



TOWN OF KILLINGLY, CT
PLANNING AND ZONING COMMISSION

TUESDAY – JANUARY 17, 2023

**Regular Meeting – HYBRID MEETING
7:00 PM**

TOWN MEETING ROOM – 2ND FLOOR

Killingly Town Hall

172 Main Street

Killingly, CT

THE PUBLIC IS ALLOWED TO ATTEND THE MEETING IN PERSON
OR THE PUBLIC MAY VIEW THIS MEETING AS DESCRIBED BELOW

AGENDA

THE PUBLIC CAN VIEW THIS MEETING ON FACEBOOK LIVE.
GO TO www.killinglyct.gov AND CLICK ON FACEBOOK LIVE AT THE BOTTOM OF THE PAGE.

- I. CALL TO ORDER/ROLL CALL
- II. SEATING OF ALTERNATES
- III. AGENDA ADDENDUM
- IV. CITIZENS' COMMENTS ON ITEMS **NOT SUBJECT TO PUBLIC HEARING** (Individual presentations not to exceed 3 minutes; limited to an aggregate of 21 minutes unless otherwise indicated by a majority vote of the Commission)

NOTE: Public comments can be emailed to publiccomment@killinglyct.gov or mailed to the Town of Killingly, 172 Main Street, Killingly, CT 06239. All public comment must be received prior to 2:00 PM the day of the meeting. Public comment received will be posted on the Town's website www.killinglyct.gov.

NOTE: To participate in the CITIZENS' COMMENTS– the public may join the meeting via telephone while viewing the meeting on Facebook live.

To join by phone please dial 1-415-655-0001; and use the access code 2630 394 3829 when prompted.

- V. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS
- VI. PUBLIC HEARINGS – (review / discussion / action)
NOTE: PUBLIC HEARING comments can be emailed to publiccomment@killinglyct.gov or mailed to the Town of Killingly, 172 Main Street, Killingly, CT 06239. All public comment must be received prior to 2:00 PM the day of the meeting. Public Hearing comments received will be posted on the Town's website www.killinglyct.gov.
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NO PUBLIC HEARINGS FOR JANUARY 17, 2023

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2023 JAN 13 AM 8:18
Elizabeth M. Wilson

Hearings' segment closes.
Meeting Business will continue.

VII. UNFINISHED BUSINESS – (review / discussion / action)

NONE FOR JANUARY 17, 2023

VIII. NEW BUSINESS – (review/discussion/action)

NONE FOR JANUARY 17, 2023

(*) Applications submitted prior to 5:00 PM on MONDAY, JANUARY 9, 2023 - will be on the agenda as New Business, with a "date of receipt" of TUESDAY, JANUARY 17, 2023, and may be scheduled for action during the next regularly scheduled meeting of **TUESDAY, FEBRUARY 21, 2023.**
(*) Applications submitted by 11:30 AM on FRIDAY, JANUARY 13, 2023, will be received by the Commission ("date of receipt") on TUESDAY, JANUARY 17, 2023. However, these applications may not be scheduled for action on TUESDAY, FEBRUARY 21, 2023, as they were submitted after the Commission's deadline. This is in accordance with Commission policy to administer Public Act 03-177, effective October 1, 2003.

IX. ADOPTION OF MINUTES – (review/discussion/action)

- 1) Workshop Meeting Minutes – DECEMBER 19, 2022
- 2) Regular Meeting Minutes – DECEMBER 19, 2022

X. OTHER / MISCELLANEOUS – (review / discussion / action)

- 1) WORKSHOP – PROPOSED ZONE TEXT CHANGE – RE: BUSINESS PARK ZONE (CONTINUED FROM 12/19/2022)

XI. CORRESPONDENCE

SEE ATTACHED

XII. DEPARTMENTAL REPORTS – (review/discussion/action)

- A. Zoning Enforcement Officer's & Zoning Board of Appeal's Report(s)
- B. Inland Wetlands and Watercourses Agent's Report

XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT

XIV. TOWN COUNCIL LIAISON REPORT

XV. ADJOURNMENT



**TOWN OF KILLINGLY, CT
PLANNING AND ZONING COMMISSION**

MONDAY – DECEMBER 19, 2022

**Workshop Meeting - In Person
6:00 PM
TOWN MEETING ROOM – 2ND FLOOR
Killingly Town Hall
172 Main Street
Killingly, CT**

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TOWN CLERK, KILLINGLY, CT
2022 DEC 27 PM 4:10
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MINUTES

- I. **CALL TO ORDER** – Chair, Keith Thurlow, called the meeting to order at 6:18 p.m.

ROLL CALL - PLANNING & ZONING COMMISSION:

Michael Hewko, Matthew Wendorf, Keith Thurlow.

Virge Lorents arrived at 6:21 p.m.

Brian Card and John Sarantopoulos were absent with notice.

Staff Present – Ann-Marie Aubrey, Director of Planning & Development; Jonathan Blake, Planner I/ZEO;
Jill St. Clair, Director of Economic Development.

Also Present – Attorney Evan J. Seeman; Robinson+Cole; Keith Kumnick, Commercial Real Estate Broker with
Colliers International; Ulla Tiik-Barclay, Town Council Liaison; J.S. Perreault, Recording Clerk.

MEMBER OF THE ECONOMIC DEVELOPMENT COMMISSION:

Mark Tillinghast (present in the audience).

II. **WORKSHOP DISCUSSION**

- * Review / Discussion / Action
- * Comparison of General Commercial Zone Regulations to Business Park Regulations
- * Review Draft Use Table and Definition of Professional Business & Light Industrial Zone

Ann-Marie Aubrey provided copies of the DRAFT Use Table and Table of Contents that Staff is continuing to build upon.

- Ms. Aubrey reviewed the DRAFT Use Table, for which, information was taken from the *North American Industrial Code* (aka NAICS). She explained that Staff found that the Business Park, Light Industrial and Professional Business Office all have similar uses allowed, therefore, the thought is to blend the three districts to create one district to replace them: Professional Business Office Park/ Light Industrial Park. This is similar to what is being done in many communities in Massachusetts as well as in the western part of Connecticut.

Ms. Aubrey explained that we have a lot of particulars, but not a lot of categories. CASIOS training suggests having categories and leave the detail as you go through individual applications. She explained that this is a first draft and that there is still more work to be done on it. We can focus on this portion and, if the Commission likes the way it turns out, Staff could follow through with the rest of the Regulations and present it to the Commission as a whole later on. Jonathan Blake explained that this could be done with a large, Town-proposed Map change affecting multiple parcels.

Keith Thurlow stated that this is what the Commission wants to do: to combine similarities for the Commercial side.

Mr. Blake explained about how they would probably be looking to do something similar with the Village Commercial and General Commercial to make it less confusing. He said the end goal would include bringing the Borough of Danielson's General Commercial in as well, a Commercial Zoning, a Borough Overlay, for instance. He said that there are many ways to look at this at future meetings. The thought is to simplify because we have too many zones right now.

- Ms. Aubrey reviewed the Table of Contents:
 - Article IV – Establishment of Districts.
 - Article V – Use Classifications. She explained how it would coordinate with the Use Table (where the detail would be). It simplifies by making one location.

Mr. Thurlow expressed interest in what the Town Attorney's opinion would be regarding rewriting this one section.

Mr. Blake suggested that a similar style to what we have now could be proposed, knowing the goal for what would be proposed in the future. Ms. Aubrey explained that it would be transitional. She would like everyone to be aware that if we are going to rewrite one section, let's get the format down and go forward with rewriting all of the other sections. Staff has already started working on other zones.

Mr. Thurlow stated that he is in total agreement with what Staff is proposing.

Mr. Blake explained the steps to be taken: 1) Repeal and replace the Business Park with the Professional Business Park/Light Industrial Park Zone with all of the uses, standards and conditions that the Commission would like; 2) Map Change to eliminate some of the other districts or to change some of them to the Professional Business Park/Light Industrial Park Zone or to change them to zones that make sense (adjacent zones and to try to get away from spot zoning) to try to clean up the Map; 3) Propose a much larger rewrite with the Commission's direction.

Ms. Aubrey explained that you have to be able to be accommodating to how the economy and your area change over time. She asked that the Commission review the Use Classifications to see if the Commission agrees with what Staff has presented. Mr. Blake explained that it is a little more detailed than our current Zoning. Permit would more likely mean Site Plan Review rather than Special Permit. There was discussion.

Motion was made by Virge Lorents to suspend the rules to open the floor to discussion.

Second by Matthew Wendorf. No discussion.

Motion carried unanimously by voice vote (4-0-0).

Mr. Thurlow stated that he would appreciate participation/feedback from Attorney, Evan J. Seeman or Keith Kumnick or where seated in the audience.

Attorney Seeman stated that he had had meetings with Staff.

Keith Kumnick explained that the Use Table is very helpful to him.

COMMENTS FROM COMMISSION MEMBERS:

- **Michael Hewko** stated that he likes the format. He asked if the clarifications will stay the same against all zones.
Ms. Aubrey explained that most of them will and she said they are also looking at most current standards. She referred to the most current *Zoning Practice* regarding drive-thrus (included in the packets for the PZC's 12-20-2022 Regular Meeting).
Mr. Blake explained that we would be looking to upgrade the language to meet modern times (e.g. solar).
- **Matthew Wendorf** stated that he feels that this is an excellent solution for clarifying our Regulations, making it much easier for people.
- **Virge Lorents** stated that rethinking things on occasion is a good idea.
- **Keith Thurlow** explained that he has been saying for years that we need to address all of the Regulations and this is definitely going in that direction. He said that he is a big advocate for it.

There was a consensus of the Commission to move forward by starting with the Professional Business Park.

COMMENTS FROM ECONOMIC DEVELOPMENT COMMISSION MEMBER:

- **Mark Tillinghast** commented that, in the past, the EDC and the PZC had given thought to merging zones. He asked where the line is between being able to fine tune so you don't have spot zoning, but at the same time, if it is too broad, some parcels don't get used.
Ms. Aubrey explained about overlay districts, which can be done with conditions. She note that things need to be defined and that our definitions need to be updated and revised.

Staff will continue drafting language and will present it next month.

III. MOTION TO ADJOURN

Motion was made by Virge Lorents to adjourn at 6:57 p.m.

Second by Matthew Wendorf. No discussion.

Motion carried unanimously by voice vote (4-0-0).

Respectfully submitted,

J.S. Perreault
Recording Clerk



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PLANNING AND ZONING COMMISSION

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MINUTES

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I. **CALL TO ORDER** – Chair, Keith Thurlow, called the meeting to order at 7:01 p.m.

ROLL CALL – Michael Hewko, Virge Lorents, Matthew Wendorf, Keith Thurlow (all were present in person).
Brian Card present via Webex.
John Sarantopoulos was absent with notice.

Staff Present – Ann-Marie Aubrey, Director of Planning & Development; Jonathan Blake, Planner I/ZEO; Jill St. Clair, Director of Economic Development (all were present in person).

Also Present (in person) – Mary C. Calorio, Town Manager; Ulla Tiik-Barclay, Town Council Liaison.
J.S. Perreault, Recording Clerk.
There were two additional people in the audience.

II. **SEATING OF ALTERNATES**

Michael Hewko was seated as a Voting Member for this meeting in the absence of John Sarantopoulos.

III. **AGENDA ADDENDUM** – None.

IV. **CITIZENS' COMMENTS ON ITEMS NOT SUBJECT TO PUBLIC HEARING** (Individual presentations not to exceed 3 minutes; limited to an aggregate of 21 minutes unless otherwise indicated by a majority vote of the Commission)

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The above information was read aloud.

There were no comments from the public.

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Elizabeth M. Wilson

V. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS – None.

VI. PUBLIC HEARINGS – (review / discussion / action)

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1) **Special Permit Ap #22-1303** – Town of Killingly (United We Stand, LLC/Owner); 26 Soap Street, GIS MAP 106; LOT 15; ~0.68 acres; Village Commercial Zone; to the offices of the Town Constables; under T.O.K. Zoning Regulations; Section 420.1.2(a). Public Service Corp or Municipal Land Use.

