

Town of Weston  
Planning and Zoning Commission

December 5, 2025

VIA CERTIFIED MAIL and E-MAIL

Mr. Grant Putnam  
Putnam Landscaping, LLC  
1 Good Hill Road  
Weston, Connecticut 06883

Re: Revocation of Cease and Desist Order dated August 13, 2025 (issued August 14, 2025)  
Subject Property: 1 Good Hill Road

Dear Mr. Putnam,

As Land Use Director and duly appointed Deputy Certified Zoning Enforcement Officer of the Planning and Zoning Commission of the Town of Weston and “issuing officer,” **I write to formally withdraw my Cease and Desist Order (“Order”) issued to you on August 13/14, 2025, regarding commercial landscaping activities at 1 Good Hill Road.**

The Order had alleged that your operations exceeded the scope of a lawful pre-existing non-conforming use in Weston’s Two-Acre Residential and Farming District. You exercised your right to a timely appeal before the Weston Zoning Board of Appeals (“ZBA”), which held public hearings on October 28, 2025, and November 25, 2025, to consider the matter. As you know, the ZBA scheduled deliberations to begin at a Special Meeting on December 23, 2025.

After careful review of the entire record, including the original complaint form, neighbors’ verbal and written complaints, written testimony, and photographs submitted by immediate abutters, Town GIS aerial imagery, your extensively researched evidence and testimony, and applicable law, I have determined that the activities on your property constitute a permissible intensification, and not an unlawful expansion or change, of the longstanding non-conforming use. Accordingly, the above-referenced Order to Cease and Desist is hereby revoked in its entirety, effective immediately. My reasons for this decision follow.

Certain residents in proximity to your property at 1 Good Hill Road raised complaints prompting the original enforcement action. Those complaints, one in person and others by telephone, had described concerns compelling enough for me to initiate the Order.

Complaints included concerns about increased truck traffic, early-morning noise from heavy equipment, on-site stockpiling of landscaping materials, and sales of supplies not to local

homeowners but to other contractors. These concerns were also documented in the complaint materials and photographs submitted by Ms. Sherred and Mr. Barbara, which showed the current visibility and intensity of yard operations from their property at 5 Good Hill Road. In issuing the Order in August, the Town took these concerns seriously, questioning whether the current scale and manner of operation had surpassed what was protected by law as a pre-existing use. I conducted research into our Zoning and Conservation files, reviewed Minutes of the Planning and Zoning Commission, the Town Clerk’s land records, the Assessor’s records, historical GIS aerial photographs, and emails to and from my predecessor regarding activities at the subject property. Where opportunity presented itself, I asked random, long-time residents about their recollection and/or personal interaction with the former Weston Gardens. On two occasions, I observed what I could from the shoulders of Weston Road (Rte. 57) and Good Hill Road.

During your appeal before the ZBA, you presented extensive documentation and historical information. This included, inter alia, four years of retail sales receipts (2022–2025) indicating the volume and nature of transactions, and an illustrated presentation summarizing the property’s longstanding use as a landscaping business. Newspaper articles and advertisements were particularly compelling. These materials, along with your comprehensive presentations at the public hearings, establish the continuity of landscaping-related activities on the site since well before the adoption of current zoning restrictions. While the evidence shows that the retail sales component of the business (e.g., walk-in sale of plants or materials to the week-end gardener and general public) has largely diminished under your ownership and as operator of the business, and the landscaping services operation has become robustly active, the core uses remain consistent with the historical scope of the former “Weston Gardens”. In other words, the business has evolved to focus more on providing landscaping and horticultural services (including associated wholesale supply to trade professionals), with fewer over-the-counter, “mom and pop” retail transactions than in the past, yet those two historically descriptive uses, by their very pre-existing nature, continue.

After the close of public hearing on November 25, 2025, and during the Thanksgiving holiday, I undertook a thorough review of the facts and submissions, summarized below followed by details that led me to the withdrawal.

