (1,747/4,802) were spending no more than 30% of their incomes on housing, which means that, **in contrast to the State's official count of 2.64%, almost 9% of total households (1,747/20,347) actually met the strict standards of AH under 8-30g** (i.e., incomes below 80% of the AMI and spending no more than 30% of their incomes on housing).
 - Thus, as of 2000, we would have required only another 288 LI households (1.4% of total housing units) spending no more than 30% of their incomes on housing to reach 10% of our total households.⁷
 - Another 31% of Fairfield's low/moderate income households (1,490/4,802) were spending more than 30%, but less than 50% of their incomes on housing, and therefore did not meet the strict standards of AH under 8-30g, but some of these were probably pretty close to the 30% threshold.
- In any review and modification of 8-30g, it is also worth considering whether the decision by some LI households to live in a given town, even though they must spend more than 30% of their incomes on housing to do so, is simply a choice they should be allowed to make in a free country without imposing on the town they choose an obligation to provide them with even lower cost housing.
 - Many of us have been through periods in our lives when we chose housing that cost us more than 30% of our incomes.
 - In this context, it is worth noting that **LI households spending no more than 50% of their incomes on housing represented another 16% (3,238/20,347) of Fairfield's total households in 2000.**

Specific Policy Options

- **Preservation of Existing AH Units.**
 - 8-30g currently requires that AH units in a set-aside development be deed-restricted for at least 40 years, but when the statute was first adopted, the term was only 20 years. Thus, some communities are losing AH units as their affordability restrictions expire.
 - We could seek to extend the term of existing deed restrictions to at least 40 years, though this would impose an economic cost on the owners of these properties, for which they would rightfully expect to be compensated.

⁷ The required number of additional LI households would be reduced slightly by any households whose incomes were exactly 80% of MFI, since the data are based on <80% and the 8-30g standard is "equal to or less than 80%."

- **Restriction of New AH Units in Perpetuity**
 - When the AH restrictions expire on a housing unit, the owner is entitled to sell the unit at market prices and could receive a significant windfall profit. Likewise, when the restrictions expire on a rental unit, the landlord is entitled to rent the unit at the market price. In both cases, the community no longer receives credit for what were previously AH units.
 - Fairfield could adopt a policy that AH units created in the town must remain affordable in perpetuity.
 - Because the present value of any income generated beyond 40 years is minimal, this should not affect the economics or viability of new AH projects.

- **Short-Term Deed Restrictions**
 - It may be possible to obtain an AH deed-restriction for some period of time on homes that receive local tax relief, which would allow these homes to be included in Fairfield's statutory AH inventory with no actual increase in the number of housing units.
 - According to the AHC Report, over half of the ~1,600 households participating in the Town's Tax Relief Programs (which include income-restricted credits, freezes and deferrals) had annual incomes below \$35,300.⁸

- **Long-Term Deed Restrictions.**
 - Under Section 12-81bb, any municipality may, by ordinance adopted by its legislative body, provide property tax credits to owners of residential property who place long-term, binding affordable housing deed restrictions on such residential property.

- **Accessory Units**
 - Otherwise known as "in-law apartments," an accessory unit is a secondary, self-contained dwelling with separate entry, kitchen, bathroom, living and sleeping areas, on a property that allows a family member, a caregiver or a staff member to reside independently in a separate unit.
 - Usually created within the principal building, some communities allow accessory units to be added onto the principal building or established in a separate structure on the property.
 - Fairfield allows accessory apartments under Section 6.0 of its Zoning Regulations. Records indicate that 162 such units have been authorized, and additional units probably exist.
 - Accessory units allow the creation of additional housing without the construction of new buildings, and can help aging homeowners receive the financial and/or property assistance that may allow them to remain in their homes.

⁸ Page 41 of the Affordable Housing Plan.