Mary Calorio, Town Manager, stated that the purchase of the 26 Soap Street property was approved at the Special Town Meeting held on December 13th. She expects to be able to move forward with the transaction. She explained that the primary function for the property would be used for administrative offices for the Town Constabulary and our Resident State Troopers. The garage would primarily be used for equipment storage, however, the spare vehicle may also be stored there. Renovations include the following:

- Minor renovation of the restrooms to install a shower and to have locker room space.
- Glazing/hardening of the windows.
- Build a simplistic vestibule at the front entryway, leaving the doors in place, to harden that space.

Keith Thurlow reviewed criteria with Ms. Calorio:

- All existing structures.
- Not changing traffic patterns at all.
- For emergency existing, they have lights/sirens and will use caution regarding pedestrians as when exiting any parking lot.
- Regarding the nature of the surrounding area, Ms. Calorio stated that she believes that it is similar to the other structures on that road. Located between three schools.
- Regarding noise nuisance, Ms. Calorio explained that they only use sirens when trying to navigate a traffic impact or other hazard in the roadway to get a clear access.
- It meets the POCD.
- Not changing any of the existing setbacks.
- Regarding screening of parking areas, Ms. Calorio explained that the garage screens the rear portion which is all fenced-in and secured.

Mr. Thurlow asked about the residential building to the north side possibly needing some screening. There was discussion. Ann-Marie Aubrey referred to an approved site plan from a previous application and photos that were included in packets to Commission Members. There are trees planted in the area of the building to the north, although they are not shown in the photo. Jonathan Blake noted some of the elements on the site plan that he knows were not constructed by the previous applicant: additional fencing gating-in the old parking lot; and the closure of a portion of the entrance and exit by installation of additional curbing and planting along the streetscape (this was left as existing). Ms. Calorio stated that they are not proposing to change any of the front curbing.

Mr. Thurlow asked if the entrance (in and out) is completely open for that 100+/- feet. Ms. Calorio stated that it is. Mr. Blake explained that there is a catch basin that is somewhat centrally located and that the Town has been working with the adjacent property owner for some years in terms of a drainage easement, but it is still a work in progress. Mr. Thurlow suggested a sign of some sort be placed over the catch basin as a warning. Ms. Calorio explained that no general public will be accessing this facility as it is strictly administrative offices (the Officers are fully dispatched out of Troop D and they would meet the public at Troop D, as is the case now). Mr. Blake referred to the photo and said that he thinks that it was somewhat recently replaced, but, it was an original feature when the road was a State road. Ms. Calorio stated that she will speak with the Highway Department about this issue.

There was more discussion regarding buffer. Matthew Wendorf noted that it looks like there is a white fence and some trees, but not on this property. Ms. Calorio stated that she believes there is a retaining wall. Mr. Blake displayed the aerial photo of the property and discussion continued regarding that there is white privacy fencing and switches to chain link fence which goes all the way around the property line. Ms. Calorio stated that putting trees in that area could be potentially detrimental to the house structure because it is very close, although she understands the need to provide privacy. She explained that the Constabulary is not 24 hours per day, only first and second shift, then Troop D takes over for the third shift. So, this property would not have any activity in the middle of the night. She explained that, currently, all calls go to Troop D. A call box will be installed at this location however, it will connect to Troop D.

- No change to access drive.
- There is sufficient off-street parking for the Officers that will be on shift at any point in time. Ms. Calorio stated that there are no concerns regarding availability of on-site parking.
- No changes to outdoor lighting. There is existing motion-detector lighting on the exterior of the buildings which they will maintain. Ms. Calorio explained that they point downward and are dark-sky compliant. They work with the exterior security camera system. She believes that the property has sufficient exterior lighting. Mr. Blake explained about the blue phone system. The blue light is less glaring and less disruptive to neighbors.

QUESTIONS/COMMENTS FROM COMMISSION MEMBERS:

- Michael Hewko asked if there will be signage.
Ms. Calorio explained that, to avoid confusion, they will, likely, put a sedated sign on the building so that it won't be assumed to be a police station. It may just say "Town of Killingly."
- Brian Card asked, if a waiver of the site plan is being requested, how curbing and fencing vs. trees are being addressed.
Mr. Blake explained that the Town is requesting a waiver of the site plan keeping everything as existing, minus the vestibule which would be a very small addition to the front of the building, not any closer to the street. He explained that additional landscaping or privacy slats for the chain-link fence are things that could be installed later, but not necessarily part of this Application.
There was discussion regarding curbing at the entrance. Ms. Calorio explained that the existing site plan is substantially the same with some slight differences based on the existing site conditions.
- Matthew Wendorf asked about security on the back of the building.
Ms. Calorio explained that it has been evaluated and there are cameras that monitor the full exterior of the property. Any additional renovation to the exterior would be to harden the exterior for security purposes as needed for the use of the property.

There were no comments from the public.

Motion was made by Virge Lorents to close the public hearing for **Special Permit Ap #22-1303** – Town of Killingly (United We Stand, LLC/Owner); 26 Soap Street, GIS MAP 106; LOT 15; ~0.68 acres; Village Commercial Zone; to the offices of the Town Constables; under T.O.K. Zoning Regulations; Section 420.1.2(a). Public Service Corp or Municipal Land Use.

Second by Matthew Wendorf. No discussion.

Motion carried unanimously by voice vote (5-0-0).

VII. UNFINISHED BUSINESS – (review / discussion / action)

- 1) **Special Permit Ap #22-1303** – Town of Killingly (United We Stand, LLC/Owner); 26 Soap Street, GIS MAP 106; LOT 15; ~0.68 acres; Village Commercial Zone; to the offices of the Town Constables; under T.O.K. Zoning Regulations; Section 420.1.2(a). Public Service Corp or Municipal Land Use.

Motion was made by Virge Lorents to approve **Special Permit Ap #22-1303** – Town of Killingly (United We Stand, LLC/Owner); 26 Soap Street, GIS MAP 106; LOT 15; ~0.68 acres; Village Commercial Zone; to the offices of the Town Constables; under T.O.K. Zoning Regulations; Section 420.1.2(a). Public Service Corp or Municipal Land Use, with the following conditions:

- Waive the requirement of a site plan.
- Town Staff to verify that there are visual barriers for residents.

Second by Michael Hewko. No discussion.

Roll Call Vote: Brian Card - yes; Virge Lorents – yes; Michael Hewko – yes; Matthew Wendorf – yes; Keith Thurlow – yes.

Motion carried unanimously (5-0-0).

VIII. NEW BUSINESS – (review/discussion/action)

None.

IX. ADOPTION OF MINUTES – (review/discussion/action)

1) Workshop Meeting Minutes – NOVEMBER 21, 2022

Motion was made by Michael Hewko to approve Workshop Meeting Minutes – NOVEMBER 21, 2022.

Second by Virge Lorents. No discussion.

Motion carried by voice vote (4-0-1). Matthew Wendorf abstained as he did not attend the meeting.

2) Regular Meeting Minutes – NOVEMBER 21, 2022

Motion was made by Virge Lorents to approve Regular Meeting Minutes – NOVEMBER 21, 2022.

Second by Michael Hewko. No discussion.

Motion carried by voice vote (4-0-1). Matthew Wendorf abstained as he did not attend the meeting.

X. OTHER / MISCELLANEOUS – (review / discussion / action)

1) **Zone TEXT Review** – General Commercial vs. Business Park – RECAP/Continuation of workshop of December 19, 2022 at 6:00 pm with any further discussion if needed.

Next workshop to be held Tuesday, January 17, 2023.

XI. CORRESPONDENCE

NONE

XII. DEPARTMENTAL REPORTS – (review/discussion/action)

A. Zoning Enforcement Officer's & Zoning Board of Appeal's Report(s) – No report.

B. Inland Wetlands and Watercourses Agent's Report

Jonathan Blake reported that they now have a quorum and that the IWWC will be meeting on January 9, 2023.

XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT – No report.

XIV. TOWN COUNCIL LIAISON REPORT

Ulla Tiik-Barclay reported:

- Public Hearing on 26 Soap Street property.
- December is Driving Impaired Prevention month.
- Appointments and re-appointments to Boards and Commissions.
- Access Freeze Shelter is open at St. Alban's through April 1, 2023 (8 pm to 8 am).
- Gave an update on the Westfield Avenue renovation project.
- Holding off on decommissioning of the electric vehicle charging station as there may be grant money available.

Ms. Aubrey noted that the PZC meeting in January will be on Tuesday, January 17th, due to the Holiday on Monday.

XV. ADJOURNMENT

Motion was made by Virge Lorents to adjourn at 7:32 p.m.

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

Respectfully submitted,

J.S. Perreault
Recording Clerk

Section 436.

BUSINESS PARK DISTRICT

436.1 Intent.

The intent of the Business Park District is to provide areas which allow the establishment of business uses subject to standards that result in the creation of a physical environment that promotes consistency with community goals, efficient business operations, human scale and values, and compatibility with the natural environment. A Business Park District may be located adjacent to, or nearby, residential districts. Therefore, all uses located within this district shall be clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke, and glare. In addition, such uses, including related storage, shall be operated entirely within enclosed structures (except for docking areas necessary for receipt of multiple deliveries or as otherwise noted).

436.2 General Requirements.

The following are the minimum requirements for land proposed to be designated as a BP District:

- a. All uses shall be served by public water and sewer.
- b. Principal access shall be from State roads or arterial or collector streets as identified in the Town's Plan of Development.
- c. Principal access to the development shall be within eighteen hundred (1,800) feet of an 1-395 interchange.
- d. The minimum district frontage on a public street shall be four hundred (400) feet.
- e. The minimum area of land in the BP District shall be seventy-five (75) acres.
- f. The district boundary line shall abut 1-395 for a minimum distance of eight hundred (800) feet.
- g. Any parcel in the Business Park District to be used must provide a direct access way to a road or street, including through, but not limited to, an easement. Such access way shall have a minimum width of sixty feet, or such width specified by the commission. Said access way may permit the future installation of all utilities including, but not limited to, sanitary sewer lines, public water, electric, natural gas, communication cables and storm water drainage structures and lines. Such access way is subject to approval of the Commission.

436.3 Special Permitted Uses.

All uses in the BP District require the securing of a Special Permit as specified in Article VII. The uses allowed by special permit are:

- a. Research and development facilities, provided the following standards and nuisance avoidance criteria are met: In all cases the more stringent of the appropriate state regulations, federal regulations, and/or accepted industry standards shall apply.
 1. In the establishment, operation, and design of medical and biological research laboratories and facilities, the standards and procedures, as

amended, of the National Institutes of Health, Bethesda, Maryland and Centers for Disease Control will apply. No facility may contain or conduct research involving Biological Safety Level-3 (or the equivalent term Risk Group-3) classification or higher.

2. No noise that due to level, frequency (pitch), duration, periodicity and predictability, total nature and/or impulsive nature will in any way have an objectionable effect upon adjacent or nearby property, shall be permitted. All Connecticut Department of Environmental Protection regulations promulgated in accordance with Chapter 442 of the Connecticut General Statutes shall apply.
3. Glare, whether direct or reflected, such as from floodlights or high temperature process, and as differentiated from general illumination, shall not be visible at any property line.
4. No activities involving bulk storage or manufacture of materials or products that could decompose by detonation shall be permitted. These materials include primary explosives such as lead azide, fulminates, lead styphnate, and tetracene; high explosives such as TNT, RDX, HMX, PETN and picric acid propellants and their components such as dry nitrocellulose, black powder, boron hydrides, and hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamites and nitroglycerine; unstable organic compounds, such as acetylides, tetrazoles and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates, and hydrogen peroxide in concentrations greater than 35 percent; and nuclear fuels, fissionable materials and products, and reactor elements, such as uranium-235 and plutonium-239. Utilization of the materials included in this section shall be limited to the minimum quantities necessary for specific research and only after the procurement of all local, state and federal permits. Material type, quantity, storage, handling procedures, and location in the facility shall also be registered with the respective fire district, ambulance corps, the Killingly Planning Department, and Fire Marshall.
5. No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas as specified by the regulations of the United States Nuclear Regulatory Commission.
6. Any electrical radiation shall not adversely affect at any point any operations or any equipment, including not only professional research equipment but also equipment reserved for personal uses such as reception of public radio transmissions, use of cellular phones, etc., except equipment belonging to the creator of the electrical radiation.
7. Operations shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the property line. Temporary construction is excluded from this restriction.