1. The property at 1 Good Hill Road has been used for decades as a landscaping contractor’s yard and nursery, predating the zoning designation of the area as residential;
2. No new uses have been introduced on-site. The activities (storing mulch and earthen materials, parking work trucks, plant stock cultivation, and dispatching landscaping crews) are ongoing and fundamentally the same as those that have long occurred there;
3. The evidence demonstrates that the internal layout and intensity of the commercial yard have fluctuated over time and that more of the parcel may be presently devoted to active yard use than in certain recent years. The Town’s GIS aerial photographs and the complaint materials and photographs submitted by immediate abutters document this intensification and shifts in logistical configurations between approximately 2013 and 2023. However, those sources do not establish the precise configuration of the yard at the time the landscaping and nursery use

became non-conforming under Weston’s zoning regulations (the “Regulations”), and there is credible testimony that areas now used for parking and materials storage were historically used for mulch and stockpiles. On the present record, there is therefore insufficient basis to find that the current operations extend onto a greater area of land than that occupied by the non-conforming landscaping and nursery use at the time of the adoption of the Regulations. New concrete block bays, questionable within Weston’s definition of a Structure, have been removed since the issuance of the Order;

4. Without question, the intensity of use has increased in terms of business volume (e.g. more client accounts and contractor sales than in prior years), which has in turn generated more traffic and noise (not least on account of new technologies, and safety regulations which require back-up beepers on trucks), but the nature of the use remains unchanged.

These four findings are what frame my analysis below.

The property’s use as a landscaping business is acknowledged to be a lawful pre-existing non-conforming use. Under §371 of the Regulations, any lawful use of land or buildings in existence at the time the Regulations were adopted may continue even if it does not conform to current zoning. However, the Regulations prohibit expansion of such non-conforming uses. In particular, §372.1 provides that a non-conforming use of land “shall not be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of these Regulations”. Likewise, §373.1 prohibits a non-conforming use of a building from being “enlarged or extended unless the use therein is changed to a conforming use”. These local provisions codify the common goal of zoning to prevent the incremental expansion of non-conformities while allowing existing uses to continue.

At the same time, it is a fundamental principle of Connecticut land use law that owners of lawful non-conforming uses have a vested right to continue the same use on the same property, despite later zoning changes (See, Conn. Gen. Stat. § 8-2(a)). The public policy, as articulated by our courts, seeks a balance between “a landowner’s right to continue a pre-existing non-conforming use” and the municipality’s interest in eventually bringing all properties into conformity with updated zoning. As such, not every increase in activity or change in operations at a non-conforming site will rise to the level of an illegal expansion and zoning enforcement agents are left to distinguish mere intensification of use (which is generally permissible) from a prohibited extension or change of use.

As discussed at the public hearing, the State Supreme Court has expressly held that a “mere increase in the intensity of use is not an illegal expansion of a nonconforming use”. In other words, simply doing “more of the same” type of business – for example, serving more customers or operating at a higher volume – does not itself render the use unlawful, so long as the character and quality of the use remain consistent with the use as originally established.

By contrast, a “qualitative” change in the nature of the use, or a physical enlargement of its footprint, would violate the zoning restrictions. The Supreme Court’s decision in *Zachs v. Zoning Board of Appeals*, 218 Conn. 324 (1991), is directly on point: in *Zachs*, Avon’s zoning appeals

board had upheld a cease-and-desist order against a commercial radio tower, claiming the owner's added equipment and lessees unlawfully expanded the non-conforming use. The Court disagreed and ruled that as long as the character of the use remains unchanged, an increase in use intensity alone does not equal an illegal expansion. Connecticut's courts use a three-part test to evaluate this issue (the "Zachs test"), examining (i) the similarity of the current use to the original non-conforming use, (ii) any differences in the character, nature, or kind of use, and (iii) any difference in the impact of the use on the neighborhood.

In applying that test here, I have taken into account not only the appellant's evidence of historic operations but also the totality of complaints, written testimony, and photographs of immediate abutters and the Town's GIS aerial imagery, which together show that the current operations are more intensive and may have been reconfigured to more fully occupy the yard than at some points in the past decade. My determination does not disregard that evidence; rather, it reflects the sometimes subtle, but important distinction the law draws between intensification of an existing non-conforming use and an unlawful extension or change of that use.