- Another type of accessory unit, called “Elder Cottage Housing,” is a small, standalone manufactured home, usually 700 square feet or less, that can be added as a separate structure on the same property as a single-family home.
 - Fairfield could modify its zoning regulations to permit and even encourage the creation or conversion of accessory units that are deed-restricted as AH, which is specifically allowed under 8-30g.
 - Trumbull has obtained an 8-30g moratorium through a strict Accessory Unit zoning ordinance. All accessory units must be 8-30g compliant and must meet specific design guidelines.
 - The Connecticut Housing Finance Authority (CHFA) has a program to assist the elderly in financing an accessory apartment in a home they own.
- **Low-Density (LD) Government-Assisted Developments**
 - LD housing developments that receive government assistance can be designed to incorporate local considerations (rather than allowing developers to dictate what will be built) while receiving state and/or federal funding.
 - Fairfield already has several government-assisted developments and could expand and/or rehabilitate them to meet local housing needs better.
 - Greenfield Commons on Villa Avenue
 - Jarvis Court
 - Parish Court on Warde Terrace
 - Sullivan-McKinney on Meadowbrook Road
- **Inclusionary Zoning Programs**
 - Under Section 8-2i, a municipality can create inclusionary zoning regulations to promote the development of AH by: setting aside a reasonable number of units for long-term retention as AH through deed restrictions or other means; providing density bonuses; or in lieu of or in addition to other restrictions, requiring a payment into a housing trust fund to be used for constructing, rehabilitating or repairing AH.
 - The TPZ could also require that any new residential or commercial development in Town (including renovations to single-family homes) must either make some provision for creating AH units within the development (or elsewhere in Town) or make a payment into a housing trust fund. This would constitute a new tax, and would *ceteris paribus* raise the cost of living in Fairfield.
 - In 2011, the TPZ enacted new zoning regulations creating an IHZ (see below) for the Commerce Drive area around the new Metro Center train station that permit higher density residential development and require a 10% set aside for units affordable to people with household incomes at or below 80% of the AMI.

- **Incentive Housing Overlay Zones (IHZ)**

- Under Section 8-13m, a municipality can create what are known as “incentive housing zones” on town-designated parcels that:
 - authorize a specific development scheme at a specific site (thus authorizing what is called “spot zoning” and “contract zoning”) when used to create AH;
 - create opportunities for housing and AH at sites and in areas to promote economic growth and revitalization;
 - allow the municipality to retain more control over the development approval process than is possible under 8-30g; and
 - allow the town to establish design guidelines.
- If an IHZ is established in strict compliance with statutory provisions, the town may be eligible for state “incentive” payments; however, to date, the state has not funded significant incentive payments.
- Housing units built under the IHZ program must be deed restricted for at least 30 years, and at least 20% of the units must be offered to tenants with incomes that are no more than 80% of the Area Mean Income (AMI). However, because the deed restriction is less than 40 years, any such units may not generate points toward an 8-30g moratorium.

- **Set-Aside Developments**

- These are 8-30g developments that dedicate at least 15% of units to tenants with incomes no more than 80% of AMI and another 15% of units to tenants with incomes no more than 60% of AMI.
- Must be deed restricted for 40 years.
- Can be built in any non-industrial zone.

- **Homeownership Assistance**

- Fairfield currently offers a neighborhood revitalization program that provides financial assistance to landlords to make improvements in exchange for a deed restriction requiring that units be rented at “fair market rent” to low and moderate income tenants.
- Another form of homeownership assistance is the Senior and Disabled Tax Relief Program that provides assistance to elderly and disabled residents. This program offers the following:
 - Tax Credit: eligible households (ages 65+) earning up to \$71,200 can receive tax relief as a percentage of their tax bill up to a maximum annual amount (1,588 participants);
 - Tax Freeze: eligible households (ages 65+) earning up to \$51,500 can freeze their tax bill for up to six years (seven participants); and