8. No operation shall cause or allow emission of any odorous air contaminant, smoke, particulate matter or any emission into the air which is a nuisance, hazard or exceeds appropriate federal or state regulations.
 9. All applicable federal, state, and local statutes, rules, regulations and ordinances (including, without limitation, those promulgated and/or enforced by the US Environmental Protection Agency, the Connecticut Department of Environmental Protection, the State Fire Marshal's Office, the National Institutes of Health, Centers for Disease Control, the Northeast District Department of Health or the Food and Drug Administration) shall apply to the treatment, storage, transportation, and disposal of any hazardous materials, hazardous wastes, solid wastes or fire hazards (as such terms are defined by any of the applicable statutes, rules, regulations, or ordinances referenced).
 10. The commission may, at its discretion, hire a third-party consultant, also acceptable to the applicant, to aid the commission in its review of any proposed facility design and/or program of research and development. The fees charged by the third-party consultant shall be borne by the applicant.
- b. General office space.
 - c. Banking, financial establishments and ATM facilities, excluding drive-in banking facilities not combined with banking and financial establishments. ATM facilities on the same premises with a permitted use are considered accessory to the permitted use.
 - d. Photography, dance, art and music studios, performing arts facilities and other uses similar in nature to those listed herein.
 - e. Radio, television, motion picture and computer production and broadcast facilities, excluding manufacturing.
 - f. Data centers, internet server farms and other similar uses.
 - g. Conference centers, hotels, and motels, all of which may include restaurants and cafeterias excluding drive-through facilities.
 - h. Educational training facilities, excluding correctional training programs and facilities.
 - i. Warehouses and Distribution Centers, subject to the following standards:
 1. Shall be located at least 50 feet from the boundary of any residential district or residential use. Shall be located at least 150 feet from any game preserve.
 2. Shall have controlled gate access for warehouse and distribution vehicular traffic, though employee traffic for parking purposes shall not require gate access.
 3. Outdoor storage of trailers may be provided; however, this area must be landscape screened in accordance with § 436.4.3 from abutting uses

if they differ in zoning or a use not provided within the Business Park District.

4. Permitted accessory uses include the overnight parking and/or storage of trailers and vehicles used in conduct of the business; ancillary maintenance and refueling of vehicles used in the conduct of the business; customer pick-up; and retail sales area not to exceed 20% of the total gross floor area of the primary use.
 5. All goods and products stored or packaged in the warehouse and distribution center shall be indoors except for those items that are stored within a trailer outside of the warehouse and distribution center. No packaging of goods shall be allowed outside of the warehouse and distribution center.
 6. Truck loading docks shall not be located on the street facing side of the building or be located on the building side that abuts a residentially zoned parcel without adequate landscape buffer and screening in accordance with § 436.4.3.
 7. All outdoor lighting shall be night sky compliant.
 8. The Commission may, at its discretion, hire a third-party consultant, also acceptable to the applicant, to aid the Commission in its review of any proposed facility. The fees charged by the third-party consultant shall be borne by the applicant.
- j. Nursery schools and day care centers provided they meet the requirements of other sections of the Zoning regulations and safe and reasonable separating distances as determined by the Commission are maintained between the facility and other uses within the district.
 - k. Recreational facilities and health clubs
 - l. Automobile vehicle rental facilities.
 - m. Municipal land uses.
 - n. Cluster Developments
 - o. Cannabis Establishment, see Section 567 (Approved: June 20, 2022; Effective: July 18, 2022)

436.4 Site Design Standards.

In addition to the dimensional requirements of Section 450 for the BP District, the following standards shall apply:

436.4.1 Buffers.

Where a BP District property abuts a residentially zoned property, a buffer strip one hundred (100) feet wide is required, to be planted with year-round vegetation adequate to buffer the view from the residential zone adjacent to the proposed development. Preservation of existing trees and vegetation is preferred where they provide desired screening.

436.4.2 Interior Circulation.

Interior circulation shall provide for the safe movement of vehicles, delivery trucks and pedestrians. Truck delivery routes shall be indicated by signage, pavement marking or other method. Access to commercial delivery points shall be segregated from general public traffic. Provisions for the safe movement of pedestrians between buildings and from buildings to parking areas shall be provided.

- a. Bicycle/pedestrian pathways a minimum of six (6) feet in width may be provided along the interior roadway system. Said width may be expanded by the commission to ten (10) feet or to conform with standards of the National Park Service then in effect. The bicycle/pedestrian pathways need not be located adjacent to such roadways. Lots not served by sidewalks may be served by bicycle/pedestrian pathways. Sidewalks and bicycle/pedestrian pathways shall be constructed simultaneously with the roadways and may provide continuous circulation from one lot to another. Sidewalks and bicycle/pedestrian pathways shall be illuminated to provide safety and security for their users. Any lighting used shall be shielded or diffused so as to reflect light away from abutting traffic and to prevent skyward glare.

436.4.3 Landscaping and Screening.

- a. Landscaping may include, but not be limited to, pavement materials, fountains, ponds, street furniture, outdoor seating areas, lighting, and the planting of grass, ground cover, flower beds, shrubs, hedges, planted earthworks (mounding, grading, etc.), or trees. All planted areas shall be maintained in a healthy growing condition, neat and orderly in appearance, and free of refuse and debris. All planted areas shall be arranged and maintained so as not to obscure the vision of traffic. Unless so specified, there shall be no parking of vehicles in landscaped areas. All landscaping shall be subject to the approval of the Planning and Zoning Commission or its designated agents.
- b. Truck parking associated with warehouses and distribution centers shall be a minimum of fifty (50) feet from any residential district boundary or from any residential use; one hundred fifty (150) feet from any game preserve. All trucks in excess of a one-ton carrying capacity shall be sufficiently screened from view from adjacent properties or any public roads or rights-of-way.
- c. Street trees at a minimum rate of one tree for every one hundred (100) feet or part thereof of street frontage shall be provided in all front yard areas to provide shade and visual interest. Trees may be planted at intervals and/or in groups to assure the desired effect is achieved subject to the approval of the Commission. Street trees, whether deciduous shade trees, flowering trees or evergreen trees, shall be a minimum of three (3) inch caliper measured at twelve (12) inches above ground, and selected for hardiness and appropriateness of use and soil conditions.
- d. Landscaping shall provide transitions between buildings of different size, scale, architecture or use and to provide continuity of design. Landscaping shall provide shade and visual interest.

- e. All accessory uses shall be screened to minimize visual intrusion or landscaped to integrate these elements into the site development plan.
- f. All waste material, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purpose and housed in a refuse enclosure or within a building. Refuse enclosures are to be constructed of material in such a way that they would be at least seventy-five (75) percent solid and shall have a concrete floor. Refuse enclosures shall be located in rear yards only and shall be properly screened to a height of seven (7) feet in accordance with Planning and Zoning Commission requirements.
- g. If chain link fencing is proposed, it shall be black PVC dipped material.

436.4.4 Utilities.

All utilities shall be constructed underground.

436.4.5 Parking Lot Layout.

- a. Parking lots shall provide well defined circulation routes for vehicles, delivery trucks and pedestrians.
- b. To the maximum extent feasible, landscaped islands with raised curbs shall be used to define parking lot entrances, the ends of parking isles, and the location and pattern of internal driveways, and to provide pedestrian walkways where appropriate.
- c. Where a mix of uses creates staggered peak periods of parking demand, shared parking calculations may be submitted to reduce total required parking. A reserve area for the future addition of undeveloped parking shall be provided on the Site Plan. The parking spaces in the reserve area shall be noted on the tabular summary of zoning compliance. Said reserve area shall be maintained in its natural state until developed.
- d. Where curbing is provided, it shall be concrete or stone.
- e. Any lighting used to illuminate parking areas shall be shielded or diffused so as to reflect light away from adjoining property, away from abutting traffic and to prevent skyward glare.

436.4.6 Unified Design Elements.

Through narrative notes on the Concept Plan or Site Plan and illustrative elevation drawings, the applicant shall explain how treatment of the following design elements contribute to a unified appearance that is harmonious internally in terms of scale, materials and color:

- a. Landscaping.
- b. Architecture.
- c. Signage.

436.5 Signs.

436.5.1 Conformity.

Signs shall conform with Section 540 of these regulations for each use on the site. "Lot" as used in Section 540.1.4 shall mean the area leased or otherwise dedicated to a use, which use shall be indicated on the master plan.

436.5.2 Freestanding Site Identity Signs

Each BP District shall be allowed a maximum of two single or double faced freestanding signs for the overall site which identify the project. Such signs shall contain no advertising of uses, products or services available within the site. Said signs shall conform to the requirements for signs contained in Section 540 of these regulations.

436.6 SPECIAL PERMIT Applications.

There are two application procedures for development in the BP District:

- a. A Concept Plan application for the entire BP District without a Special Permit application for specific land uses, and
- b. A Special Permit application for each proposed use within the BP District.

436.6.1 Concept Plan Application

436.6.1.a Purpose.

The Concept Plan is intended to illustrate the general development plan and expected land uses without requiring the detail and expense of the Site Plan required as a part of a Special Permit submittal.

436.6.1.b Concept Plan Optional

The Concept Plan is not required but may be submitted by an applicant who seeks to develop all property in the entire Business Park District.

436.6.1.c Procedure.

The following procedure shall apply when an applicant seeks approval only of a Concept Plan.

1. Application.

The applicant shall file an application with the Commission for Concept Plan approval on such form as provided by the Commission and such application shall be governed by the requirements of the Connecticut General statutes for a site plan.

2. Fee.

A fee established by the Killingly Town Council under the terms of The Killingly Code of Ordinances (Chapter 12, Article 5-Land Use Processing Fees) of five hundred (\$500) dollars is required unless the Concept Plan is submitted with a Special Permit application.

3. Minimum Area.

The minimum area covered by the Concept Plan shall be all of the area within the BP District.

4. Elements of Concept Plan.

The concept plan shall be prepared by an engineer, architect, or landscape architect and shall include:

- a. Drawings at a scale of 1" = 100'.
- b. Existing topography with contours of sufficient spacing to show the general gradient of the site, existing structures, existing roads and rights-of-way, major topographic features (including wooded and open areas, ledge or rock outcroppings), inland wetlands, water courses and flood plain.
- c. The land uses and zoning within three hundred (300) feet of the site.
- d. Boundary descriptions of the district and of the parcels within it.
- e. Names of all abutting property owners.
- f. The location of all proposed roadways, parking areas, setbacks, easements, land use areas, reserve areas, open space areas, and access locations from connecting roads and driveways within the site to the existing public road system.
- g. Drainage and storm water management studies.
- h. The site shall be divided into general land use areas. Each area shall be identified as the location for one or more of the specially permitted uses (e.g. Research and Development, General Office, etc.).
- i. Proposed building footprints and location of parking areas.
- j. Letters from the public water company and the Water Pollution Control Authority stating how service is to be provided to the proposed land uses.
- k. A preliminary traffic analysis prepared by a professional traffic engineer may be required by the commission. Said analysis, if required, which shall include estimates of the volumes and types of traffic to be generated by the proposed development and impact of traffic on receiving streets.
- l. Narrative and illustrative elevations of design elements that contribute to a unified development appearance, per section 436.4.6.
- m. A table indicating the following:
 1. the areas of the site proposed for each land use;
 2. the number of parking spaces and loading areas proposed for each land use;
 3. wetland areas, flood plain areas, areas of ledge or rock outcroppings;
 4. overall lot coverage; and,
 5. building heights.