Having thoroughly considered the testimony and evidence given by the appellant, the core use of the property (part one of the Zachs test) has remained a landscaping and nursery business, which is substantially the same use that existed when the current Regulations, as from time-to-time amended, first took effect in 1950. The preponderance of evidence demonstrated that as far back as the 1980s (but indicatively earlier) the site was used for storing landscaping materials, plant stock, and equipment, and for operating a landscape design and maintenance service. Today, those activities continue in largely the same fashion – albeit with a modern fleet of trucks and equipment and a larger client base – but no new business activity outside the traditional landscaping trade has been introduced.

Importantly, the retail garden center aspect that once allowed frequent visits by the general public has not grown; to the contrary and without disagreement between the appellant and the public, retail sales to casual customers have decreased over time. The current operations focus on providing services off-site (landscape design, installation, and maintenance for clients) and supporting those services with on-site storage of mulch, soil, plants, and equipment. Occasional sales of materials to other contractors are ancillary to the main business and are not a new line of business but rather an outgrowth of the same landscaping function (contractors purchasing excess mulch, etc., rather than homeowners). This continuity confirms that the "current use remains consistent with the original use" in both nature and purpose.

As for part two of the Zachs test, there hasn't been a qualitative change or transformation of the operation that would alter its character in the eyes of the zoning regulations. The character of the use – a landscape contractor's yard with associated horticultural activities – is unchanged. The business has not morphed into a different commercial enterprise (such as a retail hardware store or a construction depot); it remains in the same category of use (landscaping services and nursery cultivation) that it always was. The activities observed (truck loading, use of chippers, storage of soil and plant materials) are typical of any landscaping business and are the same type of activities that have historically occurred on this property. While the present operations, as shown in the neighbor submissions and recent aerial photographs, appear more intensive and to occupy

more of the parcel than in certain recent years, the record before the Town does not establish that the landscaping and nursery use now extends onto a greater area of land than that occupied by the non-conforming use at the time of the adoption of the zoning regulations. Based on the historical documentation and testimony, including evidence that areas now used for parking and stockpiles were previously used for mulch and other materials, I find that the use has remained within the same general commercial yard envelope on the lot, with internal reconfiguration and intensification rather than a clearly demonstrable extension beyond its historic bounds. **The** installation of any new technology or minor site improvements (for example, new heavier equipment, modern machinery, replacement of existing structures) has been solely to enhance efficiency and has not changed the essential kind of use being conducted. Under the Zachs analysis, there is a “fidelity to the original nature and purpose” of the use and no shift in the use’s character or type.

The third and final part of the Zachs test is whether the impact on the neighborhood has changed in a manner that signifies an unlawful expansion. Neighbors have asserted that traffic and noise levels have increased in recent years. This claim is supported by the record – for instance, the volume of daily truck trips in and out of 1 Good Hill Road is higher now than in decades past, and the sounds of machinery (*e.g.* back-up beeping, chain saws, chippers, loaders) are more frequent, commensurate with the greater number of projects your company undertakes.

It was heard during the public hearing that former owners of the neighboring house used to complain about noise, and surely the intensity of these recent impacts is undeniably higher. However, these impacts are of the same kind that neighbors have always experienced from this site. From the time the landscaping business was first established, there have been work vehicles traveling on Good Hill Road, noise from equipment being operated or loaded, and outdoor storage of materials visible to some degree. In applying the law, an increase in the amount or frequency of these existing impacts is considered a quantitative increase – an intensification – rather than a transformational change. As was brought to light during the hearings, the Connecticut Supreme Court instructs that such “mere quantitative increases (*i.e.*, more customers and more material passing in, out, around, and through the site)” fall under intensification and are permitted, whereas a “change in the character, nature or kind” of impact would be required to deem it an illegal expansion. Here, there is no new type of neighborhood impact being introduced – for example, if the business had begun manufacturing concrete on-site, which would introduce dust or industrial traffic, wholly different from the original nursery use and thus change the neighborhood impact qualitatively. No such divergence is present. The impacts remain those inherent in a landscaping yard use. While the neighbors’ concerns about increased magnitude of traffic and noise are understandable and to which I am personally and deeply sympathetic, zoning law does not deem a higher volume alone to strip the use of its protected status.