- Tax Deferral: eligible households (ages 75+) earning up to \$81,400 can defer up to 50% of their tax bill provided they agree to pay back the deferred amount (plus interest) upon the sale of their property (16 participants).
 - As noted earlier, participants in the Senior and Disabled Tax Relief Program are not currently required to provide a deed restriction on their homes for the period to which tax relief applies that would allow the Town to include them in its statutory inventory of AH. However, the AHP notes⁹ that it might be possible under state law Section 12-129n to require such a restriction for current and/or enhanced tax relief benefits.
 - Other “age in place” programs include assistance with daily living needs, such as Meals on Wheels, home maintenance and transportation.
 - We note that keeping seniors in Fairfield is an uphill battle because of the high cost of living in the Northeast in general and in Connecticut in particular relative to the cost of living in southern states like Florida, where the climate is appealing to many, where housing values are still relatively low, and where there are no income or estate taxes. Increases in Fairfield’s taxes at 2.5x-3.0x the rate of inflation over the last 17 years have made keeping seniors even more difficult.
 - According to the AHP (Appendix 3): **Between 2000 and 2010 Fairfield’s over-65 population decreased by 4.6%, while in Fairfield County and in Connecticut, the over-65 population increased by 5.9% and 7.7%, respectively.**
- **Community Land Trust (CLT) and Housing Trust Fund (HTF)**
 - A CLT is a nonprofit corporation that develops and manages AH, community gardens, civic buildings, commercial spaces and other assets on behalf of a community.
 - A CLT acquires land throughout a targeted geographic area with the intention of retaining ownership forever.
 - **Cooperative Ownership**
 - Under a Cooperative Ownership program, the Town would purchase and own land that it then leases back to a homeowner for a nominal fee, and AH restrictions are imposed on the housing unit(s) on that land.
 - **Changes in Zoning Regulations**
 - Changes in our current zoning regulations could facilitate the creation of low-density AH, such as the rules governing conversion of single-family homes into two- or three-family buildings.

⁹ Page 41.

The Updated Affordable Housing Plan (AHP)

- The Affordable Housing Committee (AHC) recently issued an update of the Town’s Affordable Housing Plan that was originally published 26 years ago in 1988. The AHP is full of useful information and we support its key policy recommendation to “create at least 100 newly affordable housing units in Fairfield by 2024,” which would qualify us for a four-year moratorium from 8-30g applications. We also support its emphasis on creating more “affordable-but-not-high-density” housing, and more homeownership assistance (e.g., senior tax relief), to allow lower-income residents to stay in their homes and to “age in place” if they choose to do so. Other policy recommendations require more analysis of the cost-benefit tradeoffs of proposed changes in our zoning regulations that would lead to higher density and reduce the discretion of our local elected officials over what happens in our Town.
- However, Fairfield Taxpayer believes the analysis in the AHP – which could provide a basis for more dramatic changes than adding 100 new AH units over the next ten years – is flawed because: (a) it does not explain why any housing need it can identify based on broad economic and demographic trends is a need that the Town of Fairfield can and should fulfill; (b) it seems to ignore a large number of AH units that already exist in Town and in nearby towns; and (c) it does not address any of the potential negative consequences of changing the current mix of Fairfield’s housing stock.
 - Based on broad national and regional demographic trends (e.g., an aging population, fewer households headed by married couples, more empty nesters), and on the relatively high cost of housing in an upscale Connecticut community with fine public services, the AHP asserts that:
 - The **need** for AH has increased. (Cover letter)
 - [There is] a serious community **need** for AH. (p. 1)
 - Fairfield **needs** to diversify its housing portfolio. (p. 1)
 - We should strive to establish an adequate number of [AH] units to meet local **needs**. (p. 5)
 - Fairfield does not have all the [housing] options a community might **need**. (p. 7)
 - Fairfield should diversify its housing portfolio. (p. 23)
 - Based on these assertions – which conflate changes in the national or state housing market with a compelling **need** for our Town – the AHC concludes that Fairfield must “diversify its housing mix” (i.e., provide even more AH than already exists) because: (a) we are subject to 8-30g developments; and (b) we may otherwise be “a less successful community.” (p. 23)
 - As noted above, being vulnerable to 8-30g developments may not be desirable or comfortable, but it does not necessarily justify making significant changes in Fairfield’s housing stock and thus in its character and perhaps its sustainability.

- The assertion that Fairfield “may be a less successful community” if we do not make significant changes in our housing stock is supported only by such truisms and assertions as:
 - “Housing is a fundamental human **need** and it has one of the biggest impacts on people’s wellbeing and quality of life.” (p. 23)
 - “Without appropriate shelter, people cannot meet their basic **needs** and participate adequately in society.” (p. 23)
 - “Older people, younger people, single people and homeless people **need** more housing choices and need affordable housing.” (pp. 13, 14, 16)
 - “There must be ways that Fairfield could become a more complete community and provide housing options that would be available to moderate income workers.” (p. 15)
 - “In order to provide for this gamut of housing **needs**, a community should have a diverse array of housing types so that people can, if they wish, choose to spend their whole lives in a community like Fairfield.” (p. 7)
 - “We would like for all people to be able to have the opportunity to live in Fairfield and to have options to meet their housing **needs**.” (p. 17)

- Note the three key underlying assumptions in all of these comments:
 - Fairfield does not already have enough housing units that meet the standards of being affordable to lower-income residents;
 - Fairfield alone should provide for any housing need that the AHC can identify without considering other housing resources and options in our region; and
 - Fairfield will somehow be less successful unless everyone who wants to live here is able to do so.