- n. Limits of phases where development is proposed in more than one phase.
- o. Such other relevant information as the applicant may wish to submit or the Commission may request.

436.6.1.d Required Findings

In approving a Concept Plan, the Commission shall find:

1. the application and Concept Plan are complete and meet the requirements of Section 436.6.l.c; placement of incompatible uses adjacent to one another;
2. that the proposed location of the land uses on the site avoids placement of incompatible uses adjacent to one another;
3. that the transition between the different proposed uses is suitable and that adequate buffering is provided;
4. that the proposed land uses and development pattern satisfy the purpose and intent of the regulation as set forth in Section 436.1 and the standards and requirements of Sections 436.2 through 436.5.

436.6.1e Changes to Concept Plan

Changes to an approved Concept plan are required to be approved by the Commission unless the criteria 1-5 of Section 470.1 (Waiver of Site Plan review) are met. Changes meeting the waiver criteria shall be reviewed and approved by the Director of Planning and Development.

436.6.2 BP District Special Permit Application.

A Special Permit application in conformance with Article VII, which includes submission of a Site plan as outlined in Section 470.7, is required for each proposed use. The Special Permit application is also subject to the following requirements:

436.6.2.a Concept Plan.

If no concept plan has been approved for a BP District, and the Site plan does not include proposed development for the entire BP District, a Concept Plan may, but is not required to, be submitted with the Special Permit application(s) for a proposed use or uses. The Commission shall act on the Concept plan prior to acting on the Special Permit application(s).

436.6.2.b Traffic Report.

When a Concept Plan has previously been approved and said approval included a Traffic Report, a statement by a professional traffic engineer shall be submitted stating that traffic conditions as described in said approved Concept Plan have not changed or, if they have, in what way.

436.6.2.c Statement of Zoning Conformance.

A tabular statement of zoning conformance with respect to each land use type contained on the Concept Plan.

436.6.2.d Section Requirements and Findings.

In addition to the criteria for Special Permit approval the requirements and findings of this section must be met.

436.6.2.e Changes to Special Permit Site Plan.

Changes to an approved Special Permit Site plan must be approved by the Commission unless criteria 1-5 of Section 470.1 (Waiver of Site Plan Review) are met. Changes meeting the waiver criteria shall be reviewed and approved by the Director of Planning and Development.

Section 450. Dimensional Requirements

Add the following dimensional requirements for the BP District:

Minimum lot size (in square feet) 50,000

Minimum road frontage None

Minimum building setback from any street line100 feet *

Minimum building setback from side and rear lot line.... 50feet**

Minimum building setback from district boundary line.100 feet**

Minimum parking setback from street..... 75 feet***

Minimum parking setback from side and rear lot line..... 25 feet***

* Yards facing an existing or dedicated public street shall not be less than one hundred (100) feet in depth. The first fifty (50) feet from the street line shall be fully landscaped.

* * Setback of one hundred fifty (150) feet including a one hundred (100) foot buffer strip is required where the BP District line abuts residentially zoned or residentially used land. Buildings within the BP District may have zero (0) feet setback from the side and rear lines of adjacent lots within the BP District with the approval of the Planning and Zoning Commission and provided the rear and/or sideline does not constitute a district line.

* * * Setback of one hundred (100) feet including a one hundred (100) foot buffer strip is required where a lot line abuts residentially zoned or residentially used land. Parking areas may have zero (0) feet setback from side and rear lines of adjacent lots within the BP District with the approval of the Planning and Zoning Commission and provided the rear and/or side line does not constitute a district line.

* * * * Office buildings, research and development buildings, and warehouses and distribution centers may have a maximum height of fifty (50) feet or a height sufficient to accommodate four (4) stories in accordance with industry standards, whichever is greater, with the approval of the Planning and Zoning Commission. When a structure exceeds fifty (50) feet in height, all required yards shall be increased by five (5) feet for each additional one (1) foot in building height above fifty (50) feet.

SECTION 436. BUSINESS PARK DISTRICT

Section 436.1 Intent

The intent of the Business Park District is to provide facilities for businesses consistent with the creation of a physical environment that promotes consistency with the plan of conservation and development, community goals, efficient business operations, human scale and values, and compatibility with the natural environment.

Definition – Business Park District is a development on a tract of land that may contain several separate businesses, offices, light manufacturing facilities, accessory and supporting uses, and common open space designed, planned, and constructed on an integrated and coordinated basis.

Section 436.2 General Requirements

- 1) **Compliance** – A Business Park District may be located adjacent to, or nearby, residential districts. Therefore, all uses located within the district shall be clean, comply with all noise ordinances, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, and glare.
- 2) **Enclosed Structures** – In addition, all uses, including any related storage, shall be operated entirely within enclosed structures. Except docking areas necessary for receipt of multiple deliveries, and storage of the trucks, trailers used in the daily course of business, and uses that are permitted that require outdoor elements (ex: automobile / recreational vehicle / truck dealerships)
- 3) **Defined Right of Way** – Any application to the commission for a proposed use within the Business Park District on land situated between any public road or street or a previously approved private access way and the remaining land in the Business Park District shall provide a defined right of way over the land area owned in whole or in part by the owner or owner's applicant to the remaining land in the Business Park District. Such right of way shall have a minimum width of fifty (50) feet or such width, not to exceed sixty (60) feet, as specified by the commission.
- 4) **Location of Right of Way** – The location of said right of way shall be approved by the commission. The location of the right of way shall be clearly defined on the site plan submitted to the commission, designated staff, and the right of way shall be clearly described by a metes and bound description in a separate access easement for same. In the case of access on State Roads, approval from the Connecticut Department of Transportation is required.
- 5) **Utilities** – Said right of way shall permit the future installation of all utilities including, but not limited to, sanitary sewer lines, public water, electric, natural gas, communication cables and storm water drainage structures. All utilities shall be designed for construction underground.
- 6) **Interior Circulation** – Interior Circulation shall provide for the safe movement of vehicles, delivery trucks and pedestrians. Truck Delivery routes shall be indicated by signage, pavement markings or other

method. Access to commercial delivery points shall be segregated from general public traffic where possible. Provisions for the safe movement of pedestrians between buildings and from buildings to parking areas shall be provided.

7) Bicycle/Pedestrian Pathways – Bicycle/Pedestrian pathways a minimum of six (6) feet in width may be provided along the interior roadway system. Said width may be expanded by the commission to ten (10) feet.

7a) Sidewalks and bicycle/pedestrian pathways shall be constructed simultaneously with the roadways and should provide continuous circulation from one lot to another.

7b) Sidewalks and bicycle/pedestrian pathways shall be illuminated to provide safety and security for their users. Such lighting shall be shielded or diffused to reflect light away from abutting traffic and to prevent skyward glare (ie: night sky compliance).

8) Truck Parking – Truck parking associated with light manufacturing, warehouses and distribution centers shall have a minimum setback of fifty (50) feet from any residential district boundary or from any residential use. Said truck parking shall be one-hundred fifty (150) feet from any game preserve. Said setbacks shall include screening. Such screening shall be subject to the approval of the Planning Zoning Commission or its designated agents.

9) Landscaping – Landscaping shall provide transitions between buildings of different size, scale, architecture or use and to provide continuity of design. Landscaping shall provide shade and visual interest. All landscaping shall be subject to the approval of the Planning Zoning Commission or its designated agents.

9a) Landscaping may include, but not be limited to, pavement materials, fountains, ponds, street furniture, outdoor seating areas, lighting, and the planting of grass, ground cover, flower beds, shrubs, hedges, planted earthworks (mounding, grading, etc.), or trees.

9b) All planted areas shall be maintained in healthy growing condition, neat and orderly in appearance, and free of refuse and debris.

9c) All planted areas shall be arranged and maintained so as not to obscure the vision of traffic. Unless so specified in an approved site plan, there shall be no parking of vehicles in landscaped areas.

10) Buffering / Screening – All sites, including all accessory uses, shall be screened to minimize visual intrusion, and landscaped to integrate these elements into the site. The buffering / screening may consist of a vegetated buffer, or stone wall, or screened fencing, or any combination thereof. All buffering and screening shall be subject to the approval of the Planning Zoning Commission or its designated agents.

10a) If chain link fencing is proposed, it shall be black PVC dipped material, with either black or dark green privacy slats.

11) Waste Materials, Etc. – All waste materials, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container area designed for such purpose.

11a) Refuse enclosures are to be constructed of material in such a way that they would be at least seventy-five (75) percent solid (for example: 3 sides made of brick, cement, chain link fence with privacy slats and bollards) and shall have a concrete floor.

11b) Refuse enclosures shall be in rear yards only and shall be properly screened to a height of seven (7) feet in accordance with Planning Zoning Commission requirements.

12) Parking Requirements – See T.O.K. Zoning Regulations Section 530 (Off Street Parking and Loading)

13) Sign Requirements – See T.O.K. Zoning Regulations Section 540 (Signs)

14) Site Plan Review Requirements – See T.O.K. Zoning Regulations Section 470 (Site Plan Review)

15) Special Permit Requirements – See T.O.K. Zoning Regulations Section 700 (Special Permits)

16) Dimensional Requirements – See T.O.K. Zoning Regulations Section 450 (Dimensional Requirements and Table A)

Section 436.3 Allowed Uses Requiring Only a Site Plan Review

The following allowed uses will require a site plan review prior to development of the site. Once the site is developed if the original use changes from one allowed use to another allowed use, and there is no further construction (no change in footprint) on the site then the change in use will require a zoning permit only. However, if there is further construction on the site, or the allowed use changes to a special permitted use then another site plan review will be required as part of the special permit application process.

All requirements listed under the T.O.K. Zoning Regulations Section 470 (Site Plan Review) shall be followed and adhered to.

436.3.a Motels / Hotels / Conference and Convention Centers

Definitions – Any facility consisting of either a singular or group of buildings that provides a variety of services designed to predominately serve the needs of the transient population, and for convention purposes. Said accommodations shall include motels, hotels, conference, convention space. It may also provide such facilities as restaurants, lounges, meeting rooms, and similar related retail uses.

Motel – A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door.

Hotel – A building or group of building in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through interior lobbies, courts, or halls.

Conference Center – A facility use for service organizations, business and professional conferences, and seminars.

Convention Center – A commercial facility used for assemblies or meetings of members or representatives o groups, including exhibition space.

436.3.b Specialty Food Service

Definition – Any specialty food service that includes, but not limited to, caterers (both private and industrial); food service contractors; food trucks; and mobile food services.

436.3.c Restaurants / Cafes / Taverns

Restaurants – A commercial establishment where food and beverages are prepared, served, and consumed usually within the principal building, an outside patio, or taken as carry-out orders, and where food sales constitute more than 75% of the gross sales receipts. Various types of restaurants shall include, but not be limited to, cafeterias, carry-out, drive-in, drive-thru, entertainment, fast food, fine, specialty dining.

Small Restaurant - Is a building containing no more than 2,000 gross square feet and characterized primarily by table service to customers in disposable containers. Typical uses include cafes, coffee shops, and fast-food.

Taverns – Any place in which fermented malt beverages or intoxicating liquors are sold for consumption to the public and where food or packaged alcoholic beverages may be served or sold only as an accessory use.

436.3.d Office(s) of Various Health Care Practices

436.3.e Office(s) for Home Health Services

436.3.f Machines & Machine Shop - <15,000 sq feet

Definition– Shops where lathes, presses, grinders, shapers, and other wood – and metal-working machines are used. Related storage and warehousing buildings are not included in the 15,000 square foot calculations.

436.3.g Other Misc. Manufacturing - < 15,000 sq feet

Definition – The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding the basic industrial processing. Where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emissions which will disturb or endanger neighboring properties.

436.3.h Parking Garages

Definition – Parking spaces and adjacent access drives, aisles, and ramps that are located in a structure with two or more levels used for parking of motor vehicles. This term includes both public and commercial parking operations (fee is charged) and private (no fee) parking structures.