In addition, while not of major significance, the reduction in general retail activity, meaning fewer public customers visit the site, has likely mitigated the impact of random visitor traffic, even as contractor-related traffic increased. Overall, the neighborhood character remains rural residential, even as that neighborhood stands at the intersection of a state highway and two town roads patrolled by a traffic light. The landscaping business, now busier than before, continues to

function as a non-conforming enclave that has been part of that setting for many years. In sum, the Zachs factors weigh in favor of finding a permissible intensification: the use is substantially the same in nature, unchanged in character, and although greater in intensity, it has no new detrimental effects beyond those historically associated with the use.

In light of the above findings and legal standards, I conclude that the activities of Putnam Landscaping, LLC at 1 Good Hill Road do not constitute an impermissible expansion or change of the non-conforming use. Rather, the current operations represent a lawful continuation and intensification of the pre-existing use of the property. The intensification caused by an increase in business volume, attendant traffic, and concomitant noise – is legally permissible so long as the use’s fundamental nature is unchanged.

After the thorough presentation by the appellant and his counsel, I am persuaded that the record does not demonstrate, to the degree required to support continued enforcement, that there has been any new use or unlawful enlargement of the premises in violation of §§372–373 of the Regulations.

Accordingly, with due consideration of the evidence, testimony, and public comments, I am bound in good conscience to withdraw the Cease and Desist Order dated August 13, 2025 (and August 14, 2025). **This letter shall serve as the formal Notice of Revocation of that Order. The withdrawal is effective immediately as of the date of this communication.** A copy of this notice will be placed in the Land Use Department’s files and sent by email to the Chairwoman of the Zoning Board of Appeals for the Board’s records.

Given this action, the ZBA’s scheduling of a Special Meeting of December 23, 2025, for deliberation on your appeal may be canceled or, if the meeting is held, deliberations will not appear on the agenda. No enforcement action remains pending on which to rule; however, I would ask, for recordkeeping purposes, that your (the appellant’s counsel) write a brief withdrawal or acknowledgement that the appeal is moot so that the ZBA can take a simple vote to close the case.

Let me finally emphasize that this determination is based on the specific record presented. It remains imperative that the use of the property not expand beyond what has been represented. I urge you to institute and maintain procedures and policies, such as you described in earnest during the hearings in order to ameliorate noise, especially at certain hours, and to lessen the disturbance of the quiet enjoyment by your neighbors of their residential properties.

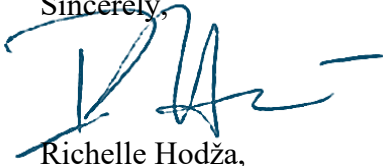
The Town will continue to respond to any substantiated zoning violations or significant changes in use, in accordance with the law and Regulations. We will continue to support Weston’s residents, existing and potential new businesses, and smalltown character as stated in the town’s Plan of Conservation and Development (Introduction, p. 1).

Please let me say, lastly, that I appreciate your cooperation throughout the duration of the town’s Planning and Zoning Commission enforcement process. I am grateful to the voluntary Board for its time and thorough consideration of this matter during the appeal hearings and I sincerely also

thank the public for its concern and active interest in maintaining the character of Weston's neighborhoods.

If you have any questions regarding this letter, you may contact me at the Land Use Department.

Sincerely,



Richelle Hodža,  
Land Use Director and  
Deputy Certified Zoning Enforcement Officer  
Town of Weston

cc by email: James Strub, Esq.  
Glenn Major, Esq.  
Zoning Board of Appeals, c/o Chairwoman Ilene Richardson