- All of these underlying assumptions would make sense if and only if Fairfield were isolated in the middle of nowhere rather than part of a major metropolitan area and surrounded by towns with lots of AH.
 - In its analysis of whether housing in Fairfield is affordable, the AHP argues that, “state and federal housing programs typically look at the area median income . . . **because each community is part of an economic region** . . . and looking at regional information provides a way to evaluate issues on a regional basis” (p. 18). It then proceeds to analyze incomes relevant to Fairfield’s housing market based on median incomes in Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford and Trumbull.

- However, when it comes to assessing the supply of AH, in addition to ignoring AH units in Fairfield that are not subsidized or deed restricted, the AHP is apparently content to ignore the need “to evaluate issues on a regional basis.”
 - Anyone who has looked at different commercial markets will recognize that the AHP’s conclusion is equivalent to asserting that a successful hotel chain that competes in an upscale market segment will not continue to prosper unless it adds rooms that appeal to a broader market segment. Rather than making the chain more successful, such a change could well spell its demise.
- Although Fairfield Taxpayer does not agree with this analysis, we do agree with the AHP’s recognition that we should proactively do all we can to ensure that Fairfield will continue to be a successful community, which is why ***we continue to stress the critical need for a long-term strategic plan for the Town.***
 - Yes, Fairfield has prospered for 375 years without a formal strategic plan, but after 60 years of postwar prosperity, favorable tailwinds have become turbulent headwinds in the wake of the Great Recession. Particularly in Connecticut, economic growth remains slow, good jobs are still hard to find (only 60% of the jobs lost in the Great Recession have been recovered), and incomes are still under pressure. Given these challenges, we believe that only well managed towns will continue to prosper, and Fairfield can’t be “well managed” without a strategic plan.
 - Some of the many questions our strategic plan should address are as follows:
 - What values, beliefs and principles are most important to us as a community?
 - What elements of our quality of life do we think are most important to preserve and how can we best do so?
 - What external challenges and opportunities exist at the regional, state and federal levels, and what can we do about them?
 - Will Fairfield’s population and/or demographics change significantly in the future, and if so, what changes in public policies and services should we consider?
 - Why is our Town losing seniors at a time when their numbers are increasing in Fairfield County and in the State?
 - What can we do about the relentless increases in the cost of providing exactly the same public services each year because of generous contracts (wages, benefits and work rules) for public employees?
 - What can we learn from towns that we consider both positive and negative role models?
 - Do we have the balance right between the quantity and quality of our public services (including our schools) and the affordability of the taxes we have to pay for them?

- Can we increase Commercial & Industrial property development to relieve the tax burden on residential taxpayers without adversely impacting the character of our Town and our quality of life?
- Among the important strategic issues and questions that we believe are not addressed in the new AHP are the following:
 - Is there really a need for more affordable housing in Fairfield despite what appears to be an ample supply of housing that is in fact affordable, even though most of it does not get counted by the State as affordable under 8-30g?
 - If Fairfield repositioned itself from being a “moderate- to upper-income” community to being more of a “moderate- to lower-income” community, what would happen to our population and demographics, and with what effects on: traffic congestion and public safety; physical infrastructure like sewers, water, roads and bridges; our schools; town character; taxes; and property values?
 - If we provide more AH for seniors, how many more of them will sell their existing homes to families with school-age children and how will this affect our spending and taxes?
 - Where exactly are the best places in Town to build more HD housing and AH as part of any Incentive Housing Overlay zones or Inclusionary Zoning programs?
 - To what extent can the increasing affordability problems identified in the report be addressed simply by restraining the growth in our spending and taxes, which have increased at 2.5x-3.0x the rate of inflation over the last 17 years?