436.3.i Personal Services Establishments

Definition – An establishment which offers specialized goods and services purchased by consumers on a frequent and regular basis. This includes, but is not limited to, hair, nail, and skin services; barber shops,

diet & weight reducing centers, massage centers, laundry services, tailoring services, and other non-medical personal care services.

436.3.j Professional Offices

Definition – The office of a member of recognized profession maintained for the conduct of that profession. A profession usually requires advanced study or training in specialized field; any occupation requiring licensing the by state and maintenance of professional standards applicable to the field. This shall include, but not be limited to, law, accounting, architecture, engineering, surveying.

436.3.k Business Support Services

Definition – A commercial establishment primarily engaged in providing services to other business establishments on a fee or contract basis. This includes, but is not limited to, computer systems and related services; bookkeeping; tax preparation; payroll; advertising; building maintenance; personnel and employment services; office equipment rental and leasing.

436.3.l General Office Space

Definition – Establishments providing direct services to its consumers. This includes, but is not limited to, such offices as insurance agencies; real estate office; travel agencies. It is a characteristic of a business office that retail or wholesale goods are not shown on the premises to customer.

436.3.m Printing Publishing Establishment

Defined – ~~The business or profession of the commercial production and issuance of literature, and information, may also include the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses.~~ (Moved to the Special Permit Section)

436.3.m Retail Store (Retail Sales Establishment)

Definition – A commercial enterprise that provides goods or services directly to the consumer, and where such goods are available for immediate purchase and removal from the premises by the purchaser.

436.3.n Financial Institutions

Definition – A bank, savings and loan, credit union, mortgage office, or automated teller machine (ATM).

436.3.o Antiques & Handcrafts

436.3.p Copy Shop

436.3.p Warehousing

Definition – A warehouse is a building for storing goods. Stored goods can include any raw materials, packing materials, spare parts, components, or finished goods. Warehouses are used by manufacturers, importers, exporters, wholesalers, transport businesses, etc.

436.3.q Distribution Center

Definition – A building or group of buildings where finished goods (end products) are received and or stored for delivery to the ultimate customer at remote locations. Manufacturing and assembly are not part of the distribution process. (Moved to Special Permit Section)

436.3.q Self-Service Storage Facility

Definition – A building or group of buildings divided into separate compartments used to meet the temporary storage needs of small businesses, apartment dwellers and other residential uses. Leased to individuals, organizations, or businesses; surrounded by security fencing with controlled access to both the area and individual units.

Section 436.4 Special Permitted Uses

The following uses shall require special permit approval prior to the development of the site.

Once the site is developed, if the original use changes from the approved special permit to one of the allowed uses listed above, and there is no further construction (no change in footprint) on the site then the change to an allowed use will require a zoning permit only. However, even if the change in use is to an allowed use but there is an enlargement of the footprint (new construction) a site plan review will be required.

Once the site is developed, if the original use changes from a special permitted use to another special permitted use, the applicant will be required to obtain another special permit approval from the commission.

All requirements listed under the T.O.K. Zoning Regulations Section 700. Special Permitted Uses, and Section 470 (Site Plan Review) shall be followed and adhered to.

436.4.a Hydroponics

Definition – A type of horticulture and a subset of hydroculture which involves growing plants, usually crops or medicinal plants, without soil, by using water-based mineral nutrient solution in aqueous solvents.

436.4.b Aquaculture

Definition –

436.4.c Greenhouse / Nursery / Horticultural Bldgs.

436.4.d. Forest Nurseries and Gathering of Forest Products

436.4.e Performing Arts Companies

436.4.f Dance / Art / Music Schools

436.4.g Art Galleries / Photo Studios

436.4.h Commercial Recreational Facilities

436.4.i Radio / TV/ Motion Picture Facilities

436.4.j Sand and Gravel Operations

436.4.k Early Childhood Care Facilities

436.4.l Job Related Training Facilities

436.4.m Ambulatory Health Care Services

436.4.n Medical and Diagnostic Laboratories

436.4.o Social Assistance Agencies

436.4.p Vocational Rehabilitation Services

436.4.q Adult Daycare – No Overnight

436.4.r Food Manufacturing

436.4.s Breweries / Wineries / Distilleries

436.4.t Textiles / Cloth / Clothing

436.4.u Medical / Pharmaceuticals

436.4.v Any Light Industrial Use < 15,000 square feet

436.4.w Cannabis Establishment

436.4.x Fire Protection

436.4.y Police Protection

436.4.z Department Public Works

436.4.aa Libraries

436.4.bb Town Administration

436.4.cc Electronic & Precision Equipment Repair

436.4.dd Dry-Cleaning

436.4.ee Funeral Homes & Funeral Services

436.4.ff Pet Grooming / Pet Day Care

436.4.gg Veterinary Services / Hospitals

436.4.hh Analytical Laboratories

436.4.ii Publishing and Printing Establishment

436.4.jj Research and Development Facility

436.4.kk Data Centers / Internet Server Farm

436.4.ll Computing Infrastructure Providers

436.4.mm Outdoor Events

436.4.nn Automotive Vehicle Dealers (Sales)

436.4.oo Automotive Vehicle Service / Repair

436.4.pp Automotive and/or Truck Rentals

436.4.qq Trucks & Recreational Vehicle Dealers

436.4.rr Trucks & Recreational Vehicles Service / Repair

436.4.ss Auctions / Sales

436.4.tt Cannabis Establishments

436.4.uu Battery Storage Facilities

436.4.vv Distribution Centers

436.4.ww Freight Material / Trucking Business / Trucking Terminal

Permitted Use = (P)

Special Permit Required = SP

Not Allowed = NA

Yellow – Classification Code

Green – New Use Added to Business Park

Blue – Existing Use in Business Park

01.Jan.17.2023.Draft.Use.Table.BUS.PRK

USE CLASSIFICATIONS	SEE SECTION	BUSINESS PARK
RESIDENTIAL USES		
1. Single Family Dwelling / Residence		NA
2. Two Family Dwelling / Residence		NA
3. Three Family Dwelling / Residence		NA
4. Multi-Family (>3) Dwelling / Residence		NA
5. Secondary Dwelling Unit		NA
6. Planned Residential Development		NA
7. Cluster Development		NA
8. House Conversions		NA
9. Trailers / Mobile Homes		NA
10. Trailer Parks / Mobile Home Parks		NA
11. Residential / Accessory Structures		NA
ACCOMMODATION & FOOD SERVICES		
1. Motels/Hotels/Conf. & Conv. Center		(P)
2. Bed and Breakfast		NA
3. Seasonal Campgrounds / RV Parks		NA
4. Rooming & Boarding Houses		NA
5. Dormitories (School Related)		NA
6. Workers' Residences' Agricultural		NA
7. Specialty Food Services		(P)
8. Restaurants / Cafes / Taverns		(P)
AGRICULTURAL – FORESTRY		
1. Crop Production		NA
2. Hydroponics		SP
3. Animal/Livestock Husbandry/Product.		NA
4. Hog and Pig Farming		NA
5. Commercial Poultry		NA
6. Backyard Chickens / Poultry		NA
7. Sheep and Goat Farming		NA
8. Riding Stables/Academies/Equine		NA
9. Support Activities to Agriculture		NA
10. Adaptive RE-Use of Agricultural Buildings		NA
11. Farm Stand		NA
12. Farm Store		NA
13. Agritourism		NA
14. Aquaculture		SP
15. Greenhouse/Nursery /Horticultural Bldgs.		SP
16. Forestry		NA
17. Forest Nurseries and Gathering Of Forest Products		SP
18. Portable Sawmills		NA
ARTS, ENTERTAINMENT & RECREATION		
1. Performing Art Companies		SP
2. Dance / Art / Music Schools		SP

Permitted Use = (P)

Special Permit Required = SP

Not Allowed = NA

Yellow – Classification Code

Green – New Use Added to Business Park

Blue – Existing Use in Business Park

3. Art Galleries / Photo Studios		SP
4. Museums, Historical Sites, etc.		NA
5. Zoos		NA
6. Nature Parks / Botanical Gardens		NA
7. Children Playgrounds		NA
8. Amusement Parks		NA
9. Arcades (as an accessory use)		NA
10. Movie Theaters – Indoors / Outdoors		NA
11. Commercial Recreational Facility (INS)		SP
12. Commercial Recreational Facility (OUT)		NA
13. Camps (Children) – Day and Boarding		NA
14. Radio / TV / Motion Picture Facilities		SP
15. Adult Oriented Establishments		NA
CONSTRUCTION BUSINESSES		
1. Contractor's Yard		NA
2. Utility System Construction		NA
3. Heavy Equipment Sale / Rental / Repair		NA
EARTH FILLING AND EXCAVATION		
1. Sand and Gravel		SP
EDUCATIONAL SERVICES		
1. Early Childhood Care Facilities		SP
2. Elementary and Secondary Schools		NA
3. Junior Colleges		NA
4. Colleges / Universities / Prof. Schools		NA
5. Technical and Trade Schools and Vocational Training Programs		NA
6. Educational Support Services		NA
7. Job Related Training Facilities		SP
HEALTH CARE AND SOCIAL ASSISTANCE		
1. Ambulatory Health Care Services		SP
2. Office(s) Various Health Care Practices		(P)
5. Outpatient Care Centers		SP
6. Medical and Diagnostic Laboratories		SP
7. Office for Home Health Care Services		(P)
8. Clinics (we should define)		NA
9. Hospitals		NA
10. Nursing and Residential Care Facility		NA
11. Skilled Nursing Care Facility		NA
12. Continuing Care Retirement Community & Assisted Living / Elderly		NA
13. Group Home / Care / Overnight		NA
14. Other Residential Care Facilities		NA
15. Social Assistance Agencies		SP
16. Vocational Rehabilitation Services		SP
17. Adult Daycare – No Overnight		SP
MANUFACTURING / INDUSTRIAL		
1. Food Manufacturing		SP
2. Breweries / Wineries / Distilleries		SP
3. Textiles / Cloth / Clothing		SP

Permitted Use = (P)

Special Permit Required = SP

Not Allowed = NA

Yellow – Classification Code

Green – New Use Added to Business Park

Blue – Existing Use in Business Park

4. Leather		NA
6. Finished Wood Products		NA
7. Medical / Pharmaceuticals		SP
8. Machines & Machine Shops		(P) <15,000 sq ft
9. Other Misc. Manufacturing		(P) <15,000 sq ft
10. Slaughterhouse – Processing & Manufacturing		NA
11. Dry Cleaning Plants		NA
12. Bulk Storage of Cement / Petroleum		NA
13. Any LI use exceeding 15,000 sq ft of floor area		SP
14. Cannabis Establishment (Growth, Manufacture Facility)		SP
MUNICIPAL SERVICES		
1. Fire Protection		SP
2. Police Protection		SP
3. Department Public Works		SP
4. Libraries		SP
5. Town Administration		SP
6. Water Pollution Control Authority		NA
7. Recycling / Collection Center		NA
8. Parking Garages		(P)
OTHER SERVICES		
1. Electronic & Precision Equip. Repair		SP
2. Commercial & Industrial Machine Repair		NA
3. Personal Care Services		(P)
4. Dry-Cleaning		SP
5. Funeral Homes & Funeral Services		SP
6. Cemeteries		NA
7. Religious/Civic/Social Organizations		NA
8. Pet Grooming / Pet Daycare		SP
9. Dog Kennels / Commercial Kennels		NA
10. Veterinary Services / Hospitals		SP
11. Analytical Laboratories		SP
PROFESSIONAL & BUSINESS SERVICES		
1. Professional Offices		(P)
2. Business Services		(P)
3. Home Occupations		NA
4. General Office Space		(P)
5. Publishing / Printing Establishment		SP
6. Research & Development Facility		SP
7. Data Centers / Internet Server Farms		SP
8. Computing Infrastructure Providers		SP
PUBLIC USES		
1. Outdoor Events		SP
2. Amateur Radio Antenna		NA
RETAIL TRADE		
1. Retail Store		(P)
2. Outdoor Displays		NA

Permitted Use = (P)

Special Permit Required = SP

Not Allowed = NA

Yellow – Classification Code

Green – New Use Added to Business Park

Blue – Existing Use in Business Park

3. Automotive Vehicle Dealers (Sales)		SP
4. Automotive Vehicle Service / Repairs		SP
5. Automotive and/or Truck Rentals		SP
6. Trucks / Recreational Vehicle Dealers		SP
7. Truck / Recreational Vehicle Service/Rep.		SP
8. Financial Institutions / Banks / Credit Unions/ ATMs.		(P)
9. Antiques & Handcrafts		(P)
10. Auctions / Sales		SP
11. Copy Shop		(P)
12. Commercial Storage / Sale of Fuel / Sale of Propane & Bottled Gas		NA
13. Gasoline Stations / No Repairs		NA
14. Cannabis Establishments (Retail)		SP
UTILITIES		
1. Electric Power Generation		NA
2. Solar Electric Power Generation		NA
3. Wind Electric Power Generation		NA
4. Sewage Treatment Facilities		NA
5. Battery Storage Facilities		SP
WAREHOUSING / DISTRIBUTION CENTER		
1. Warehousing		(P)
2. Distribution Centers		SP
3. Self-Service Storage Units		(P)
4. Freight Materials / Trucking Business / Trucking Terminal		SP

CONNECTICUT LAND USE LAW FOR MUNICIPAL LAND USE AGENCIES, BOARDS, AND COMMISSIONS

Saturday, March 11, 2023

9:00 a.m. – 4:30 p.m.

Webinar

This is a virtual meeting and will be accessible via Zoom. Zoom is a cloud-based platform for video and audio conferencing. It can be accessed through a browser on any device, or the Zoom app.

To receive your Webinar Link, you must provide your e-mail address when you register.

To receive your printed course material, in a timely manner, please register by February 15th.

This program conforms to the statutory guidelines for planning and/or zoning commission and zoning board of appeals member training. This program fulfills general training requirements and half of the required one hour of training concerning affordable housing and fair housing policies. Note: the Office of Policy and Management does not certify individual programs.



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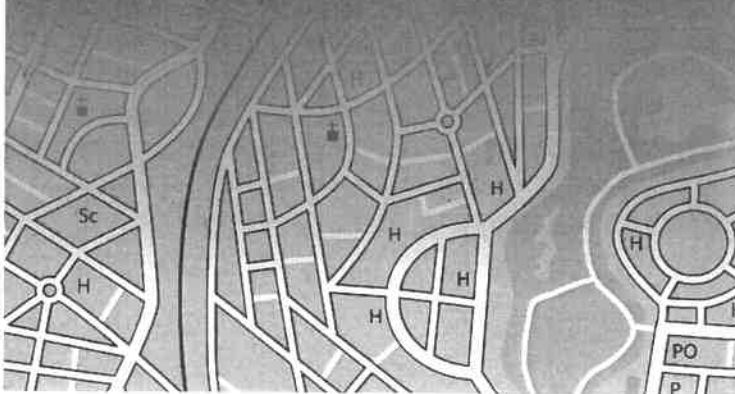


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Connecticut Bar Association
Planning and Zoning Section

CONNECTICUT LAND USE LAW FOR MUNICIPAL LAND USE AGENCIES, BOARDS, AND COMMISSIONS

The future of Connecticut's communities will be shaped by its land use laws and regulations. Developers, neighbors, and preservationists all intersect before municipal land use boards and commissions, advocating their particular interests and approaches. Each commission member regularly has to make critical decisions, all within the context of complicated statutory and case law.

This introductory level course will focus on topics of immediate concern to all municipal land use agencies, boards, commissions, and their staffs. The topics reflect both timely and practical situations, confronting participants at every level of the municipal land use process. This course will provide a broad review of the municipal land use process, including zoning, planning, zoning board of appeals, and wetlands issues. Members of municipal land use agencies, boards, and commissions, as well as municipal planners, enforcement officers, and engineers will benefit from this full day course.



SEMINAR PROGRAM

9:00 a.m. – 9:10 a.m.

Welcome

Atty. Jason A. Klein, Stamford

Chair, CBA Planning and Zoning Section

9:10 a.m. – 9:40 a.m.

Planning Commissions

Atty. Amy E. Souchuns, Milford

This session will cover powers of the planning commission, plan of development, statutory notice requirements, subdivisions and resubdivisions, multi-agency approvals, reasons for denial, open space, changes in regulations, bonding requirements, conditional approvals, and mandating off-site improvements.

9:40 a.m. – 10:10 a.m.

Zoning Commissions

Atty. Marjorie F. Shansky, New Haven

This session will cover enabling legislation, powers of zoning commissions and proper purposes and goals of zoning, the comprehensive plan, proper notices of hearings, designating and amending zoning districts, spot zoning, floating zones, the uniformity requirement, dependence upon other governmental agency action, rendering decisions, and publications of notices of decisions.

10:10 a.m. – 10:20 a.m.

Break

10:20 a.m. – 10:50 a.m.

Non-Conforming Uses

Atty. Christopher J. Smith, Hartford

This session will entail a general discussion of the origin, scope, and problems of non-conforming uses.

10:50 a.m. – 11:20 a.m.

Special Permit and Site Plan Review

Atty. Brian R. Smith, Hartford

This session will cover statutory requirements and the distinction between special permit and site plan review, and appeals from decisions on applications for special permit and site plan approval.

11:20 a.m. – 11:50 a.m.

Zoning Board of Appeals

Atty. Dorian R. Famiglietti, Vernon

This session will cover functions of zoning boards of appeal, variances, legal requisites for hardship, including issues of confiscation and self-created hardships, other statutory duties of the ZBA, and hearing procedures.

12:00 p.m. – 12:30 p.m.

The 2020 ZiPLeR Awards

Atty. Dwight H. Merriam, FAICP, CRE, Weatogue

12:30 p.m. – 1:00 p.m.

Wetlands Law and Procedure

Atty. Michael A. Zizka, Hartford

This session will cover a review of procedures of municipal inland wetlands and watercourse agencies, and how wetlands law impacts the zoning and planning process.

1:00 p.m. – 1:30 p.m.

Conflict of Interest and Predisposition

Atty. Richard P. Roberts, Hartford

This session will cover statutory provisions on conflict of interest, rules governing predisposition and predetermination, court decisions on conflict of interest, drawing the line between cases where disqualification applies and does not apply, and procedural problems when a question of conflict arises.

1:30 p.m. – 2:00 p.m.

Procedural Issues in the Municipal Land Use Process

Atty. Peter S. Olson, Bethel

This session will cover a review of statutory provisions and case law concerning administrative process, applications; conducting a public hearing; creating the administrative record, and making appropriate findings and conclusions to support decisions.

2:00 p.m. – 2:10 p.m.

Break

2:10 p.m. – 2:40 p.m.

Affordable Housing: The Municipal Perspective

Atty. Ira W. Bloom, Westport

This session will cover a review of an application filed under Section 8-30g of the General Statutes from the Planning & Zoning Commission perspective, including practical advice and a review of the relevant case law.

2:40 p.m. – 3:10 p.m.

Things to Watch out For:

Fair Housing Act, Religious Land Use and Institutionalized Persons Act (RLUIPA)

Atty. Jason A. Klein, Stamford

This session will cover a review of the implications of federal legislation on local zoning, particularly the Fair Housing Act and the Religious Land Use and Institutionalized Persons Act (RLUIPA) as well as state law considerations regarding religious expression and free speech issues.

3:10 p.m. – 3:40 p.m.

Enforcement

Atty. Charles R. Andres, New Haven

This session will cover analysis and discussion of Connecticut law concerning enforcement through the zoning, planning, and wetlands process.

3:40 p.m. – 4:10 p.m.

Environmental Interventions

Atty. Janet P. Brooks, East Berlin

This session will cover interventions under Conn. Gen. Stat. Section 22a-19 for the purpose of raising environmental issues: what they are, what they do, and what you have to do when you get one.

4:10 p.m. - 4:30 p.m.

Q&A

Short Term Rentals (Written material)

Atty. Dwight H. Merriam, FAICP, CRE, Weatogue

Please Note:

This program is available only to members of municipal land use agencies and their support staff.

Refunds of seminar fees will not be granted for cancellations after the course material is mailed out.

To receive your printed course material, in a timely manner, please register by February 15th.

To receive your webinar link, you must provide your e-mail address when you register.

This is a virtual meeting and will be accessible via Zoom. Zoom is a cloud-based platform for video and audio conferencing. It can be accessed through a browser on any device, or the Zoom app.

Registration Form
Connecticut Land Use Law Seminar
Saturday, March 11, 2023

To Register

To receive your printed course material, in a timely manner, please register by February 15th.

To receive your webinar link, you must provide your e-mail address when you register.

- Visit ctbar.org/LandUse2023 to register online
- Mail the completed form to:
Connecticut Bar Association, 30 Bank St, New Britain, CT 06051
- Fax the completed form to (860) 223-4488
- Call (860) 223-4400

Payment must accompany registration.

(Please use a separate registration form for each registrant)

- ☐ Yes, I will attend the Virtual Connecticut Land Use Law Seminar \$45.00 (includes printed copy of materials)
- ☐ No, I cannot attend the seminar, but would like to purchase _____ copies of the seminar materials \$45.00 per copy (includes shipping and handling)

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Ann-Marie Aubrey

From: Connecticut Planning Professionals <CT_PLANNING_PROFESSIONALS-L@LISTSERV.UCONN.EDU> on behalf of Sean Ghio <sean@PSCHOUSING.ORG>
Sent: Wednesday, January 11, 2023 12:53 PM
To: CT_PLANNING_PROFESSIONALS-L@LISTSERV.UCONN.EDU
Subject: Join an Affordable and Fair Housing 101 Workshop on January 19, 2023

Message sent from a system outside of UConn.

Please forward this invitation to a workshop on the basics of affordable and fair housing to any local planning commissioners or elected officials that may have an interest in the topic. The meeting will be recorded and made available at www.pschousing.org.

Sean Ghio

Senior Policy Advisor
Partnership for Strong Communities
Mobile: 203-631-2859
sean@pschousing.org
www.pschousing.org



Workshop for Legislators

Affordable and Fair Housing in Connecticut

Thursday, January 19th 10:00-11:30 AM
Room 2E, Legislative Office Building

Join Rep. McCarthy Vahey, Partnership for Strong Communities, Open Communities Alliance, and CT Fair Housing Center to learn more about affordable housing:

who needs it? how is it financed? what are the essential affordable and fair housing laws in Connecticut?

RSVP or questions: danielle@pschousing.org



Hear from:

- **Kiley Gosselin**, Executive Director, Partnership for Strong Communities
- **Erin Boggs**, Executive Director, Open Communities Alliance
- **Greg Kirschner**, Interim Executive Director and Legal Director, Connecticut Fair Housing Center

Connecticut's tight housing supply, high rents, and rising home prices mean that many Connecticut families are struggling to find afford homes in a community of their choice. This workshop will offer a primer on fair and affordable housing to state and local policymakers.

The 90-minute presentation will provide an overview of the following:

- What is Affordable Housing?
- Who Needs Affordable Housing in Connecticut?
- Affordable Housing Development and Preservation Finance Resources

- Connecticut Zoning Enabling Act (Section 8-2)
- Affordable Housing Land Use Appeals Procedure (Section 8-30g)
- Municipal Affordable Housing Plans (Section 8-30j)
- Racial and Economic Segregation in Housing
- Obligations Under Fair Housing
- Tenant Protections

This is a vital conversation for policymakers and local officials as we work to ensure everyone in Connecticut has a **safe, stable** home, that is **affordable** to them, in an **equitable community** of their choice.

We look forward to seeing you there!