Why Population Density Matters

- Fairfield faces a multidimensional challenge because of increasing density. A critical measure of density is the number of people residing in each square mile of town. Using that metric, Fairfield is the densest town¹⁰ on the Southern Fairfield County shoreline, and is one of the densest towns in the entire state at nearly three times the state average. When we consider how much of Fairfield’s land area consists of lakes, beaches, parks, open space, and roads, the actual population density on occupied land may be even higher than revealed by the statistics used to compare us to other towns.
- We all experience the consequences of density in the quality of everyday life. Density manifests itself on our congested roads, for instance. Travel on the Post Road, North Benson, Mill Plain, Black Rock Turnpike, and many other town arteries is often an ordeal and seems more like what we would expect to experience in a major city rather than a suburban town.
- Traffic issues impact the quality of our lives in many ways. Even though not every neighborhood is dense, the consequences of density are rippling through our whole Town. Parents complain about the dangers of children crossing our roads to reach school because of the heavy traffic, for example. In the recent discussion of the possible closure of the Southport Post Office, one business owner lamented the possibility of having to travel across town to Commerce Drive to

¹⁰ Based on 2011 data from the DECD. Towns with significantly lower density include Darien, Easton, Greenwich, New Canaan, Redding, Ridgefield, Trumbull, Weston, Westport and Wilton. Cities like Stamford and Norwalk are approximately 25% higher, and Bridgeport is almost four times higher.

bring his outgoing mail at the end of the business day because our roads are so congested. A resident worried that mail couldn't be delivered on time if mail trucks had to come all the way across Fairfield to reach homes in Southport. We are all beginning to incorporate the traffic consequences of density into the way we live our lives.

- Fairfield's roads do not seem capable of handling further increases in population density. Fairfield's former police chief, David Peck, recently stated that Fairfield's roads were laid out in the "colonial era" and now bear traffic volumes that are far too intense. Main roads such as the Post Road are called arterial for a reason: the lifeblood of daily life flows through them. Our arteries are hopelessly clogged and are threatening our health.
- Strains on our roads are symptomatic of the growing impact of density in general: the **carrying capacity** of the Town cannot properly support the demands placed on it. The capacity of our roads is a significant **limiting factor** to further growth in Fairfield.
- Fairfield's "carrying capacity" is the maximum number of people that our Town resources and infrastructure can support. In addition to our strained roadways, our sewer system, our schools, and other elements of Town infrastructure are not designed to support higher density. For example, the sewer line that serves the Metro Center area of Fairfield is nearly one century old and cannot support a full commercial build-out of Metro Center. An apartment building proposed for just a small area of Metro Center would require one third of the sewer capacity for the entire property, and Fairfield needs the tax dollars that commercial buildings at Metro Center will provide if they can ever be developed there.
- Fairfield's carrying capacity may have reached its tipping point. Our current resources are already strained, and increased density will further degrade our quality of life and cause breakdowns in infrastructure that could require massive expenditures. Those expenditures will significantly increase our tax burden, which will likely drive even more seniors from Fairfield.
- Our senior population is an important element in understanding the effects of density. The number of seniors in Fairfield is declining and they are being replaced by younger families.¹¹ There are certainly natural processes involved in changes in senior population: desire for warmer climates, lack of local family ties, and, unfortunately, deaths; but the decline in Fairfield's elder population is more acute, well above the state average, and is influenced in part by the effects of increasing density: difficulty in travel due to congestion, higher taxes due to strains on infrastructure, lack of adequate senior services due to other budget priorities. Departing seniors are often replaced by families with school-age children, which further increases density and places greater strain on remaining seniors.
- We believe that addressing Fairfield's density problems requires: (a) a strategic plan to help us manage our population growth and husband our Town resources; and (b) a solution to the overdevelopment being forced on us by a well-meaning but ill-conceived state mandate, 8-30g. Our growth must be controlled by our scarcest resource, and our roads, schools, sewers, and other infrastructure cannot sustain further increases in density without very careful planning.
- Our zoning regulations are meant to control density and establish orderly growth. These regulations are, as Joel Green (one of Fairfield's leading land use attorneys), recently stated, "An expression of what is just, fair, and reasonable in terms of the development and use of our Town."

¹¹ Fairfield Taxpayer is working on a detailed analysis of the historical changes in our Town's demographics.