Contact us with questions or for further information: danielle@pschousing.org

This email was sent by the [Partnership for Strong Communities](#).
 227 Lawrence Street
 Hartford, CT 06106
www.pschousing.org



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ZONING PRACTICE

Unique Insights | Innovative Approaches | Practical Solutions

Making Drive-Thrus a Boon, Not a Bane



In This Issue: The Drive-Through Genome Project | The Pandemic Push
Floating Zones and Mapped Overlays | A Proposed Regulatory Framework
Conclusions | References

Making Drive-Thrus a Boon, Not a Bane

By Dwight Merriam, FAICP

In considering drive-through service as a planning and zoning issue, we might look back to the first zoning case to make its way to the U.S. Supreme Court, *Euclid v. Ambler* (1926), where the court in upholding zoning famously said: “A nuisance may be merely a right thing in the wrong place—like a pig in the parlor instead of the barnyard.” Most zoning is ultimately contextual. So too it is with drive-throughs, which are exceedingly beneficial for everyone in some locations, and utterly destructive to some objectives of planning and zoning when they are allowed in the wrong places. The challenge, sometimes a conundrum, is to decide when they are appropriate and, if so, how to best regulate them, leveraging the benefits and avoiding the burdens.

This issue of *Zoning Practice* explores how good planning and zoning can respond to increased demand for drive-through service since the onset of the COVID-19 pandemic. It begins with a quick look back to the days of car-hops and their effects on subsequent

drive-through services. Then, recognizing how the pandemic has affected a sea change in service, it looks at how drive-through and related services have evolved and where they may go, with good planning and regulation, for the benefit of all.

A prototype Taco Bell drive-through in Brooklyn Park, Minnesota (Credit: Taco Bell Corp.)



The Drive-Through Genome Project

We most often think of inertia as uniform motion in a straight-line, but it is equally the resistance to change. Zoning is often like that, evidencing a resistance to change and reflecting irrelevancies of the past. If we could ever have a genome project in zoning, including drive-throughs, we doubtless would find that current regulations and the difficulties we have in deciding where and how they might be used can be found in the DNA of zoning from the 1950s, when carhops were the rage. They probably date to the early 1920s, the term reportedly derived from bellhop. The film, *American Graffiti* (1973), set in 1962, featured Mel's Drive-In on South Van Ness in San Francisco, though the movie was set in Modesto, California. For a diversion from the seriousness of planning and zoning for drive-throughs, you may wish to watch Bob's Big Boy 1947 training film for carhop service, including some views of parking layout and queuing that only a planner might appreciate.



■ A mid-20th century drive-in restaurant (Credit: Getty Images)

Ryland Heights, Kentucky, for example, reflects that carhop history by defining a drive-in eating establishment to be inclusive of carhops: "A restaurant where consumption of food is encouraged in a vehicle on the premises, where food is provided by 'car-hop' or self-service, with or without incidental sit-down and carry-out facilities" (\$7.0).

The Pandemic Push

Reference to carhops continues today and has had a rebirth in the response to the pandemic, as communities sought ways to increase flexibility in food service and retailing, generally, to provide social distancing and a contactless experience. Bellevue, Kentucky, is illustrative in recently adding a new reference to car hops with this change to its regulations:

DRIVE IN. An establishment offering food and beverages which are sold within the building, or to persons where the consumption is encouraged while in motor vehicles on the premises. Food is generally provided by "car-hop" or self-service, in an area designated for drive-in or drive-thru service, and for consumption on or off the premises. Food and beverages are served in disposable containers. [emphasis added] (Ordinance No. 2021-06-05)

It is hard to overstate what the pandemic did to promote drive-through service. In March 2020, two months after the first case of COVID-19 in the U.S., Wendy's reported that 90 percent of its sales were drive-through (Coley 2020). Restaurants across the country "pivot[ed] to an old-fashioned carhop model," as one report on what a 93-year-old owner of a restaurant had to do to keep open during the pandemic in Cloquet, Minnesota (Hollingsworth 2021). The decision to go to other service models was often not voluntary. One restaurant, eight months into the pandemic, was ordered to shut down and defied the order, had its liquor license suspended, and incurred fines, only to switch to delivery service and a carhop model to escape being closed (Kurylandchick 2020).

The changes from inside service to carhops, drive-through, drive-up, and carry out was widespread, including chains like Steak 'n Shake, Bob's Big Boy, and White Castle. As one restaurant manager put it: "A lot of our regulars are older people who want to be safe... Even after COVID ends, we're going to keep doing it..." (Kim 2021). It is this resurgence in service to cars, particularly from locations that had not previously offered drive-up or drive-through, that now impels the interest in determining how to provide those advantages to consumers, while preventing the nuisances that these services sometimes cause. Alan Hess, an architect who wrote *Googie Redux: Ultramodern Roadside Architecture*, believes we can use the drive-in experience from more than half a century ago to solve current problems:

It had a purpose, and still has a purpose. If out of this we can gain a new respect for the automobile, which in many ways has been a scapegoat for the demise of cities and communal living, we will have an "old" tool that we can use in a new way to solve problems we had no idea we were ever going to face (Kiniry 2020).

Floating Zones and Mapped Overlays

Walkability and drive-throughs do not mix well in many situations. Driveways in and out endanger pedestrians and cyclists and create some commercial sprawl by consuming frontage. They can coexist with careful site planning and site-specific review, review that provides the greatest discretion for the local government, the applicant, and other stakeholders (Davis 2016).

The best approach may be a floating zone just for drive-through, drive-up, and take-out service. With a floating zone, a concept plan is reviewed, and then a purely legislative, policy decision is made to allow the zone to descend and apply to the site. Courts have held that the tired "spot zoning" claim does not apply

to small-area and even single-lot floating zones, in part because the standards can apply to other parcels (Vasser 2021; McCarthy 2006). The applicant's concept site planning costs are small, making them more willing to make modifications. Courts almost always defer to legislative decisions, less so with administrative decisions like special permit or conditional uses. All around, even though it may seem complicated, which it is not, the floating zone is nearly perfect for the drive-through and related uses.

**The best approach
may be a floating
zone just for drive-
through, drive-up,
and take-out service.**

The "secret sauce," however, that will make the floating zone a tasty addition to the regulations is found in the criteria for where the floating zone can land and what criteria are applied in making that decision. That takes a lot of hard thought. Have in mind that 1974 Burger King jingle, "hold the pickles, hold the lettuce, special orders don't upset us." Make each drive-through a special order, applying the locational and decisional criteria that you carefully thought out in advance. Consider testing those regulations, before you enact them, by trying to apply them to sites throughout the community. Do some role playing. It can be fun, actually, but it also will help surface problems, both procedural and substantive, with your draft regulations. Not many planning bodies do this, but it can be highly effective.

Another approach, though somewhat less desirable because it comes with less discretion, might be a fine-grained overlay zone coupled with a conditional use. With the overlay zone, the underlying zoning remains, and it enables additional regulations to be applied in subareas on top of the existing zone.

Most regulations permit drive-throughs, conditionally or otherwise, in an entire zoning district. That leaves the door open to applications for drive-throughs where they are not appropriate. It is better to take a hard look at where they can work and make that an overlay. If using the floating zone, the criteria for landing the floating zone can use an overlay to limit the areas where applications are permitted. It does not approve the floating zone in advance, but it makes a clear statement as to where they might be possible.

Two strategies might help in enabling some drive-through service along pedestrian-focused streetscapes. One is not a drive-through at all, but drive-up, where curbside service is allowed with people delivering goods to a vehicle along the curb, typically as one form of “buy online pick up in store” (BOPIS) service. Add that to your book of planners’ acronyms, and impress your friends. BIPOS, which is less expensive for retailers than drive-through service, requires short-term parking. This avoids curb cuts and is practical today with smartphone ordering. Some measure of how digital sales have increased just recently can be seen at McDonalds, where digital sales in its six biggest markets are up 60 percent in just one year, totaling over five billion dollars and 30 percent of sales (Maze 2022). The Harvard Business Review reports that, one year into the pandemic, retailers offering curbside pickup had jumped 44 percent and 40 percent of Americans want to continue curbside pickup, BOPIS, and delivery (Ketzenberg and Akturk 2021). The challenge is to provide for sufficient curbside space to meet the need and to avoid double parking during high volumes. There was widespread local experimentation during the pandemic, and much can be learned from that in fashioning local drive-up standards.

The other strategy in areas where you need to protect walkability is to plan for multiple, adjoining sites to share entrance and exit drives to reduce curb cuts. This is typically done with abutting commercial-use parking lots, as in Zebulon, North Carolina: “Parking lot connections shall join parking lots on two or more different lots... A parking lot connection shall be included on at least



*A bank in Portland, Oregon, with a dedicated bike-through lane
(Credit: Richard Drdul / Flickr)*

two sides of a lot except when conditions prevent connections ...” (**\$5.1.8.D**). For this to work, there must be pre-planning of how separately owned properties might connect through cross-easements or some form of association.

A Proposed Regulatory Framework

The same issues appear across the full range of drive-through regulations. What differentiates them are the standards to be applied, which vary greatly. Here is a rough outline of what might be in a regulation, but it is by no means a model. One size does not fit all.

Purpose

Start with a statement about the purpose. This is visioning to a degree. Think what you want to accomplish with drive-through service. Maybe something like: Drive-through service is enabled in appropriate locations to improve service to customers, permit people with disabilities to have equal access, protect the public from contagion, and promote economic development.

Salt Lake City is more specific
(§21A.40.060.A):

Purpose: The regulations of this section are intended to allow for drive-through facilities by reducing the negative impacts they may create. Of special concern are noise from idling cars and voice amplification equipment, lighting, and queued traffic interfering with on-site and off-site traffic and pedestrian flow. The specific purposes of this section are to

1. reduce noise, lighting, and visual impacts on abutting uses, particularly residential uses;
2. promote safer and more efficient on-site vehicular and pedestrian circulation; [and]
3. reduce conflicts between queued vehicles and traffic on adjacent streets.

Definitions

Much of any regulation is found in the definition of what is regulated. A typical definition of *drive-through service* is like this one from Brunswick, Maine (§1.7):

Any structure through which a product or service is provided directly to a customer seated in a motor vehicle including, but not limited to, take-out or pick-up windows, banking terminals, automatic teller machines and other facilities commonly referred to as drive-up, drive-through, or take-out. This definition excludes gasoline service stations, car washes, drive-in theatres, and drive-in restaurants where orders are taken and food delivered to a motor vehicle that remains in a parking space.

This definition suggests the range of drive-through uses and expressly excludes carhops. It does not acknowledge curbside service and BOPIS. For a more holistic view of curb functions, see San Francisco's *Curb Management Strategy* (2020) and guidance from the Boston Region Metropolitan Planning Organization (2019; 2022).

With nearly all zoning regulation, the definition is key as to what is in and what is out. Spend a good part of your time here defining what you mean by drive-through, drive-up, walk-up, BIPOS, carhop, and so on.

Applicability

Will your regulations include only new construction, or also rebuilding or replacement of existing drive-throughs and alterations to add new drive-through service? If there is existing drive-through service, it might be prudent to require as a condition of approval that there be a review when the floor area of the building serviced is expanded, say by 25 percent or 1,000 square feet, as that will likely increase traffic at the drive-through.

Submission Requirements

What will your regulations require applicants to submit before final approval? Important elements of the site plan are a parking and circulation plan, driveway locations, and placement of audio equipment. An on- and off-site litter cleanup plan, with a schedule and map, are worth considering. Almost always a traffic study by a qualified person, usually a professional engineer, is required. The traffic study, based on the specific identified use of the property, should describe peak hours of operations, volume of customers per hour, stacking space for anticipated volume of drive-through vehicles, turning movements, roadway capacity, and the level of service of nearby streets.

Building Design

Canopies for service windows can have a substantial visual impact. Regulating color and how many colors, where it is permitted by law, might be included, as well as prohibiting corporate colors and patterns on the canopies which are ersatz signs. Drive-through facilities, including windows and other related features, should be architecturally compatible with the building and the existing and planned streetscape.

Access

The total width of access lanes in and out should be limited, something in the order of 25 feet, unless a turning lane is required.

Typical regulations provide for access-way width, often 10 feet, and minimum turning radii of 10 feet. Sometimes it is specified that the width of curved segments of the stacking lane be 12 feet.

Specify that drive-through lanes to and from drive-through windows and order boards shall not obstruct on-site vehicular traffic flow to and from required parking and loading spaces or other driveways providing ingress and egress into and within the site. Sometimes, regulations may require entrances and exits be separated by some distance, say 25 feet, from abutting properties. That may foreclose drive-throughs at some sites. Using the floating zone approach could allow more flexibility in all the dimensional standards by offering suggested, but not mandated, design requirements.

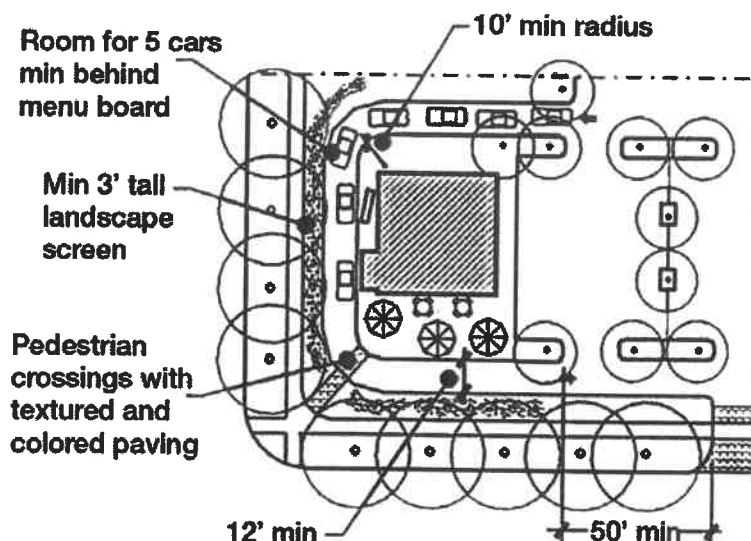
Each entrance to, and exit from, a drive-through lane should be clearly marked to show the direction of traffic flow by signs and pavement markings or raised curbs.

To limit damage to buildings in the vicinity of drive-through facilities, a minimum of 10 feet of clear height may be required for the drive-through lane with bollards located adjacent to drive-through windows to prevent damage to the building from vehicles.

As noted in the context of drive-throughs on walkable streetscapes, where possible the design should include joint-use and cross-access connections, even where a present connection is not feasible, just as would be done with a temporary cul-de-sac and stub road. There are no obvious standards for how long that unused connection might be, but some limitation is reasonable. The accessway need not be constructed with the current development if a physical connection is impossible at the time, but the approval should require construction when joint use or cross access is feasible.

Landscaping

Typical regulations may require a landscaped strip between the access drive and parking and screening of the of the access drives from the roadway. It is difficult to be highly specific about landscaping because site design for drive-throughs varies greatly.



Elk Grove, California's zoning code includes an illustration of its landscaping requirements for drive-throughs (Figure 23.78-1) (Credit: City of Elk Grove)

Stacking

This is perhaps the hardest standard to settle on. Frankly, it is a crapshoot. The objective is to keep vehicles from backing up onto the street, but even with a traffic study, it is a guessing game. Some regulations measure stacking length in numbers of vehicles, but how long is a vehicle with a couple of feet front and back for spacing? A Mini Cooper is 12.9 feet, a Ford Super Duty LWB Crew Cab is almost twice as long at 22.2 feet. The best approach may be to have a single total length for the queue. Queue lengths vary by uses in some regulations.

The problems in establishing the "right" stacking length are many. There is not much data by uses. The size of the use matters in how many vehicles will be in line. How popular the destination may be is unpredictable. [I once got stuck in a line down the street with police directing traffic when my then-young son talked me into taking him to Connecticut's first Sonic restaurant and gave up after an hour.]

In 2022, a wildly popular Chick-fil-A in Santa Barbara, California, had such a backup that the street was blocked every day for 70 to 91 minutes, causing the city to consider declaring it a public nuisance (Lee 2022). That was avoided by a traffic

management plan addressing employee parking, not allowing truck deliveries during peak hours, a widened driveway, and a new third lane for waiting customers (Hayden 2022).

The takeaway from these bad experiences is to plan for the worst: contingency plans for traffic control at the opening of the store; required expansion of the stacking, if it proves necessary, with design built into the site plan; escalating penalties for back-ups; requiring the operator to engage off-duty police officers to direct traffic if necessary; and a clear understanding that the drive-through will be lost, or at least temporarily suspended, if there are problems with back-ups.

Required queue lengths are minimums. Extra-long required queue lengths are wasteful. The operator can make the stacking longer if they think it is necessary. If they elect to do the minimum and can defend it with the traffic report, then they must bear the burden of underestimating.

Stacking lengths are often in the range of 120–160 feet for restaurants and 80 feet, more or less, for retail and banking. Elk Grove, California, bucks the trend a bit by requiring 180 feet for *drive-up windows and bank tellers*, while going to 60 feet for *nonfood and/or nonbeverage businesses* (**§23.78.030.A.2**).

Regulations may provide for decreasing or increasing the recommended length based on a traffic report by a professional engineer. The decision to modify requirements for queuing, and perhaps other design requirements, should be based on written findings of fact that the alternate design, given the characteristics of the site, will be equally or more effective in protecting on- and off-site pedestrian and vehicular traffic safety and minimizing traffic congestion.

One solution to the conundrum of site- and use-specific differences might be to have a preapplication meeting with the applicant or even a two-step permitting process to establish acceptable stacking and access design based on a preliminary traffic report before the full application is prepared for the development. The scale of the development and its configuration is driven in large part by the need to handle the drive-through, and bifurcating the approval may facilitate better

design and ultimate approval. It is not in anyone's interest to have to deny a fully engineered site plan over a dispute about stacking length.

Stacking necessarily requires knowing where it starts and ends. Windows and menu/order boards should be placed as far to the rear of the building as possible to increase available stacking. The starting point measurement is often an offset of some distance, say 25 feet, from the curb line or, if there is no curb line, to the edge of the sidewalk if there is one, and otherwise to the edge of the street pavement. The end point is the pick-up window.

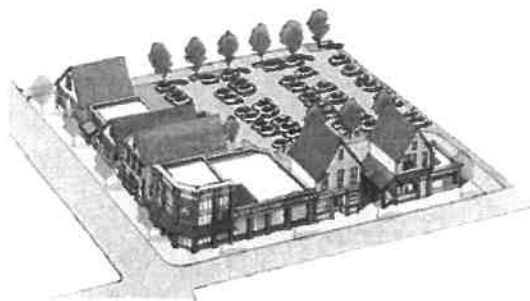
Walk-up windows might be encouraged, not just enabled, in the regulations or even mandated, especially in areas considered most walkable and where people are more dependent on walking and cycling.

According to David Sullivan, U.S. Manager of Traffic and Transportation Planning for SLR, operators should place the order board far enough behind the pick-up window to ensure it does not constrain service. For example, if it takes 30 seconds to place an order and two minutes to fulfill an order, the order board should be about four cars from the pick-up window.

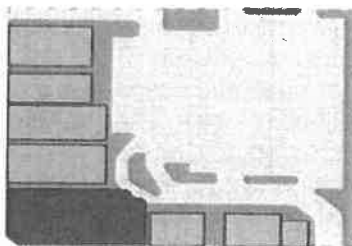
In some settings where preservation of the streetscape is of special concern, it may be advisable to mandate that the service window be at the back of the building and that no part of the accessway be used for queuing. A graphic can help.

Importantly, the queue space should not interfere with the safe use of the required parking spaces and their required drives, interior pedestrian and other circulation, and the accessway from any public street. However, Sullivan notes that it may be okay to block employee parking or trash storage areas if access to those areas is not essential during peak drive-through usage periods.

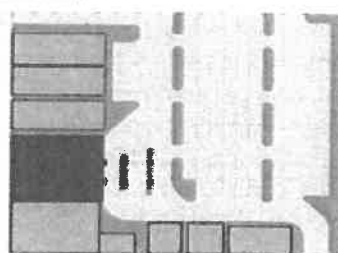
**Conceptual
Retail Service Window
Drive-Through Restaurant or Pharmacy**



**Conceptual
Retail Teller
Drive-Through Bank**



Pharmacy



Bank

Standish, Maine, includes examples of pedestrian-friendly site designs for drive-throughs in its Form Based Code Village Districts regulations (§181-7.1) (Credit: Town Planning and Urban Design Collaborative / Town of Standish)

Noise

Those loudspeakers at the order windows can be a problem. To reduce the potential nuisance, regulations may include a setback of order windows from residential properties, say 40 feet. Outside speaker use might be prohibited during certain hours, but that would effectively shut down the business during those hours. Hours of operation, of course, is an important consideration as many drive-through restaurants are now open late and even 24/7. Outdoor loudspeakers for any drive-through window might be limited to a noise level below 50 dB at the closest property line, nearest building of a separate use, or a public sidewalk off-site.

Lighting

There is nothing special about lighting with drive-throughs, but generally property owners and regulators are not doing the best job possible with lighting. It is most often too much and, more recently, too harsh with LED lighting. Guidance is available in the **Outdoor Lighting** collection in APA's **Research KnowledgeBase** and in a *PAS Memo*

titled "**the Future of Outdoor Lighting.**" In developing new drive-through regulations, it might be timely to consider revamping lighting requirements.

Walk-Up and Bike-Up Service

But what about pedestrians and cyclists? The safety issues for people on foot and on bicycles using vehicular lanes would seem to preclude joint use, but Portland, Oregon, thinks otherwise (§33.224.070):

When a drive-through facility is open and other pedestrian-oriented customer entrances to the business are unavailable or locked, the drive-through facility must serve customers using modes other than a vehicle such as pedestrians and bicyclists.

Salt Lake City enabled joint use by cyclists in 2014, only to have the state legislature enact a law the next year prohibiting local governments from requiring a business to "allow a person other than a person in a motorized vehicle to use the drive-through service" (§10-8-44.6).

What can be done? Provide for them expressly in the zoning regulations as Madison, Wisconsin, does by authorizing a *walk-up service window* as a conditional use when located within 10 feet of a public right-of-way (**\$28.151**). Many ordinances permit walk-up automated teller machines, but few allow other services.

Walk-up windows might be encouraged, not just enabled, in the regulations or even mandated, especially in areas considered most walkable and where people are more dependent on walking and cycling. Incentives might be offered, such as modest increase in lot coverage or building floor area, excluding them from setbacks, or a partial tax abatement for a few years. Waiving application fees for the addition of walk-up/bike-up windows might be a good idea.

Businesses always have the right to make their own decisions on service to walk-ups and cyclists. Reach out to them. Offer some design solutions. Honor the ones who do the right thing. Promote the advantages: they deter crime with more

“eyes on the street,” they are interesting and promote walkability by making the street more pedestrian friendly, and they are a great convenience for shoppers who need not walk into a store to be served with the added benefit that they preserve the opportunity for social distancing that many continue to find is essential to their being out in public (Malouff 2012).

Conclusions

We can learn much from the long history of drive-in and drive-through service, particularly in the context of the recent pandemic experience. The public wants it in all its variations, needs it, and expects to continue to use it. The challenge is to plan for these new and evolved types of service and to find way to make sure they work on individual sites. The effort is worth it. The public’s interest will be served, economic development and redevelopment promoted, walkability protected and enhanced, and public nuisances avoided. That is what good planning is all about.



About the Author

Dwight Merriam, FAICP, a lawyer and a land-use planner, is a Fellow in the American College of Real Estate Lawyers, Past President of the American Institute of Certified Planners, and Past Chair of the ABA Section of State and Local Government Law. He has published over 200 articles and 13 books, including co-editing the treatise *Rathkopf's the Law of Zoning and Planning*. UMass BA (cum laude), UNC MRP, and Yale JD. www.dwightmerriam.com

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